

# IRRC

Independent Regulatory Review Commission

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**The Regulatory Review Process in Pennsylvania**  
*January 2008*

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# MISSION & VISION STATEMENTS



## Mission

To assist the Governor and General Assembly in creating a beneficial regulatory balance.

## Vision

The commission will increase communication with and availability to agencies, the General Assembly and the regulated public to achieve a streamlined and effective review process. We will achieve this in a spirit of cooperation through review of proposed and existing regulations, assistance to agencies with document drafting, and general availability through meetings, seminars and workshops intended to resolve specific issues encountered by specific audiences.



# PREFACE

*The General Assembly passed the Regulatory Review Act (RRA) in 1982. The RRA established the Independent Regulatory Review Commission (Commission or IRRC) to provide uniform oversight of the rulemaking process in Pennsylvania and to act as a consensus builder among the legislative standing committees, the agency, and interested parties. IRRC is charged with reviewing all regulations that Commonwealth agencies propose for promulgation, except those of the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission.*

*There have been several amendments to the RRA over the years. The most recent changes were enacted as Act 148 of 2002.*

*IRRC accomplishes the goals of the RRA typically through a two-stage review process. **First**, IRRC reviews and comments on an agency's proposed regulation and any accompanying comments from the public and the General Assembly. **Second**, IRRC reviews and takes action on the final version of the regulation before it is published as a final rule.*

*IRRC also acts as a clearinghouse for complaints, comments, and other input from the General Assembly and the public regarding proposed and final regulations, as well as existing regulations. It further assists agencies by performing reviews of regulatory drafts and conducting seminars and agency-specific workshops upon request.*

*This manual is devoted to a discussion of the RRA, related laws, and how IRRC and others involved in the review process conduct their business. Sections I and II provide both an overview and a detailed analysis of the regulatory review process. Section III explains the options an agency may use to improve the chances of securing approval of a regulation. Section IV describes additional aspects of the review process that are used less frequently than those is described in Section II. Section V includes information on the Annual Report, which provides further detail on the operations of IRRC. The Appendices include additional explanatory material on information contained in this manual. (Refer to IRRC's regulations at 1 Pa. Code Chapters 301-315 for specific instructions on formatting the text of proposed and final regulations.)*

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## I. AN OVERVIEW OF THE RULEMAKING PROCESS

### A. GENERALLY

Pursuant to their respective enabling statutes, Commonwealth agencies have the authority, discretion and, to the extent necessary, the responsibility to promulgate regulations. Depending upon the circumstances, an agency may have to:

1. Add, amend or repeal a regulation to implement legislation;
2. Ensure that existing regulations do not conflict with a recently enacted or amended federal or state regulation or statute;
3. Comply with a decision of a state or federal court; or
4. Clarify an existing regulation.

The catalyst for change may be internal or external, however, an agency also has wide discretion to update an existing regulatory scheme in order to improve the way it operates under its enabling legislation.

Pennsylvania has four statutes that govern the regulatory review process. They are the following:

- **Commonwealth Documents Law** (45 P.S. §§ 1102, 1201–1208), which outlines the procedural steps in the preparation of a regulation;
- **Administrative Code** (71 P.S. § 232), which requires the Office of Budget to prepare a fiscal note for proposed regulations;
- **Commonwealth Attorneys Act** (71 P.S. §§ 732-101–732-506), which provides for review and approval for form and legality by the Offices of General Counsel and Attorney General; and
- **Regulatory Review Act** (71 P.S. §§ 745.1–745.15), which provides for oversight and review by the Commission and the General Assembly.

Most of this manual is dedicated to explaining the typical **two-stage review process** of the Regulatory Review Act. The two stages include a review and comment period for proposed regulations, and a period for review and action on final regulations. Both stages are addressed in detail starting in Section II of this manual. A chart outlining the basic process can be found in **Appendix A**.

### B. APPLICABLE LAWS

#### 1. Commonwealth Documents Law – *Rulemaking Framework*

The Commonwealth Documents Law (CDL), enacted in 1968, establishes the basic structure for the rulemaking process. It lists the steps through which a proposed regulation must proceed before it may be finally adopted. *See 45 P.S. §§ 1201-1208.*



The CDL requires an agency to publish notice of its intention to promulgate, repeal or amend a regulation. This notice must include:

- The text of the proposed regulation, indicating any changes in the language of the existing regulation;
- The agency’s statutory authority to propose the regulation;
- A brief explanation of the proposed regulation or any amendments; and
- A request for comments.

Before taking any action on a regulation, the agency must review and consider written comments submitted under the CDL.

## **2. Administrative Code – *Fiscal Notes***

A section of the Administrative Code entitled “Fiscal Notes” directs the Office of Budget to prepare a fiscal note for regulatory actions of the administrative departments, boards, commissions or authorities that receive money from the State Treasury. The fiscal note must state the costs of the proposed action for programs of the Commonwealth or local governments. It must be published in the *Pennsylvania Bulletin* at the same time as the proposal and contain the following information:

- The fund or appropriation source providing the expenditures for the proposal;
- The probable cost of implementing the proposal in its first fiscal year, and a projected cost estimate for each of next five fiscal years;
- The fiscal history of the program expenditures;
- The probable loss of revenue for the fiscal year of its implementation, and the projected loss of revenue for each of the next five fiscal years; and
- The recommendation, if any, of the Secretary of the Budget.

*71 P.S. §232.*

## **3. Commonwealth Attorneys Act – *Legal Review***

The Commonwealth Attorneys Act provides for the review of a regulation as to form and legality. *71 P.S. §§ 732-204(b) and 732-301(10)*. Before publication in the *Pennsylvania Bulletin*, a regulation must pass legal muster. The Offices of General Counsel and Attorney General both perform this function, but do so independently of each other. They both review regulations first as proposed, and then again in final-form.

Proposed and final-form regulations must be prepared by either an executive or independent agency. They are initially reviewed for form and legality by the agency’s legal office. Independent agencies submit their regulations directly to the Attorney General. Executive agencies must have the General Counsel’s approval before submitting their regulations to the Attorney General.

*a. General Counsel*

The General Counsel is responsible for advising the Governor and providing legal services to executive agencies—i.e., all agencies that fall under the jurisdiction of the Governor. Therefore, the General Counsel may question every aspect of an executive agency’s proposed or final-form regulation, either as a matter of policy or as a matter of law. The General Counsel reviews a regulation to determine if:

- It is clearly drafted;
- The preamble satisfactorily explains the purpose of, need for, and statutory basis of the regulation; and
- The Regulatory Analysis Form is completed correctly.

There are no time restrictions set by statute on the General Counsel’s review. However, the General Counsel may establish its own limit as a matter of policy.

*b. Attorney General*

The Attorney General reviews all regulations from both executive and independent agencies at two separate points in the process. The Attorney General initially reviews proposed regulations before the regulatory review process begins under the RRA. This review must be completed within 30 days after submission by the agency.

During this 30-day period, the Attorney General must convey any legal concerns related to the regulation to the General Counsel or the independent agency counsel. If legal issues are raised, the time for Attorney General review is put on hold or “tolled.” During this hiatus, the agency is expected to cooperate with the Attorney General to reach a consensus or resolution. Independent agencies usually respond directly to the Office of the Attorney General. Executive agencies generally work through the Office of General Counsel in preparing a response.

If the Attorney General takes no action within 30 days, the regulation is deemed approved. Upon approval, the regulation proceeds through the remaining channels of review.

At the final-form stage, the sequence of review is reversed. The Attorney General’s review takes place following final action by IRRC. This is because only the Attorney General may direct an agency to make changes in a final-form regulation approved by IRRC under the RRA.

If the issues raised are not resolved, the Attorney General may disapprove the regulation. Upon disapproval, the Attorney General must notify the General Counsel or independent agency, the Secretary of the Senate and the Chief Clerk of the House of Representatives of the reasons for the disapproval. A disapproved regulation may be published with or without revisions. However, if the agency chooses to publish the regulation without revisions, it must also publish the Attorney General’s objections. The Attorney General may appeal the agency’s decision to Commonwealth Court and may request a stay to prevent the implementation of the regulation.

If the Attorney General approves the regulation, it is published in the *Pennsylvania Bulletin*. The regulation becomes effective on the date of publication or on a later date specified by the agency in the order approving the regulation.

#### **4. Regulatory Review Act – *Formal Review Process***

The Regulatory Review Act (RRA) was enacted in 1982 to address a concern by the legislature regarding the promulgation of regulations. The intent of the law can be summarized as follows:

- Establish a method for ongoing and effective legislative review and oversight to foster executive branch accountability;
- Provide for primary review by a commission with sufficient authority, expertise, independence and time to perform that function;
- Provide ultimate review of regulations by the General Assembly;
- Assist the Governor, Attorney General and General Assembly in their supervisory and oversight functions; and
- Encourage the resolution of objections to a regulation and the reaching of a consensus among the agency, the Committees, interested parties and IRRC.

*71 P.S. § 745.2(a).*

The RRA applies to every department, departmental administrative board or commission, independent board or commission, agency or other authority of this Commonwealth, **except** the Senate or the House of Representatives, the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission or any court, political subdivision, municipal or local authority. *See the definition of “agency” at 71 P.S. § 745.3.*

**The top two criteria used to evaluate every regulation are statutory authority and legislative intent.** Once IRRC makes a finding that a regulation satisfies these two criteria, it must apply the remaining six criteria to determine if a regulation is “in the public interest.” *71 P.S. § 745.5b.* The review criteria can be found in **Appendix B** of this manual.

