

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 7**Session of
1997

INTRODUCED BY WENGER, THOMPSON, MADIGAN, LOEPER, BRIGHTBILL,
JUBELIRER, HELFRICK, O'PAKE AND STAPLETON, FEBRUARY 25, 1997

AS AMENDED ON THIRD CONSIDERATION, APRIL 29, 1997

AN ACT

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

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

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

18 Section 2. Legislative intent.

19 (a) The General Assembly has enacted a large number of
20 statutes [conferring] and has conferred on boards, commissions,
21 departments and [other] agencies [of] within the executive
22 branch of government the authority to adopt rules and
23 regulations to [supplement and] implement those statutes. The

1 General Assembly has found that this delegation of its authority
2 has resulted in regulations being promulgated without undergoing
3 effective review concerning cost benefits, duplication,
4 inflationary impact and conformity to legislative intent. The
5 General Assembly finds that it must [provide] establish a
6 procedure for oversight and review of regulations adopted
7 pursuant to this delegation of legislative power in order to
8 curtail excessive regulation and to [establish a system of
9 accountability so that the bureaucracy must justify its use of
10 the regulatory] require the executive branch to justify its
11 exercise of the authority to regulate before imposing hidden
12 costs upon the economy of Pennsylvania. It is the intent of this
13 act to establish a method for [continuing] ongoing and effective
14 legislative review[, accountability] and oversight[. It is the
15 further intent of this act] in order to foster executive branch
16 accountability; to provide for primary review by a commission
17 with sufficient authority, expertise, independence and time to
18 perform that [responsibility. It is the further intent of this
19 act] function; to provide ultimate review of regulations by the
20 General Assembly [of those regulations. This act is intended to
21 provide a method of oversight and review of regulations issued
22 by executive agencies]; and to assist the Governor, the Attorney
23 General and the General Assembly in their supervisory and
24 oversight functions [and it]. To the greatest extent possible,
25 this act is intended to encourage the resolution of objections
26 to a regulation and the reaching of a consensus among the
27 commission, the standing committees, interested parties and the
28 agency.

29 (b) This act is not intended to create [any] a right or
30 benefit, substantive or procedural, enforceable at law by a

1 [party] person against another person or against the
2 Commonwealth, its agencies[, officers or any person] or its
3 officers.

4 Section 3. Definitions.

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

8 "Agency." Any department, departmental administrative board
9 or commission, independent board or commission, agency or other
10 authority of this Commonwealth now existing or hereafter
11 created, but shall not include the Senate or the House of
12 Representatives, the Pennsylvania Fish Commission, the
13 Pennsylvania Game Commission or any court, political
14 subdivision, municipal or local authority.

15 "Commission." The Independent Regulatory Review Commission.

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

23 "Committee." A standing committee of the Senate or the House
24 of Representatives designated by the President pro tempore of
25 the Senate for the Senate or by the Speaker of the House of
26 Representatives for the House. The designation shall prescribe
27 the jurisdiction of each standing committee over the various
28 State agencies for purposes of this act. The designation shall
29 be transmitted to the Legislative Reference Bureau for
30 publication in the Pennsylvania Bulletin.

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

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

6 "FAMILY." A PARENT, SPOUSE, CHILD, BROTHER OR SISTER. <—

7 "Final-form regulation." A regulation [submitted by]
8 previously published as a proposed regulation pursuant to the
9 act of July 31, 1968 (P.L.769, No.240), referred to as the
10 Commonwealth Documents Law which an agency submits to the
11 commission and the [designated standing] committees following
12 the close of the public comment period[, as provided by section
13 201 of the act of July 31, 1968 (P.L.769, No.240), referred to
14 as the Commonwealth Documents Law].

15 "Final-omitted regulation." A regulation which an agency
16 submits to the commission and the committees for which the
17 agency has omitted notice of proposed rulemaking pursuant to
18 section 204 of the act of July 31, 1968 (P.L.769, No.240),
19 referred to as the Commonwealth Documents Law.

20 "Promulgate." To publish an order adopting a final-form or
21 final-omitted regulation in accordance with the act of July 31,
22 1968 (P.L.769, No.240), referred to as the Commonwealth
23 Documents Law.

24 "Proposed regulation." A document intended for promulgation
25 as a regulation which an agency submits to the commission and
26 the committees and for which the agency gives notice of proposed
27 rulemaking and holds a public comment period pursuant to the act
28 of July 31, 1968 (P.L.769, No.240), referred to as the
29 Commonwealth Documents Law.

30 "Regulation." Any rule or regulation, or order in the nature

1 of a rule or regulation, promulgated by an agency under
2 statutory authority in the administration of any statute
3 administered by or relating to the agency OR AMENDING, REVISING ←
4 OR OTHERWISE ALTERING THE TERMS AND PROVISIONS OF AN EXISTING
5 REGULATION, or prescribing the practice or procedure before such
6 agency. The term shall also include actions of the Liquor
7 Control Board which have an effect on the discount rate for
8 retail licensees. The term shall not include a proclamation,
9 executive order, directive or similar document [promulgated]
10 issued by the Governor, but shall include a regulation which may
11 be promulgated by an agency, only with the approval of the
12 Governor.

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

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

19 (a) The Independent Regulatory Review Commission shall
20 consist of five members to be known as commissioners. One
21 [member of the commission] commissioner shall be appointed by
22 the Governor to serve at [his] the Governor's pleasure, one by
23 the President pro tempore of the Senate, one by the Speaker of
24 the House of Representatives, one by the Minority Leader of the
25 Senate and one by the Minority Leader of the House of
26 Representatives. [No] A member of the General Assembly or any
27 other officer or employee of State Government [shall] may not
28 serve as a [member of the commission: Provided, however, That]
29 commissioner; but a [commission member] commissioner may serve
30 on advisory boards and commissions, or on other boards and

1 commissions which do not promulgate any rules and regulations
2 which may come before the commission for review pursuant to this
3 act.

