

**CHAPTER 311. PROCEDURES FOR REVIEW OF
DISAPPROVED FINAL REGULATIONS**

- Sec.
311.1. Commission disapproval of a final regulation.
311.2. Response by an agency to Commission disapproval.
311.3. Report for a disapproved regulation submitted without revisions or modifications.
311.4. Report for a disapproved regulation submitted with revisions.
311.5. Subsequent review of disapproved regulation.

Authority

The provisions of this Chapter 311 issued under section 11(a) of the Regulatory Review Act (71 P. S. § 745.11(a)), unless otherwise noted.

Source

The provisions of this Chapter 311 adopted July 2, 1999, effective July 3, 1999, 29 Pa.B. 3349; amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended November 2, 2007, effective November 3, 2007, 37 Pa.B. 5886, unless otherwise noted. Immediately preceding text appears at serial pages (303115) to (303117).

Cross References

This chapter cited in 1 Pa. Code § 313.2 (relating to review of an emergency certified final regulation).

§ 311.1. Commission disapproval of a final regulation.

(a) If the Commission disapproves a final regulation, the Commission will issue a disapproval order specifying the regulatory review criteria that the regulation has not met.

(b) The Commission will deliver its disapproval order to the LRB, the committees, the agency and the Attorney General. The Commission may notify commentators listed by the agency as having requested information on the final regulation by delivery of the disapproval order or by publication of a legal notice under 45 Pa.C.S. Chapter 3 (relating to Newspaper Advertising Act).

(c) The Commission's disapproval order shall continue the bar on the promulgation of the regulation until the review provided under section 7(d) of the act (71 P. S. § 745.7(d)) and this chapter is completed.

§ 311.2. Response by an agency to Commission disapproval.

(a) Upon receipt of the Commission's disapproval order, the agency may select one of the following three options:

- (1) To proceed with promulgation of the regulation without revisions, under § 311.3 (relating to report for a disapproved regulation submitted without revisions or modifications).

(2) To revise the regulation in order to respond to the Commission's objections, under § 311.4 (relating to report for a disapproved regulation submitted with revisions).

(3) To withdraw the regulation, under subsection (b).

(b) If the agency does not deliver a report to the Commission and the committees within the time prescribed in section 7(b) or (c) of the act (71 P. S. § 745.7(b) and (c)) and § 311a.7 (relating to delivery of the report for subsequent review of a disapproved regulation), the agency is deemed to have withdrawn the regulation.

Cross References

This section cited in 1 Pa. Code § 311.3 (relating to report for a disapproved regulation submitted without revisions or modifications); and 1 Pa. Code § 311.4 (relating to report for a disapproved regulation submitted with revisions).

§ 311.3. Report for a disapproved regulation submitted without revisions or modifications.

If the agency chooses to proceed with promulgation of the regulation without revision under § 311.2(a)(1) (relating to response by an agency to Commission disapproval), the report must contain the following:

- (1) The final regulation.
- (2) The Commission's disapproval order.
- (3) The agency's response to the Commission's disapproval.
- (4) A signed transmittal sheet indicating the report was delivered to the committees on the same date on which it was delivered to the Commission.

Cross References

This section cited in 1 Pa. Code § 311.2 (relating to response by an agency to Commission disapproval); and 1 Pa. Code § 311a.7 (relating to delivery of the report for subsequent review of a disapproved regulation).

§ 311.4. Report for a disapproved regulation submitted with revisions.

If the agency chooses to revise or modify the final regulation under § 311.2(a)(2) (relating to response by an agency to Commission disapproval), the report must contain the following:

- (1) The revised final regulation, formatted in accordance with § 307.3a (relating to formatting the text of a final regulation).
- (2) The Commission's disapproval order.
- (3) A detailed explanation of how the revisions respond to the Commission's disapproval order.
- (4) A signed transmittal sheet indicating that the report was delivered to the committees on the same day on which it was delivered to the Commission.

Cross References

This section cited in 1 Pa. Code § 311.2 (relating to response by an agency to Commission disapproval); and 1 Pa. Code § 311a.7 (relating to delivery of the report for subsequent review of a disapproved regulation).

§ 311.5. Subsequent review of disapproved regulation.

(a) The Commission may have until its next scheduled meeting which occurs no less than 15 days from receipt of the report to approve or disapprove the report. The Commission will calculate its review period as beginning the day after receipt of the report.

(b) If the Commission does not disapprove the report, the Commission is deemed to have approved the report.

(c) Upon receipt of the Commission's order approving or disapproving the report, or at the expiration of the Commission's review period if the Commission does not act on the report or deliver its order within the time prescribed by section 7(c.1) of the act (71 P. S. § 745.7(c.1)), the committees will have 14 days to review the report in accordance with section 7(d) of the act (71 P. S. § 745.7(d)).

(d) If, by the expiration of the 14-day period, neither committee reports a concurrent resolution, the committees will be deemed to have approved the report.

(e) If the committees and the Commission approve or are deemed to have approved the report, the agency may proceed with promulgation of the revised final regulation.

(f) If a concurrent resolution is reported, the bar on the promulgation of the final regulation shall continue until the review provided under section 7(d) of the act is completed.

(g) If a concurrent resolution is adopted by the House and the Senate and the Governor approves or is deemed to have approved the resolution, or if the Governor's veto of the resolution is overridden, in accordance with section 7(d) of the act the agency shall be permanently barred from promulgating the regulation.

Source

The provisions of this § 311.5 adopted March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681.

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