

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

SENATOR PUNT, STATE GOVERNMENT, AS AMENDED, MARCH 18, 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 "Final-form regulation." A regulation [submitted by]
7 previously published as a proposed regulation pursuant to the
8 act of July 31, 1968 (P.L.769, No.240), referred to as the
9 Commonwealth Documents Law which an agency submits to the
10 commission and the [designated standing] committees following
11 the close of the public comment period[, as provided by section
12 201 of the act of July 31, 1968 (P.L.769, No.240), referred to
13 as the Commonwealth Documents Law].

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

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

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

29 "Regulation." Any rule or regulation, or order in the nature
30 of a rule or regulation, promulgated by an agency under

1 statutory authority in the administration of any statute
2 administered by or relating to the agency, or prescribing the
3 practice or procedure before such agency. The term shall also
4 include actions of the Liquor Control Board which have an effect
5 on the discount rate for retail licensees. The term shall not
6 include a proclamation, executive order, directive or similar
7 document [promulgated] issued by the Governor, but shall include
8 a regulation which may be promulgated by an agency, only with
9 the approval of the Governor.

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

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

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

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

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

23 (d) [The commissioners] A commissioner shall receive \$125
24 per day as compensation for [their] services rendered to the
25 commission. [The commissioners] A commissioner shall also be
26 entitled to reimbursement for travel and other necessary
27 expenses incurred as a result of [their] official duties [as
28 members of the commission]. The expenses incurred by [the
29 commissioners, or by any employees] a commissioner, or by an
30 employee of the commission, shall be [allowed and] paid on the

1 presentation of itemized vouchers therefor, which vouchers shall
2 be subject to the approval of the commission.

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

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

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

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

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

27 (h) The commission shall meet [at least twice a month at
28 such] before the period for its review of regulations under this
29 act expires and at other times as necessary to transact the
30 business of the commission and insure an expeditious and orderly

1 review of regulations under this act. Meetings shall be held at
2 times and places [as shall be] set by the [chairman]
3 chairperson. A commissioner who fails to attend three
4 consecutive meetings without cause shall be removed as a
5 commissioner by the authority appointing the commissioner.

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

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

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

20 (a) [For proposed regulations, submitted after the effective
21 date of this section, at the same time that proposed regulations
22 and any changes thereto are submitted] On the same date that an
23 agency submits a proposed regulation to the Legislative
24 Reference Bureau for publication of notice of proposed
25 rulemaking in the Pennsylvania Bulletin as required by [the act
26 of July 31, 1968 (P.L.769, No.240), referred to as] the
27 Commonwealth Documents Law, the agency [proposing the
28 regulation] shall submit to the commission and the committees a
29 copy of the proposed regulation [to the commission and the
30 designated standing committee of each House of the General

1 Assembly. The agency proposing the regulation shall hold a
2 public comment period of at least 30 days, beginning with
3 publication of the notice of proposed rulemaking in the
4 Pennsylvania Bulletin. At the same time the agency submits the
5 proposed regulation, it shall deliver additional information to
6 the commission and the designated standing committees,
7 including, but not limited to,] and a regulatory analysis form
8 which includes the following:

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

19 (1.1) A specific citation to the Federal or State
20 statutory or regulatory authority, or the decision of a
21 Federal or State court, under which the agency is proposing
22 the regulation, which the regulation is designed to implement
23 or which may mandate or affect compliance with the
24 regulation.

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

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

30 (4) Estimates of the direct [cost] and indirect costs to

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

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

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

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

25 (8) The name of the author or authors of the regulation
26 with their office address and phone numbers included.] A
27 schedule for review of the proposed regulation, including the
28 date by which the agency must receive comments; the date or
29 dates on which public hearings will be held; the expected
30 date of promulgation of the proposed regulation as a final-

1 form regulation; the expected effective date of the final-
2 form regulation; the date by which compliance with the final-
3 form regulation will be required; and the date by which
4 required permits, licenses or other approvals must be
5 obtained.