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

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

26 (d) [The commissioners] A commissioner shall receive \$125
27 per day as compensation for [their] services rendered to the
28 commission. [The commissioners] A commissioner shall also be
29 entitled to reimbursement for travel and other necessary
30 expenses incurred as a result of [their] official duties [as

1 members of the commission]. The expenses incurred by [the
2 commissioners, or by any employees] a commissioner, or by an
3 employee of the commission, shall be [allowed and] paid on the
4 presentation of itemized vouchers therefor, which vouchers shall
5 be subject to the approval of the commission.

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

17 (f) [Any member of the commission] A commissioner formally
18 charged before a court of record with the commission of a felony
19 or with a misdemeanor as provided by 18 Pa.C.S. Pt. II Art. E
20 (relating to offenses against public administration) shall
21 immediately be suspended as a [member of the commission]
22 commissioner until the charge is dismissed or a verdict of
23 acquittal is announced. If [any commission member shall be] a
24 commissioner pleads guilty or nolo contendere or is found guilty
25 of such offense, [then] or receives probation without verdict,
26 disposition in lieu of trial, or an accelerated rehabilitative
27 disposition for felony or misdemeanor charges in this
28 Commonwealth or in any other jurisdiction, that [commissioner's
29 membership shall become vacant automatically] commissioner shall
30 immediately be removed from the commission upon announcement of

1 the verdict or disposition by [a trial] the court or upon the
2 court's acceptance of a plea of guilty or nolo contendere. [No
3 commission member shall]

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

1 conflict [and]. The commissioner may request a ruling from the
2 [chairman] chairperson of the commission upon the question of
3 whether [such] the conflict or potential conflict disqualifies
4 the [member] commissioner from voting on the regulation. [Any
5 member of the commission] A commissioner may challenge the
6 ruling of the [chairman,] chairperson; and, in [such] that case,
7 the question shall be resolved by majority vote of the
8 commission. The [chairman] chairperson or a majority of the
9 commissioners may request the Ethics Commission to provide
10 advice regarding conflicts of interest, and [such] the advice,
11 when given, shall be binding upon the commission. A [member of
12 the commission] commissioner commits a misdemeanor of the second
13 degree [if such member] by knowingly and intentionally
14 [violates] violating the provisions of this subsection. [No
15 person who acts] The commission or its employees, when acting in
16 good faith on an opinion issued to [him] a commissioner by the
17 [chairman] chairperson or the Ethics Commission shall not be
18 subject to criminal or civil penalties levied under the act of
19 October 4, 1978 (P.L.883, No.170), referred to as the Public
20 Official and Employee Ethics Law, for so acting, provided the
21 material facts are as stated in the request for an opinion. In
22 addition to the requirements of this act, a commissioner is
23 subject to the Public Official and Employee Ethics Law.

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

30 (h) The commission shall meet [at least twice a month at

1 such] before the period for its review of regulations under this
2 act expires and at other times as necessary to transact the
3 business of the commission and insure an expeditious and orderly
4 review of regulations under this act. Meetings shall be held at
5 times and places [as shall be] set by the [chairman]
6 chairperson. A MEETING MAY BE RESCHEDULED BY THE COMMISSION UPON ←
7 THE PROVISION OF AT LEAST TEN DAYS' NOTICE TO ALL AFFECTED
8 AGENCIES. A commissioner who fails to attend three consecutive
9 meetings without cause shall be removed as a commissioner by the
10 authority appointing the commissioner.

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

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

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

25 (a) [For proposed regulations, submitted after the effective
26 date of this section, at the same time that proposed regulations
27 and any changes thereto are submitted] On the same date that an
28 agency submits a proposed regulation to the Legislative
29 Reference Bureau for publication of notice of proposed
30 rulemaking in the Pennsylvania Bulletin as required by [the act

1 of July 31, 1968 (P.L.769, No.240), referred to as] the
2 Commonwealth Documents Law, the agency [proposing the
3 regulation] shall submit to the commission and the committees a
4 copy of the proposed regulation [to the commission and the
5 designated standing committee of each House of the General
6 Assembly. The agency proposing the regulation shall hold a
7 public comment period of at least 30 days, beginning with
8 publication of the notice of proposed rulemaking in the
9 Pennsylvania Bulletin. At the same time the agency submits the
10 proposed regulation, it shall deliver additional information to
11 the commission and the designated standing committees,
12 including, but not limited to,) and a regulatory analysis form
13 which includes the following:

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

24 (1.1) A specific citation to the Federal or State
25 statutory or regulatory authority, or the decision of a
26 Federal or State court, under which the agency is proposing
27 the regulation, which the regulation is designed to implement
28 or which may mandate or affect compliance with the
29 regulation.

30 (2) A [brief explanation] concise and, when possible,

1 nontechnical explanation of the proposed regulation [or
2 change].

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

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

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

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

23 (7) [An outline of conformance with the public comment
24 period and relevant dates including dates by which comments
25 must be received, dates of proposed public hearings, the
26 effective date of final regulations, date by which compliance
27 with the proposed regulations will be required, including the
28 date by which any required permits, licenses or other
29 approvals must be obtained.

30 (8) The name of the author or authors of the regulation

1 with their office address and phone numbers included.] A
2 schedule for review of the proposed regulation, including the
3 date by which the agency must receive comments; the date or
4 dates on which public hearings will be held; the expected
5 date of promulgation of the proposed regulation as a final-
6 form regulation; the expected effective date of the final-
7 form regulation; the date by which compliance with the final-
8 form regulation will be required; and the date by which
9 required permits, licenses or other approvals must be
10 obtained.

