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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 7

Session of  
1997

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

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 9, 1997

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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

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

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

6 Section 3. Definitions.

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

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

17     "Commission." The Independent Regulatory Review Commission.

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

25     "Committee." A standing committee of the Senate or the House  
26 of Representatives designated by the President pro tempore of  
27 the Senate for the Senate or by the Speaker of the House of  
28 Representatives for the House. The designation shall prescribe  
29 the jurisdiction of each standing committee over the various  
30 State agencies for purposes of this act. The designation shall

1 be transmitted to the Legislative Reference Bureau for  
2 publication in the Pennsylvania Bulletin.

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

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

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

9 "Final-form regulation." A regulation [submitted by]  
10 previously published as a proposed regulation pursuant to the  
11 act of July 31, 1968 (P.L.769, No.240), referred to as the  
12 Commonwealth Documents Law which an agency submits to the  
13 commission and the [designated standing] committees following  
14 the close of the public comment period[, as provided by section  
15 201 of the act of July 31, 1968 (P.L.769, No.240), referred to  
16 as the Commonwealth Documents Law].

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

22 "Promulgate." To publish an order adopting a final-form or  
23 final-omitted regulation in accordance with the act of July 31,  
24 1968 (P.L.769, No.240), referred to as the Commonwealth  
25 Documents Law.

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

1 Commonwealth Documents Law.

2 "Regulation." Any rule or regulation, or order in the nature  
3 of a rule or regulation, promulgated by an agency under  
4 statutory authority in the administration of any statute  
5 administered by or relating to the agency or amending, revising  
6 or otherwise altering the terms and provisions of an existing  
7 regulation, or prescribing the practice or procedure before such  
8 agency. The term shall also include actions of the Liquor  
9 Control Board which have an effect on the discount rate for  
10 retail licensees. The term shall not include a proclamation,  
11 executive order, directive or similar document [promulgated]  
12 issued by the Governor, but shall include a regulation which may  
13 be promulgated by an agency, only with the approval of the  
14 Governor.

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

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

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

1 commissioner; but a [commission member] commissioner may serve  
2 on advisory boards and commissions, or on other boards and  
3 commissions which do not promulgate any rules and regulations  
4 which may come before the commission for review pursuant to this  
5 act.

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

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

28 (d) [The commissioners] ~~A commissioner shall receive \$125~~ <—  
29 THE COMMISSIONER WHO IS ELECTED TO SERVE AS THE CHAIRPERSON IN <—  
30 ACCORDANCE WITH SUBSECTION (G) SHALL RECEIVE \$300 PER DAY AS

1 COMPENSATION FOR SERVICES RENDERED TO THE COMMISSION. EACH OF  
2 THE OTHER COMMISSIONERS SHALL RECEIVE [\$125] \$250 per day as  
3 compensation for [their] services rendered to the commission.  
4 [The commissioners] A commissioner shall also be entitled to  
5 reimbursement for travel and other necessary expenses incurred  
6 as a result of [their] official duties [as members of the  
7 commission]. The expenses incurred by [the commissioners, or by  
8 any employees] a commissioner, or by an employee of the  
9 commission, shall be [allowed and] paid on the presentation of  
10 itemized vouchers therefor, which vouchers shall be subject to  
11 the approval of the commission.

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

23 (f) [Any member of the commission] A commissioner formally  
24 charged before a court of record with the commission of a felony  
25 or with a misdemeanor as provided by 18 Pa.C.S. Pt. II Art. E  
26 (relating to offenses against public administration) shall  
27 immediately be suspended as a [member of the commission]  
28 commissioner until the charge is dismissed or a verdict of  
29 acquittal is announced. If [any commission member shall be] a  
30 commissioner pleads guilty or nolo contendere or is found guilty

1 of such offense, [then] or receives probation without verdict,  
2 disposition in lieu of trial, or an accelerated rehabilitative  
3 disposition for felony or misdemeanor charges in this  
4 Commonwealth or in any other jurisdiction, that [commissioner's  
5 membership shall become vacant automatically] commissioner shall  
6 immediately be removed from the commission upon announcement of  
7 the verdict or disposition by [a trial] the court or upon the  
8 court's acceptance of a plea of guilty or nolo contendere. [No  
9 commission member shall]

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



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

30 (g) [A chairman shall be elected by the commission] The

1 commission shall elect a chairperson, who shall serve for a term  
2 of two years and until [his successors shall be] a successor is  
3 elected. The [chairman] chairperson shall preside at meetings of  
4 the commission and shall execute documents relating to the  
5 formal actions of the commission.