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

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

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

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

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

27 (b) The requirements of [this section] subsection (a) shall
28 not diminish the [Notice of Proposed Rulemaking] requirements of
29 section 201 of the Commonwealth Documents Law, but the
30 information required by this section may be included in the

1 Notice of Proposed Rulemaking [requirement for publication]
2 published in the Pennsylvania Bulletin in lieu of the
3 information required by paragraphs (2) and (3) of section 201 of
4 the Commonwealth Documents Law. [The commission may waive an
5 information requirement of this section for a proposed
6 regulation when any specific requirement is deemed by the
7 commission to be unnecessary or inappropriate.

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

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

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

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

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

30 (5) the manner in which, when it is lawful, desirable

1 and feasible, special provisions have been developed to meet
2 the particular needs of affected groups and persons
3 including, but not limited to: minorities, elderly, small
4 businesses and farmers.] The agency shall hold a public
5 comment period, which shall commence with the publication of
6 the notice of proposed rulemaking and shall continue for 30
7 days unless the Governor or, in the case of an independent
8 agency, the agency head approves a comment period of less
9 than 30 days.

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

26 [(b.2)] (d) The [standing committee] committees may, within
27 20 calendar days from the closing date of the public comment
28 period, convey to the agency [a summary of] their comments and
29 objections [stating the reasons why] to the proposed regulation
30 [is unacceptable] and a copy of any staff reports deemed

1 pertinent. [Such] The comments and objections shall include[,
2 but not be limited to, deviations from] the lack of statutory
3 authority of the agency to promulgate the proposed regulation
4 and deviation of the proposed regulation from the intention of
5 the General Assembly in the enactment of the statute upon which
6 the proposed regulation [was] is based.

7 (e) If the committees are prevented from completing their
8 20-day review because of the adjournment sine die or expiration
9 of the legislative session in an even-numbered year, their
10 review of the proposed regulation shall automatically be
11 suspended until the fourth Monday in January of the next year.
12 On that date, the agency shall resubmit the proposed regulation
13 and all material required under this section to the committees
14 and the commission. If either committee has not been designated
15 by the fourth Monday in January of the next year, the agency may
16 not deliver the proposed regulation and required material to the
17 committees and the commission until both committees are
18 designated; but the agency shall deliver the proposed regulation
19 and the required material no later than the second Monday after
20 the date by which both committee designations have been
21 published in the Pennsylvania Bulletin. If the agency fails to
22 deliver the proposed regulation in the time prescribed in this
23 subsection, the agency shall be deemed to have withdrawn the
24 proposed regulation. In computing the remaining time for
25 committee review, the number of days in which the committees
26 have had the proposed regulation under review as of the
27 adjournment sine die or expiration of the prior session shall be
28 subtracted from the 20-day committee review period; but the
29 committee review period in the next succeeding legislative
30 session shall not be less than ten days.

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

19 [~~(b.3)~~] (g) The commission shall, within [30 calendar days
20 from the closing date of the public comment period] ten days
21 after the expiration of the committee review period pursuant to
22 subsection (d), (e) or (f), notify the agency of any objections
23 [stating the reasons why the proposed regulation is unacceptable
24 and a copy of any staff reports deemed pertinent] to the
25 proposed regulation. [Such] The notification shall specify the
26 regulatory review criterion which [have not been met by the
27 proposed regulation. Failure of] the proposed regulation has not
28 met. If the commission fails to object to any portion of the
29 proposed regulation within the [30 calendar days] time provided
30 in this subsection, the commission shall [constitute approval

1 of] be deemed to have approved that portion of the proposed
2 regulation[, and, in such cases, any subsequent disapproval].
3 Disapproval of the final-form regulation by the commission shall
4 relate only to objections raised by the commission to the
5 proposed regulation; to changes [made by the agency to the
6 proposed regulation or pursuant to recommendations received from
7 the standing committees] which the agency made to the proposed
8 regulation; or to recommendations, comments or objections which
9 a committee conveyed to the agency or the commission.