The promulgating agency has broad discretion to determine the scope of a regulation and when to introduce a regulation into the process. However, once a regulation has been submitted to IRRC under the RRA, it is subject to the specific timelines described in this manual. **Only the RRA guides the legislative oversight process for regulations.** Although the other acts described earlier affect the process, the RRA actually controls the timeline for review and promulgation of a regulation.

### **C. STATEMENTS OF POLICY**

Statements of policy (SOP), unlike regulations, provide guidance by which agency personnel carry or will carry out their duties authorized by state law. An SOP does not expand upon the

plain meaning of a statute and is **not binding** upon third parties. The agency issuing the SOP cannot apply or rely upon it as law because it is merely a policy document. In determining whether an agency document is a regulation or an SOP, “one must look to the extent to which the... pronouncement leaves the agency free to exercise discretion to follow or not follow the announced policy in an individual case.”<sup>1</sup>

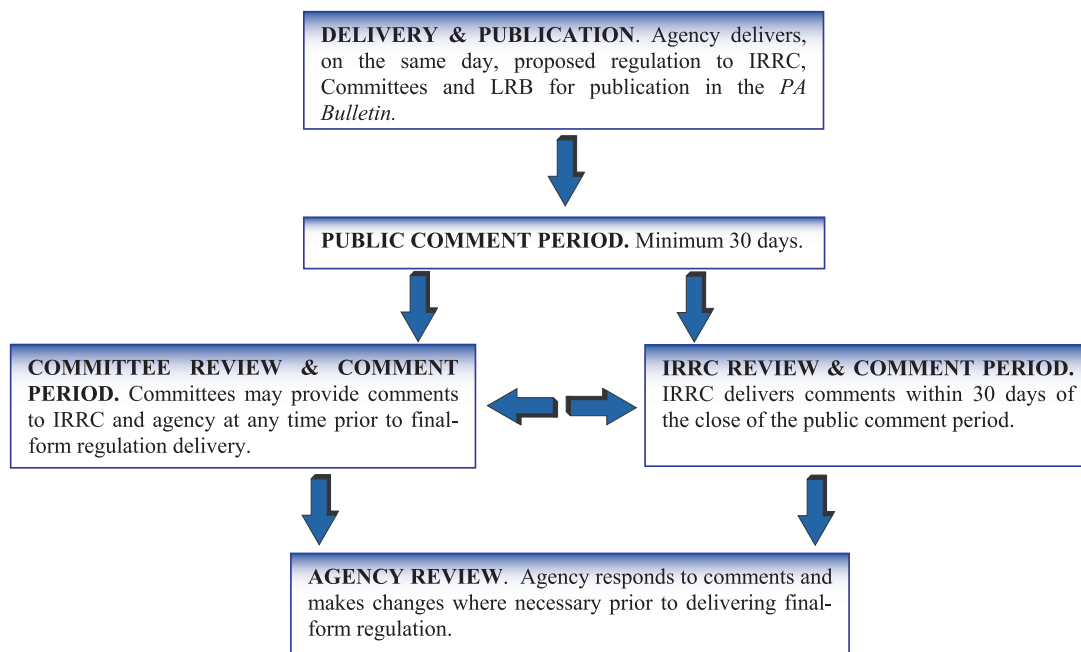
An SOP is not required to proceed through the regulatory review process. (Similarly, amendments to, or the deletion of, an SOP need not go through the regulatory review process.) However, merely referring to a document as an SOP does not necessarily make it so. If IRRC finds that an agency is enforcing an SOP as a regulation—*i.e.*, making compliance mandatory—then it may present the matter to the Joint Committee on Documents. The Joint Committee will decide if the documents are regulatory in nature. If it concludes that they are, the Joint Committee may order the agency either to promulgate the document as a regulation within 180 days, or desist from using it. *71 P.S. § 745.7a.*

<sup>1</sup>*Dept. of Environmental Resources v. Rushton Mining Co.*, 591 A.2d 1168, 1173 (Pa. Cmwlth, 1991). See also CDL, 43 P.S. §1102(13); *Eastwood Nursing & Rehab. Ctr. v. Dept. of Public Welfare* (Pa. Cmwlth. 2006).

## II. THE REGULATORY REVIEW PROCESS

IRRC reviews regulations through a two-stage process. First, IRRC reviews an agency’s proposed regulation and any accompanying comments from the public and the legislative standing committees (Committees)<sup>2</sup>. Where appropriate, it will also issue comments upon the regulation based upon the criteria set forth in the RRA. Second, after it is submitted by the agency, IRRC reviews and takes action upon the final version of the regulation before it is published as a final rule. A chart outlining this basic process can be found in **Appendix A**, and a more detailed explanation follows in this Section.

### A. THE PROPOSED STAGE



#### 1. Delivery and Publication of the Proposed Regulation

Review of proposed regulations under the RRA begins after the Attorney General’s approval. The agency delivers its proposed regulation to the Committees, Legislative Reference Bureau (LRB) and IRRC **on the same day**. 71 P.S. § 745.5(a). A completed Regulatory Analysis Form (RAF) and preamble, which summarizes the regulation and outlines its purposes, must accompany the regulation. Also required is a Face Sheet (indicating agency and legal approval) and a Transmittal Sheet (signed by the designated Committee Chairs). (For a more detailed explanation regarding delivery of proposed regulations during the legislative sine die period, refer to 71 P.S. § 745.5(f) and IRRC’s regulations at 1 Pa. Code Chapter 311A.)

The LRB publishes the preamble and regulation, in the *Pennsylvania Bulletin*. The preamble also contains the deadline for submittal of comments by the public, and should include a detailed explanation of the purpose for the regulation.

<sup>2</sup>The Senate and House Committees designated by the Senate President Pro Tempore and the House Speaker to review the regulations of state agencies (see Glossary and Index in Appendix E of this manual).

The RAF is **not** published in the Pennsylvania Bulletin. However, it is required under the RRA and is available for inspection and copying at either the agency or IRRC. The information contained in the RAF can be found in **Appendix C** of this manual. The form can be found on IRRC's website at <http://www.irrc.state.pa.us/Documents.cfm>.

**FAQ #1**

**How long does it take for the proposed regulation to be published in the Pennsylvania Bulletin? ANSWER:** The average time is between 7 to 10 days from receipt of the regulation by the Legislative Reference Bureau.

## 2. Public Comment Period

Anyone may submit comments to the agency during the public comment period set forth in the preamble. **Public comment periods should be at least 30 days.** However, they may be shorter if exigent circumstances exist, or longer, when required. *71 P.S. § 745.5(b)*.

The RRA requires the agency to forward copies of all comments it receives to the Committees and IRRC within five business days of receipt. *71 P.S. § 745.5(c)*. Within five business days of receipt, the agency must also notify all commentators of the procedure for requesting additional information on the final-form regulation. *71 P.S. § 745.5a(a)*.

**PRACTICE  
TIP #1**

**Individuals, businesses and professionals affected by regulations should review proposed regulations and carefully consider the need to submit comments. Concerned citizens and experts in related fields may also want to submit comments supporting proposed regulations or offering suggestions for improvement. Written comments may contain useful information that agency staff can use to refine regulations to implement better and more efficient methods for attaining their policy objectives.**

**PRACTICE  
TIP #2**

**Persons interested in a regulation are encouraged to file comments with IRRC, the standing committees and the agency.**

During its review, IRRC conducts independent outreach to solicit input from groups and individuals who might be impacted by a proposed regulation. If IRRC receives comments that have not also been submitted to the agency, it will forward a copy to the agency. Comments can be sent to IRRC by mail, by facsimile to 717-783-2664 or by e-mail to [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us). All comments received are made part of IRRC's public regulation file, and are retained for four years following final promulgation of the regulation. *71 P.S. § 745.5a(k)*. This file is available for public review at IRRC's office during normal working hours.

**PRACTICE  
TIP #3**

**Final-form regulations are not published prior to their approval. Therefore, if commentators want notification of the final-form regulation and related information, they should inform the agency either before the close of the public comment period, or in accordance with any instructions provided by the agency.**



Depending upon the circumstances, an agency may extend or reopen the public comment period by delivering notice to IRRC and the Committees, and by publishing a notice in the *Pennsylvania Bulletin*.

### 3. Standing Committee Review

Legislative standing committees may submit comments, recommendations and objections to the agency and IRRC at any time prior to the agency's delivery of the final-form regulation. The comments, recommendations and objections may refer to any of the criteria established by Section 5.2 of the RRA, which are listed in detail in **Appendix B**. *71 P.S. §745.5(d)*. Filing comments is optional for the Committees. Unlike IRRC, the Committees do not forfeit their ability to disapprove a final-form regulation by failing to comment on the proposed regulation.

#### FAQ #2

**Exactly what are standing committees? ANSWER: Both the House of Representatives and the Senate form committees of its members to oversee specific subject and policy matters and agencies. One of the functions of a committee includes the review of regulations. The committee assignments and schedules can be found on the General Assembly's website at <http://www.legis.state.pa.us/cfdocs/legis/home/sitemap.cfm>.**

### 4. IRRC Review

IRRC must submit its comments, recommendations and objections within 30 days of the close of the public comment period. *71 P.S. § 745.5(g)*. If the public comment period is extended or reopened by the agency, IRRC may have 30 days after the close of the extended or reopened comment period to deliver comments to the agency and the Committees. In such a case, IRRC's new comments will either supplement or replace its original comments. If IRRC does not deliver comments within 30 days after the close of the new public comment period, then the original IRRC comments will remain the official version.

