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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 99 Session of  
2013

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INTRODUCED BY GREENLEAF, FARNESE AND VULAKOVICH, JANUARY 9, 2013

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REFERRED TO JUDICIARY, JANUARY 9, 2013

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AN ACT

1 Amending Title 2 (Administrative Law and Procedure) of the  
2 Pennsylvania Consolidated Statutes, consolidating provisions  
3 on administrative procedure and rulemaking; and making  
4 related repeals.

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

7 Section 1. Sections 103, 104 and 105 of Title 2 of the  
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 103. [Administrative Agency Law.] Short title of title.

10 [(a) General rule.--The provisions of Subchapter A of  
11 Chapter 5 (relating to practice and procedure of Commonwealth  
12 agencies) and Subchapter A of Chapter 7 (relating to judicial  
13 review of Commonwealth agency action) shall be known and may be  
14 cited as the "Administrative Agency Law."

15 (b) Rule making references.--Whenever any statute makes  
16 reference to the Administrative Agency Law for procedures  
17 relating to the promulgation of administrative regulations, such  
18 reference shall hereafter be deemed to be a reference to the act  
19 of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth

1 Documents Law."] This title shall be known and may be cited as  
2 the Administrative Procedure Code.

3 § 104. [Commonwealth Documents Law] (Reserved).

4 § 105. [Local Agency Law] (Reserved).

5 [The provisions of Subchapter B of Chapter 5 (relating to  
6 practice and procedure of local agencies) and Subchapter B of  
7 Chapter 7 (relating to judicial review of local agency action)  
8 shall be known and may be cited as the "Local Agency Law."]

9 Section 2. Chapter 3 of Title 2 is amended to read:

10 CHAPTER 3

11 PROMULGATION OF REGULATIONS

12 [(Reserved)]

13 Subchapter

14 A. Commonwealth Documents Law

15 B. Legal Review

16 C. Fiscal Review

17 D. Independent Regulatory Review Commission

18 SUBCHAPTER A

19 COMMONWEALTH DOCUMENTS LAW

20 Sec.

21 301. Scope of subchapter.

22 302. Definitions.

23 303. Notice of proposed rulemaking.

24 304. Adoption of regulations.

25 305. Effective date of regulations.

26 306. Omission of notice of proposed rulemaking.

27 307. Approval as to legality.

28 308. Format of regulations and other documents.

29 309. Deposit of agency text of regulations required.

30 310. Unfiled regulations invalid.

1 § 301. Scope of subchapter.

2 This subchapter relates to the filing of documents for  
3 publication in the Pennsylvania Bulletin and codification in the  
4 Pennsylvania Code.

5 § 302. Definitions.

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

9 "Adjudication." Any order, decree, decision, determination  
10 or ruling by an agency affecting personal or property rights,  
11 privileges, immunities, duties, liabilities or obligations of  
12 any or all of the parties to the proceeding in which the  
13 adjudication is made.

14 "Administrative regulation." Any regulation except a  
15 proclamation, executive order, executive directive or other  
16 similar document promulgated by the Governor. The term includes  
17 a regulation which may be promulgated by an agency only with the  
18 approval of the Governor.

19 "Agency." The Governor or any department, departmental  
20 administrative board or commission, officer, independent board  
21 or commission, authority or other agency of this Commonwealth.  
22 The term does not include any of the following:

23 (1) The Senate.

24 (2) The House of Representatives.

25 (3) A court. This paragraph includes an officer or  
26 agency of a court.

27 (4) A political subdivision, municipal authority or  
28 other local authority. This paragraph includes an officer or  
29 agency of a political subdivision or local authority.

30 "Agency text." The text of a document as issued, prescribed

1 or promulgated by the issuing, prescribing or promulgating  
2 agency.

3 "Bureau." The Legislative Reference Bureau. The powers  
4 conferred under this subchapter upon the bureau shall be  
5 exercised by the Director of the Legislative Reference Bureau  
6 or, in the Director's absence, by the Assistant Director.

7 "Department." The Department of General Services of the  
8 Commonwealth.

9 "Document." Any proclamation, executive order, executive  
10 directive or similar instrument promulgated by the Governor and  
11 any other order, regulation, rule, statement of policy,  
12 adjudication, certificate, license, permit, notice or similar  
13 instrument issued, prescribed or promulgated by or under the  
14 authority of this Commonwealth. The term includes a home rule  
15 charter adopted by the electors of any part of this  
16 Commonwealth.

17 "Joint committee." The Joint Committee on Documents.

18 "Official text." The text of a document issued, prescribed  
19 or promulgated by an agency as published by authority of this  
20 subchapter which has become in the manner provided under this  
21 subchapter the only valid and enforceable text of such document.

22 "Regulation." A rule or regulation, or order in the nature  
23 of a rule or regulation:

24 (1) promulgated by an agency under statutory authority  
25 in the administration of a statute administered by or  
26 relating to the agency; or

27 (2) prescribing the practice or procedure before the  
28 agency.

29 "Statement of policy." A document, except an adjudication or  
30 a regulation, promulgated by an agency which sets forth

1 substantive or procedural personal or property rights,  
2 privileges, immunities, duties, liabilities or obligations of  
3 the public or any part of the public. The term includes a  
4 document interpreting or implementing a statute enforced or  
5 administered by the agency.

6 § 303. Notice of proposed rulemaking.

7 Except as provided under section 306 (relating to omission of  
8 notice of proposed rulemaking), an agency shall give, in the  
9 manner provided under 45 Pa.C.S. § 725 (relating to additional  
10 contents of Pennsylvania Bulletin), public notice of its  
11 intention to promulgate, amend or repeal any administrative  
12 regulation. Notice includes:

13 (1) The text of the proposed administrative regulation,  
14 except any portions omitted under 45 Pa.C.S. § 727 (relating  
15 to matter not required to be published), prepared in such a  
16 manner as to indicate the words to be added or deleted from  
17 the presently effective text.

18 (2) A statement of the statutory or other authority  
19 under which the administrative regulation or change in it is  
20 proposed to be promulgated.

21 (3) A brief explanation of the proposed administrative  
22 regulation or change in it.

23 (4) A request for written comment by any interested  
24 person concerning the proposed administrative regulation or  
25 change in it.