10 Section 5.1. Final-form regulations and final-omitted
11 regulations; procedures and criteria for review.

12 [(b.4)] (a) The agency shall review and consider public
13 comments and the comments of the [standing] committees and
14 commission[, if any,] pursuant to this section. Within seven
15 days of receipt of a public comment, the agency shall, by first
16 class or electronic mail, whichever is applicable, notify the
17 commentator of the agency's address and telephone number where
18 the commentator may submit a request for the information
19 concerning the final-form regulation under subsection (b). Upon
20 completion of the agency's review of comments, the agency shall
21 submit to the commission and the [designated standing committee
22 of each House of the General Assembly a copy of the agency's]
23 committees a copy of its response to the comments received, the
24 names and addresses of commentators who have requested
25 additional information relating to the final-form regulation and
26 the text of the final-form regulation which the agency intends
27 to adopt. If an agency fails to submit, or withdraws and fails
28 to resubmit, the final-form regulation within two years of the
29 close of the public comment period but still desires to [proceed
30 with the rulemaking] promulgate the final-form regulation, the

1 agency [must] shall republish the regulation as a [new
2 rulemaking] proposed regulation with a new public comment period
3 in accordance with [section 201 of] the Commonwealth Documents
4 Law. If the agency is prevented from delivering its final-form
5 regulation to the commission and the committees within the time
6 period provided for in this subsection because of the
7 adjournment sine die or expiration of the legislative session in
8 an even-numbered year, the agency shall deliver its final-form
9 regulation in accordance with subsection(f).

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

29 (c) [The standing] The agency shall submit final-omitted
30 regulations to the commission and the committees for review

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

11 (d) A committee shall, within 20 calendar days from the date
12 of receipt of the information required under subsection [(b.4)]
13 (a), or receipt of the information required under subsection
14 (c), approve or disapprove the final-form or final-omitted
15 regulation. The [standing] committee shall notify the commission
16 and the agency of its approval or disapproval. [Failure of a
17 standing committee to disapprove a regulation within the 20
18 calendar days shall constitute approval thereof. Along] If a
19 committee fails to disapprove a final-form or final-omitted
20 regulation, the committee shall be deemed to have approved that
21 regulation. If the committee disapproves the final-form or
22 final-omitted regulation, the committee shall include with a
23 notification of [approval or] disapproval [the committee shall
24 convey to the commission and the agency] a report [which
25 includes a summary of the objections of the committee, if any,]
26 stating the [reasons why the committee has found the proposed
27 regulation unacceptable,] committee's objections to the final-
28 form or final-omitted regulation and a copy of [any] staff
29 reports [deemed pertinent by the committee] which the committee
30 deems pertinent. [Such reasons] Objections shall include, but

1 not be limited to, [deviations from] the lack of statutory
2 authority of the agency to promulgate the final-form or final-
3 omitted regulation and deviation of that regulation from the
4 intention of the General Assembly in the enactment of the
5 statute upon which the [proposed] regulation was based.

6 (e) The commission shall, within ten calendar days after the
7 expiration of the committee review period, or at its next
8 regularly scheduled meeting, whichever is later, approve or
9 disapprove the final-form or final-omitted regulation. If the
10 commission fails to disapprove the final-form or final-omitted
11 regulation, the commission shall be deemed to have approved the
12 final-form or final-omitted regulation. [In the event]

