

REGULATORY REVIEW ACT - OMNIBUS AMENDMENTS

Act of Jun. 25, 1997, P.L. 252, No. 24

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Session of 1997

No. 1997-24

SB 7

AN ACT

Amending the act of June 25, 1982 (P.L.633, No.181), entitled, as reenacted, "An act providing for independent oversight and review of regulations, creating an Independent Regulatory Review Commission, providing for its powers and duties and making repeals," further providing for legislative intent, for definitions, for the Independent Regulatory Review Commission, for review criteria, for commission and agency review procedure, for statutory compliance, for subsequent review, for classification of documents, for modifying regulations, for existing regulations, for staff, for subpoena power, for administrative functions and for termination.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 2, 3 and 4 of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, reenacted and amended June 30, 1989 (P.L.73, No.19), are amended to read: Section 2. Legislative intent.

(a) The General Assembly has enacted a large number of statutes [conferring] **and has conferred** on boards, commissions, departments and [other] agencies [of] **within** the executive branch of government the authority to adopt rules and regulations to [supplement and] implement those statutes. The General Assembly has found that this delegation of its authority has resulted in regulations being promulgated without **undergoing** effective review concerning cost benefits, duplication, inflationary impact and conformity to legislative intent. The General Assembly finds that it must [provide] **establish** a procedure for oversight and review of regulations adopted pursuant to this delegation of legislative power **in order** to curtail excessive regulation and to [establish a system of accountability so that the bureaucracy must justify its use of the regulatory] **require the executive branch to justify its exercise of the authority to regulate** before imposing hidden costs upon the economy of Pennsylvania. It is the intent of this act to establish a method for [continuing] **ongoing** and effective **legislative** review[, accountability] and oversight[. It is the further intent of this act] **in order to foster executive branch accountability**; to provide for primary review by a commission with sufficient authority, expertise, independence and time to perform that [responsibility. It is the further intent of this act] **function**; to provide ultimate review **of regulations** by the General Assembly [of those regulations. This act is intended to provide a method of oversight and review of regulations issued by executive agencies]; **and** to assist the Governor, **the Attorney General** and the General Assembly in their supervisory and oversight functions [and it]. **To the greatest extent possible, this act is intended to encourage the resolution of objections to a**

**regulation and the reaching of a consensus among the commission, the standing committees, interested parties and the agency.**

**(b) This act is not intended to create [any] a right or benefit, substantive or procedural, enforceable at law by a [party] person against another person or against the Commonwealth, its agencies[, officers or any person] or its officers.**

### **Section 3. Definitions.**

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

**"Agency."** 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 Commission, the Pennsylvania Game Commission or any court, political subdivision, municipal or local authority.

**"Commission."** The Independent Regulatory Review Commission.

**["Designated standing committee."** A standing committee of the House of Representatives or the Senate designated by the Speaker of the House of Representatives for the House and the President pro tempore of the Senate for the Senate which designation shall prescribe the jurisdiction of each standing committee over the various State agencies for purposes of this act.]

**"Committee."** 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. The designation shall prescribe the jurisdiction of each standing committee over the various State agencies for purposes of this act. The designation shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

**"Commonwealth Attorneys Act."** The act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act."

**"Commonwealth Documents Law."** The act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

**"Family."** A parent, spouse, child, brother or sister.

**"Final-form regulation."** A regulation [submitted by] 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 [designated standing] committees following the close of the public comment period[, as provided by section 201 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law].

**"Final-omitted regulation."** 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.

**"Promulgate."** To publish an order adopting a final-form or final-omitted regulation in accordance with the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

**"Proposed regulation."** 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.

"Regulation." 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 the practice or procedure before such agency. The term shall also include actions of the Liquor Control Board which have an effect on the discount rate for retail licensees. The term shall not include a proclamation, executive order, directive or similar document [promulgated] **issued** by the Governor, but shall include a regulation which may be promulgated by an agency, only with the approval of the Governor.

**"Withdrawal." Removal of a proposed, final-form or final-omitted regulation by an agency from the review process so that the commission and the committees are prevented from taking further action on the regulation.**

Section 4. [Creation] **Composition** of commission; membership, compensation; vacancies; removal.

(a) The Independent Regulatory Review Commission shall consist of five members to be known as commissioners. One [member of the commission] **commissioner** shall be appointed by the Governor to serve at [his] **the Governor's** pleasure, one by the President pro tempore of the Senate, one by the Speaker of the House of Representatives, one by the Minority Leader of the Senate and one by the Minority Leader of the House of Representatives. [No] **A** member of the General Assembly or any other officer or employee of State Government [shall] **may not** serve as a [member of the commission: Provided, however, That] **commissioner; but** a [commission member] **commissioner** may serve on advisory boards and commissions, or on other boards and commissions which do not promulgate any rules and regulations which may come before the commission for review pursuant to this act.

(b) [Of the original members, the two members appointed by the Speaker of the House and the Minority Leader of the House of Representatives respectively shall serve for an initial term of two years and the two members appointed by the President pro tempore of the Senate and the Minority Leader of the Senate respectively shall serve for an initial term of three years. Thereafter, each] **Each** appointment provided for by this act shall be for a term of three years and such appointments shall be made in the same manner as [the original appointments] **set forth in subsection (a)**. From the time of [original] **initial** appointment to the commission, [no] **a** commissioner may **not** serve more than two full terms consecutively. A commissioner [initially] appointed to serve the remainder of an unexpired term shall, in addition thereto, be eligible to be appointed to, and to serve, two full terms.

(c) [All vacancies shall be filled,] **An appointment to fill a vacancy** for the remainder of the unexpired term[, ] **shall be made** in the same manner as [original appointments] **set forth in subsection (a)**. [Any commissioner, upon the expiration of his term,] **Upon the expiration of a commissioner's term of office, the commissioner** shall continue to hold office until [his] **a** successor [shall be] **is** appointed.

(d) [The commissioners] **The commissioner who is elected to serve as the chairperson in accordance with subsection (g) shall receive \$300 per day as compensation for services rendered to**

the commission. Each of the other commissioners shall receive [§125] \$250 per day as compensation for [their] services rendered to the commission. [The commissioners] A commissioner shall also be entitled to reimbursement for travel and other necessary expenses incurred as a result of [their] official duties [as members of the commission]. The expenses incurred by [the commissioners, or by any employees] a commissioner, or by an employee of the commission, shall be [allowed and] paid on the presentation of itemized vouchers therefor, which vouchers shall be subject to the approval of the commission.