IRRC comments, recommendations and objections are based on the criteria contained in Section 5.2 of the RRA. *71 P.S. § 745.5(g)*. (See **Appendix B**).

IRRC must first and foremost determine whether the agency has the statutory authority to promulgate the regulation and whether the regulation conforms to the intent of the General Assembly. To determine whether a regulation meets the statutory authority and legislative intent criteria, IRRC examines:

- Language used in the authorizing statute;
- Comments of the Committees and Members of the General Assembly;
- Comments in the Legislative Journal;
- Pertinent legal precedents; and
- Attorney General Opinions.

Following a determination that the regulation meets the statutory authority and legislative intent criteria, IRRC considers the remaining criteria to determine if the regulation is “in the public interest”:

- Economic or fiscal impact;
- Protection of the public health, safety and welfare, and effect on the Commonwealth’s natural resources;
- Feasibility, clarity and reasonableness;
- Substantive need for legislative review;
- Comments, objections or recommendations of a Committee; and
- Compliance with the RRA and IRRC’s regulations.

When considering whether the regulation satisfies the remaining criteria, IRRC analyzes comments from the Senate, House of Representatives and public; conducts independent research and outreach to the public and affected parties; and discusses issues with the agency and Committees.

**FAQ #3**

**If there are extenuating circumstances that may require more extensive review, may IRRC take more time to review the regulation and submit comments?**

**ANSWER:** No. IRRC must convey all of its recommendations, objections, concerns or questions regarding any provision in a proposed regulation within 30 days of the close of the public comment period. The RRA states that if IRRC does not comment on any portion of the proposed regulation by the deadline and that portion is unchanged when the regulation is submitted in its final-form, IRRC shall be deemed to have approved that portion.

Following its review, IRRC will deliver its formal comments to the agency, Committees and LRB. These comments are also posted on IRRC’s website ([www.irrc.state.pa.us](http://www.irrc.state.pa.us)). The RRA requires the agency to consider and respond to every comment it has received on the proposed regulation from the public, Committees and IRRC as it prepares the final-form regulation. *71 P.S. § 745.5a(a)*. This response is included as a preamble to the text of the final-form regulation.

## **5. Agency Response**

As a result of input received during the proposed stage or on its own initiative, the agency may modify the text of the final-form regulation. Modifications may not enlarge the scope of the proposed regulation. *45 P.S. § 1202*. However, Pennsylvania’s courts have interpreted the phrase “enlarge the scope” very broadly. Generally, the courts have found that the scope has not been enlarged as long as the final-form regulation deals with the same subject matter as the proposed. This is true even if the methodologies and requirements set forth in the regulation have been drastically revised from proposed to final-form.

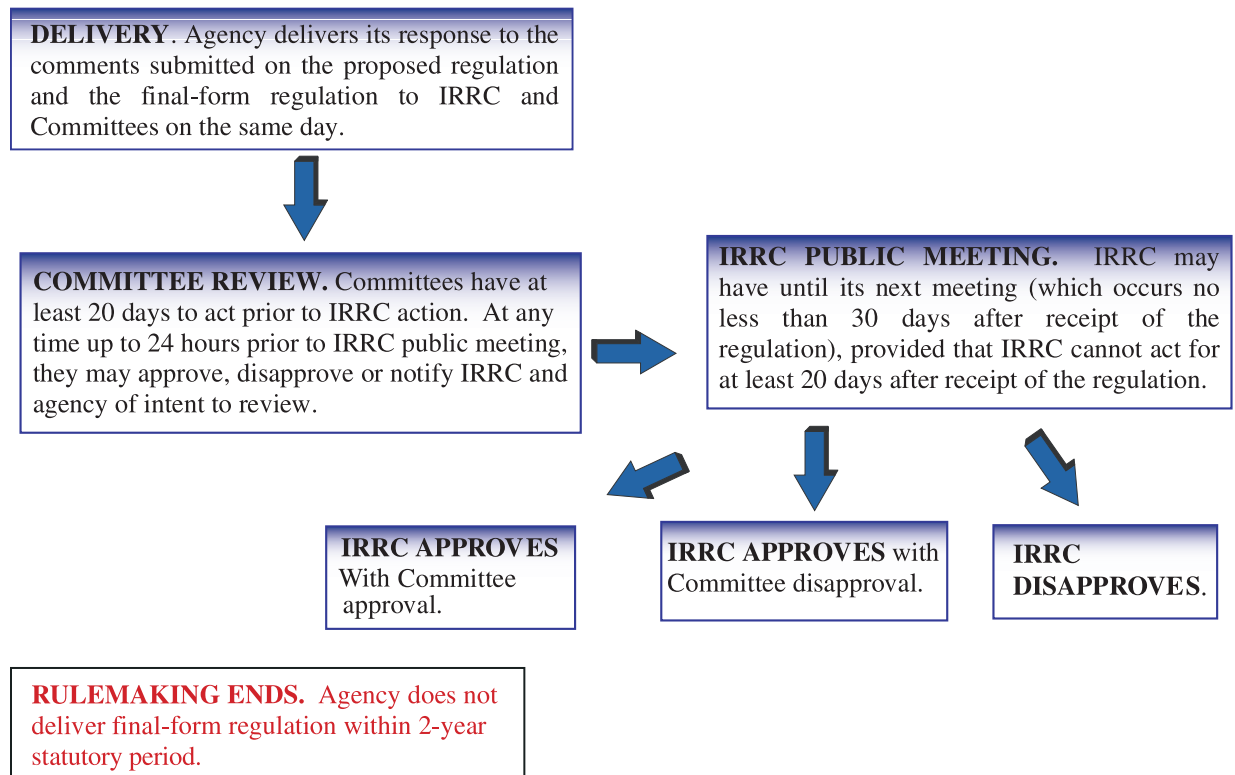


## B. THE FINAL STAGE

The final stage begins when a final-form or final-omitted regulation is delivered to the Committees and IRRC on the same day. For almost all regulations, this stage ends with review and approval at a single meeting of IRRC. This is the last stop for a regulation under the RRA. After a final review and approval by the Attorney General, the agency may publish the regulation in the *Pennsylvania Bulletin*. Once a regulation has been approved and published, it has the full force and effect of law.

A final-form regulation is the final version of a regulation that is first published as a proposed rulemaking, with the opportunity for comment from the public, IRRC and the Committees. **Preparing a final-form regulation may take an agency anywhere from a few weeks to the maximum two years allowed under the RRA.** The time required depends upon the complexity of the issues involved and the agency's available resources. During this period, the agency may meet with the Committees, interested parties and IRRC to discuss concerns raised during the proposed stage.

In contrast, a final-omitted regulation is neither published as a proposed rulemaking nor offered for public comment; it enters the process at the final rulemaking stage. Section IV.A discusses the specific circumstances under which final-omitted regulations may be promulgated.



## 1. Delivery of the Final-Form or Final-Omitted Regulation

On the same date, the agency delivers the final-form regulation and its response to all comments received, or just the final-omitted regulation, to the Committees and IRRC. The agency must also provide to the Committees and IRRC the names and addresses of commentators who requested notice of the final-form regulation. *71 P.S. § 745.5(b)*. (For a more detailed explanation regarding delivery of final regulations either immediately before or during the legislative sine die period, refer to *71 P.S. § 745.5a(f)* and IRRC's regulations at *1 Pa. Code Chapter 311A*.)

The agency's notice to commentators must include a copy of the final-form regulation or a summary of the changes made to the proposed regulation. The agency must send the notice and required information to the commentators on the same date of delivery to the Committees and IRRC. *71 P.S. § 745.5a(b)*. **If an agency does not deliver a final-form regulation within two years from the close of the public comment period, the regulation is deemed withdrawn and the rulemaking ends.**

## 2. Agency Option to Withdraw Before IRRC Action

After delivery, an agency may withdraw a final-form or final-omitted regulation. See *71 P.S. § 745.5a(a)*. In this case, the agency must notify the Committees and IRRC that it is withdrawing the final regulation. The agency may deliver the final regulation at a later date to the Committees and IRRC as long as the final-form regulation is delivered within the remainder of the two-year period. (There is no time limit for final-omitted regulations.) Upon delivery, the final review process starts anew. The agency must also resend the appropriate notice to commentators who requested it on final-form regulations. **If the agency does not deliver a final-form regulation within two years from the close of the public comment period, the rulemaking ends.**

## 3. Time Period for Review by Legislative Committees and IRRC

A final-form or final-omitted regulation must be delivered to the Committees and IRRC **on the same date**. *71 P.S. § 745.5a(c)*. Following delivery, IRRC cannot act for at least 20 days, so that the Committees have an opportunity to review the regulation. IRRC may have until its next scheduled meeting (which occurs no less than 30 days after delivery of the regulation) to approve or disapprove the regulation. IRRC is deemed to have approved a regulation when it has not filed comments on the proposed regulation and the agency has not made any changes to the regulation from proposed to final-form. *71 P.S. §§ 745.5(g), 745.5a(c)*.