26 (5) Any other statement required by law.

27 § 304. Adoption of regulations.

28 Before taking action upon any administrative regulation or  
29 change in it, the agency shall review and consider written  
30 comments submitted under section 303 (relating to notice of

1 proposed rulemaking) and may hold public hearings as  
2 appropriate. If the statute or other authority under which a  
3 regulation is proposed to be promulgated, amended or repealed  
4 requires the holding of public hearings or establishes other  
5 procedures in addition to those prescribed under this  
6 subchapter, the agency shall hold public hearings or comply with  
7 such other procedures as are not inconsistent with the  
8 provisions of this subchapter. The agency text of any  
9 administrative regulation or change in it as finally adopted may  
10 contain modifications to the proposed text as published under  
11 section 303 which do not enlarge its original purpose, but  
12 modifications which enlarge the original purpose of a proposal  
13 as published under section 303 shall be republished under  
14 section 303 prior to final adoption by the agency.

15 § 305. Effective date of regulations.

16 Except as otherwise provided by regulations promulgated by  
17 the joint committee, the effective date specified in any  
18 administrative regulation or change in it subject to the  
19 provisions of sections 303 (relating to notice of proposed  
20 rulemaking) and 304 (relating to adoption of regulations) shall  
21 be not less than 30 days after the required notice of proposed  
22 rulemaking has been given unless one of the following paragraphs  
23 applies:

24 (1) The administrative regulation:

25 (i) grants or recognizes exemption or relieves  
26 restriction; or

27 (ii) interprets a self-executing act of Assembly or  
28 administrative regulation.

29 (2) The agency for good cause finds, and incorporates  
30 the finding and the reasons for the finding in the order

1 adopting the administrative regulation or change in it, that  
2 the deferral of the effective date of the administrative  
3 regulation or change in it beyond the date specified in the  
4 order is impracticable or contrary to the public interest.

5 § 306. Omission of notice of proposed rulemaking.

6 Except as otherwise provided by regulations promulgated by  
7 the joint committee, an agency may omit or modify the procedures  
8 specified under sections 303 (relating to notice of proposed  
9 rulemaking) and 304 (relating to adoption of regulations) if any  
10 of the following paragraphs apply:

11 (1) The administrative regulation or change in it  
12 relates to:

13 (i) military affairs;

14 (ii) agency organization, management or personnel;

15 (iii) agency procedure or practice;

16 (iv) Commonwealth property, loans, grants, benefits  
17 or contracts; or

18 (v) the interpretation of a self-executing act of  
19 Assembly or administrative regulation.

20 (2) All persons subject to the administrative regulation  
21 or change in it are named in the rulemaking and are either  
22 personally served with notice of the proposed promulgation,  
23 amendment or repeal or otherwise have actual notice in  
24 accordance with law.

25 (3) The agency for good cause finds, and incorporates  
26 the finding and a brief statement of the reasons for the  
27 finding in the order adopting the administrative regulation  
28 or change in it, that the procedures specified under sections  
29 303 and 304 are in the circumstances impracticable,  
30 unnecessary or contrary to the public interest.

1 § 307. Approval as to legality.

2 (a) Requirement.--Administrative regulations and changes  
3 shall be approved as to legality by the Attorney General before  
4 they are deposited with the bureau under section 309 (relating  
5 to deposit of agency text of regulations required).

6 (b) Appeal.--

7 (1) If the Attorney General rules illegal all or part of  
8 an administrative regulation or change in it promulgated by  
9 an agency which is by law independent of the policy  
10 supervision and control of the Governor and the agency or a  
11 party before the agency supporting the regulation or change  
12 in it disagrees with the ruling of the Attorney General, the  
13 agency or party may appeal from the determination to  
14 Commonwealth Court.

15 (2) In an appeal under paragraph (1), Commonwealth Court  
16 may direct the Attorney General to approve the parts of the  
17 administrative regulation or change in it ruled illegal which  
18 the court finds to be legal.

19 (3) In all other cases the decision of the Attorney  
20 General shall be final and shall not be subject to any form  
21 of judicial review at the instance of the agency or a  
22 supporting party.

23 (c) Other review.--Nothing under this section shall affect  
24 the right of a person adversely affected by a regulation or  
25 change in it to obtain a determination of the validity thereof  
26 in any appropriate proceeding.

27 § 308. Format of regulations and other documents.

28 The agency text of all regulations and other documents  
29 required or authorized to be deposited with the bureau under  
30 this subchapter shall be prepared in the form and format



1 prescribed by regulations promulgated by the joint committee.  
2 The regulations shall require that every administrative  
3 regulation or change in it indicate expressly the statutory or  
4 other authority under which it is promulgated.

5 § 309. Deposit of agency text of regulations required.

6 The agency text of all administrative and other regulations  
7 and changes to the regulations, certified by the executive  
8 officer, chair or secretary of the agency, shall be deposited  
9 with the bureau in the manner required under 45 Pa.C.S. § 722(a)  
10 (relating to deposit of documents required).

11 § 310. Unfiled regulations invalid.

12 An administrative regulation or change in it promulgated  
13 after July 1, 1969, shall not be valid for any purpose until  
14 filed by the bureau, as provided under 45 Pa.C.S. § 722(a)  
15 (relating to deposit of documents required).

16 SUBCHAPTER B

17 LEGAL REVIEW

18 Sec.

19 311. Definitions.

20 312. General Counsel.

21 313. Attorney General.

22 § 311. Definitions.

23 The following words and phrases when used in this subchapter  
24 shall have the meanings given to them in this section unless the  
25 context clearly indicates otherwise:

26 "Commonwealth agency." Any executive agency or independent  
27 agency.

28 "Executive agency." The Governor and the departments,  
29 boards, commissions, authorities and other officers and agencies  
30 of the Commonwealth government. The term does not include any

1 court or other officer or agency of the unified judicial system,  
2 the General Assembly and its officers and agencies or any  
3 independent agency.