(e) Except as authorized pursuant to [this section] subsection (f) or (h) and except for the Governor's appointee who shall serve at [his] the Governor's pleasure, [no] a commissioner may not be removed [from office] during [his term] the commissioner's term of office. The Governor may, with the approval of two-thirds of the members of the Senate, upon [a] clear and convincing evidence of misfeasance or malfeasance in office or neglect of duty, remove a commissioner prior to the expiration of the commissioner's term. The Governor shall provide the commissioner [so removed] to be removed with a detailed written statement of the reasons for [his] removal.

(f) [Any member of the commission] A commissioner formally charged before a court of record with the commission of a felony or with a misdemeanor as provided by 18 Pa.C.S. Pt. II Art. E (relating to offenses against public administration) shall immediately be suspended as a [member of the commission] commissioner until the charge is dismissed or a verdict of acquittal is announced. If [any commission member shall be] a commissioner pleads guilty or nolo contendere or is found guilty of such offense, [then] or receives probation without verdict, disposition in lieu of trial, or an accelerated rehabilitative disposition for felony or misdemeanor charges in this Commonwealth or in any other jurisdiction, that [commissioner's membership shall become vacant automatically] commissioner shall immediately be removed from the commission upon announcement of the verdict or disposition by [a trial] the court or upon the court's acceptance of a plea of guilty or nolo contendere. [No commission member shall]

(f.1) A commissioner may not participate in deliberations regarding any regulation which significantly affects the operation or activities of any organization (except a nonprofit organization certified under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) in which the [commission member] commissioner holds a nonsalaried position) in which [he] the commissioner, or any member of [his family, has a substantial economic interest] the commissioner's family, owns shares of stock in excess of 5% of the total issue of the stock, has an ownership interest in excess of 5% of the total ownership, or serves as an officer, director, trustee, partner or employee. Within 90 days of appointment, and annually thereafter, each [commission member] commissioner shall disclose [the existence of] all business affiliations and financial interests. The disclosure statement shall be filed with the executive director of the [Independent Regulatory Review Commission] commission and the Ethics Commission and shall be available for public inspection during business hours of the commission. Each commissioner's disclosure statement shall remain on file as long as the [commission member to which it applies] commissioner remains on the commission. [Prior to any vote upon any regulation upon which any member] If a commissioner has or may have a conflict of interest, or

feels [he or any other] **another** commissioner has **or may have** a [potential] conflict of interest[, such member] **in deliberating on a regulation, the commissioner shall, prior to the vote on the regulation,** disclose [such] **the conflict or** potential conflict [and]. **The commissioner may** request a ruling from the [chairman] **chairperson** of the commission upon the question of whether [such] **the conflict or** potential conflict disqualifies the [member] **commissioner** from voting on the regulation. [Any member of the commission] **A commissioner** may challenge the ruling of the [chairman,] **chairperson**; and, in [such] **that** case, the question shall be resolved by majority vote of the commission. The [chairman] **chairperson** or a majority of the commissioners may request the Ethics Commission to provide advice regarding conflicts of interest, and [such] **the** advice, when given, shall be binding upon the commission. A [member of the commission] **commissioner** commits a misdemeanor of the second degree [if such member] **by** knowingly and intentionally [violates] **violating** the provisions of this subsection. [No person who acts] **The commission or its employees, when acting** in good faith on an opinion issued to [him] **a commissioner** by the [chairman] **chairperson** or the Ethics Commission shall **not** be subject to criminal or civil penalties levied under the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law, for so acting, provided the material facts are as stated in the request for an opinion. **In addition to the requirements of this act, a commissioner is subject to the Public Official and Employee Ethics Law.**

(g) [A chairman shall be elected by the commission] **The commission shall elect a chairperson,** who shall serve for a term of two years and until [his successors shall be] **a successor is** elected. The [chairman] **chairperson** shall preside at meetings of the commission and shall execute documents relating to the formal actions of the commission.

(h) The commission shall meet [at least twice a month at such] **before the period for its review of regulations under this act expires and at other times as necessary to transact the business of the commission and insure an expeditious and orderly review of regulations under this act. Meetings shall be held at** times and places [as shall be] set by the [chairman] **chairperson. A meeting may be rescheduled by the commission upon the provision of at least ten days' notice to all affected agencies and the committees.** A commissioner who fails to attend three consecutive meetings without cause shall be removed as a commissioner by the authority appointing the commissioner.

(i) For purposes of conducting official business, a quorum [shall consist] **consists** of three [members. Members] **commissioners. A commissioner** must be physically present to be counted toward the quorum. If the commission is unable to conduct business for lack of a quorum, the deadline for the commission to [notify the agency of an objection] **take action on a regulation** in accordance with [section 6(a) or to issue an order in accordance with section 7(c)] **this act** shall be postponed for 30 days or until the next meeting at which a quorum is in attendance, whichever first occurs.

Section 2. Section 5 of the act is amended and renumbered to read:

Section 5. Proposed [regulation;] **regulations; procedures and** criteria for review[, existing regulations].

(a) [For proposed regulations, submitted after the effective date of this section, at the same time that proposed regulations

and any changes thereto are submitted] **On the same date that an agency submits a proposed regulation** to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the Pennsylvania Bulletin as required by [the act of July 31, 1968 (P.L.769, No.240), referred to as] the Commonwealth Documents Law, the agency [proposing the regulation] shall submit **to the commission and the committees** a copy of the proposed regulation [to the commission and the designated standing committee of each House of the General Assembly. The agency proposing the regulation shall hold a public comment period of at least 30 days, beginning with publication of the notice of proposed rulemaking in the Pennsylvania Bulletin. At the same time the agency submits the proposed regulation, it shall deliver additional information to the commission and the designated standing committees, including, but not limited to,] **and a regulatory analysis form which includes** the following:

(1) The [name] **title** of the agency [proposing the regulation and a statement of the statutory or other authority under which the regulation or change is proposed and if such regulation or change is proposed to implement the requirements of Federal statute or Federal regulation, such Federal statute or regulation shall be cited with specificity.] **and the names, office addresses and the telephone numbers of the agency officials responsible for responding to questions regarding the regulation or for receiving comments relating to the regulation.**

(1.1) **A specific citation to the Federal or State statutory or regulatory authority, or the decision of a Federal or State court, under which the agency is proposing the regulation, which the regulation is designed to implement or which may mandate or affect compliance with the regulation.**

(2) A [brief explanation] **concise and, when possible, nontechnical explanation** of the proposed regulation [or change].

(3) A statement of the need for the regulation [or change].

(4) Estimates of the direct [cost] **and indirect costs** to the Commonwealth [and direct and indirect cost], to its political subdivisions and [indirect cost] to the private sector. Insofar as the [proposal] **proposed regulation** relates to [direct cost] **costs** to the Commonwealth, the agency may submit in lieu of its own statement the fiscal note prepared by the Office of the Budget pursuant to section 612 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(5) A statement of legal, accounting or [consultant] **consulting** procedures [which may be required for implementation of the regulation by those affected by it.