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

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

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

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

29 (13) A description of the plan developed for evaluating
30 the continuing effectiveness of the regulation after its

1 implementation.

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

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

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

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

30 (3) that, in arriving at the acceptable alternative,

1 consideration was given to minimizing new reporting,
2 accounting and legal requirements;

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

5 (5) the manner in which, when it is lawful, desirable
6 and feasible, special provisions have been developed to meet
7 the particular needs of affected groups and persons

8 including, but not limited to: minorities, elderly, small
9 businesses and farmers.] The agency shall hold a public

10 comment period, which shall commence with the publication of
11 the notice of proposed rulemaking and shall continue for 30

12 days unless the Governor or, in the case of an independent
13 agency, the agency head approves a comment period of less

14 than 30 days. IN NO CASE SHALL THE COMMENT PERIOD BE LESS ←
15 THAN 15 DAYS.

16 [(b.1)] (c) From the date of [submittal] submission of the
17 proposed regulation, the agency shall submit to the commission

18 and the [designated standing committee of each House of the
19 General Assembly] committees, within five days of receipt, a

20 copy of [any] comments [received by the agency which refers to
21 or concerns] which the agency receives relating to the proposed

22 regulation. [Prior to or upon submission of a proposed
23 regulation, the] The agency shall also, upon request, submit to

24 the commission and the [designated standing] committees copies
25 of reports from advisory groups and other documents received

26 from or disseminated to the public [pertaining or referring]
27 relating to the proposed regulation[,] and public notices or

28 announcements [regarding] relating to solicitation of public
29 comments or meetings [held by the agency on the subject of the

30 proposed] which the agency held or will hold relating to the

1 proposed regulation.

2 [(b.2)] (d) The [standing committee] committees may, within
3 20 calendar days from the closing date of the public comment
4 period, convey to the agency [a summary of] their comments and
5 objections [stating the reasons why] to the proposed regulation
6 [is unacceptable] and a copy of any staff reports deemed
7 pertinent. [Such] The comments and objections shall include[,
8 but not be limited to, deviations from] the lack of statutory
9 authority of the agency to promulgate the proposed regulation
10 and deviation of the proposed regulation from the intention of
11 the General Assembly in the enactment of the statute upon which
12 the proposed regulation [was] is based.

13 (e) If the committees are prevented from completing their
14 20-day review because of the adjournment sine die or expiration
15 of the legislative session in an even-numbered year, their
16 review of the proposed regulation shall automatically be
17 suspended until the fourth Monday in January of the next year.
18 On that date, the agency shall resubmit the proposed regulation
19 and all material required under this section to the committees
20 and the commission. If either committee has not been designated
21 by the fourth Monday in January of the next year, the agency may
22 not deliver the proposed regulation and required material to the
23 committees and the commission until both committees are
24 designated; but the agency shall deliver the proposed regulation
25 and the required material no later than the second Monday after
26 the date by which both committee designations have been
27 published in the Pennsylvania Bulletin. If the agency fails to
28 deliver the proposed regulation in the time prescribed in this
29 subsection, the agency shall be deemed to have withdrawn the
30 proposed regulation. In computing the remaining time for

1 committee review, the number of days in which the committees
2 have had the proposed regulation under review as of the
3 adjournment sine die or expiration of the prior session shall be
4 subtracted from the 20-day committee review period; but the
5 committee review period in the next succeeding legislative
6 session shall not be less than ten days.

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

25 [(b.3)] (g) The commission shall, within [30 calendar days
26 from the closing date of the public comment period] ten days
27 after the expiration of the committee review period pursuant to
28 subsection (d), (e) or (f), notify the agency of any objections
29 [stating the reasons why the proposed regulation is unacceptable
30 and a copy of any staff reports deemed pertinent] to the

1 proposed regulation. [Such] The notification shall specify the
2 regulatory review criterion which [have not been met by the
3 proposed regulation. Failure of] the proposed regulation has not
4 met. If the commission fails to object to any portion of the
5 proposed regulation within the [30 calendar days] time provided
6 in this subsection, the commission shall [constitute approval
7 of] be deemed to have approved that portion of the proposed
8 regulation[, and, in such cases, any subsequent disapproval].
9 Disapproval of the final-form regulation by the commission shall
10 relate only to objections raised by the commission to the
11 proposed regulation; to changes [made by the agency to the
12 proposed regulation or pursuant to recommendations received from
13 the standing committees] which the agency made to the proposed
14 regulation; or to recommendations, comments or objections which
15 a committee conveyed to the agency or the commission.

16 Section 5.1. Final-form regulations and final-omitted
17 regulations; procedures and criteria for review.

18 [(b.4)] (a) The agency shall review and consider public
19 comments and the comments of the [standing] committees and
20 commission[, if any,] pursuant to this section. Within seven
21 days of receipt of a public comment, the agency shall, by first
22 class or electronic mail, whichever is applicable, notify the
23 commentator of the agency's address and telephone number where
24 the commentator may submit a request for the information
25 concerning the final-form regulation under subsection (b). Upon
26 completion of the agency's review of comments, the agency shall
27 submit to the commission and the [designated standing committee
28 of each House of the General Assembly a copy of the agency's]
29 committees a copy of its response to the comments received, the
30 names and addresses of commentators who have requested

1 additional information relating to the final-form regulation and
2 the text of the final-form regulation which the agency intends
3 to adopt. If an agency fails to submit, or withdraws and fails
4 to resubmit, the final-form regulation within two years of the
5 close of the public comment period but still desires to [proceed
6 with the rulemaking] promulgate the final-form regulation, the
7 agency [must] shall republish the regulation as a [new
8 rulemaking] proposed regulation with a new public comment period
9 in accordance with [section 201 of] the Commonwealth Documents
10 Law. If the agency is prevented from delivering its final-form
11 regulation to the commission and the committees within the time
12 period provided for in this subsection because of the
13 adjournment sine die or expiration of the legislative session in
14 an even-numbered year, the agency shall deliver its final-form
15 regulation in accordance with subsection(f).