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

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

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

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

1 (a) [For proposed regulations, submitted after the effective  
2 date of this section, at the same time that proposed regulations  
3 and any changes thereto are submitted] On the same date that an  
4 agency submits a proposed regulation to the Legislative  
5 Reference Bureau for publication of notice of proposed  
6 rulemaking in the Pennsylvania Bulletin as required by [the act  
7 of July 31, 1968 (P.L.769, No.240), referred to as] the  
8 Commonwealth Documents Law, the agency [proposing the  
9 regulation] shall submit to the commission and the committees a  
10 copy of the proposed regulation [to the commission and the  
11 designated standing committee of each House of the General  
12 Assembly. The agency proposing the regulation shall hold a  
13 public comment period of at least 30 days, beginning with  
14 publication of the notice of proposed rulemaking in the  
15 Pennsylvania Bulletin. At the same time the agency submits the  
16 proposed regulation, it shall deliver additional information to  
17 the commission and the designated standing committees,  
18 including, but not limited to,] and a regulatory analysis form  
19 which includes the following:

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

30 (1.1) A specific citation to the Federal or State

1 statutory or regulatory authority, or the decision of a  
2 Federal or State court, under which the agency is proposing  
3 the regulation, which the regulation is designed to implement  
4 or which may mandate or affect compliance with the  
5 regulation.

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

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

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

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

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

29 (7) [An outline of conformance with the public comment  
30 period and relevant dates including dates by which comments

1 must be received, dates of proposed public hearings, the  
2 effective date of final regulations, date by which compliance  
3 with the proposed regulations will be required, including the  
4 date by which any required permits, licenses or other  
5 approvals must be obtained.

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

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

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

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

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

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

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

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

28       (1) the financial, economic and social impacts of the  
29 regulation on individuals, business and labor communities or  
30 other public and private organizations. When practicable, an

1 evaluation of the benefits expected as a result of the  
2 regulation should be included;

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

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

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

11 (5) the manner in which, when it is lawful, desirable  
12 and feasible, special provisions have been developed to meet  
13 the particular needs of affected groups and persons  
14 including, but not limited to: minorities, elderly, small  
15 businesses and farmers.] The agency shall hold a public  
16 comment period, which shall commence with the publication of  
17 the notice of proposed rulemaking and shall continue for 30  
18 days unless the Governor or, in the case of an independent  
19 agency, the agency head approves a comment period of less  
20 than 30 days. In no case shall the comment period be less  
21 than 15 days.

22 [(b.1)] (c) From the date of [submittal] submission of the  
23 proposed regulation, the agency shall submit to the commission  
24 and the [designated standing committee of each House of the  
25 General Assembly] committees, within five days of receipt, a  
26 copy of [any] comments [received by the agency which refers to  
27 or concerns] which the agency receives relating to the proposed  
28 regulation. [Prior to or upon submission of a proposed  
29 regulation, the] The agency shall also, upon request, submit to  
30 the commission and the [designated standing] committees copies

1 of reports from advisory groups and other documents received  
2 from or disseminated to the public [pertaining or referring]  
3 relating to the proposed regulation[, ] and public notices or  
4 announcements [regarding] relating to solicitation of public  
5 comments or meetings [held by the agency on the subject of the  
6 proposed] which the agency held or will hold relating to the  
7 proposed regulation.

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

19 (e) If the committees are prevented from completing their  
20 20-day review because of the adjournment sine die or expiration  
21 of the legislative session in an even-numbered year, their  
22 review of the proposed regulation shall automatically be  
23 suspended until the fourth Monday in January of the next year.  
24 On that date, the agency shall resubmit the proposed regulation  
25 and all material required under this section to the committees  
26 and the commission. If either committee has not been designated  
27 by the fourth Monday in January of the next year, the agency may  
28 not deliver the proposed regulation and required material to the  
29 committees and the commission until both committees are  
30 designated; but the agency shall deliver the proposed regulation



1 and the required material no later than the second Monday after  
2 the date by which both committee designations have been  
3 published in the Pennsylvania Bulletin. If the agency fails to  
4 deliver the proposed regulation in the time prescribed in this  
5 subsection, the agency shall be deemed to have withdrawn the  
6 proposed regulation. In computing the remaining time for  
7 committee review, the number of days in which the committees  
8 have had the proposed regulation under review as of the  
9 adjournment sine die or expiration of the prior session shall be  
10 subtracted from the 20-day committee review period; but the  
11 committee review period in the next succeeding legislative  
12 session shall not be less than ten days.