4 "Independent agency." The Office of Attorney General; the  
5 Department of the Auditor General, including the Board of  
6 Claims; the Treasury Department; the Pennsylvania Public Utility  
7 Commission; the Pennsylvania Fish and Boat Commission; the  
8 Pennsylvania Game Commission; the Pennsylvania Historical and  
9 Museum Commission; the State Civil Service Commission; the  
10 Pennsylvania Turnpike Commission; the Milk Marketing Board; the  
11 Pennsylvania Liquor Control Board; the Pennsylvania Human  
12 Relations Commission; the Pennsylvania Labor Relations Board;  
13 the Pennsylvania Securities Commission; the State Tax  
14 Equalization Board; Pennsylvania Higher Education Assistance  
15 Agency; the Pennsylvania Commission on Crime and Delinquency;  
16 and the State Ethics Commission.

17 § 312. General Counsel.

18 The General Counsel shall review and approve for form and  
19 legality all proposed regulations of executive agencies before  
20 they are deposited with the Legislative Reference Bureau as  
21 required under section 309 (relating to deposit of agency text  
22 of regulations required).

23 § 313. Attorney General.

24 (a) Review of regulations.--The Attorney General shall  
25 review for form and legality all proposed regulations of  
26 Commonwealth agencies before they are deposited with the  
27 Legislative Reference Bureau as required under section 309  
28 (relating to deposit of agency text of regulations required).

29 (b) Determination of invalidity.--If the Attorney General  
30 determines that a regulation is in improper form, not

1 statutorily authorized or unconstitutional, within 30 days after  
2 submission, the Attorney General shall notify in writing the  
3 agency affected, the Office of General Counsel and the General  
4 Assembly through the offices of the Secretary of the Senate and  
5 the Chief Clerk of the House of Representatives of the reasons  
6 for the determination.

7 (c) Response by Commonwealth agency.--

8 (1) The Commonwealth agency may revise a regulation to  
9 meet the objections of the Attorney General and submit the  
10 revised version for review.

11 (2) If the Commonwealth agency disagrees with the  
12 objection, it may promulgate the regulation with or without  
13 revisions and shall publish with it a copy of the Attorney  
14 General's objections.

15 (d) Response by Attorney General.--The Attorney General may  
16 appeal a decision under subsection (c) (2) by filing a petition  
17 for review with the Commonwealth Court in the manner as is  
18 provided for appeals from final orders of government agencies  
19 under 42 Pa.C.S. § 763 (relating to direct appeals from  
20 government agencies) and may include in the petition a request  
21 for a stay or supersedeas of the implementation of the  
22 regulation which, upon a proper showing, shall be granted.

23 (e) Deemed approval.--If a regulation has been submitted to  
24 the Attorney General and the Attorney General has not approved  
25 it or objected to it within 30 days after submission, the  
26 regulation shall be deemed to have been approved.

27 SUBCHAPTER C

28 FISCAL REVIEW

29 Sec.

30 321. Definitions.

1 322. Fiscal notes.

2 § 321. Definitions.

3 The following words and phrases when used in this subchapter  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 "Office." The Office of the Budget.

7 "Secretary." The Secretary of the Budget.

8 § 322. Fiscal notes.

9 (a) Duty.--The office shall prepare a fiscal note for  
10 regulatory actions and administrative procedures of the  
11 administrative departments, boards, commissions or authorities  
12 receiving money from the Treasury Department. The fiscal note  
13 shall state whether the proposed action or procedure causes a  
14 loss of revenue or an increase in the cost of programs to the  
15 Commonwealth or its political subdivisions.

16 (b) Publication.--A regulatory action or an administrative  
17 procedure which requires a fiscal note shall be published in the  
18 Pennsylvania Bulletin. The fiscal note shall be published in the  
19 Pennsylvania Bulletin at the same time the proposed change is  
20 advertised.

21 (c) Contents.--The fiscal note shall provide the following  
22 information:

23 (1) The designation of the fund out of which the  
24 appropriation providing for expenditures under the action or  
25 procedure shall be made.

26 (2) The probable cost for the fiscal year the program is  
27 implemented.

28 (3) A projected cost estimate of the program for each of  
29 the five succeeding fiscal years.

30 (4) The fiscal history of the program for which

1 expenditures are to be made.

2 (5) The probable loss of revenue for the fiscal year of  
3 its implementation.

4 (6) A projected loss of revenue from the program for  
5 each of the five succeeding fiscal years.

6 (7) The line item, if any, of the General Appropriation  
7 Act or other appropriation act out of which expenditures or  
8 losses of Commonwealth funds shall occur as a result of the  
9 action or procedures.

10 (8) The recommendation, if any, of the secretary and the  
11 reasons therefor.

#### 12 SUBCHAPTER D

#### 13 INDEPENDENT REGULATORY REVIEW COMMISSION

14 Sec.

15 331. Scope of subchapter.

16 332. Legislative declarations.

17 333. Definitions.

18 334. Composition of commission; membership; compensation;  
19 vacancies; removal.

20 335. Proposed regulations; procedures for review.

21 335.1. Final-form regulations and final-omitted regulations;  
22 procedures for review.

23 335.2. Criteria for review of regulations.

24 336. Procedures for disapproval of final-form and final-omitted  
25 regulations; emergency-certified regulations.

26 337. Procedures for subsequent review of disapproved final-form  
27 or final-omitted regulations.

28 337.1. Classification of documents.

29 338. Changes in final-form and final-omitted regulations.

30 338.1. Existing regulations.

1 339. Commission staff.

2 340. Subpoena power.

3 341. Regulations; annual reports; hearings and advisory group  
4 meetings.

5 342. Clearinghouse.

6 342.1. Gubernatorial review.

7 § 331. Scope of subchapter.

8 This subchapter relates to regulatory review.

9 § 332. Legislative declarations.

10 (a) Findings.--The General Assembly has enacted a large  
11 number of statutes and has conferred on boards, commissions,  
12 departments and agencies within the executive branch of  
13 government the authority to adopt rules and regulations to  
14 implement those statutes. The General Assembly has found that  
15 this delegation of its authority has resulted in regulations  
16 being promulgated without undergoing effective review concerning  
17 cost benefits, duplication, inflationary impact and conformity  
18 to legislative intent. The General Assembly finds that it must  
19 establish a procedure for oversight and review of regulations  
20 adopted under this delegation of legislative power in order to  
21 curtail excessive regulation and to require the executive branch  
22 to justify its exercise of the authority to regulate before  
23 imposing hidden costs upon the economy of Pennsylvania.

