
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 7

Session of
1997

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

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 11, 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

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. NOT LESS THAN 30 DAYS UNLESS SECTION 203(1) OR <—

22 (2) OF THE COMMONWEALTH DOCUMENTS LAW APPLIES.

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

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

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

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

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

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

1 receipt of the proposed regulation.

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

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

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

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

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

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

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

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

30 [Failure of a standing committee to disapprove a regulation

1 within the 20 calendar days shall constitute approval thereof.
2 Along] If a committee fails to disapprove a final-form or final-
3 omitted regulation, the committee shall be deemed to have
4 approved that regulation. If the committee disapproves the
5 final-form or final-omitted regulation, the committee shall
6 include with a notification of [approval or] disapproval [the
7 committee shall convey to the commission and the agency] a
8 report [which includes a summary of the objections of the
9 committee, if any,] stating the [reasons why the committee has
10 found the proposed regulation unacceptable,] committee's
11 objections to the final-form or final-omitted regulation and a
12 copy of [any] staff reports [deemed pertinent by the committee]
13 which the committee deems pertinent. [Such reasons] Objections
14 shall include, but not be limited to, [deviations from] the lack
15 of statutory authority of the agency to promulgate the final-
16 form or final-omitted regulation and deviation of that
17 regulation from the intention of the General Assembly in the
18 enactment of the statute upon which the [proposed] regulation
19 was based.

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

29 (f) If the [standing] committees are prevented from
30 completing their 20-day review because of adjournment sine die

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

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

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

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

30 (2) The review period set forth under paragraph (1) may

<—

1 ~~be tolled for~~ TOLLING UNDER PARAGRAPH (1) MAY LAST FOR UP TO <—
2 30 days. If, within 30 days, the agency fails to submit
3 revisions to the committees and the commission or fails to
4 notify the commission and the committees in writing that it
5 will not submit revisions but wishes the commission and the
6 committees to resume their review, the agency shall be deemed
7 to have withdrawn the final-form or final-omitted regulation.

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

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

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

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

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

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

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

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

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

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

forms or other paperwork would be required].

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

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

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

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

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

(ii) Clarity and lack of ambiguity.

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

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

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

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

[(f) Regulations for which notice of proposed rulemaking is omitted pursuant to section 204 of the Commonwealth Documents Law shall be submitted to the commission and the designated

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

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

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

29 (l) Except for emergency certified regulations adopted under
30 section 6(d), an agency may not promulgate a regulation until

1 completion of the review provided for in this act.

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

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

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

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

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

1 statement of disapproval unless it has been approved by the
2 General Assembly under the procedures contained in section 7(d).
3 If the commission issues a statement of disapproval after 120
4 days, the emergency regulation must comply with] under section
5 7.

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

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

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

27 [Section 6.1. Agency action pursuant to statute.

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

30 Section 7. Procedures for subsequent review of disapproved

1 final-form or final-omitted regulations.

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

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

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

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

17 (a.1) If the committees are prevented from receiving the
18 notice required in this section because of the adjournment sine
19 die or expiration of the legislative session in an even-numbered
20 year, the agency shall deliver the notice to the Governor, the
21 commission and the committees on the fourth Monday in January of
22 the next year. If either committee has not been designated by
23 the fourth Monday in January, the agency may not deliver the
24 notice to the commission and the committees until both
25 committees are designated; but the agency shall deliver the
26 notice to the committees and the commission no later than the
27 second Monday after the date by which both committee
28 designations have been published in the Pennsylvania Bulletin.
29 If the agency fails to deliver the notice to the commission and
30 the committees in the time prescribed in this subsection, the

1 agency shall be deemed to have withdrawn that regulation.

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

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

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

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

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

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

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

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

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

11 Section 7.1. Classification of documents.

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

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

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

28 (b) Subsection (a) does not apply to changes made at the
29 direction of the Office of Attorney General pursuant to its
30 review under section 204(b) of [the act of October 15, 1980

1 (P.L.950, No.164), known as] the ["Commonwealth Attorneys
2 Act.["]

3 Section 8.1. Existing regulations.

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

22 Section 9. Commission staff.

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

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

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

16 Section 10. Subpoena power.

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

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

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

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

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

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

12 Section 12. Clearinghouse.

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

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

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

8 Section 15. Termination date.

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

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

18 Section 5. This act shall take effect immediately.