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

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

22 Section 5.1. Final-form regulations and final-omitted  
23 regulations; procedures and criteria for review.

24        [(b.4)] (a) The agency shall review and consider public  
25 comments and the comments of the [standing] committees and  
26 commission[, if any,] pursuant to this section. Within seven  
27 days of receipt of a public comment, the agency shall, by first  
28 class or electronic mail, whichever is applicable, notify the  
29 commentator of the agency's address and telephone number where  
30 the commentator may submit a request for the information

1 concerning the final-form regulation under subsection (b). Upon  
2 completion of the agency's review of comments, the agency shall  
3 submit to the commission and the [designated standing committee  
4 of each House of the General Assembly a copy of the agency's]  
5 committees a copy of its response to the comments received, the  
6 names and addresses of commentators who have requested  
7 additional information relating to the final-form regulation and  
8 the text of the final-form regulation which the agency intends  
9 to adopt. If an agency fails to submit, or withdraws and fails  
10 to resubmit, the final-form regulation within two years of the  
11 close of the public comment period but still desires to [proceed  
12 with the rulemaking] promulgate the final-form regulation, the  
13 agency [must] shall republish the regulation as a [new  
14 rulemaking] proposed regulation with a new public comment period  
15 in accordance with [section 201 of] the Commonwealth Documents  
16 Law. If the agency is prevented from delivering its final-form  
17 regulation to the commission and the committees within the time  
18 period provided for in this subsection because of the  
19 adjournment sine die or expiration of the legislative session in  
20 an even-numbered year, the agency shall deliver its final-form  
21 regulation in accordance with subsection(f).

22 [(b.5) At the same time that the agency submits such] (b)  
23 On the same date that the agency submits the material required  
24 in subsection (a) to the commission and the [designated  
25 standing] committees, [it] the agency shall [transmit], by first  
26 class or electronic mail, whichever is applicable, send a notice  
27 of [submittal consisting of] submission and a copy of the text  
28 of the final-form regulation or a copy of all changes to the  
29 proposed regulation which are incorporated into the final-form  
30 regulation [from what was initially published] to each [party

1 that submitted comments on the regulation during the public  
2 comment period following publication of the proposed regulation  
3 in the Pennsylvania Bulletin] commentator who requested this  
4 information pursuant to subsection (a). The agency [shall not  
5 be] is not responsible for notifying each party whose name  
6 appears on petitions or membership lists who did not present  
7 individual comments on the regulation. [No changes to a  
8 regulation shall be accepted, except as provided in section 7,  
9 after the submission of the regulation to the commission and the  
10 designated standing committee.]

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

23 (d) A committee shall, within 20 [calendar] days from the <—  
24 date of receipt of the information required under subsection  
25 [(b.4)] (a), or receipt of the information required under  
26 subsection (c), approve or disapprove the final-form or final-  
27 omitted regulation. The [standing] committee shall notify the  
28 commission and the agency of its approval or disapproval.  
29 [Failure of a standing committee to disapprove a regulation  
30 within the 20 calendar days shall constitute approval thereof.

1 Along] If a committee fails to disapprove a final-form or final-  
2 omitted regulation, the committee shall be deemed to have  
3 approved that regulation. If the committee disapproves the  
4 final-form or final-omitted regulation, the committee shall  
5 include with a notification of [approval or] disapproval [the  
6 committee shall convey to the commission and the agency] a  
7 report [which includes a summary of the objections of the  
8 committee, if any,] stating the [reasons why the committee has  
9 found the proposed regulation unacceptable,] committee's  
10 objections to the final-form or final-omitted regulation and a  
11 copy of [any] staff reports [deemed pertinent by the committee]  
12 which the committee deems pertinent. [Such reasons] Objections  
13 shall include, but not be limited to, [deviations from] the lack  
14 of statutory authority of the agency to promulgate the final-  
15 form or final-omitted regulation and deviation of that  
16 regulation from the intention of the General Assembly in the  
17 enactment of the statute upon which the [proposed] regulation  
18 was based.