(6) A statement of any] **and** additional reporting, recordkeeping or other paperwork [required by the proposed regulations], including copies of [any] forms or reports, which will be required [in the] **for** implementation of the [proposed] regulation, **and an explanation of measures which have been taken to minimize these requirements.**

(7) [An outline of conformance with the public comment period and relevant dates including dates by which comments must be received, dates of proposed public hearings, the effective date of final regulations, date by which compliance with the proposed regulations will be required, including

the date by which any required permits, licenses or other approvals must be obtained.

(8) The name of the author or authors of the regulation with their office address and phone numbers included.] **A schedule for review of the proposed regulation, including the date by which the agency must receive comments; the date or dates on which public hearings will be held; the expected date of promulgation of the proposed regulation as a final-form regulation; the expected effective date of the final-form regulation; the date by which compliance with the final-form regulation will be required; and the date by which required permits, licenses or other approvals must be obtained.**

(9) An identification of the types of persons, businesses and organizations which would be affected by the regulation.

(10) [Identification] **An identification of [any other regulations which would be affected by the regulation.] the financial, economic and social impact of the regulation on individuals, business and labor communities and other public and private organizations and, when practicable, an evaluation of the benefits expected as a result of the regulation.**

(11) **A description of any special provisions which have been developed to meet the particular needs of affected groups and persons, including minorities, the elderly, small businesses and farmers.**

(12) **A description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.**

(13) **A description of the plan developed for evaluating the continuing effectiveness of the regulation after its implementation.**

(b) The requirements of [this section] **subsection (a)** shall not diminish the [Notice of Proposed Rulemaking] requirements **of section 201** of the Commonwealth Documents Law, but the information required by this section may be included in the Notice of Proposed Rulemaking [requirement for publication] **published** in the Pennsylvania Bulletin in lieu of the information required by paragraphs (2) and (3) of section 201 of the Commonwealth Documents Law. [The commission may waive an information requirement of this section for a proposed regulation when any specific requirement is deemed by the commission to be unnecessary or inappropriate.

(b) In addition to the requirements of subsection (a), for regulations which impose gross fiscal impacts on either the public sector, the private sector, or both of over \$1,000,000, in any year, or which impose other major impacts as determined by the commission, the agency proposing the regulation shall forward at the request of the commission or the designated standing committee of either House of the General Assembly a written regulatory analysis. Such regulatory analysis shall state:

(1) the financial, economic and social impacts of the regulation on individuals, business and labor communities or other public and private organizations. When practicable, an evaluation of the benefits expected as a result of the regulation should be included;

(2) that alternative approaches have been considered and the least burdensome acceptable alternative has been selected;

(3) that, in arriving at the acceptable alternative, consideration was given to minimizing new reporting, accounting and legal requirements;

(4) that a plan for the evaluation of the effectiveness of the regulation after its issuance has been developed; and

(5) the manner in which, when it is lawful, desirable and feasible, special provisions have been developed to meet the particular needs of affected groups and persons including, but not limited to: minorities, elderly, small businesses and farmers.] **The agency shall hold a public comment period, which shall commence with the publication of the notice of proposed rulemaking and shall continue for not less than 30 days unless section 203(1) or (2) of the Commonwealth Documents Law applies.**

[(b.1)] **(c)** From the date of [submittal] **submission** of the proposed regulation, the agency shall submit to the commission and the [designated standing committee of each House of the General Assembly] **committees**, within five days of receipt, a copy of [any] comments [received by the agency which refers to or concerns] **which the agency receives relating to** the proposed regulation. [Prior to or upon submission of a proposed regulation, the] **The agency shall also**, upon request, submit to the commission and the [designated standing] committees copies of reports from advisory groups and other documents received from or disseminated to the public [pertaining or referring] **relating to** the proposed regulation[, and public notices or announcements [regarding] **relating to** solicitation of public comments or meetings [held by the agency on the subject of the proposed] **which the agency held or will hold relating to the proposed** regulation.

[(b.2)] **(d)** The [standing committee] **committees** may, within 20 [calendar] days from the closing date of the public comment period, convey to the agency [a summary of] their **comments and** objections [stating the reasons why] **to** the proposed regulation [is unacceptable] and a copy of any staff reports deemed pertinent. [Such] **The comments and objections** shall include[, but not be limited to, deviations from] the **lack of** statutory authority of the agency **to promulgate the proposed regulation and deviation of the proposed regulation from** the intention of the General Assembly in the enactment of the statute upon which the proposed regulation [was] **is** based.

**(e)** If the committees are prevented from completing their 20-day review because of the adjournment sine die or expiration of the legislative session in an even-numbered year, their review of the proposed regulation shall automatically be suspended until the fourth Monday in January of the next year. On that date, the agency shall resubmit the proposed regulation and all material required under this section to the committees and the commission. If either committee has not been designated by the fourth Monday in January of the next year, the agency may not deliver the proposed regulation and required material to the committees and the commission until both committees are designated; but the agency shall deliver the proposed regulation and the required material no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. If the agency fails to



deliver the proposed regulation in the time prescribed in this subsection, the agency shall be deemed to have withdrawn the proposed regulation. In computing the remaining time for committee review, the number of days in which the committees have had the proposed regulation under review as of the adjournment sine die or expiration of the prior session shall be subtracted from the 20-day committee review period; but the committee review period in the next succeeding legislative session shall not be less than ten days.

(f) An agency may not submit a proposed regulation to the committees for review during the period from the end of the legislative session in an even-numbered year to the date by which both committees have been designated in the next succeeding legislative session, but an agency may submit a proposed regulation and the material required under subsection (a) to the commission and the Legislative Reference Bureau during this period in accordance with subsection (a). The public comment period shall commence with the publication of the notice of proposed rulemaking and end on the date designated by the agency under subsection (b). The agency shall submit the proposed regulation and required material to the committees in the time prescribed by subsection (e). If the agency fails to deliver the proposed regulation and required material to the committees in the time prescribed by subsection (e), the agency shall be deemed to have withdrawn the proposed regulation. The committees' 20-day review period shall begin on the date of receipt of the proposed regulation.