16 [(b.5) At the same time that the agency submits such] (b)
17 On the same date that the agency submits the material required
18 in subsection (a) to the commission and the [designated
19 standing] committees, [it] the agency shall [transmit], by first
20 class or electronic mail, whichever is applicable, send a notice
21 of [submittal consisting of] submission and a copy of the text
22 of the final-form regulation or a copy of all changes to the
23 proposed regulation which are incorporated into the final-form
24 regulation [from what was initially published] to each [party
25 that submitted comments on the regulation during the public
26 comment period following publication of the proposed regulation
27 in the Pennsylvania Bulletin] commentator who requested this
28 information pursuant to subsection (a). The agency [shall not
29 be] is not responsible for notifying each party whose name
30 appears on petitions or membership lists who did not present

1 individual comments on the regulation. [No changes to a
2 regulation shall be accepted, except as provided in section 7,
3 after the submission of the regulation to the commission and the
4 designated standing committee.]

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

17 (d) A committee shall, within 20 calendar days from the date
18 of receipt of the information required under subsection [(b.4)]
19 (a), or receipt of the information required under subsection
20 (c), approve or disapprove the final-form or final-omitted
21 regulation. The [standing] committee shall notify the commission
22 and the agency of its approval or disapproval. [Failure of a
23 standing committee to disapprove a regulation within the 20
24 calendar days shall constitute approval thereof. Along] If a
25 committee fails to disapprove a final-form or final-omitted
26 regulation, the committee shall be deemed to have approved that
27 regulation. If the committee disapproves the final-form or
28 final-omitted regulation, the committee shall include with a
29 notification of [approval or] disapproval [the committee shall
30 convey to the commission and the agency] a report [which

1 includes a summary of the objections of the committee, if any,]
2 stating the [reasons why the committee has found the proposed
3 regulation unacceptable,] committee's objections to the final-
4 form or final-omitted regulation and a copy of [any] staff
5 reports [deemed pertinent by the committee] which the committee
6 deems pertinent. [Such reasons] Objections shall include, but
7 not be limited to, [deviations from] the lack of statutory
8 authority of the agency to promulgate the final-form or final-
9 omitted regulation and deviation of that regulation from the
10 intention of the General Assembly in the enactment of the
11 statute upon which the [proposed] regulation was based.

12 (e) The commission shall, within ten calendar days after the
13 expiration of the committee review period, or at its next
14 regularly scheduled meeting, whichever is later, approve or
15 disapprove the final-form or final-omitted regulation. THE ←
16 COMMISSION SHALL NOTIFY THE AGENCY AND THE COMMITTEES OF ITS
17 APPROVAL OR DISAPPROVAL. If the commission fails to disapprove
18 the final-form or final-omitted regulation, the commission shall
19 be deemed to have approved the final-form or final-omitted
20 regulation. [In the event]

21 (f) If the [standing] committees are prevented from
22 completing their 20-day review because of adjournment sine die
23 or expiration of the legislative session in an even-numbered
24 [years] year, [consideration of the] their review of the final-
25 form or final-omitted regulation shall [be] automatically be
26 suspended until the fourth Monday in January of the next
27 [succeeding session of the General Assembly] year. On that date,
28 the agency shall resubmit the final-form or final-omitted
29 regulation and required material to the [designated standing
30 committee of each chamber, or its successor committee, and to]

1 committees and the commission. [The standing committees, or
2 their successor committees, shall have 20 calendar days and the
3 commission shall have 30 calendar days from receipt of the
4 final-form regulation and the information required under
5 subsection (b.4) is received to review such regulation.] If
6 either committee has not been designated by the fourth Monday in
7 January, the agency may not deliver the final-form or final-
8 omitted regulation and required material to the committees and
9 the commission until both committees are designated. If the
10 agency fails to deliver the final-form or final-omitted
11 regulation and required material to the commission and the
12 committees by the second Monday after the date by which both
13 committee designations have been published in the Pennsylvania
14 Bulletin, the agency shall be deemed to have withdrawn the
15 final-form or final-omitted regulation. In computing the [20-
16 day] remaining time for committee review [period and the 30-day
17 commission review period], the number of days in which the
18 committees have had the final-form or the final-omitted
19 regulation [had been] under review [by the standing committees
20 and by the commission] as of the adjournment sine die or
21 expiration of the prior session shall be subtracted from the 20-
22 day committee [and the 30-day commission review periods,
23 respectively. Failure of the agency to resubmit the final-form
24 regulation on the fourth Monday in January of the next
25 succeeding session shall constitute withdrawal thereof. No]
26 review period; but the committee review period in the next
27 succeeding legislative session shall not be less than ten days.
28 An agency may not submit a final-form or final-omitted
29 regulation [shall be submitted] to the commission or the
30 [standing] committees for review during the period from the

1 [end] adjournment sine die or expiration of the legislative
2 session of an even-numbered [years] year to the [fourth Monday
3 in January of] date by which both committees have been
4 designated in the next succeeding legislative session[, but].
5 This section shall not apply to [emergency] emergency-certified
6 regulations [may be] adopted pursuant to the provisions of
7 section [6(b)] 6(d).

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

12 (1) Prior to the expiration of the 20-day review period
13 of the committees or to the date on which either of the
14 committees takes action on the final-form or final-omitted
15 regulation, whichever occurs first, the ~~commission may, with~~ <—
16 ~~the agency's consent~~ AGENCY MAY, UNLESS THE COMMISSION SHALL <—
17 OBJECT, toll the time for the commission's and the
18 committees' review of the final-form or final-omitted
19 regulation in order to allow time for the agency to consider
20 revisions to the final-form or final-omitted regulation
21 recommended by the commission or a committee.