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

28 (f) If the [standing] committees are prevented from  
29 completing their 20-day review because of adjournment sine die  
30 or expiration of the legislative session in an even-numbered

1 [years] year, [consideration of the] their review of the final-  
2 form or final-omitted regulation shall [be] automatically be  
3 suspended until the fourth Monday in January of the next  
4 [succeeding session of the General Assembly] year. On that date,  
5 the agency shall resubmit the final-form or final-omitted  
6 regulation and required material to the [designated standing  
7 committee of each chamber, or its successor committee, and to]  
8 committees and the commission. [The standing committees, or  
9 their successor committees, shall have 20 calendar days and the  
10 commission shall have 30 calendar days from receipt of the  
11 final-form regulation and the information required under  
12 subsection (b.4) is received to review such regulation.] If  
13 either committee has not been designated by the fourth Monday in  
14 January, the agency may not deliver the final-form or final-  
15 omitted regulation and required material to the committees and  
16 the commission until both committees are designated. If the  
17 agency fails to deliver the final-form or final-omitted  
18 regulation and required material to the commission and the  
19 committees by the second Monday after the date by which both  
20 committee designations have been published in the Pennsylvania  
21 Bulletin, the agency shall be deemed to have withdrawn the  
22 final-form or final-omitted regulation. In computing the [20-  
23 day] remaining time for committee review [period and the 30-day  
24 commission review period], the number of days in which the  
25 committees have had the final-form or the final-omitted  
26 regulation [had been] under review [by the standing committees  
27 and by the commission] as of the adjournment sine die or  
28 expiration of the prior session shall be subtracted from the 20-  
29 day committee [and the 30-day commission review periods,  
30 respectively. Failure of the agency to resubmit the final-form

1 regulation on the fourth Monday in January of the next  
2 succeeding session shall constitute withdrawal thereof. No]  
3 review period; but the committee review period in the next  
4 succeeding legislative session shall not be less than ten days.  
5 An agency may not submit a final-form or final-omitted  
6 regulation [shall be submitted] to the commission or the  
7 [standing] committees for review during the period from the  
8 [end] adjournment sine die or expiration of the legislative  
9 session of an even-numbered [years] year to the [fourth Monday  
10 in January of] date by which both committees have been  
11 designated in the next succeeding legislative session[, but].  
12 This section shall not apply to [emergency] emergency-certified  
13 regulations [may be] adopted pursuant to the provisions of  
14 section [6(b)] 6(d).

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

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

29 (2) The review period set forth under paragraph (1) may <—  
30 be tolled for TOLLING UNDER PARAGRAPH (1) MAY LAST FOR UP TO <—

1     30 days. If, within 30 days, the agency fails to submit  
2     revisions to the committees and the commission or fails to  
3     notify the commission and the committees in writing that it  
4     will not submit revisions but wishes the commission and the  
5     committees to resume their review, the agency shall be deemed  
6     to have withdrawn the final-form or final-omitted regulation.

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

18         (4) The ~~commission~~ AGENCY may not toll the time for  
19     review of any final-form or final-omitted regulation more  
20     than one time.

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

27         [(d)] (h) In determining whether to approve or to disapprove  
28     a final-form or a final-omitted regulation [is in the public  
29     interest], the commission shall, first and foremost, [make a  
30     determination that] determine whether the [final-form regulation

<—



1 is not contrary to] agency has the statutory authority [of the  
2 agency and] to promulgate the final-form or final-omitted  
3 regulation and whether that regulation conforms to the intention  
4 of the General Assembly in the enactment of the statute upon  
5 which the [final-form] regulation is based. In [formulating]  
6 making its determination, the commission shall consider written  
7 comments submitted by the [designated standing] committees [of  
8 each House of the General Assembly] and current members of the  
9 General Assembly [and any], pertinent opinions of Pennsylvania's  
10 courts and formal opinions of the Attorney General.

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

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

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

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

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

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

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

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

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

14 (i) Possible conflict with or duplication of  
15 statutes or existing regulations.

16 (ii) Clarity and lack of ambiguity.