[(b.3)] (g) The commission shall, within [30 calendar days from the closing date of the public comment period] **ten days after the expiration of the committee review period pursuant to subsection (d), (e) or (f),** notify the agency of any objections [stating the reasons why the proposed regulation is unacceptable and a copy of any staff reports deemed pertinent] **to the proposed regulation.** [Such] **The** notification shall specify the regulatory review criterion which [have not been met by the proposed regulation. Failure of] **the proposed regulation has not met. If the commission fails to object to any portion of the proposed regulation within the [30 calendar days] time provided in this subsection, the commission shall [constitute approval of] be deemed to have approved that portion of the proposed regulation[, and, in such cases, any subsequent disapproval]. Disapproval of the final-form regulation** by the commission shall relate only to **objections raised by the commission to the proposed regulation; to changes [made by the agency to the proposed regulation or pursuant to recommendations received from the standing committees] which the agency made to the proposed regulation; or to recommendations, comments or objections which a committee conveyed to the agency or the commission.**

#### **Section 5.1. Final-form regulations and final-omitted regulations; procedures and criteria for review.**

[(b.4)] (a) The agency shall review and consider public comments and the comments of the [standing] committees and commission[, if any,] pursuant to this section. **Within seven days of receipt of a public comment, the agency shall, by first class or electronic mail, whichever is applicable, notify the commentator of the agency's address and telephone number where the commentator may submit a request for the information concerning the final-form regulation under subsection (b).** Upon completion of the agency's review of comments, the agency shall submit to the commission and the [designated standing committee

of each House of the General Assembly a copy of the agency's] **committees a copy of its** response to the comments received, **the names and addresses of commentators who have requested additional information relating to the final-form regulation** and the text of the final-form regulation which the agency intends to adopt. If an agency fails to submit, **or withdraws and fails to resubmit**, the final-form regulation within two years of the close of the public comment period but still desires to [proceed with the rulemaking] **promulgate the final-form regulation**, the agency [must] **shall** republish the regulation as a [new rulemaking] **proposed regulation** with a new public comment period in accordance with [section 201 of] the Commonwealth Documents Law. **If the agency is prevented from delivering its final-form regulation to the commission and the committees within the time period provided for in this subsection because of the adjournment sine die or expiration of the legislative session in an even-numbered year, the agency shall deliver its final-form regulation in accordance with subsection(f) .**

[ (b.5) At the same time that the agency submits such] **(b) On the same date that the agency submits the material required in subsection (a) to the commission and the [designated standing] committees, [it] the agency shall [transmit], by first class or electronic mail, whichever is applicable, send a notice of [submittal consisting of] submission and a copy of the text of the final-form regulation or a copy of all changes to the proposed regulation which are** incorporated into the final-form regulation [from what was initially published] to each [party that submitted comments on the regulation during the public comment period following publication of the proposed regulation in the Pennsylvania Bulletin] **commentator who requested this information pursuant to subsection (a) .** The agency [shall not be] **is not** responsible for notifying each party whose name appears on petitions or membership lists who did not present individual comments on the regulation. [No changes to a regulation shall be accepted, except as provided in section 7, after the submission of the regulation to the commission and the designated standing committee.]

(c) [The standing] **The agency shall submit final-omitted regulations to the commission and the committees for review under subsections (d), (e) and (f) on the same date that the agency submits the regulations to the Attorney General for review as provided in section 204(b) of the Commonwealth Attorneys Act. The requirements of section 5, except for the requirements for holding a public comment period and for notifying commentators, are applicable to final-omitted regulations. If the agency makes revisions pursuant to subsection (g), the agency shall deliver copies of the revisions to the Attorney General on the same date that the agency delivers the revisions to the commission and the committees.**

(d) **A committee shall, within 20 [calendar] days from the date of receipt of the information required under subsection [(b.4)] (a), or receipt of the information required under subsection (c), approve or disapprove the final-form or final-omitted regulation. The [standing] committee shall notify the commission and the agency of its approval or disapproval. [Failure of a standing committee to disapprove a regulation within the 20 calendar days shall constitute approval thereof. Along] If a committee fails to disapprove a final-form or final-omitted regulation, the committee shall be deemed to have**

approved that regulation. If the committee disapproves the final-form or final-omitted regulation, the committee shall include with a notification of [approval or] disapproval [the committee shall convey to the commission and the agency] a report [which includes a summary of the objections of the committee, if any,] stating the [reasons why the committee has found the proposed regulation unacceptable,] **committee's objections to the final-form or final-omitted regulation** and a copy of [any] staff reports [deemed pertinent by the committee] **which the committee deems pertinent.** [Such reasons] **Objections** shall include, but not be limited to, [deviations from] the **lack of** statutory authority of the agency **to promulgate the final-form or final-omitted regulation** and **deviation of that regulation from** the intention of the General Assembly in the enactment of the statute upon which the [proposed] regulation was based.

(e) The commission shall, within ten days after the expiration of the committee review period, or at its next regularly scheduled meeting, whichever is later, approve or disapprove the final-form or final-omitted regulation. The commission shall notify the agency and the committees of its approval or disapproval. If the commission fails to disapprove the final-form or final-omitted regulation, the commission shall be deemed to have approved the final-form or final-omitted regulation. [In the event]

(f) If the [standing] committees are prevented from completing their 20-day review because of **adjournment sine die** or expiration of the legislative session in an even-numbered [years] **year**, [consideration of the] **their review of the final-form or final-omitted** regulation shall [be] automatically **be** suspended until the fourth Monday in January of the next [succeeding session of the General Assembly] **year**. On that date, the agency shall resubmit the final-form **or final-omitted** regulation **and required material** to the [designated standing committee of each chamber, or its successor committee, and to] **committees and** the commission. [The standing committees, or their successor committees, shall have 20 calendar days and the commission shall have 30 calendar days from receipt of the final-form regulation and the information required under subsection (b.4) is received to review such regulation.] **If either committee has not been designated by the fourth Monday in January, the agency may not deliver the final-form or final-omitted regulation and required material to the committees and the commission until both committees are designated. If the agency fails to deliver the final-form or final-omitted regulation and required material to the commission and the committees by the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin, the agency shall be deemed to have withdrawn the final-form or final-omitted regulation.** In computing the [20-day] **remaining time for** committee review [period and the 30-day commission review period], the number of days in which the **committees have had the final-form or the final-omitted** regulation [had been] under review [by the standing committees and by the commission] as of the **adjournment sine die** or expiration of the prior session shall be subtracted from the 20-day committee [and the 30-day commission review periods, respectively. Failure of the agency to resubmit the final-form regulation on the fourth Monday in January of the next succeeding session shall constitute withdrawal thereof. No]

review period; but the committee review period in the next succeeding legislative session shall not be less than ten days. An agency may not submit a final-form or final-omitted regulation [shall be submitted] to the commission or the [standing] committees for review during the period from the [end] adjournment sine die or expiration of the legislative session of an even-numbered [years] year to the [fourth Monday in January of] date by which both committees have been designated in the next succeeding legislative session[, but]. This section shall not apply to [emergency] emergency-certified regulations [may be] adopted pursuant to the provisions of section [6(b)] 6(d).