13 (f) If the [standing] committees are prevented from
14 completing their 20-day review because of adjournment sine die
15 or expiration of the legislative session in an even-numbered
16 [years] year, [consideration of the] their review of the final-
17 form or final-omitted regulation shall [be] automatically be
18 suspended until the fourth Monday in January of the next
19 [succeeding session of the General Assembly] year. On that date,
20 the agency shall resubmit the final-form or final-omitted
21 regulation and required material to the [designated standing
22 committee of each chamber, or its successor committee, and to]
23 committees and the commission. [The standing committees, or
24 their successor committees, shall have 20 calendar days and the
25 commission shall have 30 calendar days from receipt of the
26 final-form regulation and the information required under
27 subsection (b.4) is received to review such regulation.] If
28 either committee has not been designated by the fourth Monday in
29 January, the agency may not deliver the final-form or final-
30 omitted regulation and required material to the committees and

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

30 (g) Except as provided in this subsection, the agency may

1 not make any changes to a final-form or final-omitted regulation
2 after the agency submits the final-form or final-omitted
3 regulation to the commission and the committees.

4 (1) Prior to the expiration of the 20-day review period
5 of the committees or to the date on which either of the
6 committees takes action on the final-form or final-omitted
7 regulation, whichever occurs first, the commission may, with
8 the agency's consent, toll the time for the commission's and
9 the committees' review of the final-form or final-omitted
10 regulation in order to allow time for the agency to consider
11 revisions to the final-form or final-omitted regulation
12 recommended by the commission or a committee.

13 (2) The commission may toll the time for review for 30
14 days. If, within 30 days, the agency fails to submit
15 revisions to the committees and the commission or fails to
16 notify the commission and the committees in writing that it
17 will not submit revisions but wishes the commission and the
18 committees to resume their review, the agency shall be deemed
19 to have withdrawn the final-form or final-omitted regulation.

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

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

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

10 ~~[(d)]~~ (h) In determining whether to approve or to disapprove
11 a final-form or a final-omitted regulation [is in the public
12 interest], the commission shall, first and foremost, [make a
13 determination that] determine whether the [final-form regulation
14 is not contrary to] agency has the statutory authority [of the
15 agency and] to promulgate the final-form or final-omitted
16 regulation and whether that regulation conforms to the intention
17 of the General Assembly in the enactment of the statute upon
18 which the [final-form] regulation is based. In [formulating]
19 making its determination, the commission shall consider written
20 comments submitted by the [designated standing] committees [of
21 each House of the General Assembly] and current members of the
22 General Assembly [and any], pertinent opinions of Pennsylvania's
23 courts and formal opinions of the Attorney General.

24 ~~[(e)]~~ (i) Upon a finding that the final-form or final-
25 omitted regulation is [not contrary to] consistent with the
26 statutory authority of the agency and [to] with the intention of
27 the General Assembly in the enactment of the statute upon which
28 the [final-form] regulation is based, the commission shall
29 [further] consider the following in [ascertaining] determining
30 whether the final-form or final-omitted regulation is in the

1 public interest:

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

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

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

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

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

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

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

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

27 (i) Possible conflict with or duplication of
28 statutes or existing regulations.

29 (ii) Clarity and lack of ambiguity.

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

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

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

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

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

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

1 shall receive additional public or agency comments [shall only
2 be received by the commission,] only after the public meeting
3 has been called to order.

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

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

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

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

17 (a) [Whenever] If the committees and the commission do not
18 disapprove a final-form or a final-omitted regulation by the
19 expiration of their respective review periods under section
20 5.1(d), (e) or (f), the agency may promulgate the final-form or
21 final-omitted regulation. If the commission [shall find that]
22 disapproves a final-form or final-omitted regulation [submitted
23 to the commission pursuant to section 5(b.4) or that a
24 regulation for which notice of proposed rulemaking is omitted
25 pursuant to section 204 of the act of July 31, 1968 (P.L.769,
26 No.240), referred to as the Commonwealth Documents Law, may be
27 contrary to the public interest under the criteria set forth in
28 section 5], the commission shall [notify] deliver its
29 disapproval order to the Legislative Reference Bureau, the
30 [standing committees, members of the public entitled to the