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

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

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

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

27 [(f) Regulations for which notice of proposed rulemaking is  
28 omitted pursuant to section 204 of the Commonwealth Documents  
29 Law shall be submitted to the commission and the designated  
30 standing committees for review under subsection (c) at the same

1 time that the regulations are submitted to the Attorney General  
2 for review as provided in the act of October 15, 1980 (P.L.950,  
3 No.164), known as the "Commonwealth Attorneys Act." The public  
4 comment period and the information requirements as provided for  
5 in subsection (b.1) are not applicable to these regulations.  
6 Except for regulations adopted under section 6(b), no final  
7 order adopting such regulation shall be published until  
8 completion of review pursuant to this act.

9 (g.1)] (j) The commission shall [only] accept public or  
10 agency comments, ~~except [those] comments [under subsection (c)]~~ <—  
11 ~~from a committee or its members,~~ [, EXCEPT THOSE COMMENTS UNDER <—  
12 SUBSECTION (C),] only up to [72] 48 hours prior to the  
13 commission's public meeting. [All documents, phone calls and  
14 personal visits discussing a regulation shall be noted by the  
15 commission and staff and made part of the public commission  
16 record. Any] THE COMMISSION SHALL RECEIVE COMMENTS FROM A <—  
17 COMMITTEE OR ITS MEMBERS UNTIL THE PUBLIC MEETING IS CALLED TO  
18 ORDER. The commission shall transmit documents received during  
19 the 48-hour period prior to the commission's public meeting to  
20 the agency within 24 hours of receipt. The commission shall  
21 receive additional public or agency comments [shall only be  
22 received by the commission,] only after the public meeting has  
23 been called to order.

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

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

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

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

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

1 7(a). [If the commission does not notify the agency of any  
2 objection within 30 days of the date the commission received the  
3 information required in section 5(b.4), in the case of a final-  
4 form regulation, or within 30 days of receipt, in the case of  
5 omission of proposed rulemaking, the agency may proceed to  
6 promulgate the regulation as provided in the Commonwealth  
7 Documents Law.]

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

1 General Assembly under the procedures contained in section 7(d).  
2 If the commission issues a statement of disapproval after 120  
3 days, the emergency regulation must comply with] under section  
4 7.

5 (c) [Whenever a designated standing] If a committee [of the  
6 House of Representatives or the Senate] has notified the  
7 commission of its disapproval of a final-form or final-omitted  
8 regulation and the commission approves the [proposed] final-form  
9 or final-omitted regulation, the commission shall, within two  
10 business days, [notify the said designated standing] deliver its  
11 approval order to the committee [of such approval]. If either  
12 committee is prevented from receiving the commission's order  
13 because of the adjournment sine die or expiration of the  
14 legislative session in an even-numbered year, the commission  
15 shall deliver its order to the committee or its successor  
16 committee on the fourth Monday in January of the next year. If  
17 either committee has not been designated by the fourth Monday in  
18 January, the commission may not deliver its order to the  
19 committees until both committees have been designated; but the  
20 commission shall deliver its order no later than the second  
21 Monday after the date by which both committee designations have  
22 been published in the Pennsylvania Bulletin. The committee shall  
23 have 14 days from receipt of [such notice] the approval order to  
24 take action pursuant to section 7(d). During this 14-day period  
25 the agency [shall not be permitted to] may not promulgate the  
26 final-form or final-omitted regulation approved by the  
27 commission. If, at the expiration of the 14-day period, the  
28 [designated standing] committee fails to act on the final-form  
29 or final-omitted regulation pursuant to section 7(d), the agency  
30 may [proceed to] promulgate the final-form or final-omitted

1 regulation, [as provided in the Commonwealth Documents Law.] If <—  
2 the commission is prevented from transmitting the notice  
3 required under this subsection because of recess or adjournment  
4 of either or both Houses of the General Assembly, the commission  
5 shall transmit the notice on the first subsequent session day.] <—

6 (d) The commission may not issue an order barring an agency  
7 from promulgating a final-form or final-omitted regulation if  
8 the Attorney General certifies that the final-form or final-  
9 omitted regulation is required pursuant to the decree of any  
10 court or to implement the provisions of a statute of the United  
11 States or regulations issued thereunder by a Federal agency or  
12 if the Governor certifies that the final-form or final-omitted  
13 regulation is required to meet an emergency which includes  
14 conditions which may threaten the public health, safety or  
15 welfare; cause a budget deficit; or create the need for  
16 supplemental or deficiency appropriations of greater than  
17 \$1,000,000. In those cases, the final-form or final-omitted  
18 regulation may take effect on the date of publication or on a  
19 later date specified in the order adopting the final-form or  
20 final-omitted regulation. The commission and the committees  
21 shall review the final-form or final-omitted regulation pursuant  
22 to the procedures provided for in this act. If the final-form or  
23 final-omitted regulation is disapproved pursuant to those  
24 procedures, that regulation shall be rescinded after 120 days or  
25 upon final disapproval, whichever occurs later.