(g) Except as provided in this subsection, the agency may not make any changes to a final-form or final-omitted regulation after the agency submits the final-form or final-omitted regulation to the commission and the committees.

(1) Prior to the expiration of the 20-day review period of the committees or to the date on which either of the committees takes action on the final-form or final-omitted regulation, whichever occurs first, the agency may, unless the commission shall object, toll the time for the commission's and the committees' review of the final-form or final-omitted regulation in order to allow time for the agency to consider revisions to the final-form or final-omitted regulation recommended by the commission or a committee.

(2) Tolling under paragraph (1) may last for up to 30 days. If, within 30 days, the agency fails to submit revisions to the committees and the commission or fails to notify the commission and the committees in writing that it will not submit revisions but wishes the commission and the committees to resume their review, the agency shall be deemed to have withdrawn the final-form or final-omitted regulation.

(3) The committees shall have the remainder of the 20-day review period or ten days from the date of receipt of the revised final-form or final-omitted regulation or written notification under paragraph (2), whichever is longer; and the commission shall have ten days after expiration of the committee review period or until its next regularly scheduled meeting, whichever is longer, to review the final-form or final-omitted regulation. If the commission or the committees fail to disapprove the final-form or final-omitted regulation within the respective time periods, the regulation shall be deemed approved.

(4) The agency may not toll the time for review of any final-form or final-omitted regulation more than one time.

(5) If the committees and the commission are prevented from completing their review pursuant to this subsection because of the adjournment sine die or the expiration of the legislative session in an even-numbered year, the agency shall resubmit the final-form or final-omitted regulation and review shall proceed in accordance within subsection (f).

[(d)] (h) In determining whether to approve or to disapprove a final-form or a final-omitted regulation [is in the public interest], the commission shall, first and foremost, [make a determination that] determine whether the [final-form regulation is not contrary to] agency has the statutory authority [of the agency and] to promulgate the final-form or final-omitted regulation and whether that regulation conforms to the intention of the General Assembly

in the enactment of the statute upon which the [final-form] regulation is based. In [formulating] **making** its determination, the commission shall consider written comments submitted by the [designated standing] committees [of each House of the General Assembly] and current members of the General Assembly [and any], pertinent opinions of Pennsylvania's courts **and formal opinions of the Attorney General.**

[(e)] **(i)** Upon a finding that the final-form or **final-omitted** regulation is [not contrary to] **consistent with** the statutory authority of the agency and [to] **with** the intention of the General Assembly in the enactment of the statute upon which the [final-form] regulation is based, the commission shall [further] consider the following in [ascertaining] **determining** whether the final-form or **final-omitted** regulation is in the public interest:

(1) Economic or fiscal impacts of the **final-form or final-omitted** regulation [or rule], which include the following:

(i) Direct and indirect costs to the Commonwealth, to political subdivisions and to the private sector.

(ii) Adverse effects on prices of goods and services, productivity or competition.

(iii) The nature of [any] **required** reports, forms or other paperwork and the estimated cost of their preparation by individuals, businesses and organizations in the private and public sectors [where such reports, forms or other paperwork would be required].

(iv) The nature and estimated cost of [any] legal, consulting or accounting services which the private or public sector [would] **may** incur.

(v) The impact on the public interest of exempting, or setting lesser standards of compliance for, individuals or small businesses when it is lawful, desirable and feasible to do so.

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

(3) The clarity, feasibility and reasonableness of the **final-form or final-omitted** 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 [or rule].

(iv) Reasonableness of requirements, implementation procedures and timetables for **compliance by** the public and private sectors.

(4) Whether the **final-form or final-omitted** regulation represents a policy decision of such a substantial nature that it requires legislative review.

(5) Approval or disapproval by the [designated standing committee of the House of Representatives or the Senate] **committees.**

[(f)] Regulations for which notice of proposed rulemaking is omitted pursuant to section 204 of the Commonwealth Documents Law shall be submitted to the commission and the designated standing committees for review under subsection (c) at the same time that the regulations are submitted to the Attorney General for review as provided in the act of October 15, 1980 (P.L.950, No.164), known as the

"Commonwealth Attorneys Act." The public comment period and the information requirements as provided for in subsection (b.1) are not applicable to these regulations. Except for regulations adopted under section 6(b), no final order adopting such regulation shall be published until completion of review pursuant to this act.

(g.1)] **(j)** The commission shall [only] accept public or agency comments [, except those comments under subsection (c),] **only** up to [72] **48** hours prior to the commission's public meeting. [All documents, phone calls and personal visits discussing a regulation shall be noted by the commission and staff and made part of the public commission record. Any] **The commission shall receive comments from a committee or its members until the public meeting is called to order. The commission shall transmit documents received during the 48-hour period prior to the commission's public meeting to the agency within 24 hours of receipt. The commission shall receive** additional public or agency comments [shall only be received by the commission,] **only** after the public meeting has been called to order.

**(k)** The commission shall note and shall make a part of the public record all documents which it receives relating to a regulation and shall retain the documents for four years after the promulgation of the regulation.

**(l)** Except for emergency certified regulations adopted under section 6(d), an agency may not promulgate a regulation until completion of the review provided for in this act.

Section 3. Sections 6, 6.1, 7, 7.1, 8, 8.1, 9, 10, 11, 12 and 15 of the act are amended to read:

Section 6. Procedures for [commission consideration and agency review] **disapproval of final-form and final-omitted regulations; emergency certified regulations.**

(a) [Whenever] **If the committees and the commission do not disapprove a final-form or a final-omitted regulation by the expiration of their respective review periods under section 5.1(d), (e) or (f), the agency may promulgate the final-form or final-omitted regulation. If the commission [shall find that] disapproves a final-form or final-omitted regulation [submitted to the commission pursuant to section 5(b.4) or that a regulation for which notice of proposed rulemaking is omitted pursuant to section 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, may be contrary to the public interest under the criteria set forth in section 5], the commission shall [notify] deliver its disapproval order to the Legislative Reference Bureau, the [standing committees, members of the public entitled to the notice set forth in section 5(b.5)] committees, commentators who have requested additional information under section 5.1(a) and the agency. [promulgating such regulation of its finding. Such notification] The disapproval order shall specify the regulatory review criteria which [has not been met by the final-form regulation, as well as a description of] the final-form or final-omitted regulation has not met and shall describe the documents and testimony which the commission relied on [by the commission] in reaching its decision. The agency shall review the commission's [finding] order and proceed pursuant to section 7(a). [If the commission does not notify the agency of any objection within 30 days of the date the commission received the information required in section 5(b.4), in the case of a final-form regulation, or within 30 days of receipt, in the case of omission of proposed rulemaking, the**

agency may proceed to promulgate the regulation as provided in the Commonwealth Documents Law.]