22 (2) ~~The commission may toll the time for review~~ THE <—
23 REVIEW PERIOD SET FORTH UNDER PARAGRAPH (1) MAY BE TOLLED for
24 30 days. If, within 30 days, the agency fails to submit
25 revisions to the committees and the commission or fails to
26 notify the commission and the committees in writing that it
27 will not submit revisions but wishes the commission and the
28 committees to resume their review, the agency shall be deemed
29 to have withdrawn the final-form or final-omitted regulation.

30 (3) The committees shall have the remainder of the 20-

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

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

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

20 [(d)] (h) In determining whether to approve or to disapprove
21 a final-form or a final-omitted regulation [is in the public
22 interest], the commission shall, first and foremost, [make a
23 determination that] determine whether the [final-form regulation
24 is not contrary to] agency has the statutory authority [of the
25 agency and] to promulgate the final-form or final-omitted
26 regulation and whether that regulation conforms to the intention
27 of the General Assembly in the enactment of the statute upon
28 which the [final-form] regulation is based. In [formulating]
29 making its determination, the commission shall consider written
30 comments submitted by the [designated standing] committees [of

1 each House of the General Assembly] and current members of the
2 General Assembly [and any], pertinent opinions of Pennsylvania's
3 courts and formal opinions of the Attorney General.

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

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

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

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

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

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

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

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

4 (3) The clarity, feasibility and reasonableness of the
5 final-form or final-omitted regulation to be determined by
6 considering the following:

7 (i) Possible conflict with or duplication of
8 statutes or existing regulations.

9 (ii) Clarity and lack of ambiguity.

10 (iii) Need for the regulation [or rule].

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

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

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

20 [(f) Regulations for which notice of proposed rulemaking is
21 omitted pursuant to section 204 of the Commonwealth Documents
22 Law shall be submitted to the commission and the designated
23 standing committees for review under subsection (c) at the same
24 time that the regulations are submitted to the Attorney General
25 for review as provided in the act of October 15, 1980 (P.L.950,
26 No.164), known as the "Commonwealth Attorneys Act." The public
27 comment period and the information requirements as provided for
28 in subsection (b.1) are not applicable to these regulations.
29 Except for regulations adopted under section 6(b), no final
30 order adopting such regulation shall be published until

1 completion of review pursuant to this act.

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

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

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

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

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

27 (a) [Whenever] If the committees and the commission do not
28 disapprove a final-form or a final-omitted regulation by the
29 expiration of their respective review periods under section
30 5.1(d), (e) or (f), the agency may promulgate the final-form or

1 final-omitted regulation. If the commission [shall find that]
2 disapproves a final-form or final-omitted regulation [submitted
3 to the commission pursuant to section 5(b.4) or that a
4 regulation for which notice of proposed rulemaking is omitted
5 pursuant to section 204 of the act of July 31, 1968 (P.L.769,
6 No.240), referred to as the Commonwealth Documents Law, may be
7 contrary to the public interest under the criteria set forth in
8 section 5], the commission shall [notify] deliver its
9 disapproval order to the Legislative Reference Bureau, the
10 [standing committees, members of the public entitled to the
11 notice set forth in section 5(b.5)] committees, commentators who
12 have requested additional information under section 5.1(a) and
13 the agency. [promulgating such regulation of its finding. Such
14 notification] The disapproval order shall specify the regulatory
15 review criteria which [has not been met by the final-form
16 regulation, as well as a description of] the final-form or
17 final-omitted regulation has not met and shall describe the
18 documents and testimony which the commission relied on [by the
19 commission] in reaching its decision. The agency shall review
20 the commission's [finding] order and proceed pursuant to section
21 7(a). [If the commission does not notify the agency of any
22 objection within 30 days of the date the commission received the
23 information required in section 5(b.4), in the case of a final-
24 form regulation, or within 30 days of receipt, in the case of
25 omission of proposed rulemaking, the agency may proceed to
26 promulgate the regulation as provided in the Commonwealth
27 Documents Law.]

28 (b) The [commission may, when notifying an agency of its
29 objections pursuant to subsection (a) or at any time following
30 such notification but prior to publication of a final order

1 adopting a regulation, issue an order barring the publication of
2 a final order adopting a] commission's order disapproving a
3 final-form or final-omitted regulation shall bar the agency from
4 promulgating that regulation pending subsequent review [of the
5 regulation in the manner provided in section 7. The commission
6 may not however issue an order against a proposed regulation to
7 the extent that the Attorney General certifies that proposed
8 regulation is required pursuant to the decree of any court or to
9 implement the provisions of a statute of the United States or
10 regulations issued thereunder by a Federal agency nor shall the
11 commission issue an order against a proposed regulation when
12 such regulation is transmitted with the certification of the
13 Governor that it is required to meet an emergency which shall
14 include but not be limited to conditions which may threaten the
15 public health, safety or welfare or cause a budget deficit or
16 create need for supplemental or deficiency appropriations of
17 greater than \$1,000,000. In such case, the regulation can take
18 effect immediately and may remain in effect for up to 120 days
19 but after that time may be suspended by the commission with a
20 statement of disapproval unless it has been approved by the
21 General Assembly under the procedures contained in section 7(d).
22 If the commission issues a statement of disapproval after 120
23 days, the emergency regulation must comply with] under section
24 7.