26 [Section 6.1. Agency action pursuant to statute.

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

29 Section 7. Procedures for subsequent review of disapproved  
30 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.



1 (b) If the agency [determines that it is desirable to  
2 implement the final-form] decides to adopt the final-form or  
3 final-omitted regulation without revisions or further  
4 modifications, the agency shall submit a report to the  
5 [designated standing committee of each House of the General  
6 Assembly] committees and the commission within 40 days of the  
7 agency's receipt of the commission's disapproval order. The  
8 agency's report shall contain the final-form or final-omitted  
9 regulation, the [findings of the commission,] commission's  
10 disapproval order and the agency's response and recommendations  
11 [of the agency regarding the final-form] regarding the final-  
12 form or final-omitted regulation. If the [agency is prevented  
13 from submitting its] committees are prevented from receiving the  
14 report because of [recess or] adjournment [of either or both  
15 Houses of the General Assembly] sine die or expiration of the  
16 legislative session in an even-numbered year, the agency shall  
17 [transmit] submit its report [on the first subsequent session  
18 day.] to the commission and the committees on the fourth Monday  
19 in January of the next year. If either committee has not been  
20 designated by the fourth Monday in January, the agency may not  
21 deliver the report to the committees and the commission until  
22 both committees are designated; but the agency shall deliver its  
23 report to the commission and the committees no later than the  
24 second Monday after the date by which both committee  
25 designations have been published in the Pennsylvania Bulletin.  
26 If the agency fails to deliver the report to the committees and  
27 the commission in the time prescribed in this subsection, the  
28 agency shall be deemed to have withdrawn the final-form or  
29 final-omitted regulation. Upon receipt of the agency's report,  
30 [a designated standing committee] the committees may proceed

1 pursuant to subsection (d). [Failure of the agency to submit a  
2 report within the time period provided by this subsection or on  
3 the first subsequent session day shall constitute withdrawal of  
4 the final-form regulation.]

5 (c) If the agency [determines that it is desirable to  
6 implement] decides to revise or modify the final-form or final-  
7 omitted regulation in order to respond to objections raised by  
8 the commission and adopt that regulation with [further]  
9 revisions or modifications, the agency shall submit a report to  
10 the [designated standing committees of the House of  
11 Representatives and the Senate] committees and the commission  
12 within 40 days of the agency's receipt of the commission's  
13 disapproval order. The agency's report shall contain the revised  
14 final-form or final-omitted regulation, the findings of the  
15 commission, and the agency's response and recommendations [of  
16 the agency] regarding the revised final-form or final-omitted  
17 regulation. [Failure of the agency to submit a report within the  
18 time period provided by this subsection shall constitute  
19 withdrawal of the final-form regulation.] If the committees are  
20 prevented from receiving the report because of adjournment sine  
21 die or expiration of the legislative session in an even-numbered  
22 year, the agency shall submit the report to the commission and  
23 the committees on the fourth Monday in January of the next year.  
24 If either committee has not been designated by the fourth Monday  
25 in January, the agency may not deliver the report to the  
26 committees and the commission until both committees are  
27 designated; but the agency shall deliver its report to the  
28 commission and the committees no later than the second Monday  
29 after the date by which both committee designations have been  
30 published in the Pennsylvania Bulletin. If the agency fails to

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

1 [General Assembly] committees within the time period provided  
2 for in this subsection because of [recess or adjournment, it may  
3 transmit notice and the report on the first subsequent session  
4 day. Failure of the commission to transmit the agency's report  
5 within the time period provided by this subsection or on the  
6 first subsequent session day shall constitute approval of the  
7 revised final-form regulation.] the adjournment sine die or  
8 expiration of the legislative session in an even-numbered year,  
9 the commission shall deliver its order on the fourth Monday of  
10 January of the next year. If either committee has not been  
11 designated by the fourth Monday in January, the commission may  
12 not deliver its order to the committees until both committees  
13 are designated; but the commission shall deliver its order no  
14 later than the second Monday after the date by which both  
15 committee designations have been published in the Pennsylvania  
16 Bulletin. If the commission fails to deliver its order  
17 disapproving the agency's report and revised final-form or  
18 final-omitted regulation in the time prescribed by this  
19 subsection, the commission shall be deemed to have approved the  
20 agency's report and the revised final-form or final-omitted  
21 regulation.