(b) The [commission may, when notifying an agency of its objections pursuant to subsection (a) or at any time following such notification but prior to publication of a final order adopting a regulation, issue an order barring the publication of a final order adopting a] **commission's order disapproving a final-form or final-omitted regulation shall bar the agency from promulgating that** regulation pending subsequent review [of the regulation in the manner provided in section 7. The commission may not however issue an order against a proposed regulation to the extent that the Attorney General certifies that proposed regulation is required pursuant to the decree of any court or to implement the provisions of a statute of the United States or regulations issued thereunder by a Federal agency nor shall the commission issue an order against a proposed regulation when such regulation is transmitted with the certification of the Governor that it is required to meet an emergency which shall include but not be limited to conditions which may threaten the public health, safety or welfare or cause a budget deficit or create need for supplemental or deficiency appropriations of greater than \$1,000,000. In such case, the regulation can take effect immediately and may remain in effect for up to 120 days but after that time may be suspended by the commission with a statement of disapproval unless it has been approved by the General Assembly under the procedures contained in section 7(d). If the commission issues a statement of disapproval after 120 days, the emergency regulation must comply with] **under** section 7.

(c) [Whenever a designated standing] **If a committee [of the House of Representatives or the Senate] has notified the commission of its disapproval of a final-form or final-omitted regulation and the commission approves the [proposed] final-form or final-omitted regulation, the commission shall, within two business days, [notify the said designated standing] deliver its approval order to the committee [of such approval]. If either committee is prevented from receiving the commission's order because of the adjournment sine die or expiration of the legislative session in an even-numbered year, the commission shall deliver its order to the committee or its successor committee on the fourth Monday in January of the next year. If either committee has not been designated by the fourth Monday in January, the commission may not deliver its order to the committees until both committees have been designated; but the commission shall deliver its order no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. The committee shall have 14 days from receipt of [such notice] the approval order to take action pursuant to section 7(d). During this 14-day period the agency [shall not be permitted to] may not promulgate the final-form or final-omitted regulation approved by the commission. If, at the expiration of the 14-day period, the [designated standing] committee fails to act on the final-form or final-omitted regulation pursuant to section 7(d), the agency may [proceed to] promulgate the final-form or final-omitted regulation. [as provided in the Commonwealth Documents Law. If the commission is prevented from transmitting the notice required under this subsection because of recess or adjournment of either or both Houses of the General Assembly, the commission shall transmit the notice on the first subsequent session day.]**

(d) The commission may not issue an order barring an agency from promulgating a final-form or final-omitted regulation if the Attorney General certifies that the final-form or final-omitted regulation is required pursuant to the decree of any court or to implement the provisions of a statute of the United States or regulations issued thereunder by a Federal agency or if the Governor certifies that the final-form or final-omitted regulation is required to meet an emergency which includes conditions which may threaten the public health, safety or welfare; cause a budget deficit; or create the need for supplemental or deficiency appropriations of greater than \$1,000,000. In those cases, the final-form or final-omitted regulation may take effect on the date of publication or on a later date specified in the order adopting the final-form or final-omitted regulation. The commission and the committees shall review the final-form or final-omitted regulation pursuant to the procedures provided for in this act. If the final-form or final-omitted regulation is disapproved pursuant to those procedures, that regulation shall be rescinded after 120 days or upon final disapproval, whichever occurs later.

[Section 6.1. Agency action pursuant to statute.]

Final form regulations shall be promulgated by a proposing agency pursuant to statute.]

Section 7. Procedures for subsequent review of disapproved final-form or final-omitted regulations.

(a) Within seven days [of receipt of a notice of disapproval from the commission] after the agency has received an order from the commission disapproving and barring promulgation of a final-form or final-omitted regulation issued pursuant to section 6(a), the agency shall notify the Governor, the [designated standing] committees [of the House of Representatives and the Senate,] and the commission of its [intentions to] selection of one of the following options:

(1) To proceed further with the final-form or final-omitted regulation pursuant to subsection (b) [or (c) or to].

(2) To proceed further with the final-form or final-omitted regulation pursuant to subsection (c).

(3) To withdraw the final-form or final-omitted regulation. [Failure to submit the notification required by this subsection shall constitute withdrawal of the regulation.]

(a.1) If the committees are prevented from receiving the notice required in this section because of the adjournment sine die or expiration of the legislative session in an even-numbered year, the agency shall deliver the notice to the Governor, the commission and the committees on the fourth Monday in January of the next year. If either committee has not been designated by the fourth Monday in January, the agency may not deliver the notice to the commission and the committees until both committees are designated; but the agency shall deliver the notice to the committees and the commission no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. If the agency fails to deliver the notice to the commission and the committees in the time prescribed in this subsection, the agency shall be deemed to have withdrawn that regulation.

(b) If the agency [determines that it is desirable to implement the final-form] decides to adopt the final-form or final-omitted regulation without revisions or further modifications, the agency shall submit a report to the [designated standing committee of each House of the General Assembly] committees and the commission within 40 days of the agency's receipt of the commission's disapproval order. The



agency's report shall contain the final-form or final-omitted regulation, the [findings of the commission,] **commission's disapproval order** and the **agency's** response and recommendations [of the agency regarding the final-form] **regarding the final-form or final-omitted** regulation. If the [agency is prevented from submitting its] **committees are prevented from receiving the** report because of [recess or] adjournment [of either or both Houses of the General Assembly] **sine die or expiration of the legislative session in an even-numbered year**, the agency shall [transmit] **submit** its report [on the first subsequent session day.] **to the commission and the committees on the fourth Monday in January of the next year. If either committee has not been designated by the fourth Monday in January, the agency may not deliver the report to the committees and the commission until both committees are designated; but the agency shall deliver its report to the commission and the committees no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. If the agency fails to deliver the report to the committees and the commission in the time prescribed in this subsection, the agency shall be deemed to have withdrawn the final-form or final-omitted regulation. Upon receipt of the agency's report, [a designated standing committee] the committees may proceed pursuant to subsection (d). [Failure of the agency to submit a report within the time period provided by this subsection or on the first subsequent session day shall constitute withdrawal of the final-form regulation.]**