Committees can take action on a final-form or final-omitted regulation at any time up to 24 hours before IRRC's public meeting. A Committee can approve, disapprove or notify the agency and IRRC of its intent to review the regulation. If a Committee disapproves or notifies IRRC and the agency of its intent to review the regulation, the Committee will have 14 days after it receives IRRC's Order to take action. *71 P.S. § 745.5a(j.2)*. Even if IRRC approves the regulation, a Committee can still delay promulgation by reporting a concurrent resolution disapproving the regulation. If the Committee does not act during its 14-day review period,

the regulation is deemed approved and the agency may proceed with the promulgation of the regulation.

#### **4. 48-Hour Blackout Period**

The RRA provides for a blackout period before IRRC's public meeting. Unsolicited public comments relating to the substance of a regulation on IRRC's current public meeting agenda will be embargoed during the final 48 hours prior to the start of the meeting. The blackout does not apply to communication between IRRC and agency staff or Members of the General Assembly and legislative staff. *71 P.S. § 745.5a(j)*. IRRC may also request information from outside sources during the blackout period.

IRRC is required to keep the agency and Committees apprised of any communications that it receives during the blackout period. IRRC must transmit comments received during this period to the agency and Committees upon receipt.

#### **FAQ #4**

**What is the best manner to provide written comments to the Commission on a final regulation? **ANSWER:** The Commission accepts written comments on final regulations by first class mail, fax or email. The Commission's mailing address is: 333 Market Street, 14th Floor, Harrisburg, PA 17101; the fax number is (717) 783-2664. The email address is [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us). All comments should be received at least 48 hours prior to the Commission's public meeting.**

#### **FAQ #5**

**If I fail to submit a written comment prior to the blackout period, may I still provide a comment on a final regulation? **ANSWER:** Yes. If you wish to provide comments on a final regulation, you should contact the Commission office (or visit our website at <http://www.irrc.state.pa.us>) to learn the date of the public meeting when the regulation will be considered.**

#### **5. IRRC Public Meetings**

IRRC has until its next scheduled meeting, which occurs no less than 30 days after receipt of a final-form or final-omitted regulation, for its review. *71 P.S. § 745.5a(e)*. Generally, it holds public meetings twice a month. These meetings are structured but informal, and may be rescheduled at its discretion to accommodate workload. However, IRRC is required to give ten days notice of rescheduled meetings to the Committees and agencies whose regulations are scheduled for action. *71 P.S. § 745.4(h)*. The public meeting schedule and agenda are posted on IRRC's website ([www.irrc.state.pa.us](http://www.irrc.state.pa.us)).

At the start of the public meeting, any embargoed material is distributed to the IRRC Commissioners. During the meeting, IRRC reviews each regulation on its agenda. The Chair invites the promulgating agency to respond to questions or make remarks. Legislators or their staff and interested members of the public are also invited to discuss their concerns

with the Commissioners. During the discourse, the Commissioners may ask questions or voice concerns. This discussion enables the Commissioners to resolve any unanswered questions concerning the agency's intent or the regulation's impact on the regulated community.

Finally, the Commissioners determine whether a regulation is “in the public interest” according to the criteria contained in **Appendix B** and vote to approve or disapprove the regulation in its entirety. *71 P.S. § 745.5b*. **If IRRC takes no action, or if there is a tie vote, the regulation is deemed approved.** An Order of approval or disapproval is issued and delivered to the agency, Committees and LRB, and is posted on IRRC's website ([www.irrc.state.pa.us](http://www.irrc.state.pa.us)). In addition, the RRA places other limits on the scope of IRRC's review of a final-form regulation. The review of final-form regulations can relate only to the following areas:

- Comments, recommendations or objections raised by IRRC to the proposed version of the regulation;
- Amendments, additions, revisions or deletions to the proposed version; or
- Recommendations, comments or objections conveyed by a Committee to the agency or IRRC.

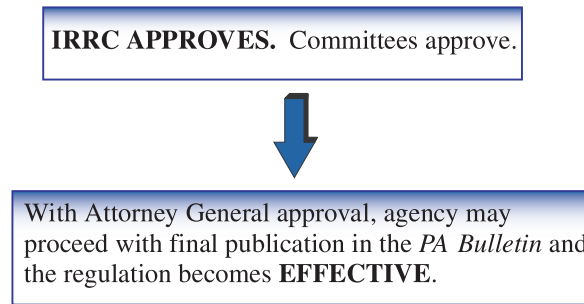
The actions of the Commissioners are not adjudicatory or judicial by nature. Their functions are considered “quasi-legislative” or “quasi-administrative”, and **a decision to approve or disapprove a regulation cannot be appealed.**<sup>3</sup>

### *a. IRRC Approval With Committee Approval*

During the past five years, IRRC approved about 99 percent of the final regulations that it considered. This is a reflection of the considerable work and cooperation between IRRC and the agencies during the review of the proposed regulation.

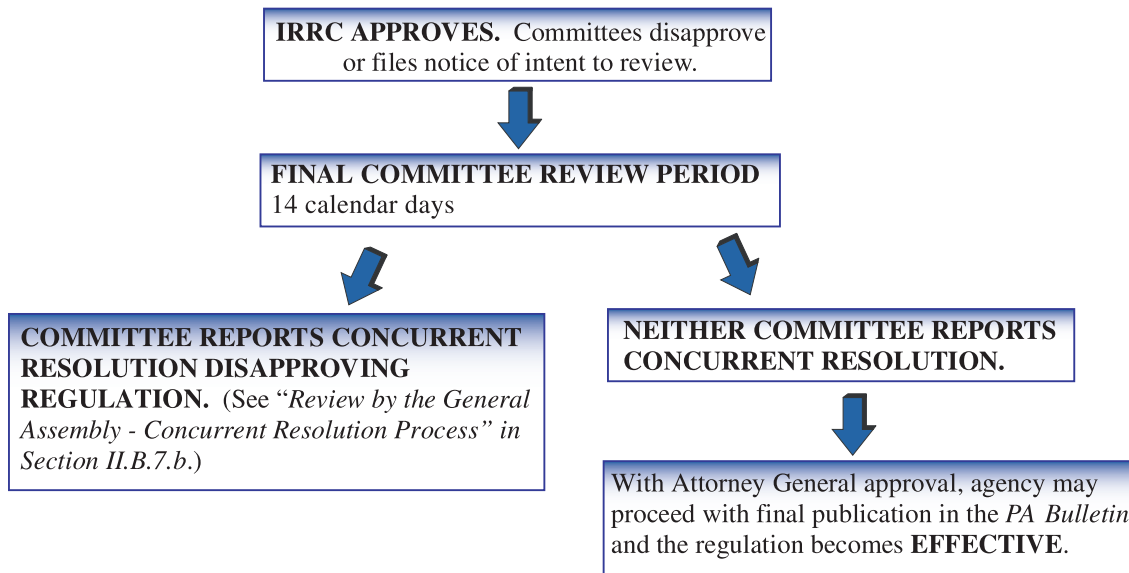
IRRC and the Committee approval of the regulation concludes the review process under the RRA. The agency may then submit the regulation to the Attorney General for final review. **Upon the Attorney General's approval for form and legality, the regulation is published in the Pennsylvania Bulletin. The regulation becomes effective on the date of publication or on a later date specified by the agency in its order adopting the regulation.** As stated at the beginning of this section, this is the last stop in the rulemaking process.

<sup>3</sup>See *71 P.S. § 745.2(b)*; *Concerned Citizens of Chestnuthill Township v. Environmental Quality Bd.*, 158 Pa. Commw. 248, 632 A.2d 1 (1993), *app. den.*, 537 Pa. 635, 642 A.2d 204 (1992).



***b. IRRC Approval With Committee Disapproval or Notice of Intent to Review***

If IRRC approves the regulation and either one or both of the Committees disapproves the regulation or notifies IRRC and the agency of its intent to review the regulation, the agency may not promulgate the regulation for 14 days after the Committees receive IRRC’s Order. *71 P.S. § 745.5a(j.2)*. During the 14-day review period, the Committee(s) that took action may report a concurrent resolution disapproving the regulation. *71 P.S. § 745.7(d)*. If action is not taken within 14 days, the regulation goes to the Attorney General for review. **Upon the Attorney General’s approval for form and legality, the regulation is published in the Pennsylvania Bulletin.** The regulation becomes effective on the date of publication or on a later date specified by the agency in its order adopting the regulation.