24 (b) Intent.--It is the intent of this subchapter to:

25 (1) Establish a method for ongoing and effective  
26 legislative review and oversight in order to foster executive  
27 branch accountability and to provide for primary review by a  
28 commission with sufficient authority, expertise, independence  
29 and time to perform that function.

30 (2) Provide ultimate review of regulations by the

1 General Assembly.

2 (3) Assist the Governor, the Attorney General and the  
3 General Assembly in their supervisory and oversight  
4 functions.

5 (4) Encourage, to the greatest extent possible, the  
6 resolution of objections to a regulation and the reaching of  
7 a consensus among the commission, the standing committees,  
8 interested parties and the agency.

9 (c) Right or benefit.--This subchapter is not intended to  
10 create a right or benefit, substantive or procedural,  
11 enforceable at law by a person against another person or against  
12 the Commonwealth, its agencies or its officers.

13 § 333. Definitions.

14 The following words and phrases when used in this subchapter  
15 shall have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17 "Agency." Any department, departmental administrative board  
18 or commission, independent board or commission, agency or other  
19 authority of this Commonwealth. The term shall not include the  
20 Senate or the House of Representatives, the Pennsylvania Fish  
21 and Boat Commission, the Pennsylvania Game Commission or any  
22 court, political subdivision, municipal or local authority.

23 "Commission." The Independent Regulatory Review Commission.

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

1 publication in the Pennsylvania Bulletin.

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

3 "Final-form regulation." A regulation previously published  
4 as a proposed regulation under Subchapter A (relating to  
5 commonwealth documents law), which an agency submits to the  
6 commission and the committees following the close of the public  
7 comment period.

8 "Final-omitted regulation." A regulation which an agency  
9 submits to the commission and the committees for which the  
10 agency has omitted notice of proposed rulemaking under section  
11 306 (relating to omission of notice of proposed rulemaking).

12 "Promulgate." To publish an order adopting a final-form or  
13 final-omitted regulation in accordance with Subchapter A  
14 (relating to commonwealth documents law).

15 "Proposed regulation." A document intended for promulgation  
16 as a regulation which an agency submits to the commission and  
17 the committees and for which the agency gives notice of proposed  
18 rulemaking and holds a public comment period under Subchapter A  
19 (relating to commonwealth documents law).

20 "Regulation."

21 (1) The term shall include:

22 (i) Any rule or regulation or order in the nature of  
23 a rule or regulation promulgated by an agency under  
24 statutory authority in the administration of any statute  
25 administered by or relating to the agency or amending,  
26 revising or otherwise altering the terms and provisions  
27 of an existing regulation, or prescribing the practice or  
28 procedure before the agency.

29 (ii) Actions of the Pennsylvania Liquor Control  
30 Board which have an effect on the discount rate for



1           retail licensees.

2           (iii) Notwithstanding paragraph (2), a regulation  
3           which may be promulgated by an agency, only with the  
4           approval of the Governor.

5           (2) The term shall not include a proclamation, executive  
6           order, directive or similar document issued by the Governor.

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

11          § 334. Composition of commission; membership; compensation;  
12          vacancies; removal.

13          (a) Composition.--The commission shall consist of five  
14          members to be known as commissioners. One commissioner shall be  
15          appointed by the Governor to serve at the Governor's pleasure,  
16          one by the President pro tempore of the Senate, one by the  
17          Speaker of the House of Representatives, one by the Minority  
18          Leader of the Senate and one by the Minority Leader of the House  
19          of Representatives. A member of the General Assembly or any  
20          other officer or employee of State government may not serve as a  
21          commissioner, but a commissioner may serve on advisory boards  
22          and commissions or on other boards and commissions which do not  
23          promulgate any rules and regulations which may come before the  
24          commission for review under this subchapter.

25          (b) Term.--Each appointment provided for under subsection  
26          (a), except for the Governor's appointment, shall be for a term  
27          of three years.

28          (c) Vacancy.--An appointment to fill a vacancy for the  
29          remainder of the unexpired term shall be made in the same manner  
30          as set forth under subsection (a). Upon the expiration of a

1 commissioner's term of office, the commissioner shall continue  
2 to hold office until a successor is appointed.

3 (d) Compensation.--The commissioner who is elected to serve  
4 as the chairperson in accordance with subsection (g) shall  
5 receive \$300 per day as compensation for services rendered to  
6 the commission. Each of the other commissioners shall receive  
7 \$250 per day as compensation for services rendered to the  
8 commission. A commissioner shall also be entitled to  
9 reimbursement for travel and other necessary expenses incurred  
10 as a result of official duties. The expenses incurred by a  
11 commissioner or by an employee of the commission shall be paid  
12 on the presentation of itemized vouchers for the expenses. The  
13 vouchers shall be subject to the approval of the commission.

14 (e) Removal.--Except as authorized under subsection (f) or  
15 (h) and except for the Governor's appointee who shall serve at  
16 the Governor's pleasure, a commissioner may not be removed  
17 during the commissioner's term of office. The Governor may, with  
18 the approval of two-thirds of the members of the Senate, upon  
19 clear and convincing evidence of misfeasance or malfeasance in  
20 office or neglect of duty, remove a commissioner prior to the  
21 expiration of the commissioner's term. The Governor shall  
22 provide the commissioner to be removed with a detailed written  
23 statement of the reasons for removal.

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

1 probation without verdict, disposition in lieu of trial or an  
2 accelerated rehabilitative disposition for felony or misdemeanor  
3 charges in this Commonwealth or in any other jurisdiction, the  
4 commissioner shall immediately be removed from the commission  
5 upon announcement of the verdict or disposition by the court or  
6 upon the court's acceptance of a plea of guilty or nolo  
7 contendere.

8 (f.1) Financial interest.--

9 (1) A commissioner may not participate in deliberations  
10 regarding any regulation which significantly affects the  
11 operation or activities of any organization in which the  
12 commissioner or any member of the commissioner's family owns  
13 shares of stock in excess of 5% of the total issue of the  
14 stock, has an ownership interest in excess of 5% of the total  
15 ownership or serves as an officer, director, trustee, partner  
16 or employee. For the purposes of this paragraph, an  
17 organization shall not include a nonprofit organization  
18 certified under section 501(c)(3) of the Internal Revenue  
19 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) in  
20 which the commissioner holds a nonsalaried position.