(c) If the agency [determines that it is desirable to implement] **decides to revise or modify the final-form or final-omitted regulation in order to respond to objections raised by the commission and adopt that regulation** with [further] revisions or modifications, the agency shall submit a report to the [designated standing committees of the House of Representatives and the Senate] **committees** and the commission within 40 days of the agency's receipt of the commission's disapproval order. The agency's report shall contain the revised final-form or final-omitted regulation, the findings of the commission, and the **agency's** response and recommendations [of the agency] regarding the revised final-form or final-omitted regulation. [Failure of the agency to submit a report within the time period provided by this subsection shall constitute withdrawal of the final-form regulation.] **If the committees are prevented from receiving the report because of adjournment sine die or expiration of the legislative session in an even-numbered year, the agency shall submit the report to the commission and the committees on the fourth Monday in January of the next year. If either committee has not been designated by the fourth Monday in January, the agency may not deliver the report to the committees and the commission until both committees are designated; but the agency shall deliver its report to the commission and the committees no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. If the agency fails to deliver its report to the commission and the committees in the time prescribed in this subsection, the agency shall be deemed to have withdrawn the final-form or final-omitted regulation. Upon receipt of the agency's report, [the designated standing committees] a committee shall have ten days to approve or disapprove the report and to notify the commission and the agency of [their] its approval or disapproval [of the agency's**

report. Failure of a designated standing]. **If a committee fails** to notify the commission **and the agency** of its disapproval within ten days [shall constitute its approval of the], **the committee shall be deemed to have approved the** agency's report. The commission shall have seven days **from the expiration of the committee's ten-day review period** or until its next regularly scheduled meeting, whichever is [longer, from the completion of the designated standing committees' ten-day review period in which to approve] **later, to approve or disapprove** the agency's report. [or to continue its bar upon final publication of the regulation and transmit notice of disapproval and the agency's report] **If the commission and the committee approve the agency's report, the agency may promulgate the final-form or final-omitted regulation. If the commission disapproves the agency report, the agency shall be barred from promulgating that regulation until the review provided for in this subsection and in subsection (d) is completed. If a committee disapproves an agency's report and the commission approves it or if the commission disapproves an agency report, the commission shall deliver its order** to the [designated standing] committees for consideration by the General Assembly pursuant to subsection (d). [However, if] **If the commission is prevented from [transmitting notice and the report] delivering its order** to the [General Assembly] **committees** within the time period provided for in this subsection because of [recess or adjournment, it may transmit notice and the report on the first subsequent session day. Failure of the commission to transmit the agency's report within the time period provided by this subsection or on the first subsequent session day shall constitute approval of the revised final-form regulation.] **the adjournment sine die or expiration of the legislative session in an even-numbered year, the commission shall deliver its order on the fourth Monday of January of the next year. If either committee has not been designated by the fourth Monday in January, the commission may not deliver its order to the committees until both committees are designated; but the commission shall deliver its order no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. If the commission fails to deliver its order disapproving the agency's report and revised final-form or final-omitted regulation in the time prescribed by this subsection, the commission shall be deemed to have approved the agency's report and the revised final-form or final-omitted regulation.**

(d) [Whenever the designated standing committees of both Houses of the General Assembly have received] **Upon receipt of** the report of an agency pursuant to subsection (b), [or] **of the [notice and the] agency's report and the commission's order** pursuant to subsection (c) [, or the notice] **or of the commission's order** pursuant to section 6(c), one or both of the [designated standing] committees may, within 14 **calendar** days, report to the House of Representatives or Senate a concurrent resolution and notify the [affected agency which shall be the official notice to the] agency. During the [14-day] **14-calendar-day** period, the agency [shall] **may not** [be permitted to] promulgate the **final-form or final-omitted** regulation. If, [at] **by** the expiration of the [14-day] **14-calendar-day** period, [both of the designated standing committees fail to act on the agency's report, then the] **neither committee reports a concurrent resolution, the committees shall be deemed to have**

approved the final-form or final-omitted regulation [is deemed approved]; and the agency may [proceed to] promulgate [the] **that** regulation. [as provided in the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. A final order adopting the regulation shall not be published for 30 calendar days or ten legislative days, whichever is longer, from date of reporting the concurrent resolution. If both the House of Representatives and the Senate agree to the concurrent resolution within the allotted time period, which is 30 calendar days or ten legislative days, whichever is longer, from the date of reporting of the concurrent resolution, then the adoption of the concurrent resolution shall constitute a bar to publication until presentment to the Governor and final disposition of the regulation. The resolution shall be presented to the Governor in accordance with section 9 of Article III of the Constitution of Pennsylvania.] **If either committee reports a concurrent resolution before the expiration of the 14-day period, the Senate and the House of Representatives shall each have 30 calendar days or ten legislative days, whichever is longer, from the date on which the concurrent resolution has been reported, to adopt the concurrent resolution. If the General Assembly adopts the concurrent resolution by majority vote in both the Senate and the House of Representatives, the concurrent resolution shall be presented to the Governor in accordance with section 9 of Article III of the Constitution of Pennsylvania.** If the Governor does not return the **concurrent** resolution to the General Assembly within ten calendar days after it is presented [to him], [it shall constitute approval of] **the Governor shall be deemed to have approved the concurrent** resolution. If the Governor vetoes the [action of the General Assembly] **concurrent resolution**, the General Assembly may[, within 30 calendar days or ten legislative days, whichever is longer,] override that veto by a two-thirds vote in each house.[]; and that override shall constitute a permanent bar to publication. Failure of] **The Senate and the House of Representatives shall each have 30 calendar days or ten legislative days, whichever is longer, to override the veto. If the [House of Representatives and the Senate] General Assembly fails to [act on] adopt the concurrent resolution or override the veto [within the allotted time periods shall constitute approval of] in the time prescribed in this subsection, it shall be deemed to have approved the final-form or final-omitted regulation.** [In addition, notice] **Notice** as to any final disposition of [any] a concurrent resolution considered in accordance with this [act] **section** shall be published in the Pennsylvania Bulletin. **The bar on promulgation of the final-form or final-omitted regulation shall continue until that regulation has been approved or deemed approved in accordance with this subsection. If the General Assembly adopts the concurrent resolution and the Governor approves or is deemed to have approved the concurrent resolution or if the General Assembly overrides the Governor's veto of the concurrent resolution, the agency shall be barred from promulgating the final-form or final-omitted regulation. If the General Assembly fails to adopt the concurrent resolution or if the Governor vetoes the concurrent resolution and the General Assembly fails to override the Governor's veto, the agency may promulgate the final-form or final-omitted regulation. The General Assembly may, at its discretion, adopt a concurrent resolution**

disapproving the **final-form or final-omitted** regulation to indicate the intent of the General Assembly[, ] but permit [publication of a final order adopting a] **the agency to promulgate that** regulation.

Section 7.1. Classification of documents.