22 (d) [Whenever the designated standing committees of both  
23 Houses of the General Assembly have received] Upon receipt of  
24 the report of an agency pursuant to subsection (b), [or] of the  
25 [notice and the] agency's report and the commission's order  
26 pursuant to subsection (c)[, or the notice] or of the  
27 commission's order pursuant to section 6(c), one or both of the  
28 [designated standing] committees may, within 14 CALENDAR days, <—  
29 report to the House of Representatives or Senate a concurrent  
30 resolution and notify the [affected agency which shall be the

1 official notice to the] agency. During the [14-day] 14-CALENDAR- <—  
2 DAY period, the agency [shall] may not [be permitted to]  
3 promulgate the final-form or final-omitted regulation. If, [at]  
4 by the expiration of the [14-day] 14-CALENDAR-DAY period, [both <—  
5 of the designated standing committees fail to act on the  
6 agency's report, then the] neither committee reports a  
7 concurrent resolution, the committees shall be deemed to have  
8 approved the final-form or final-omitted regulation [is deemed  
9 approved]; and the agency may [proceed to] promulgate [the] that  
10 regulation, [as provided in the act of July 31, 1968 (P.L.769,  
11 No.240), referred to as the Commonwealth Documents Law. A final  
12 order adopting the regulation shall not be published for 30  
13 calendar days or ten legislative days, whichever is longer, from  
14 date of reporting the concurrent resolution. If both the House  
15 of Representatives and the Senate agree to the concurrent  
16 resolution within the allotted time period, which is 30 calendar  
17 days or ten legislative days, whichever is longer, from the date  
18 of reporting of the concurrent resolution, then the adoption of  
19 the concurrent resolution shall constitute a bar to publication  
20 until presentment to the Governor and final disposition of the  
21 regulation. The resolution shall be presented to the Governor in  
22 accordance with section 9 of Article III of the Constitution of  
23 Pennsylvania.] If either committee reports a concurrent  
24 resolution before the expiration of the 14-day period, the  
25 Senate and the House of Representatives shall each have 30  
26 calendar days or ten legislative days, whichever is longer, from  
27 the date on which the concurrent resolution has been reported,  
28 to adopt the concurrent resolution. If the General Assembly  
29 adopts the concurrent resolution by majority vote in both the  
30 Senate and the House of Representatives, the concurrent

1 resolution shall be presented to the Governor in accordance with  
2 section 9 of Article III of the Constitution of Pennsylvania. If  
3 the Governor does not return the concurrent resolution to the  
4 General Assembly within ten calendar days after it is presented  
5 [to him], [it shall constitute approval of] the Governor shall  
6 be deemed to have approved the concurrent resolution. If the  
7 Governor vetoes the [action of the General Assembly] concurrent  
8 resolution, the General Assembly may[, within 30 calendar days  
9 or ten legislative days, whichever is longer,] override that  
10 veto by a two-thirds vote in each house.[; and that override  
11 shall constitute a permanent bar to publication. Failure of] The  
12 Senate and the House of Representatives shall each have 30  
13 calendar days or ten legislative days, whichever is longer, to  
14 override the veto. If the [House of Representatives and the  
15 Senate] General Assembly fails to [act on] adopt the concurrent  
16 resolution or override the veto [within the allotted time  
17 periods shall constitute approval of] in the time prescribed in  
18 this subsection, it shall be deemed to have approved the final-  
19 form or final-omitted regulation. [In addition, notice] Notice  
20 as to any final disposition of [any] a concurrent resolution  
21 considered in accordance with this [act] section shall be  
22 published in the Pennsylvania Bulletin. The bar on promulgation  
23 of the final-form or final-omitted regulation shall continue  
24 until that regulation has been approved or deemed approved in  
25 accordance with this subsection. If the General Assembly adopts  
26 the concurrent resolution and the Governor approves or is deemed  
27 to have approved the concurrent resolution or if the General  
28 Assembly overrides the Governor's veto of the concurrent  
29 resolution, the agency shall be barred from promulgating the  
30 final-form or final-omitted regulation. If the General Assembly

1 fails to adopt the concurrent resolution or if the Governor  
2 vetoes the concurrent resolution and the General Assembly fails  
3 to override the Governor's veto, the agency may promulgate the  
4 final-form or final-omitted regulation. The General Assembly  
5 may, at its discretion, adopt a concurrent resolution  
6 disapproving the final-form or final-omitted regulation to  
7 indicate the intent of the General Assembly[, ] but permit  
8 [publication of a final order adopting a] the agency to  
9 promulgate that regulation.