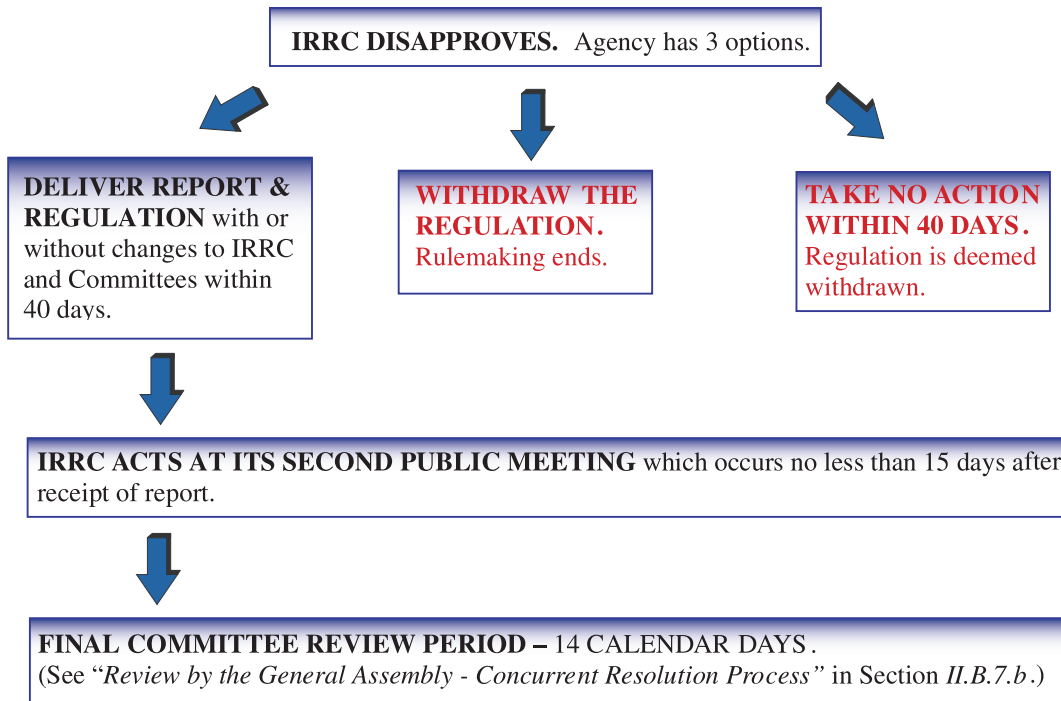


***c. IRRC Disapproval***

If IRRC acts to disapprove a regulation, it issues an Order specifying which criteria have not been satisfied. The Order is delivered to the Committees, agency and LRB. IRRC also advises commentators who requested notice related to the final-form regulation of the IRRC’s vote to disapprove. *71 P.S. § 745.6(a)*.

Disapproval will not permanently bar a regulation, but it can delay the process for implementation because the agency must respond to the disapproval Order and determine how it will proceed next. (See *“Agency Options After IRRC Disapproval”* in Section II.B.6.)





## 6. Agency Options After IRRC Disapproval

### a. Resubmit With or Without Revisions

The agency may resubmit the regulation with or without modifications. In either case, the agency must submit a report to the Committees and IRRC within 40 days of receipt of the disapproval Order. The report must contain the original or revised final-form regulation and IRRC's disapproval Order. If the regulation is submitted without revisions, the report responds to the concerns raised in the Order. *71 P.S. § 745.7(b)*. If the regulation is revised, then the report must contain a detailed explanation of how the revisions respond to IRRC's concerns. *71 P.S. § 745.7(c)*.

The agency must deliver the report and either the unchanged or revised regulation to the Committees and IRRC. IRRC may act at its public meeting, which occurs no less than 15 days after receipt of the resubmitted regulation. *71 P.S. § 745.7(c.1)*. A regulation can be approved, deemed approved or disapproved by IRRC. IRRC must notify the Committees of the final disposition of the regulation. The regulation is then subject to Committee review for 14 days. *71 P.S. § 745.7(d)*.

### b. Withdraw the Regulation

An agency may withdraw a disapproved regulation. *71 P.S. § 745.7(a)(3)*. **A voluntary withdrawal concludes the review process.** If the agency wants to proceed with the rulemaking after withdrawal, it must submit a new final-form regulation to the Committees and IRRC. However, **the agency must do so within two years of the close of the public comment period.** If the two-year deadline expires, the agency must restart the entire process.

*c. Take No Action – Regulation is Deemed Approved*

An agency can opt to take no action. If the agency does not deliver a report to the Committees and IRRC within 40 days of the agency’s receipt of the disapproval order, the regulation is deemed withdrawn. **A deemed withdrawal concludes the review process.** As noted above, **an agency may resubmit a regulation within two years of the close of the public comment period.** **If that deadline expires, the agency must restart the entire process.**

## **7. Committee Disapproval**

*a. Final Review Period for Committees*

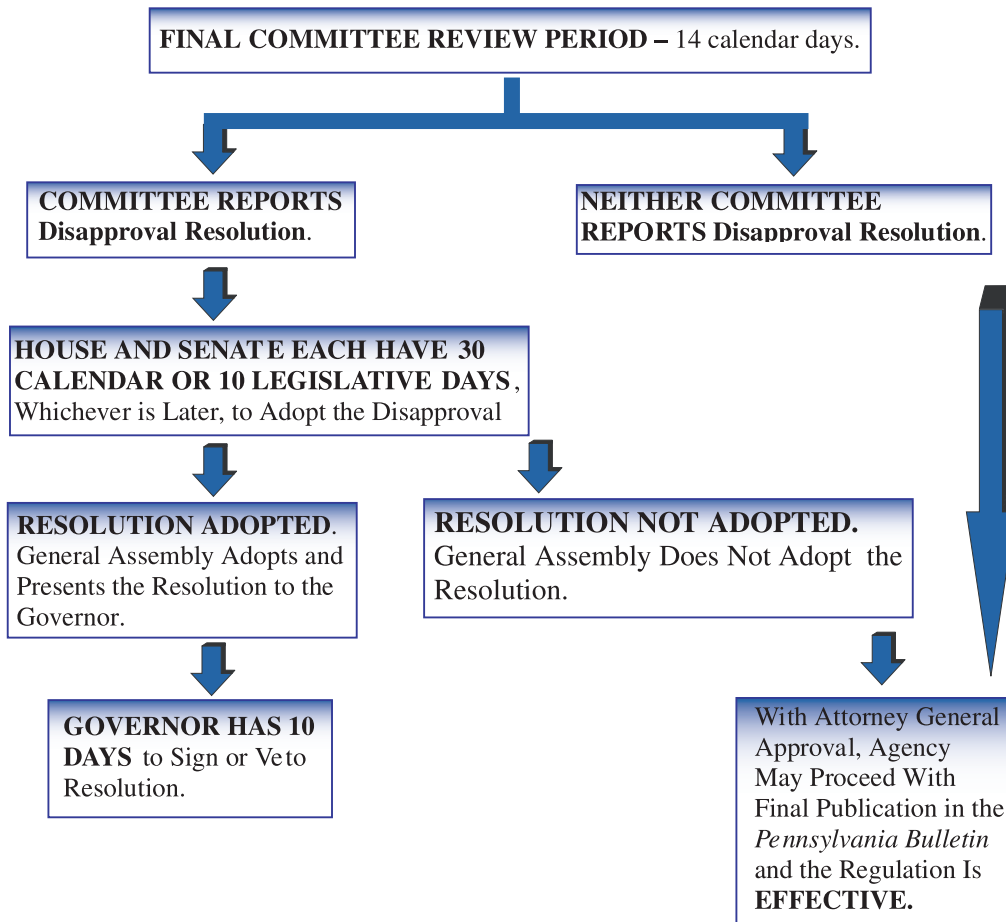
The final review by either committee can be triggered by one of three events:

- A Committee acts to notify IRRC of its intent to review the regulation at any time up to 24 hours before IRRC’s first public meeting (*71 P.S. § 745.5a(j.2)*);
- A Committee disapproves a regulation; or
- IRRC disapproves a regulation at its public meeting. The agency resubmits the regulation, with or without revisions, to the Committees and IRRC. After IRRC reviews the regulation, it notifies the Committees of its disposition.

If a Committee takes either the first or second actions, then that Committee has 14 calendar days to report a concurrent resolution. In the third scenario, both Committees have 14 calendar days to report a concurrent resolution. *71 P.S. § 745.5a(j.2)*. The 14-calendar day period begins the day after IRRC delivers its Order to the appropriate Committees. **If either Committee does not report out a concurrent resolution within the 14 days, the agency may proceed with final promulgation.** *71 P.S. § 745.5a(j.2)*. However, if a Committee reports a concurrent resolution disapproving the regulation, the promulgation is suspended until the legislative review process described in the next section is completed.

*b. Review by the General Assembly – The Concurrent Resolution Process*

The concurrent resolution review process begins when either a House of Representatives or Senate Committee reports out a concurrent resolution disapproving the regulation. From the date on which the concurrent resolution disapproving the regulation is reported, the Senate and the House of Representatives each have 30 calendar days or ten legislative days, whichever is longer, to adopt it. *71 P.S. § 745.7(d)*.



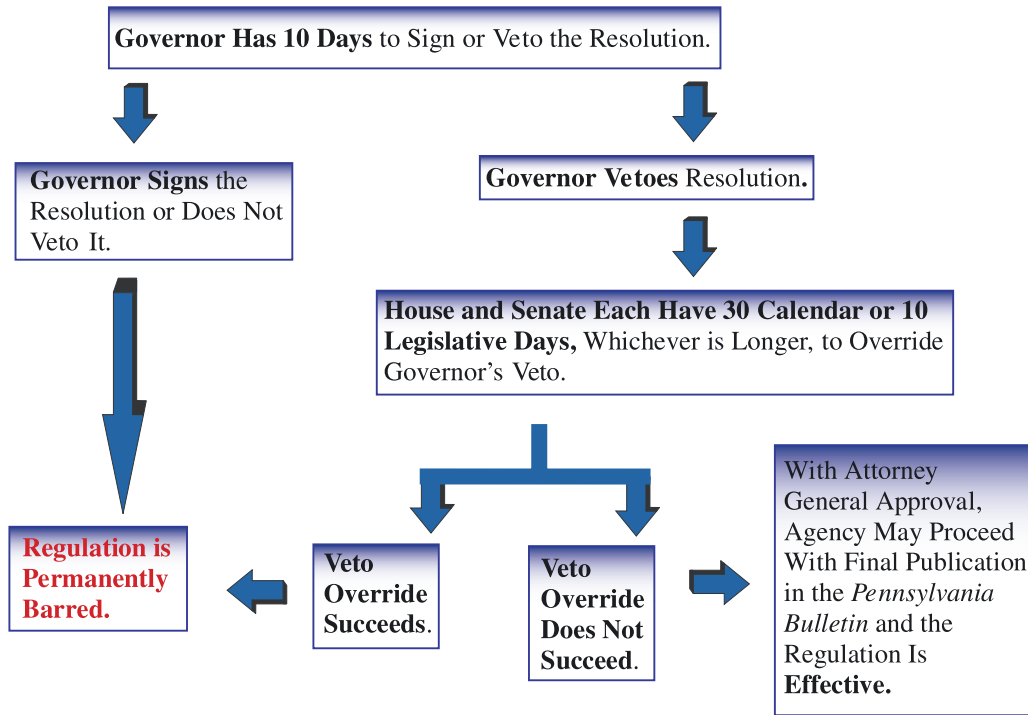
Both chambers must adopt the concurrent resolution by majority vote to continue the bar on the promulgation of the regulation. If both chambers adopt the concurrent resolution, it is presented to the Governor for consideration. If one of the chambers does not adopt the resolution within the time period described in the above paragraph, the General Assembly is deemed to have approved the regulation. *71 P.S. § 745.7(d); Art. III, Section 9 of the Pa. Const.*