If the commission or a [designated standing committee alleges] **committee finds** that a published or unpublished document should be promulgated as [an agency] **a** regulation, the commission or [standing] committee [of either house] may present the matter to the Joint Committee on Documents[, which]. **The Joint Committee on Documents** shall determine whether the document should be promulgated as [an agency] **a** regulation and may order an agency either to promulgate the document as a regulation within 180 days or to desist from the use of the document in the business of the agency.

Section 8. Changes in final-form **and final-omitted** regulations.

[No changes shall be made by an agency] **(a) Except as provided in subsection (b), an agency may not make changes** to a final-form **or final-omitted** regulation after that regulation has been approved or has been deemed approved by the **committees or the** commission [except] **pursuant to this act.**

**(b) Subsection (a) does not apply to** changes made at the direction of the Office of Attorney General pursuant to its review under section 204(b) of [the act of October 15, 1980 (P.L.950, No.164), known as] the [""]Commonwealth Attorneys Act.[""]

Section 8.1. Existing regulations.

The commission, [either] on its motion or [on] **at** the request of any [individual, agency, corporation,] **person or** member of the General Assembly [or any other entity which may be affected by a regulation], may [also] review any existing regulation [or administrative procedure. Whenever] **which has been in effect for at least three years. If** a committee of the Senate or the House of Representatives [shall request] **requests** a review of [a] **an existing** regulation [or administrative procedure], the commission shall [make such] **perform the** review and shall assign it high priority. The commission may submit recommendations to [any] **an** agency recommending changes in existing regulations [where] **if** it finds the existing regulations [or administrative procedure] to be contrary to the public interest under the criteria established in this section. The commission may also make recommendations to the General Assembly and the Governor for statutory changes [whenever it] **if the commission** finds that any existing regulation [or procedure] may be contrary to the public interest.

Section 9. Commission staff.

**(a)** The commission shall appoint and fix the compensation of [an] **a full-time** executive director, who shall [devote his full time to] **be responsible for** the general supervision of all the affairs of the commission **and for performing any administrative function or duty which the commission may delegate to the executive director.** [In addition, the commission shall appoint a chief counsel who shall not be subject to the supervision of the Attorney General or the General Counsel and it may appoint and fix the compensation of such other employees as the commission may find necessary for the proper performance of the functions of the commission. In determining the necessity for such additional staff, the commission shall consider the fact that the General Assembly is required under this act to participate in the review process and its staff will be

providing assistance to the commission through the legislative review provisions of this act.] **The commission shall appoint and fix the compensation of such other employees as the commission may find necessary for the proper operation of the commission.**

(b) **The commission shall appoint and fix the compensation of a full-time chief counsel, who shall not be subject to the supervision of the Attorney General or the General Counsel. The chief counsel shall supervise, coordinate and administer the legal services provided to the commission.**

Section 10. Subpoena power.

The commission [may require the attendance and testimony of witnesses] **has the authority to issue subpoenas for the purpose of requiring the attendance of persons** and the production of [documentary evidence relative to any investigation or hearing which the commission may conduct in accordance with the powers granted it under this act. Such subpoena shall be signed by the chairman or the executive director and it shall be served by any person authorized to serve subpoenas] **documents relating to any function which the commission or its staff is authorized to perform pursuant to this act. The chairperson or the executive director may sign a subpoena. The subpoena may be served in any manner authorized under the [law of the] laws of this Commonwealth. The commission is authorized to apply to the Commonwealth Court to enforce its subpoenas.**

Section 11. [Rules] **Regulations**; annual reports; hearings and advisory group meetings.

(a) The [commission shall compile and publish rules for the conduct of meetings and public hearings and for the conduct of business under this act. Such rules shall] **commission, in the performance of its functions under this act, has the power to promulgate and enforce regulations necessary to carry out the purposes of this act. Regulations must** be promulgated in accordance with the procedures established in the [act of July 31, 1968 (P.L.769, No.240), referred to as the] Commonwealth Documents Law. [Such rules] **The regulations** shall provide for **the commission's** notification of filings of final-form **and final-omitted** regulations to parties likely to be affected by the final-form **and final-omitted** regulations through publication **of a notice** in the Pennsylvania Bulletin. Prior to the [rules] **regulations** taking effect, [however, the appropriate standing committees and the Joint Committee on Documents shall have 20 days and 30 days, respectively, from the date of receipt of the information required under section 5(b.4) of this act to notify the commission of their approval or disapproval of a final-form regulation or of a regulation for which notice of proposed rulemaking is omitted under section 204 of the Commonwealth Documents Law. Final disposition of a disapproved final-form regulation shall be in accordance with this act; however, the responsibilities assigned to the commission shall be exercised by the Joint Committee on Documents, and the commission may exercise the rights provided to an agency.] **the requirements of this act must be satisfied. For the purposes of reviewing the regulations of the commission and otherwise satisfying the requirements of this act, the Joint Committee on Documents shall exercise the rights and perform the functions of the commission; and the commission shall exercise the rights and perform the functions of an agency under this act.**

(b) On or before April 1, [1989 and each year thereafter,] the commission shall file [a] **an annual** report of its activities

for the prior calendar year with the Governor and the General Assembly.

(c) The commission may hold public hearings on any matter before the commission[. The commission may also hold informal hearings] and may [convene and] meet with advisory groups regarding matters before the commission.

Section 12. Clearinghouse.

[(a)] The commission shall act as a clearinghouse for complaints, comments and other input from members of the General Assembly and from the public regarding [regulations, proposed regulations and administrative procedures] **existing, proposed, final-form and final-omitted regulations**. The commission shall maintain accurate records regarding complaints and comments it receives and shall maintain such records by departmental and subject matter categories **for four years after the date of receipt by the commission**. When the commission files its annual report as provided by section 11, the commission shall include within it a summary of public complaint and comment along with any recommendations the commission may offer for statutory change. [as the result of public complaint and comment.

(b) The commission may also compile information on regulations issued by the United States Government which come to the attention of the commission which are found by the commission to be excessive. The commission shall include a summary on such regulations in its annual report and shall take such other action as may be appropriate. The section of the annual report relating to excessiveness of Federal regulations shall be submitted to the President of the United States and to the members of the United States Senate and the United States House of Representatives from Pennsylvania. Nothing herein shall be construed as requiring the commission to undertake a review of Federal regulations.

Section 15. Termination date.

The commission shall be treated as a statutory agency created after January 1, 1981, for purposes of the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act." The commission is scheduled for termination on December 31, 1993.]

Section 4. This act shall apply to proposed, final-form and final-omitted regulations which an agency submits, on or after the effective date of this act, to the Independent Regulatory Review Commission and to "committees" as defined in section 3 of the act.

Section 5. This act shall take effect immediately.

APPROVED--The 25th day of June, A. D. 1997.

THOMAS J. RIDGE