21 (2) Within 90 days of appointment, and annually  
22 thereafter, each commissioner shall disclose all business  
23 affiliations and financial interests. The disclosure  
24 statement shall be filed with the executive director of the  
25 commission and the State Ethics Commission and shall be  
26 available for public inspection during business hours of the  
27 commission. Each commissioner's disclosure statement shall  
28 remain on file as long as the commissioner remains on the  
29 commission.

30 (3) If a commissioner has or may have a conflict of

1 interest or feels another commissioner has or may have a  
2 conflict of interest in deliberating on a regulation, the  
3 commissioner shall, prior to the vote on the regulation,  
4 disclose the conflict or potential conflict.

5 (4) The commissioner may request a ruling from the  
6 chairperson of the commission upon the question of whether  
7 the conflict or potential conflict disqualifies the  
8 commissioner from voting on the regulation. A commissioner  
9 may challenge the ruling of the chairperson. If a ruling is  
10 challenged, the question shall be resolved by majority vote  
11 of the commission.

12 (5) The chairperson or a majority of the commissioners  
13 may request the State Ethics Commission to provide advice  
14 regarding conflicts of interest. If advice is given by the  
15 State Ethics Commission, it shall be binding upon the  
16 commission.

17 (6) A commissioner commits a misdemeanor of the second  
18 degree by knowingly and intentionally violating the  
19 provisions of this subsection.

20 (7) The commission or its employees when acting in good  
21 faith on an opinion issued to a commissioner by the  
22 chairperson or the State Ethics Commission shall not be  
23 subject to criminal or civil penalties levied under 65  
24 Pa.C.S. Ch. 11 (relating to ethics standards and financial  
25 disclosure) for so acting, if the material facts are as  
26 stated in the request for an opinion.

27 (8) In addition to the requirements of this subchapter,  
28 a commissioner shall be subject to 65 Pa.C.S. Ch. 11  
29 (relating to ethics standards in financial disclosure).

30 (g) Chairperson.--The commission shall elect a chairperson,

1 who shall serve for a term of two years and until a successor is  
2 elected. The chairperson shall preside at meetings of the  
3 commission and shall execute documents relating to the formal  
4 actions of the commission.

5 (h) Meetings.--The commission shall meet before the period  
6 for its review of regulations under this subchapter expires and  
7 at other times as necessary to transact the business of the  
8 commission and ensure an expeditious and orderly review of  
9 regulations under this subchapter. Meetings shall be held at  
10 times and places set by the chairperson. A meeting may be  
11 scheduled by the commission upon the provision of at least ten  
12 days' notice to all affected agencies and the committees. A  
13 commissioner who does not attend three consecutive meetings  
14 without cause may be removed as a commissioner by the authority  
15 appointing the commissioner.

16 (i) Quorum.--For purposes of conducting official business, a  
17 quorum consists of three commissioners. A commissioner must be  
18 physically present to be counted toward the quorum. If the  
19 commission is unable to conduct business for lack of a quorum,  
20 the deadline for the commission to take action on a regulation  
21 in accordance with this subchapter shall be postponed for 30  
22 days or until the next meeting at which a quorum is in  
23 attendance, whichever occurs first.

24 § 335. Proposed regulations; procedures for review.

25 (a) General rule.--On the same date that an agency submits a  
26 proposed regulation to the Legislative Reference Bureau for  
27 publication of notice of proposed rulemaking in the Pennsylvania  
28 Bulletin as required under Subchapter A (relating to  
29 commonwealth documents law), the agency shall submit to the  
30 commission and the committees a copy of the proposed regulation

1 and a regulatory analysis form which includes the following:

2 (1) The title of the agency and the names, office  
3 addresses and telephone numbers of the agency officials  
4 responsible for responding to questions regarding the  
5 regulation or for receiving comments relating to the  
6 regulation.

7 (1.1) A specific citation to the Federal or State  
8 statutory or regulatory authority or the decision of a  
9 Federal or State court under which the agency is proposing  
10 the regulation, which the regulation is designed to implement  
11 or which may mandate or affect compliance with the  
12 regulation.

13 (2) A concise and, when possible, nontechnical  
14 explanation of the proposed regulation.

15 (3) A statement of the need for the regulation.

16 (4) Estimates of the direct and indirect costs to the  
17 Commonwealth, to its political subdivisions and to the  
18 private sector. Insofar as the proposed regulation relates to  
19 costs to the Commonwealth, the agency may submit in lieu of  
20 its own statement the fiscal note prepared by the Office of  
21 the Budget under Subchapter C (relating to fiscal review).

22 (5) A statement of legal, accounting or consulting  
23 procedures and additional reporting, recordkeeping or other  
24 paperwork, including copies of forms or reports, which will  
25 be required for implementation of the regulation and an  
26 explanation of measures which have been taken to minimize  
27 these requirements.

28 (6) (Reserved).

29 (7) A schedule for review of the proposed regulation,  
30 including the date by which the agency must receive comments,

1 the date or dates on which public hearings will be held, the  
2 expected date of promulgation of the proposed regulation as a  
3 final-form regulation, the expected effective date of the  
4 final-form regulation, the date by which compliance with the  
5 final-form regulation will be required and the date by which  
6 required permits, licenses or other approvals must be  
7 obtained.

8 (8) (Reserved).

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

12 (10) An identification of the financial, economic and  
13 social impact of the regulation on individuals, business and  
14 labor communities and other public and private organizations  
15 and, when practicable, an evaluation of the benefits expected  
16 as a result of the regulation.

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

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

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

28 (b) Publication of information and public comment period.--

29 (1) The requirements of subsection (a) shall not  
30 diminish the requirements of section 303 (relating to notice

1 of proposed rulemaking), but the information required under  
2 this section may be included in the Notice of Proposed  
3 Rulemaking published in the Pennsylvania Bulletin in lieu of  
4 the information required under section 303(2) and (3).