## 8. Governor Action on Concurrent Resolution

The Governor has ten calendar days to act on the concurrent resolution. If the Governor **signs** the resolution, or if the Governor **does not veto the resolution** within ten days, **the resolution is approved and the regulation is permanently barred.**

If the Governor **veto**s the resolution, the Senate and the House of Representatives may override the veto. To accomplish this, a veto override requires a **two-thirds** majority vote in each chamber, and must be passed within 30 calendar or ten legislative days, whichever is longer. **A successful veto override will permanently bar the regulation.** However, if either chamber takes no action, or does not override the Governor's veto, **the General Assembly is deemed to have approved the regulation.**





*See 71 P.S. § 745.7; Art. III, Section 9 of the Pa. Const.*

The agency may proceed with promulgation if **either** of the following events occurs:

- The Senate or the House of Representatives does not adopt the concurrent resolution by majority vote; or
- The Governor vetoes the concurrent resolution and both the Senate and House of Representatives do not override the Governor's veto by a two-thirds majority vote.

### III. OPPORTUNITIES FOR BUILDING CONSENSUS

#### A. PROPOSED STAGE

Agencies sometimes provide a draft of a regulation prior to its publication in the *Pennsylvania Bulletin* to citizen advisory panels or other interest groups. Some agencies are required by statute to take this step, while others do so voluntarily. Typically, the agency will invite interested parties and stakeholder groups to review and comment on the proposal before it is published. The agency may also schedule public hearings or information sessions to explain the regulation and promote dialogue and occasionally, the invitation to participate is also extended to IRRC. Additionally, IRRC is available and willing to conduct an informal review of the proposed regulation before it is published in the *Pennsylvania Bulletin*.

#### B. FINAL STAGE

On a small number of regulations, additional work is sometimes necessary before the final stage is complete and the regulations are approved. Fortunately, the RRA offers a degree of flexibility for the agency, Committees and IRRC to consider and make changes necessary to achieve consensus. The basic rule in the RRA is that a final-form or final-omitted regulation cannot be amended after its delivery to the Committees and IRRC. However, there are two opportunities for agencies to modify regulations: toll the time for review or withdraw the regulation altogether.

**PRACTICE  
TIP #4**

**If concerned about language in regulatory provisions, agencies are encouraged to contact IRRC and request an informal review of draft proposed regulations (pre-publication) or draft final regulations (pre-submittal to IRRC and Committees).**

Depending on the circumstances, a consensus can be achieved before or after IRRC's first meeting on a particular regulation. The remainder of this section describes the steps that may be taken to resolve remaining concerns or questions related to final regulations.

#### 1. Tolling the Time for Review

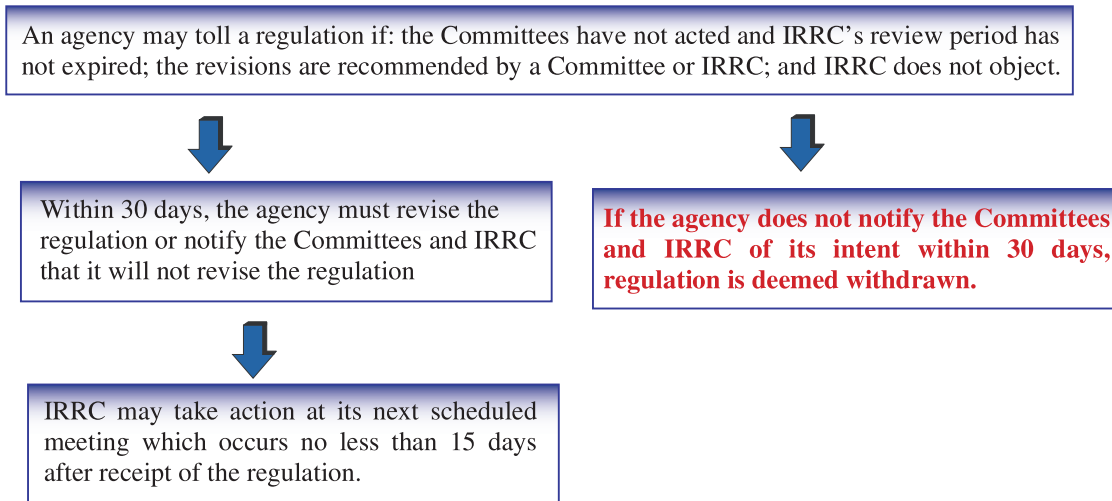
The intent of tolling is to allow an agency to make recommended changes—typically to correct minor inconsistencies or errors—to a final regulation before IRRC takes action on a regulation. Tolling is essentially a “time-out” in the review process. The agency's option to toll the time for review is limited.

First, the opportunity to toll the review period exists only until **either** one of the Committees act or IRRC's review period expires, whichever occurs first. *71 P.S. § 745.5a(g)(1)*. This ensures that both Committees and IRRC act on the exact same version of the regulation.

Second, tolling allows the agency to consider only those revisions recommended by a Committee or IRRC. *71 P.S. § 745.5a(g)(1)*. The intent of tolling is to allow an agency time to make recommended changes to a final regulation.

Third, tolling is only permitted if IRRC does not object. *71 P.S. § 745.5a(g)(1)*. If IRRC objects, review of the regulation continues and tolling cannot occur.

Last, the final review period may be tolled only once. *71 P.S. § 745.5a(g)(4)*. Within 30 days from the beginning of the tolling period, the agency must deliver the revised regulation, or a statement that it will not make revisions to the regulation, to IRRC and the Committees. *71 P.S. § 745.5a(g)(2)*. **If the agency does not meet the 30-day deadline, it is deemed to have withdrawn the regulation.**



Upon receipt of the revised regulation or notice that the regulation will not be revised, IRRC and Committee review resumes. IRRC may take action at its next scheduled meeting, which occurs no less than 15 days after delivery of the regulation.

## 2. Withdrawal of a Regulation

A second option available to an agency is to voluntarily withdraw the regulation. The reason for or purpose of a withdrawal of a regulation is at the discretion of the agency. An agency may notify the Committees and IRRC that it is withdrawing a regulation before IRRC's public meeting or at any time in the review process. The withdrawal may also serve the same purpose as a tolling and provide the agency with another opportunity to consider revisions to a regulation.

If the agency opts to withdraw a final-omitted regulation, it may submit that regulation again as a final-omitted at any time. Final-form regulations may also be withdrawn and submitted again at a later date. However, **final-form regulations must be resubmitted within two years of the close of the public comment period**, and the agency must again provide each commentator who requested notice with a copy of the final-form regulation or a summary of the changes made.

## IV. ADDITIONAL STEPS WITHIN & OUTSIDE THE REVIEW PROCESS

The focus in this section are on less commonly used techniques or issues that come up either during or outside of the regulatory review process. Some of these issues include those that are initiated by the agencies (e.g., final-omitted and emergency certified regulations); where others include those that may arise at the prompting of IRRC (e.g., review of published documents or subpoenas).

### A. FINAL-OMITTED REGULATIONS

A final-omitted regulation is a regulation promulgated by an agency without prior publication of a notice of proposed rulemaking in the *Pennsylvania Bulletin*. There is no formal opportunity for public, Committee and IRRC comments. Under the RRA, the procedure for review of final-omitted regulations is exactly the same as it is for final-form regulations. See 71 P.S. §§ 745.5a, 745.6.

The CDL establishes three very limited circumstances under which an agency is permitted to promulgate a final-omitted regulation. These occur when either:

1. **Comments from the public are not appropriate, necessary or beneficial.** Regulations in this category generally relate to military affairs; agency management organization or personnel; agency procedure or practice; Commonwealth property, loans, grants, benefits or contracts; or the interpretation of a self-executing statute.
2. **All persons subject to the regulation are named or given personal notice.** Examples of regulations in this category are those setting fees for licensing examinations. For these fees, licensure applicants are individually notified of the amount of the fee.
3. **Notice is impracticable, unnecessary or contrary to the public interest.** Regulations which have a significant and an immediate fiscal impact, and regulations which respond to emergencies fall under the categories of “impracticable” and “contrary to the public interest.” Prior notice is generally found “unnecessary” when the agency is rescinding regulations for which the enabling statute has been repealed or amended.