1 notice set forth in section 5(b.5)] committees, commentators who
2 have requested additional information under section 5.1(a) and
3 the agency. [promulgating such regulation of its finding. Such
4 notification] The disapproval order shall specify the regulatory
5 review criteria which [has not been met by the final-form
6 regulation, as well as a description of] the final-form or
7 final-omitted regulation has not met and shall describe the
8 documents and testimony which the commission relied on [by the
9 commission] in reaching its decision. The agency shall review
10 the commission's [finding] order and proceed pursuant to section
11 7(a). [If the commission does not notify the agency of any
12 objection within 30 days of the date the commission received the
13 information required in section 5(b.4), in the case of a final-
14 form regulation, or within 30 days of receipt, in the case of
15 omission of proposed rulemaking, the agency may proceed to
16 promulgate the regulation as provided in the Commonwealth
17 Documents Law.]

18 (b) The [commission may, when notifying an agency of its
19 objections pursuant to subsection (a) or at any time following
20 such notification but prior to publication of a final order
21 adopting a regulation, issue an order barring the publication of
22 a final order adopting a] commission's order disapproving a
23 final-form or final-omitted regulation shall bar the agency from
24 promulgating that regulation pending subsequent review [of the
25 regulation in the manner provided in section 7. The commission
26 may not however issue an order against a proposed regulation to
27 the extent that the Attorney General certifies that proposed
28 regulation is required pursuant to the decree of any court or to
29 implement the provisions of a statute of the United States or
30 regulations issued thereunder by a Federal agency nor shall the

1 commission issue an order against a proposed regulation when
2 such regulation is transmitted with the certification of the
3 Governor that it is required to meet an emergency which shall
4 include but not be limited to conditions which may threaten the
5 public health, safety or welfare or cause a budget deficit or
6 create need for supplemental or deficiency appropriations of
7 greater than \$1,000,000. In such case, the regulation can take
8 effect immediately and may remain in effect for up to 120 days
9 but after that time may be suspended by the commission with a
10 statement of disapproval unless it has been approved by the
11 General Assembly under the procedures contained in section 7(d).
12 If the commission issues a statement of disapproval after 120
13 days, the emergency regulation must comply with] under section
14 7.

15 (c) [Whenever a designated standing] If a committee [of the
16 House of Representatives or the Senate] has notified the
17 commission of its disapproval of a final-form or final-omitted
18 regulation and the commission approves the [proposed] final-form
19 or final-omitted regulation, the commission shall, within two
20 business days, [notify the said designated standing] deliver its
21 approval order to the committee [of such approval]. If either
22 committee is prevented from receiving the commission's order
23 because of the adjournment sine die or expiration of the
24 legislative session in an even-numbered year, the commission
25 shall deliver its order to the committee or its successor
26 committee on the fourth Monday in January of the next year. If
27 either committee has not been designated by the fourth Monday in
28 January, the commission may not deliver its order to the
29 committees until both committees have been designated; but the
30 commission shall deliver its order no later than the second

1 Monday after the date by which both committee designations have
2 been published in the Pennsylvania Bulletin. The committee shall
3 have 14 days from receipt of [such notice] the approval order to
4 take action pursuant to section 7(d). During this 14-day period
5 the agency [shall not be permitted to] may not promulgate the
6 final-form or final-omitted regulation approved by the
7 commission. If, at the expiration of the 14-day period, the
8 [designated standing] committee fails to act on the final-form
9 or final-omitted regulation pursuant to section 7(d), the agency
10 may [proceed to] promulgate the final-form or final-omitted
11 regulation. [as provided in the Commonwealth Documents Law. If
12 the commission is prevented from transmitting the notice
13 required under this subsection because of recess or adjournment
14 of either or both Houses of the General Assembly, the commission
15 shall transmit the notice on the first subsequent session day.]