10 Section 7.1. Classification of documents.

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

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

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

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

1 Act.["]

2 Section 8.1. Existing regulations.

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

21 Section 9. Commission staff.

22 (a) The commission shall appoint and fix the compensation of  
23 [an] a full-time executive director, who shall [devote his full  
24 time to] be responsible for the general supervision of all the  
25 affairs of the commission and for performing any administrative  
26 function or duty which the commission may delegate to the  
27 executive director. [In addition, the commission shall appoint a  
28 chief counsel who shall not be subject to the supervision of the  
29 Attorney General or the General Counsel and it may appoint and  
30 fix the compensation of such other employees as the commission



1 may find necessary for the proper performance of the functions  
2 of the commission. In determining the necessity for such  
3 additional staff, the commission shall consider the fact that  
4 the General Assembly is required under this act to participate  
5 in the review process and its staff will be providing assistance  
6 to the commission through the legislative review provisions of  
7 this act.] The commission shall appoint and fix the compensation  
8 of such other employees as the commission may find necessary for  
9 the proper operation of the commission.

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

15 Section 10. Subpoena power.

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

30 Section 11. [Rules] Regulations; annual reports; hearings and

1 advisory group meetings.

2 (a) The [commission shall compile and publish rules for the  
3 conduct of meetings and public hearings and for the conduct of  
4 business under this act. Such rules shall] commission, in the  
5 performance of its functions under this act, has the power to  
6 promulgate and enforce regulations necessary to carry out the  
7 purposes of this act. Regulations must be promulgated in  
8 accordance with the procedures established in the [act of July  
9 31, 1968 (P.L.769, No.240), referred to as the] Commonwealth  
10 Documents Law. [Such rules] The regulations shall provide for  
11 the commission's notification of filings of final-form and  
12 final-omitted regulations to parties likely to be affected by  
13 the final-form and final-omitted regulations through publication  
14 of a notice in the Pennsylvania Bulletin. Prior to the [rules]  
15 regulations taking effect, [however, the appropriate standing  
16 committees and the Joint Committee on Documents shall have 20  
17 days and 30 days, respectively, from the date of receipt of the  
18 information required under section 5(b.4) of this act to notify  
19 the commission of their approval or disapproval of a final-form  
20 regulation or of a regulation for which notice of proposed  
21 rulemaking is omitted under section 204 of the Commonwealth  
22 Documents Law. Final disposition of a disapproved final-form  
23 regulation shall be in accordance with this act; however, the  
24 responsibilities assigned to the commission shall be exercised  
25 by the Joint Committee on Documents, and the commission may  
26 exercise the rights provided to an agency.] the requirements of  
27 this act must be satisfied. For the purposes of reviewing the  
28 regulations of the commission and otherwise satisfying the  
29 requirements of this act, the Joint Committee on Documents shall  
30 exercise the rights and perform the functions of the commission;

1 and the commission shall exercise the rights and perform the  
2 functions of an agency under this act.

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

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

11 Section 12. Clearinghouse.

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

25 (b) The commission may also compile information on  
26 regulations issued by the United States Government which come to  
27 the attention of the commission which are found by the  
28 commission to be excessive. The commission shall include a  
29 summary on such regulations in its annual report and shall take  
30 such other action as may be appropriate. The section of the

1 annual report relating to excessiveness of Federal regulations  
2 shall be submitted to the President of the United States and to  
3 the members of the United States Senate and the United States  
4 House of Representatives from Pennsylvania. Nothing herein shall  
5 be construed as requiring the commission to undertake a review  
6 of Federal regulations.

7 Section 15. Termination date.

8 The commission shall be treated as a statutory agency created  
9 after January 1, 1981, for purposes of the act of December 22,  
10 1981 (P.L.508, No.142), known as the "Sunset Act." The  
11 commission is scheduled for termination on December 31, 1993.]

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

17 Section 5. This act shall take effect immediately.