25 (c) [Whenever a designated standing] If a committee [of the
26 House of Representatives or the Senate] has notified the
27 commission of its disapproval of a final-form or final-omitted
28 regulation and the commission approves the [proposed] final-form
29 or final-omitted regulation, the commission shall, within two
30 business days, [notify the said designated standing] deliver its

1 approval order to the committee [of such approval]. If either
2 committee is prevented from receiving the commission's order
3 because of the adjournment sine die or expiration of the
4 legislative session in an even-numbered year, the commission
5 shall deliver its order to the committee or its successor
6 committee on the fourth Monday in January of the next year. If
7 either committee has not been designated by the fourth Monday in
8 January, the commission may not deliver its order to the
9 committees until both committees have been designated; but the
10 commission shall deliver its order no later than the second
11 Monday after the date by which both committee designations have
12 been published in the Pennsylvania Bulletin. The committee shall
13 have 14 days from receipt of [such notice] the approval order to
14 take action pursuant to section 7(d). During this 14-day period
15 the agency [shall not be permitted to] may not promulgate the
16 final-form or final-omitted regulation approved by the
17 commission. If, at the expiration of the 14-day period, the
18 [designated standing] committee fails to act on the final-form
19 or final-omitted regulation pursuant to section 7(d), the agency
20 may [proceed to] promulgate the final-form or final-omitted
21 regulation. [as provided in the Commonwealth Documents Law.] If <—
22 the commission is prevented from transmitting the notice
23 required under this subsection because of recess or adjournment
24 of either or both Houses of the General Assembly, the commission
25 shall transmit the notice on the first subsequent session day.† <—

26 (d) The commission may not issue an order barring an agency
27 from promulgating a final-form or final-omitted regulation if
28 the Attorney General certifies that the final-form or final-
29 omitted regulation is required pursuant to the decree of any
30 court or to implement the provisions of a statute of the United

1 States or regulations issued thereunder by a Federal agency or
2 if the Governor certifies that the final-form or final-omitted
3 regulation is required to meet an emergency which includes
4 conditions which may threaten the public health, safety or
5 welfare; cause a budget deficit; or create the need for
6 supplemental or deficiency appropriations of greater than
7 \$1,000,000. In those cases, the final-form or final-omitted
8 regulation may take effect on the date of publication or on a
9 later date specified in the order adopting the final-form or
10 final-omitted regulation. The commission and the committees
11 shall review the final-form or final-omitted regulation pursuant
12 to the procedures provided for in this act. If the final-form or
13 final-omitted regulation is disapproved pursuant to those
14 procedures, that regulation shall be rescinded after 120 days or
15 upon final disapproval, whichever occurs later.

16 [Section 6.1. Agency action pursuant to statute.

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

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

21 (a) Within seven days [of receipt of a notice of disapproval
22 from the commission] after the agency has received an order from
23 the commission disapproving and barring promulgation of a final-
24 form or final-omitted regulation issued pursuant to section
25 6(a), the agency shall notify the Governor, the [designated
26 standing] committees [of the House of Representatives and the
27 Senate,] and the commission of its [intentions to] selection of
28 one of the following options:

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

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

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

6 (a.1) If the committees are prevented from receiving the
7 notice required in this section because of the adjournment sine
8 die or expiration of the legislative session in an even-numbered
9 year, the agency shall deliver the notice to the Governor, the
10 commission and the committees on the fourth Monday in January of
11 the next year. If either committee has not been designated by
12 the fourth Monday in January, the agency may not deliver the
13 notice to the commission and the committees until both
14 committees are designated; but the agency shall deliver the
15 notice to the committees and the commission no later than the
16 second Monday after the date by which both committee
17 designations have been published in the Pennsylvania Bulletin.
18 If the agency fails to deliver the ~~final-form or final-omitted~~ <—
19 regulation NOTICE to the commission and the committees in the <—
20 time prescribed in this subsection, the agency shall be deemed
21 to have withdrawn that regulation.

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

1 disapproval order and the agency's response and recommendations
2 [of the agency regarding the final-form] regarding the final-
3 form or final-omitted regulation. If the [agency is prevented
4 from submitting its] committees are prevented from receiving the
5 report because of [recess or] adjournment [of either or both
6 Houses of the General Assembly] sine die or expiration of the
7 legislative session in an even-numbered year, the agency shall
8 [transmit] submit its report [on the first subsequent session
9 day.] to the commission and the committees on the fourth Monday
10 in January of the next year. If either committee has not been
11 designated by the fourth Monday in January, the agency may not
12 deliver the report to the committees and the commission until
13 both committees are designated; but the agency shall deliver its
14 report to the commission and the committees no later than the
15 second Monday after the date by which both committee
16 designations have been published in the Pennsylvania Bulletin.
17 If the agency fails to deliver the report to the committees and
18 the commission in the time prescribed in this subsection, the
19 agency shall be deemed to have withdrawn the final-form or
20 final-omitted regulation. Upon receipt of the agency's report,
21 [a designated standing committee] the committees may proceed
22 pursuant to subsection (d). [Failure of the agency to submit a
23 report within the time period provided by this subsection or on
24 the first subsequent session day shall constitute withdrawal of
25 the final-form regulation.]