5 (2) The agency shall hold a public comment period which  
6 shall commence with the publication of the notice of proposed  
7 rulemaking and shall continue for not less than 30 days  
8 unless section 305(1) or (2) (relating to effective date of  
9 regulations) applies.

10 (c) Copy of comments, reports and other documents to be  
11 provided.--

12 (1) From the date of submission of the proposed  
13 regulation, the agency shall submit to the commission and the  
14 committees, within five business days of receipt, a copy of  
15 comments which the agency receives relating to the proposed  
16 regulation.

17 (2) The agency shall also, upon request, submit to the  
18 commission and the committees copies of reports from advisory  
19 groups and other documents received from or disseminated to  
20 the public relating to the proposed regulation and public  
21 notices or announcements relating to solicitation of public  
22 comments or meetings which the agency held or will hold  
23 relating to the proposed regulation.

24 (d) Committee response.--The committees may, at any time  
25 prior to the submittal of the regulation in final-form, convey  
26 to the agency and the commission their comments, recommendations  
27 and objections to the proposed regulation and a copy of any  
28 staff reports deemed pertinent. The comments, recommendations  
29 and objections may refer to the criteria under section 335.2  
30 (relating to criteria for review of regulations).



1 (e) (Reserved).

2 (f) Time for submitting proposed regulation to committees.--

3 (1) An agency may not submit a proposed regulation to  
4 the committees for review during the period from the end of  
5 the legislative session in an even-numbered year to the date  
6 by which both committees have been designated in the next  
7 succeeding legislative session, but an agency may submit a  
8 proposed regulation and the material required under  
9 subsection (a) to the commission and the Legislative  
10 Reference Bureau during this period in accordance with  
11 subsection (a).

12 (2) The public comment period shall commence with the  
13 publication of the notice of proposed rulemaking and end on  
14 the date designated by the agency under subsection (b).

15 (3) The agency shall submit the proposed regulation and  
16 required material to the committees no later than the second  
17 Monday after the date by which both committee designations  
18 have been published in the Pennsylvania Bulletin.

19 (4) If the agency does not deliver the proposed  
20 regulation and all material required under this section in  
21 the time prescribed under this subsection, the agency shall  
22 be deemed to have withdrawn the proposed regulation.

23 (g) Commission response.--

24 (1) The commission may, within 30 days after the close  
25 of the public comment period, convey to the agency and  
26 committees any comments, recommendations and objections to  
27 the proposed regulation. The comments, recommendations and  
28 objections shall specify the regulatory review criterion  
29 stated under section 335.2 which the proposed regulation has  
30 not met.

1           (2) The following apply:

2           (i) If the commission does not comment on, make  
3           recommendations regarding or object to any portion of the  
4           proposed regulation within the time provided under this  
5           subsection, the commission shall be deemed to have  
6           approved that portion of the proposed regulation.

7           (ii) Disapproval of the final-form regulation by the  
8           commission shall relate only to comments, recommendations  
9           and objections raised by the commission to the proposed  
10           regulation to changes which the agency made to the  
11           proposed regulation or to recommendations, comments or  
12           objections which a committee conveyed to the agency or  
13           the commission.

14 § 335.1. Final-form regulations and final-omitted regulations;  
15           procedures for review.

16           (a) Duties of agency.--

17           (1) The agency shall review and consider public comments  
18           and the comments of the committees and commission under this  
19           section.

20           (2) Within five business days of receipt of a public  
21           comment, the agency shall notify the commentator of the  
22           agency's address and telephone number where the commentator  
23           may submit a request for the information concerning the  
24           final-form regulation under subsection (b).

25           (3) Upon completion of the agency's review of comments,  
26           the agency shall submit to the commission and the committees  
27           a copy of its response to the comments received, the names  
28           and addresses of commentators who have requested additional  
29           information relating to the final-form regulation and the  
30           text of the final-form regulation which the agency intends to

1 adopt.

2 (4) If an agency does not submit or withdraws and does  
3 not resubmit the final-form regulation within two years of  
4 the close of the public comment period but still desires to  
5 promulgate the final-form regulation, the agency shall  
6 republish the regulation as a proposed regulation with a new  
7 public comment period in accordance with Subchapter A  
8 (relating to commonwealth documents law).

9 (5) If the agency is prevented from delivering its  
10 final-form regulation to the commission and the committees  
11 within the time period provided for under this subsection  
12 because of the adjournment sine die or expiration of the  
13 legislative session in an even-numbered year, the agency  
14 shall deliver its final-form regulation in accordance with  
15 subsection (f).

16 (b) Notice of submission to commentators.--

17 (1) On the same date that the agency submits the  
18 material required under subsection (a) to the commission and  
19 the committees, the agency shall send a notice of submission  
20 and a copy of the text of the final-form regulation or a copy  
21 of all changes to the proposed regulation which are  
22 incorporated into the final-form regulation to each  
23 commentator who requested this information under subsection  
24 (a).

25 (2) The agency is not required to notify each party  
26 whose name appears on petitions or membership lists who did  
27 not present individual comments on the regulation.

28 (c) Time period for filing.--

29 (1) The agency shall submit final-omitted regulations to  
30 the commission and the committees for review under this

1 section on the same date that the agency submits the  
2 regulations for review under section 313 (relating to  
3 Attorney General). The requirements of section 335 (relating  
4 to proposed regulations; procedures for review), except for  
5 the requirements for holding a public comment period and for  
6 notifying commentators, are applicable to final-omitted  
7 regulations.

8 (2) If the agency makes revisions under subsection (g),  
9 the agency shall deliver copies of the revisions to the  
10 Attorney General on the same date that the agency delivers  
11 the revisions to the commission and the committees.

12 (d) (Reserved).

13 (e) Approval and disapproval.--The commission may have until  
14 its next scheduled meeting which occurs no less than 30 days  
15 after receipt of the final-form or final-omitted regulation to  
16 approve or disapprove the final-form or final-omitted  
17 regulation. The commission shall notify the agency and the  
18 committees of its approval or disapproval. If the commission  
19 does not disapprove the final-form or final-omitted regulation  
20 within the time allotted under this subsection, the commission  
21 shall be deemed to have approved the final-form or final-omitted  
22 regulation.