**PRACTICE  
TIP #5**

If an agency has a question about the appropriateness of submitting a final-omitted regulation, as opposed to a final-form regulation, then it should contact the Office of Attorney General for guidance.

**PRACTICE  
TIP #6**

Although a final-omitted regulation has no formal public comment period, there is nothing prohibiting anyone from commenting on the regulation to the agency.

Eliminating the proposed stage saves approximately 60 days of review. Review periods under the Commonwealth Attorneys Act and RRA are also shortened to conserve time. The regulation is submitted, **on the same day**, to the Attorney General, IRRC and Committees. This saves an additional 30 days because the Attorney General’s review occurs **concurrently** with IRRC’s and the Committees’ review. The review does not have to occur after IRRC and Committee action as it does with final-form regulations.

### FAQ #6

**Can IRRC prevent an agency from submitting a regulation as a “final-omitted” regulation? ANSWER: No. Only the Office of Attorney General can require an agency to resubmit the regulation as a proposed rulemaking.**

## B. EMERGENCY CERTIFIED REGULATIONS

The RRA allows an agency to immediately implement a final-form or final-omitted regulation when the Governor or Attorney General certifies that it is necessary to respond to an emergency. An emergency certified regulation takes effect upon publication in the *Pennsylvania Bulletin*, or on the date specified in the agency’s adoption order. Although IRRC and Committees review the regulation in the same manner as they review all other final-form and final-omitted regulations, **the regulation takes effect prior to the completion of the review process**. If it is disapproved by IRRC or a Committee, it remains effective for 120 days or until finally disapproved under the concurrent resolution process, whichever occurs later. If the regulation is approved, it is permanently effective. *71 P.S. § 745.6(d)*.

The conditions under which the Governor or the Attorney General may certify a regulation as “emergency” are very limited. The Attorney General may certify that a regulation is necessary to satisfy the order of a state or federal court, or to implement the provisions of a federal statute or regulation. The Governor may certify that a regulation is required to avoid an emergency which may threaten the public health, safety or welfare, cause a budget deficit, or create the need for supplemental or deficiency appropriations of at least \$1,000,000.

## C. EXISTING REGULATIONS

IRRC may review any existing regulation that has been in effect for at least three years. This review **may** be undertaken either at IRRC’s own initiative or at the request of any person. If a member of the Senate or House of Representatives requests the review, IRRC must assign it high priority. *71 P.S. § 745.8a*.

IRRC performs an advisory role in the review of an existing regulation. If IRRC finds that the regulation is contrary to the public interest because it does not satisfy the regulatory review criteria outlined in **Appendix B** of this manual, it may recommend changes to the agency. IRRC may also recommend legislative amendments to the Governor and General Assembly. *71 P.S. § 745.8a*.

## **D. ADVANCED NOTICE OF PROPOSED RULEMAKING (ANPR)**

An advanced notice of proposed rulemaking (ANPR) is a mechanism used by some agencies to provide notice of a new proposed regulation. It is not part of the formal rulemaking process under the RRA; however, public commentary is welcomed.

## **E. ADVANCED NOTICE OF FINAL RULEMAKING (ANFR)**

Similar to an ANPR, an advanced notice of final rulemaking (ANFR) is a device used by some agencies to provide notice of intended changes from the proposed version of a regulation to the final version. It is not a part of the formal rulemaking process under the RRA. However, it is occasionally done when, based on feedback received at the proposed stage or other factors, the agency has made substantial changes to the final regulation. When publishing an ANFR in the *Pennsylvania Bulletin*, agencies generally explain its purpose and may request additional public input.

## **F. PUBLISHED AND UNPUBLISHED DOCUMENTS**

IRRC may review published and unpublished documents to determine whether they should be published as regulations. Such documents include statements of policy (*see Section I.C of this manual*), guidelines, bulletins and other types of directives. If IRRC finds that the agency is enforcing such directives as regulations, it may present the matter to the Joint Committee on Documents (Joint Committee). *71 P.S. § 745.7a*.

The Joint Committee will decide if the documents are regulatory in nature. If it concludes that they are, the Joint Committee may order the agency either to promulgate the document as a regulation within 180 days, or desist from using it.

## **G. SUBPOENA POWER**

IRRC may issue subpoenas to require the production of documents or the attendance of persons, if necessary to perform its functions. Either the Chairman or Executive Director may sign subpoenas, which may be served in any manner authorized under Pennsylvania law. If attendance or production of documents is not forthcoming, IRRC may apply to the Commonwealth Court for enforcement of its subpoena. *71 P.S. § 745.10*.

## V. ANNUAL REPORT

By April 1 of each year, IRRC must file an annual report with the General Assembly and the Governor. *71 P.S. § 745.11(b)*. The annual report provides detailed information about IRRC and its staff, and lists all of the proposed and final regulations reviewed during the preceding year. Copies of the annual report are widely distributed to legislators, government officials, commentators and any person who requests one. The annual report is also available on IRRC's website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

# APPENDICES



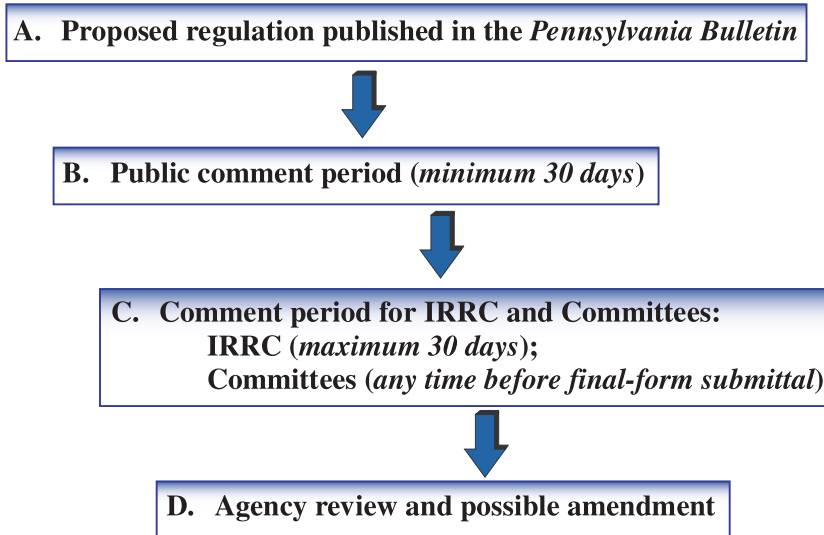


## APPENDIX A

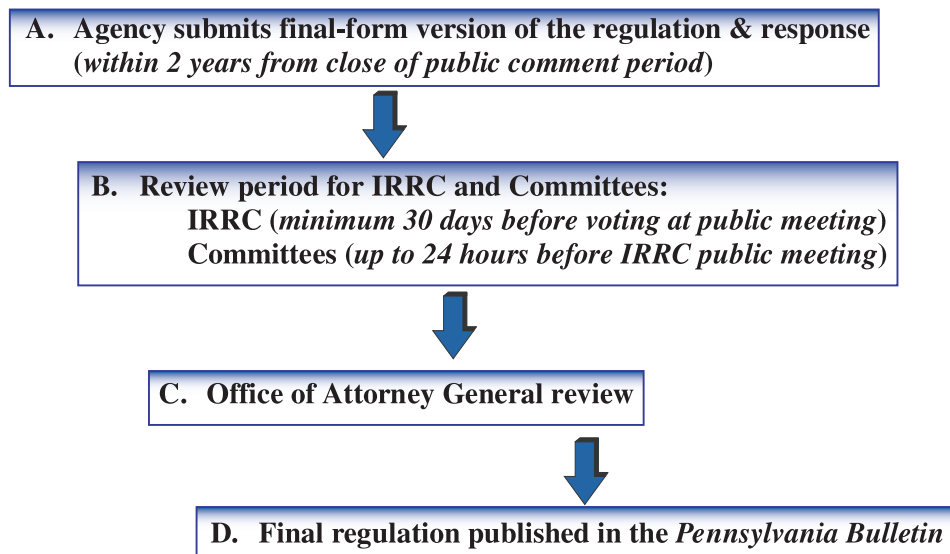
### TWO-STAGE REGULATORY REVIEW PROCESS

(Summary)

**1. PROPOSED REGULATION STAGE:** After approval for form and legality by the Office of Attorney General, agency publishes proposed regulation in the Pennsylvania Bulletin for public review and comment. IRRC and Standing Committees may also submit comments.



**2. FINAL-FORM REGULATION STAGE:** Agency submits regulation and response to comments to Committees and IRRC for review before publication as a final rule. Commentators also have opportunity to review the final version.



**APPENDIX B**  
**REGULATORY REVIEW ACT CRITERIA**  
*(71 P.S. 745.5b)*

- Whether the agency has the statutory authority to promulgate the regulation.
- Whether the regulation is consistent with the intent of the General Assembly.
- Whether the regulation is in the public interest. To determine whether the regulation satisfies these criteria, the Commission considers:

**1. Economic or fiscal impact of the regulation which include the following:**

- i. Direct and indirect costs to the Commonwealth, political subdivisions and private sector;
- ii. Adverse effects on prices, productivity or competition;
- iii. The extent to which reports, forms or other paperwork are required and the estimated preparation cost incurred by individuals, businesses and organizations in the private and public sectors;
- iv. The nature and estimated costs of legal, consulting or accounting services which the private or public sector may incur; and
- v. The legality, desirability and feasibility of exempting or setting lesser standards of compliance for individuals or small businesses.