26 (c) If the agency [determines that it is desirable to
27 implement] decides to revise or modify the final-form or final-
28 omitted regulation in order to respond to objections raised by
29 the commission and adopt that regulation with [further]
30 revisions or modifications, the agency shall submit a report to

1 the [designated standing committees of the House of
2 Representatives and the Senate] committees and the commission
3 within 40 days of the agency's receipt of the commission's
4 disapproval order. The agency's report shall contain the revised
5 final-form or final-omitted regulation, the findings of the
6 commission, and the agency's response and recommendations [of
7 the agency] regarding the revised final-form or final-omitted
8 regulation. [Failure of the agency to submit a report within the
9 time period provided by this subsection shall constitute
10 withdrawal of the final-form regulation.] If the committees are
11 prevented from receiving the report because of adjournment sine
12 die or expiration of the legislative session in an even-numbered
13 year, the agency shall submit the report to the commission and
14 the committees on the fourth Monday in January of the next year.
15 If either committee has not been designated by the fourth Monday
16 in January, the agency may not deliver the report to the
17 committees and the commission until both committees are
18 designated; but the agency shall deliver its report to the
19 commission and the committees no later than the second Monday
20 after the date by which both committee designations have been
21 published in the Pennsylvania Bulletin. If the agency fails to
22 deliver its report to the commission and the committees in the
23 time prescribed in this subsection, the agency shall be deemed
24 to have withdrawn the final-form or final-omitted regulation.
25 Upon receipt of the agency's report, [the designated standing
26 committees] a committee shall have ten days to approve or
27 disapprove the report and to notify the commission and the
28 agency of [their] its approval or disapproval [of the agency's
29 report. Failure of a designated standing]. If a committee fails
30 to notify the commission and the agency of its disapproval

1 within ten days [shall constitute its approval of the], the
2 committee shall be deemed to have approved the agency's report.
3 The commission shall have seven days from the expiration of the
4 committee's ten-day review period or until its next regularly
5 scheduled meeting, whichever is [longer, from the completion of
6 the designated standing committees' ten-day review period in
7 which to approve] later, to approve or disapprove the agency's
8 report. [or to continue its bar upon final publication of the
9 regulation and transmit notice of disapproval and the agency's
10 report] If the commission and the committee approve the agency's
11 report, the agency may promulgate the final-form or final-
12 omitted regulation. If the commission disapproves the agency
13 report, the agency shall be barred from promulgating that
14 regulation until the review provided for in this subsection and
15 in subsection (d) is completed. If a committee disapproves an
16 agency's report and the commission approves it or if the
17 commission disapproves an agency report, the commission shall
18 deliver its order to the [designated standing] committees for
19 consideration by the General Assembly pursuant to subsection
20 (d). [However, if] If the commission is prevented from
21 [transmitting notice and the report] delivering its order to the
22 [General Assembly] committees within the time period provided
23 for in this subsection because of [recess or adjournment, it may
24 transmit notice and the report on the first subsequent session
25 day. Failure of the commission to transmit the agency's report
26 within the time period provided by this subsection or on the
27 first subsequent session day shall constitute approval of the
28 revised final-form regulation.] the adjournment sine die or
29 expiration of the legislative session in an even-numbered year,
30 the commission shall deliver its order on the fourth Monday of

1 January of the next year. If either committee has not been
2 designated by the fourth Monday in January, the commission may
3 not deliver its order to the committees until both committees
4 are designated; but the commission shall deliver its order no
5 later than the second Monday after the date by which both
6 committee designations have been published in the Pennsylvania
7 Bulletin. If the commission fails to deliver its order
8 disapproving the agency's report and revised final-form or
9 final-omitted regulation in the time prescribed by this
10 subsection, the commission shall be deemed to have approved the
11 agency's report and the revised final-form or final-omitted
12 regulation.

13 (d) [Whenever the designated standing committees of both
14 Houses of the General Assembly have received] Upon receipt of
15 the report of an agency pursuant to subsection (b), [or] of the
16 [notice and the] agency's report and the commission's order
17 pursuant to subsection (c)[, or the notice] or of the
18 commission's order pursuant to section 6(c), one or both of the
19 [designated standing] committees may, within 14 days, report to
20 the House of Representatives or Senate a concurrent resolution
21 and notify the [affected agency which shall be the official
22 notice to the] agency. During the 14-day period, the agency
23 [shall] may not [be permitted to] promulgate the final-form or
24 final-omitted regulation. If, [at] by the expiration of the 14-
25 day period, [both of the designated standing committees fail to
26 act on the agency's report, then the] neither committee reports
27 a concurrent resolution, the committees shall be deemed to have
28 approved the final-form or final-omitted regulation [is deemed
29 approved]; and the agency may [proceed to] promulgate [the] that
30 regulation, [as provided in the act of July 31, 1968 (P.L.769,

1 No.240), referred to as the Commonwealth Documents Law. A final
2 order adopting the regulation shall not be published for 30
3 calendar days or ten legislative days, whichever is longer, from
4 date of reporting the concurrent resolution. If both the House
5 of Representatives and the Senate agree to the concurrent
6 resolution within the allotted time period, which is 30 calendar
7 days or ten legislative days, whichever is longer, from the date
8 of reporting of the concurrent resolution, then the adoption of
9 the concurrent resolution shall constitute a bar to publication
10 until presentment to the Governor and final disposition of the
11 regulation. The resolution shall be presented to the Governor in
12 accordance with section 9 of Article III of the Constitution of
13 Pennsylvania.] If either committee reports a concurrent
14 resolution before the expiration of the 14-day period, the
15 Senate and the House of Representatives shall each have 30
16 calendar days or ten legislative days, whichever is longer, from
17 the date on which the concurrent resolution has been reported,
18 to adopt the concurrent resolution. If the General Assembly
19 adopts the concurrent resolution by majority vote in both the
20 Senate and the House of Representatives, the concurrent
21 resolution shall be presented to the Governor in accordance with
22 section 9 of Article III of the Constitution of Pennsylvania. If
23 the Governor does not return the concurrent resolution to the
24 General Assembly within ten calendar days after it is presented
25 [to him], [it shall constitute approval of] the Governor shall
26 be deemed to have approved the concurrent resolution. If the
27 Governor vetoes the [action of the General Assembly] concurrent
28 resolution, the General Assembly may[, within 30 calendar days
29 or ten legislative days, whichever is longer,] override that
30 veto by a two-thirds vote in each house. [; and that override