23 (f) Delivery.--An agency may not deliver a final-form or  
24 final-omitted regulation to the commission and the committees  
25 after the adjournment sine die or expiration of the legislative  
26 session in an even-numbered year. The agency may not deliver the  
27 final-form or final-omitted regulation until the fourth Monday  
28 in January of the next year. On that date, the agency shall  
29 resubmit the final-form or final-omitted regulation and required  
30 material to the committees and the commission. If either

1 committee has not been designated by the fourth Monday in  
2 January, the agency may not deliver the final-form or final-  
3 omitted regulation and required material to the committees and  
4 the commission until both committees are designated.

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

9 (1) Prior to the expiration of the date on which either  
10 of the committees takes action on the final-form or final-  
11 omitted regulation, under subsection (j.2) or (j.3) or the  
12 expiration of the commission's review period prescribed under  
13 subsection (e), whichever occurs first, the agency may,  
14 unless the commission shall object, toll the time for the  
15 commission's and the committees' review of the final-form or  
16 final-omitted regulation in order to allow time for the  
17 agency to consider revisions to the final-form or final-  
18 omitted regulation recommended by the commission or a  
19 committee.

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

27 (3) The committees shall have the remainder of the 20-  
28 day review period or ten days from the date of receipt of the  
29 revised final-form or final-omitted regulation or written  
30 notification under paragraph (2), whichever is longer, to

1 take action under subsection (j.2) or (j.3), and the  
2 commission may have until its next scheduled meeting which  
3 occurs after the expiration of the committee review period,  
4 but not less than 15 days after receipt of the revised final-  
5 form or final-omitted regulation or written notification  
6 under paragraph (2) to review the final-form or final-omitted  
7 regulation. If the commission does not disapprove the final-  
8 form or final-omitted regulation or a committee does not  
9 notify the commission and the agency that it has disapproved  
10 the regulation or that it intends to review the regulation  
11 under subsection (j.2), within the respective time periods,  
12 the regulation shall be deemed approved.

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

15 (5) The agency may not submit revisions or notification  
16 that the regulation will not be revised after the adjournment  
17 sine die or the expiration of the legislative session in an  
18 even-numbered year. If the committees and the commission are  
19 prevented from completing their review under this subsection  
20 because of the adjournment sine die or the expiration of the  
21 legislative session in an even-numbered year, the agency  
22 shall resubmit the final-form or final-omitted regulation and  
23 review shall proceed in accordance within subsection (j.3).

24 (h) (Reserved).

25 (i) (Reserved).

26 (j) Comments.--The commission shall accept public comments  
27 only up to 48 hours prior to the commission's public meeting  
28 unless the comments are submitted at the request of the  
29 commission. The commission shall receive comments from the  
30 agency or members of the General Assembly until the commission

1 acts on the regulation. The commission shall transmit comments  
2 received during the 48-hour period prior to the commission's  
3 public meeting to the agency and the committees upon receipt.  
4 The commission shall accept additional public comments only  
5 after the public meeting has been called to order.

6 (j.1) Time for action.--A committee shall have at least 20  
7 days from receipt of the information required under subsection  
8 (a) or receipt of the information required under subsection (c)  
9 to take action under subsection (j.2). If the committees are  
10 prevented from completing their 20-day review because of the  
11 adjournment sine die or expiration of the legislative session in  
12 an even-numbered year, their review of the final-form or final-  
13 omitted regulation shall automatically be suspended until the  
14 fourth Monday in January of the next year. On that date, the  
15 agency shall resubmit the final-form or final-omitted regulation  
16 and required material to the committees and the commission.

17 (1) If either committee has not been designated by the  
18 fourth Monday in January, the agency may not deliver the  
19 final-form or final-omitted regulation and required material  
20 to the commission and the committees until both committees  
21 have been designated.

22 (2) If the agency does not deliver the final-form or  
23 final-omitted regulation and required material to the  
24 commission and the committees by the second Monday after the  
25 date by which both committee designations have been published  
26 in the Pennsylvania Bulletin, the agency shall be deemed to  
27 have withdrawn the regulation.

28 (3) In computing the remaining time for committee  
29 review, the number of days in which the committees have had  
30 the final-form or the final-omitted regulation under review

1 as of the adjournment sine die or expiration of the prior  
2 session shall be subtracted from the 20-day committee review  
3 period, but the committee review period in the next  
4 succeeding legislative session shall not be less than ten  
5 days.

6 (4) The commission shall not act on a regulation until  
7 the committee review period has expired. This section shall  
8 not apply to emergency-certified regulations adopted under  
9 the provisions of section 336(d) (relating to procedures for  
10 disapproval of final-form and final-omitted regulations;  
11 emergency-certified regulations).

12 (j.2) Notification of approval and disapproval.--At any time  
13 during the commission's review period up to 24 hours prior to  
14 the opening of the commission's public meeting, a committee may  
15 notify the commission and the agency that it has approved or  
16 disapproved a final-form or final-omitted regulation or that it  
17 intends to review the regulation. If the commission approves a  
18 regulation and a committee has not notified the commission and  
19 the agency that it has disapproved the regulation or that it  
20 intends to review the regulation, the agency may promulgate the  
21 regulation. If the commission approves a regulation and a  
22 committee has notified the commission and the agency that it has  
23 disapproved the regulation or that it intends to review the  
24 regulation, the agency may not promulgate the regulation for 14  
25 days after the committee has received the commission's approval  
26 order. During this 14-day period, the committee may take action  
27 on the regulation under section 337(d) (relating to procedures  
28 for subsequent review of disapproved final-form or final-omitted  
29 regulations). If at the expiration of the 14-day period the  
30 committee has not taken action on the regulation under section



1 337(d), the agency may promulgate the regulation.

2 (j.3) Automatic suspension of 14-day review.--If the  
3 committees are prevented from completing their 14-day review  
4 because of adjournment sine die or expiration of the legislative  
5 session in an even-numbered year, their review of the final-form  
6 or final-omitted regulation shall automatically be suspended  
7 until the fourth Monday in January of the next year. On that  
8 date, the agency shall resubmit the final-form or final-omitted  
9 regulation and required material to the committees and the  
10 commission.

11 (1) If either committee has not been designated by the  
12 fourth Monday in January, the agency may not deliver the  
13 final-form or final-omitted regulation and required material  
14 to the committees and the commission until both committees  
15 are designated.