**2. The protection of the public health, safety and welfare, and the effect on the Commonwealth's natural resources.**

**3. The clarity, feasibility and reasonableness of the regulation to be determined by considering the following:**

- i. Possible conflict with or duplication of statutes or existing regulations;
- ii. Clarity and lack of ambiguity;
- iii. Need for the regulation; and
- iv. Reasonableness of the requirements, implementation procedures and time tables for compliance by the public and private sector.

**4. Whether the regulation represents a policy decision of such a substantial nature that it requires legislative review.**

**5. Comments, objections or recommendations of a Committee.**

**6. Compliance with the provisions of this act or the regulations of the Commission in promulgating the regulation.**

## APPENDIX C

### REGULATORY ANALYSIS FORM CONTENTS

*(RAF TEMPLATE CAN BE FOUND AT [HTTP://WWW.IRRC.STATE.PA.US/DOCUMENTS.CFM](http://www.irrc.state.pa.us/documents.cfm))*

1. The title of the regulation, the name of the agency, and the names and telephone numbers of agency officials responsible for responding to questions and receiving comments.
2. A concise, nontechnical explanation of the regulation.
3. A citation to the Federal or State statute or regulation, or the decision of a federal or state court, authorizing or affecting the regulation.
4. An explanation of the compelling public interest that justifies the regulation.
5. A statement of the public health, safety, environmental or general welfare risks associated with non-regulation.
6. An identification of the types of persons, businesses and organizations who will need to comply with the regulation and who will benefit or be adversely affected.
7. Estimates of the direct and indirect costs to the regulated community, the Commonwealth and its political subdivisions.
8. A description of required legal, accounting or consulting procedures, additional reporting, recordkeeping or other paperwork and measures taken to minimize these requirements.
9. A listing of provisions that are more stringent than federal standards and the compelling Pennsylvania interest that demands stronger regulation.
10. A description of how the regulation compares to regulations in other states and whether the regulation will put Pennsylvania at a competitive disadvantage.
11. A description of alternatives which have been considered and rejected, and a statement that the regulation is the least burdensome alternative.
12. A description of the input solicited during the development of the regulation, a schedule of any hearings, and the anticipated effective date.
13. A description of special provisions developed to meet the needs of affected persons, including minorities, elderly, small businesses and farmers.
14. A description of the plan developed for evaluating the continuing effectiveness of the regulation after its implementation.

**APPENDIX D**  
**SAMPLE REGULATORY PACKAGE**  
*(PROPOSED STAGE)*

**1. A proposed regulatory package includes:**

- Transmittal Sheet: <http://www.irrc.state.pa.us/Documents.cfm>
- Regulatory Analysis Form (transmittal form that includes budget and policy information): <http://www.irrc.state.pa.us/Documents.cfm>
- Preamble (summary of the regulation): examples at <http://www.irrc.state.pa.us/Regulations/index.cfm>
- Annex A text of the proposed regulation): examples at <http://www.irrc.state.pa.us/Regulations/index.cfm> and <http://www.pabulletin.com/>

**2. A checklist for delivery and submission of a proposed regulatory package: <http://www.irrc.state.pa.us/Documents.cfm>**

## APPENDIX E

### GLOSSARY & INDEX

<b>Agency</b>	Any department, departmental administrative board or commission, independent board or commission, agency or other authority of this Commonwealth now existing or hereafter created, but shall not include the Senate or the House of Representatives, the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission or any court, political subdivision, municipal or local authority. (71 P.S. § 745.3)
<b>Commission</b>	Independent Regulatory Review Commission or IRRC.
<b>Commission Comments</b> Pgs. 2, 6-9, 11-13, 21, 26	Objections, recommendations, statements or questions relating to a proposed regulation issued by the Commission in accordance with section 5(g) of the RRA (71 P.S. § 745.5(g)).
<b>Commission Order</b> Pgs. 11, 13-16, 22-23	A public document containing the Commission's findings and reasons for approval or disapproval of a final-form or final-omitted.
<b>Commission Public Meeting</b> Pgs. 11, 12, 15, 16, 20	The public session at which the Commission staff briefs the Commissioners on the regulations scheduled for action at the Commission's public meeting and the Commission takes formal action on regulations.
<b>Committee</b> Pgs. 4-16, 19-23, 26-27	A standing committee of the Senate or the House of Representatives designated by the President pro tempore of the Senate for the Senate or by the Speaker of the House of Representatives for the House. Designation shall prescribe the jurisdiction of each standing committee over the various state agencies for purposes of the RRA. The designation shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. (71 P.S. § 745.3)
<b>Committee Action</b> Pgs. 1-3, 6, 11-14, 16-17, 19-20, 22	One of the following: (1) Approval or disapproval of a regulation, or notice that the committee intends to review the regulation pursuant to Section 5.1(j.2) of the RRA (71 P.S. § 745.5a(j.2)), or (2) Reporting of a concurrent resolution under section 7(d) of the RRA (71 P.S. § 745.7(d)).
<b>Concurrent Resolution</b> Pgs. 11, 14, 16-18, 22	A resolution initiated by a Committee to bar final promulgation of a regulation disapproved by the Commission or a Committee.

<b>Deemed Approved by the Commission</b> Pgs. 3, 12-13, 15-16	The approval of a regulation or an agency report by the Commission by operation of law when the Commission has not approved or disapproved the regulation or agency report submitted in accordance with either sections 5.1 or 7(c.1) the RRA (71 P.S. §§ 745.5a(e), 745.7(c.1)).
<b>Embargoed Materials</b> Pg. 12	Unsolicited documents pertaining to a regulation on the agenda for the Commission's public meeting delivered during the blackout period by any party other than the agency or Members of the General Assembly and their staffs.
<b>Emergency Certified Regulation</b> Pgs. 21-22	A regulation certified by the Attorney General or the Governor pursuant to Section 6(d) the RRA as necessary for compliance with a court order or statutory mandate, or to respond to an emergency.
<b>Executive Agency</b> Pg. 3	An agency under the jurisdiction of the Governor.
<b>Existing Regulation</b> Pgs. 1-2, 22	An enforceable regulation contained in the <i>Pennsylvania Code</i> .
<b>Final-Form Regulation</b> Pgs. 2-3, 7-11, 13-15, 20	A regulation previously published as a proposed regulation pursuant to the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law, which an agency submits to the Commission and the Committees following the close of the public comment period. (71 P.S. § 745.3)
<b>Final-Omitted Regulation</b> Pgs. 10-12, 19-22	A regulation which an agency submits to the Commission and the Committees for which the agency has omitted notice of proposed rulemaking pursuant to Section 204 of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law. (71 P.S. § 745.3)
<b>Independent Agency</b> Pgs. 2-3	An agency that does not fall under the Governor's jurisdiction, such as the Pennsylvania Public Utility Commission, Treasury Department and Pennsylvania Labor Relations Board.
<b>IRRC</b> Pgs. 3-16, 19-24, 26	Independent Regulatory Review Commission
<b>LRB</b> Pgs. 6, 9, 13-14	Legislative Reference Bureau.
<b>Pennsylvania Bulletin</b> Pgs. 2, 4, 6-8, 10, 13-14, 19, 21-23, 26	The official gazette of the Commonwealth of Pennsylvania which is published every Saturday by the LRB and is available online at <a href="http://www.pabulletin.com">www.pabulletin.com</a> .

**Pennsylvania Code**

Pgs. 6, 11

The official codification of Pennsylvania’s administrative rules and regulations and is available online at [www.pacode.com](http://www.pacode.com).

**Proposed Regulation**

Pgs. 1-3, 6-9, 11, 13, 19, 23, 26

A document intended for promulgation as a regulation which an agency submits to the Commission and the Committees and for which the agency gives notice of proposed rulemaking and holds a public comment period pursuant to the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law. (71 P.S. § 745.3)

**Public Comment Period**

Pgs. 7-9, 11, 15-16, 20-21

The period following the publication of a proposed regulation in the *Pennsylvania Bulletin*, during which the public may submit recommendations or objections to the agency.

**Regulation**

Pgs. 1-17, 19-24, 26-29

Any rule or regulation, or order in the nature of a rule or regulation, promulgated by an agency under statutory authority in the administration of any statute administered by or relating to the agency or amending, revising or otherwise altering the terms and provisions of an existing regulation, or prescribing a practice or procedure before such agency. (71 P.S. § 745.3)

**Regulatory Analysis Form (RAF)**

Pgs. 3, 6, 28, 29

A form containing information about a regulation, including the agency’s statutory authority, title of the regulation, a description of the regulation, a cost/benefit analysis, an impact analysis and the timeframe for the adoption of the regulation.

**Regulatory Review Criteria**

Pg. 22

The requirements contained in Section 5.2(a) and (b) of the RRA that a regulation must satisfy in order for the Commission to determine that the regulation is in the public interest.

**Sine Die**

Pgs. 6, 11

The final adjournment of the Senate and the House of Representatives by November 30 of even numbered years.

**Statement of Policy**

Pgs. 4, 23

An announcement to the public of the policy that an agency intends to implement in a future rulemaking or adjudication. The announcement provides guidance to regulated entities as to the factors an agency will consider in deciding matters over which it has jurisdiction, but does not constitute a binding norm.

**48-Hour Blackout Period**

Pg. 12

The 48-hour period immediately preceding the call to order of the Commission’s public meeting that applies to embargoed material. (71 P.S. § 745a(j))









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