1 shall constitute a permanent bar to publication. Failure of] The
2 Senate and the House of Representatives shall each have 30
3 calendar days or ten legislative days, whichever is longer, to
4 override the veto. If the [House of Representatives and the
5 Senate] General Assembly fails to [act on] adopt the concurrent
6 resolution or override the veto [within the allotted time
7 periods shall constitute approval of] in the time prescribed in
8 this subsection, it shall be deemed to have approved the final-
9 form or final-omitted regulation. [In addition, notice] Notice
10 as to any final disposition of [any] a concurrent resolution
11 considered in accordance with this [act] section shall be
12 published in the Pennsylvania Bulletin. The bar on promulgation
13 of the final-form or final-omitted regulation shall continue
14 until that regulation has been approved or deemed approved in
15 accordance with this subsection. If the General Assembly adopts
16 the concurrent resolution and the Governor approves or is deemed
17 to have approved the concurrent resolution or if the General
18 Assembly overrides the Governor's veto of the concurrent
19 resolution, the agency shall be barred from promulgating the
20 final-form or final-omitted regulation. If the General Assembly
21 fails to adopt the concurrent resolution or if the Governor
22 vetoed the concurrent resolution and the General Assembly fails
23 to override the Governor's veto, the agency may promulgate the
24 final-form or final-omitted regulation. The General Assembly
25 may, at its discretion, adopt a concurrent resolution
26 disapproving the final-form or final-omitted regulation to
27 indicate the intent of the General Assembly[,] but permit
28 [publication of a final order adopting a] the agency to
29 promulgate that regulation.

30 Section 7.1. Classification of documents.

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

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

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

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

22 Section 8.1. Existing regulations.

23 The commission, [either] on its motion or [on] at the request
24 of any [individual, agency, corporation,] person or member of
25 the General Assembly [or any other entity which may be affected
26 by a regulation], may [also] review any existing regulation [or
27 administrative procedure. Whenever] which has been in effect for
28 at least five THREE years. If a committee of the Senate or the <—
29 House of Representatives [shall request] requests a review of
30 [a] an existing regulation [or administrative procedure], the

1 commission shall [make such] perform the review and shall assign
2 it high priority. The commission may submit recommendations to
3 [any] an agency recommending changes in existing regulations
4 [where] if it finds the existing regulations [or administrative
5 procedure] to be contrary to the public interest under the
6 criteria established in this section. The commission may also
7 make recommendations to the General Assembly and the Governor
8 for statutory changes [whenever it] if the commission finds that
9 any existing regulation [or procedure] may be contrary to the
10 public interest.

11 Section 9. Commission staff.

12 (a) The commission shall appoint and fix the compensation of
13 [an] a full-time executive director, who shall [devote his full
14 time to] be responsible for the general supervision of all the
15 affairs of the commission and for performing any administrative
16 function or duty which the commission may delegate to the
17 executive director. [In addition, the commission shall appoint a
18 chief counsel who shall not be subject to the supervision of the
19 Attorney General or the General Counsel and it may appoint and
20 fix the compensation of such other employees as the commission
21 may find necessary for the proper performance of the functions
22 of the commission. In determining the necessity for such
23 additional staff, the commission shall consider the fact that
24 the General Assembly is required under this act to participate
25 in the review process and its staff will be providing assistance
26 to the commission through the legislative review provisions of
27 this act.] The executive director may COMMISSION SHALL appoint <—
28 and fix the compensation of such other employees as the
29 executive director COMMISSION may find necessary for the proper <—
30 operation of the commission.

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

6 Section 10. Subpoena power.

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

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

23 (a) The [commission shall compile and publish rules for the
24 conduct of meetings and public hearings and for the conduct of
25 business under this act. Such rules shall] commission, in the
26 performance of its functions under this act, has the power to
27 promulgate and enforce regulations necessary to carry out the
28 purposes of this act. Regulations must be promulgated in
29 accordance with the procedures established in the [act of July
30 31, 1968 (P.L.769, No.240), referred to as the] Commonwealth

1 Documents Law. [Such rules] The regulations shall provide for
2 the commission's notification of filings of final-form and
3 final-omitted regulations to parties likely to be affected by
4 the final-form and final-omitted regulations through publication
5 of a notice in the Pennsylvania Bulletin. Prior to the [rules]
6 regulations taking effect, [however, the appropriate standing
7 committees and the Joint Committee on Documents shall have 20
8 days and 30 days, respectively, from the date of receipt of the
9 information required under section 5(b.4) of this act to notify
10 the commission of their approval or disapproval of a final-form
11 regulation or of a regulation for which notice of proposed
12 rulemaking is omitted under section 204 of the Commonwealth
13 Documents Law. Final disposition of a disapproved final-form
14 regulation shall be in accordance with this act; however, the
15 responsibilities assigned to the commission shall be exercised
16 by the Joint Committee on Documents, and the commission may
17 exercise the rights provided to an agency.] the requirements of
18 this act must be satisfied. For the purposes of reviewing the
19 regulations of the commission and otherwise satisfying the
20 requirements of this act, the Joint Committee on Documents shall
21 exercise the rights and perform the functions of the commission;
22 and the commission shall exercise the rights and perform the
23 functions of an agency under this act.

24 (b) On or before April 1, [1989 and each year thereafter,]
25 the commission shall file [a] an annual report of its activities
26 for the prior calendar year with the Governor and the General
27 Assembly.

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

1 regarding matters before the commission.

2 Section 12. Clearinghouse.

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

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

28 Section 15. Termination date.

29 The commission shall be treated as a statutory agency created
30 after January 1, 1981, for purposes of the act of December 22,

1 1981 (P.L.508, No.142), known as the "Sunset Act." The
2 commission is scheduled for termination on December 31, 1993.]

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

8 Section 5. This act shall take effect immediately.