16 (d) The commission may not issue an order barring an agency
17 from promulgating a final-form or final-omitted regulation if
18 the Attorney General certifies that the final-form or final-
19 omitted regulation is required pursuant to the decree of any
20 court or to implement the provisions of a statute of the United
21 States or regulations issued thereunder by a Federal agency or
22 if the Governor certifies that the final-form or final-omitted
23 regulation is required to meet an emergency which includes
24 conditions which may threaten the public health, safety or
25 welfare; cause a budget deficit; or create the need for
26 supplemental or deficiency appropriations of greater than
27 \$1,000,000. In those cases, the final-form or final-omitted
28 regulation may take effect on the date of publication or on a
29 later date specified in the order adopting the final-form or
30 final-omitted regulation. The commission and the committees

1 shall review the final-form or final-omitted regulation pursuant
2 to the procedures provided for in this act. If the final-form or
3 final-omitted regulation is disapproved pursuant to those
4 procedures, that regulation shall be rescinded after 120 days or
5 upon final disapproval, whichever occurs later.

6 [Section 6.1. Agency action pursuant to statute.

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

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

11 (a) Within seven days [of receipt of a notice of disapproval
12 from the commission] after the agency has received an order from
13 the commission disapproving and barring promulgation of a final-
14 form or final-omitted regulation issued pursuant to section
15 6(a), the agency shall notify the Governor, the [designated
16 standing] committees [of the House of Representatives and the
17 Senate,] and the commission of its [intentions to] selection of
18 one of the following options:

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

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

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

26 (a.1) If the committees are prevented from receiving the
27 notice required in this section because of the adjournment sine
28 die or expiration of the legislative session in an even-numbered
29 year, the agency shall deliver the notice to the Governor, the
30 commission and the committees on the fourth Monday in January of

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

12 (b) If the agency [determines that it is desirable to
13 implement the final-form] decides to adopt the final-form or
14 final-omitted regulation without revisions or further
15 modifications, the agency shall submit a report to the
16 [designated standing committee of each House of the General
17 Assembly] committees and the commission within 40 days of the
18 agency's receipt of the commission's disapproval order. The
19 agency's report shall contain the final-form or final-omitted
20 regulation, the [findings of the commission,] commission's
21 disapproval order and the agency's response and recommendations
22 [of the agency regarding the final-form] regarding the final-
23 form or final-omitted regulation. If the [agency is prevented
24 from submitting its] committees are prevented from receiving the
25 report because of [recess or] adjournment [of either or both
26 Houses of the General Assembly] sine die or expiration of the
27 legislative session in an even-numbered year, the agency shall
28 [transmit] submit its report [on the first subsequent session
29 day.] to the commission and the committees on the fourth Monday
30 in January of the next year. If either committee has not been

1 designated by the fourth Monday in January, the agency may not
2 deliver the report to the committees and the commission until
3 both committees are designated; but the agency shall deliver its
4 report to the commission and the committees no later than the
5 second Monday after the date by which both committee
6 designations have been published in the Pennsylvania Bulletin.
7 If the agency fails to deliver the report to the committees and
8 the commission in the time prescribed in this subsection, the
9 agency shall be deemed to have withdrawn the final-form or
10 final-omitted regulation. Upon receipt of the agency's report,
11 [a designated standing committee] the committees may proceed
12 pursuant to subsection (d). [Failure of the agency to submit a
13 report within the time period provided by this subsection or on
14 the first subsequent session day shall constitute withdrawal of
15 the final-form regulation.]

16 (c) If the agency [determines that it is desirable to
17 implement] decides to revise or modify the final-form or final-
18 omitted regulation in order to respond to objections raised by
19 the commission and adopt that regulation with [further]
20 revisions or modifications, the agency shall submit a report to
21 the [designated standing committees of the House of
22 Representatives and the Senate] committees and the commission
23 within 40 days of the agency's receipt of the commission's
24 disapproval order. The agency's report shall contain the revised
25 final-form or final-omitted regulation, the findings of the
26 commission, and the agency's response and recommendations [of
27 the agency] regarding the revised final-form or final-omitted
28 regulation. [Failure of the agency to submit a report within the
29 time period provided by this subsection shall constitute
30 withdrawal of the final-form regulation.] If the committees are

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

1 report, the agency may promulgate the final-form or final-
2 omitted regulation. If the commission disapproves the agency
3 report, the agency shall be barred from promulgating that
4 regulation until the review provided for in this subsection and
5 in subsection (d) is completed. If a committee disapproves an
6 agency's report and the commission approves it or if the
7 commission disapproves an agency report, the commission shall
8 deliver its order to the [designated standing] committees for
9 consideration by the General Assembly pursuant to subsection
10 (d). [However, if] If the commission is prevented from
11 [transmitting notice and the report] delivering its order to the
12 [General Assembly] committees within the time period provided
13 for in this subsection because of [recess or adjournment, it may
14 transmit notice and the report on the first subsequent session
15 day. Failure of the commission to transmit the agency's report
16 within the time period provided by this subsection or on the
17 first subsequent session day shall constitute approval of the
18 revised final-form regulation.] the adjournment sine die or
19 expiration of the legislative session in an even-numbered year,
20 the commission shall deliver its order on the fourth Monday of
21 January of the next year. If either committee has not been
22 designated by the fourth Monday in January, the commission may
23 not deliver its order to the committees until both committees
24 are designated; but the commission shall deliver its order no
25 later than the second Monday after the date by which both
26 committee designations have been published in the Pennsylvania
27 Bulletin. If the commission fails to deliver its order
28 disapproving the agency's report and revised final-form or
29 final-omitted regulation in the time prescribed by this
30 subsection, the commission shall be deemed to have approved the

1 agency's report and the revised final-form or final-omitted
2 regulation.

3 (d) [Whenever the designated standing committees of both
4 Houses of the General Assembly have received] Upon receipt of
5 the report of an agency pursuant to subsection (b), [or] of the
6 [notice and the] agency's report and the commission's order
7 pursuant to subsection (c)[, or the notice] or of the
8 commission's order pursuant to section 6(c), one or both of the
9 [designated standing] committees may, within 14 days, report to
10 the House of Representatives or Senate a concurrent resolution
11 and notify the [affected agency which shall be the official
12 notice to the] agency. During the 14-day period, the agency
13 [shall] may not [be permitted to] promulgate the final-form or
14 final-omitted regulation. If, [at] by the expiration of the 14-
15 day period, [both of the designated standing committees fail to
16 act on the agency's report, then the] neither committee reports
17 a concurrent resolution, the committees shall be deemed to have
18 approved the final-form or final-omitted regulation [is deemed
19 approved]; and the agency may [proceed to] promulgate [the] that
20 regulation, [as provided in the act of July 31, 1968 (P.L.769,
21 No.240), referred to as the Commonwealth Documents Law. A final
22 order adopting the regulation shall not be published for 30
23 calendar days or ten legislative days, whichever is longer, from
24 date of reporting the concurrent resolution. If both the House
25 of Representatives and the Senate agree to the concurrent
26 resolution within the allotted time period, which is 30 calendar
27 days or ten legislative days, whichever is longer, from the date
28 of reporting of the concurrent resolution, then the adoption of
29 the concurrent resolution shall constitute a bar to publication
30 until presentment to the Governor and final disposition of the

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

1 considered in accordance with this [act] section shall be
2 published in the Pennsylvania Bulletin. The bar on promulgation
3 of the final-form or final-omitted regulation shall continue
4 until that regulation has been approved or deemed approved in
5 accordance with this subsection. If the General Assembly adopts
6 the concurrent resolution and the Governor approves or is deemed
7 to have approved the concurrent resolution or if the General
8 Assembly overrides the Governor's veto of the concurrent
9 resolution, the agency shall be barred from promulgating the
10 final-form or final-omitted regulation. If the General Assembly
11 fails to adopt the concurrent resolution or if the Governor
12 vetoed the concurrent resolution and the General Assembly fails
13 to override the Governor's veto, the agency may promulgate the
14 final-form or final-omitted regulation. The General Assembly
15 may, at its discretion, adopt a concurrent resolution
16 disapproving the final-form or final-omitted regulation to
17 indicate the intent of the General Assembly[,] but permit
18 [publication of a final order adopting a] the agency to
19 promulgate that regulation.

20 Section 7.1. Classification of documents.

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

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

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

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

12 Section 8.1. Existing regulations.

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

1 Section 9. Commission staff.

2 (a) The commission shall appoint and fix the compensation of
3 [an] a full-time executive director, who shall [devote his full
4 time to] be responsible for the general supervision of all the
5 affairs of the commission and for performing any ADMINISTRATIVE <—
6 function or duty which the commission may delegate to the
7 executive director. [In addition, the commission shall appoint a
8 chief counsel who shall not be subject to the supervision of the
9 Attorney General or the General Counsel and it may appoint and
10 fix the compensation of such other employees as the commission
11 may find necessary for the proper performance of the functions
12 of the commission. In determining the necessity for such
13 additional staff, the commission shall consider the fact that
14 the General Assembly is required under this act to participate
15 in the review process and its staff will be providing assistance
16 to the commission through the legislative review provisions of
17 this act.] The executive director may appoint and fix the
18 compensation of such other employees as the executive director
19 may find necessary for the proper operation of the commission.

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

25 Section 10. Subpoena power.

26 The commission [may require the attendance and testimony of
27 witnesses] has the authority to issue subpoenas for the purpose
28 of requiring the attendance of persons and the production of
29 [documentary evidence relative to any investigation or hearing
30 which the commission may conduct in accordance with the powers

1 granted it under this act. Such subpoena shall be signed by the
2 chairman or the executive director and it shall be served by any
3 person authorized to serve subpoenas] documents relating to any
4 function which the commission or its staff is authorized to
5 perform pursuant to this act. The chairperson or the executive
6 director may sign a subpoena. The subpoena may be served in any
7 manner authorized under the [law of the] laws of this
8 Commonwealth. The commission is authorized to apply to the
9 Commonwealth Court to enforce its subpoenas.

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

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

1 rulemaking is omitted under section 204 of the Commonwealth
2 Documents Law. Final disposition of a disapproved final-form
3 regulation shall be in accordance with this act; however, the
4 responsibilities assigned to the commission shall be exercised
5 by the Joint Committee on Documents, and the commission may
6 exercise the rights provided to an agency.] the requirements of
7 this act must be satisfied. For the purposes of reviewing the
8 regulations of the commission and otherwise satisfying the
9 requirements of this act, the Joint Committee on Documents shall
10 exercise the rights and perform the functions of the commission;
11 and the commission shall exercise the rights and perform the
12 functions of an agency under this act.

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

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

21 Section 12. Clearinghouse.

22 [(a)] The commission shall act as a clearinghouse for
23 complaints, comments and other input from members of the General
24 Assembly and from the public regarding [regulations, proposed
25 regulations and administrative procedures] existing, proposed,
26 final-form and final-omitted regulations. The commission shall
27 maintain accurate records regarding complaints and comments it
28 receives and shall maintain such records by departmental and
29 subject matter categories for four years after the date of
30 receipt by the commission. When the commission files its annual

1 report as provided by section 11, the commission shall include
2 within it a summary of public complaint and comment along with
3 any recommendations the commission may offer for statutory
4 change. [as the result of public complaint and comment.

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

17 Section 15. Termination date.

18 The commission shall be treated as a statutory agency created
19 after January 1, 1981, for purposes of the act of December 22,
20 1981 (P.L.508, No.142), known as the "Sunset Act." The
21 commission is scheduled for termination on December 31, 1993.]

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

27 Section 5. This act shall take effect immediately.