16 (2) If the agency does not deliver the final-form or  
17 final-omitted regulation and required material to the  
18 commission and the committees by the second Monday after the  
19 date by which both committee designations have been published  
20 in the Pennsylvania Bulletin, the agency shall be deemed to  
21 have withdrawn the final-form or final-omitted regulation.

22 (3) In determining the remaining time for committee  
23 review, the number of days in which the committees have had  
24 the final-form or the final-omitted regulation under review  
25 as of the adjournment sine die or expiration of the prior  
26 session shall be subtracted from the 14-day committee review  
27 period, but the committee review period in the next  
28 succeeding legislative session shall not be less than ten  
29 days.

30 (4) An agency may not submit a final-form or final-

1 omitted regulation to the commission or the committees for  
2 review during the period from the adjournment sine die or  
3 expiration of the legislative session of an even-numbered  
4 year to the date by which both committees have been  
5 designated in the next succeeding legislative session.

6 (5) This subsection shall not apply to emergency-  
7 certified regulations adopted under the provisions of section  
8 336(d).

9 (j.4) Disapproval.--If the commission disapproves a final-  
10 form or final-omitted regulation, the commission, the committees  
11 and the agency will proceed in accordance with section 336.

12 (k) Comment retention.--The commission shall note and shall  
13 make a part of the public record all comments which it receives  
14 relating to a regulation and shall retain the comments for four  
15 years after the promulgation of the regulation.

16 (l) Regulations.--Except for emergency-certified regulations  
17 adopted under section 336(d), an agency may not promulgate a  
18 regulation until completion of the review provided for under  
19 this subchapter.

20 § 335.2. Criteria for review of regulations.

21 (a) Preliminary criteria.--In determining whether a  
22 proposed, final-form, final-omitted or existing regulation is in  
23 the public interest, the commission shall, first and foremost,  
24 determine whether the agency has the statutory authority to  
25 promulgate the regulation and whether the regulation conforms to  
26 the intention of the General Assembly in the enactment of the  
27 statute upon which the regulation is based. In making its  
28 determination, the commission shall consider written comments  
29 submitted by the committees and current members of the General  
30 Assembly, pertinent opinions of Pennsylvania's courts and formal

1 opinions of the Attorney General.

2 (b) General criteria.--Upon a finding that the regulation is  
3 consistent with the statutory authority of the agency and with  
4 the intention of the General Assembly in the enactment of the  
5 statute upon which the regulation is based, the commission shall  
6 consider the following in determining whether the regulation is  
7 in the public interest:

8 (1) Economic or fiscal impacts of the regulation, which  
9 include the following:

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

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

14 (iii) The nature of required reports, forms or other  
15 paperwork and the estimated cost of their preparation by  
16 individuals, businesses and organizations in the public  
17 and private sectors.

18 (iv) The nature and estimated cost of legal,  
19 consulting or accounting services which the public or  
20 private sector may incur.

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

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

28 (3) The clarity, feasibility and reasonableness of the  
29 regulation to be determined by considering the following:

30 (i) Possible conflict with or duplication of

1 statutes or existing regulations.

2 (ii) Clarity and lack of ambiguity.

3 (iii) Need for the regulation.

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

7 (4) Whether the regulation represents a policy decision  
8 of such a substantial nature that it requires legislative  
9 review.

10 (5) Comments, objections or recommendations of a  
11 committee.

12 (6) Compliance with the provisions of this subchapter or  
13 the regulations of the commission in promulgating the  
14 regulation.

15 § 336. Procedures for disapproval of final-form and final-  
16 omitted regulations; emergency-certified regulations.

17 (a) Order.--If the commission disapproves a final-form or  
18 final-omitted regulation, the commission shall deliver its  
19 disapproval order to the Legislative Reference Bureau, the  
20 committees and the agency. The commission shall notify  
21 commentators who have requested additional information under  
22 section 335.1(a) (relating to final-form regulations and final-  
23 omitted regulations; procedures for review) of the commission's  
24 vote to disapprove. The disapproval order shall specify the  
25 regulatory review criteria which the final-form or final-omitted  
26 regulation has not met. The agency shall review the commission's  
27 order and proceed under section 337(a) (relating to procedures  
28 for subsequent review of disapproved final-form or final-omitted  
29 regulations).

30 (b) Effect.--The commission's order disapproving a final-

1 form or final-omitted regulation shall bar the agency from  
2 promulgating that regulation pending subsequent review under  
3 section 337.

4 (c) (Reserved).

5 (d) Prohibition.--

6 (1) The commission may not issue an order barring an  
7 agency from promulgating a final-form or final-omitted  
8 regulation if the Attorney General certifies that the final-  
9 form or final-omitted regulation is required under the decree  
10 of any court or to implement the provisions of a statute of  
11 the United States or regulations issued thereunder by a  
12 Federal agency or if the Governor certifies that the final-  
13 form or final-omitted regulation is required to meet an  
14 emergency which includes conditions which may threaten the  
15 public health, safety or welfare, cause a budget deficit or  
16 create the need for supplemental or deficiency appropriations  
17 of greater than \$1,000,000. In those cases, the final-form or  
18 final-omitted regulation may take effect on the date of  
19 publication or on a later date specified in the order  
20 adopting the final-form or final-omitted regulation.

21 (2) The commission and the committees shall review the  
22 final-form or final-omitted regulation under the procedures  
23 provided for under this subchapter. If the final-form or  
24 final-omitted regulation is disapproved under those  
25 procedures, that regulation shall be rescinded after 120 days  
26 or upon final disapproval, whichever occurs later.

27 § 337. Procedures for subsequent review of disapproved final-  
28 form or final-omitted regulations.

29 (a) General procedures.--An agency may select one of the  
30 following options for proceeding with a regulation which has

1 been disapproved by the commission:

2 (1) To proceed further with the final-form or final-  
3 omitted regulation under subsection (b).

4 (2) To proceed further with the final-form or final-  
5 omitted regulation under subsection (c).

6 (3) To withdraw the final-form or final-omitted  
7 regulation.

8 (b) Report.--

9 (1) If the agency decides to adopt the final-form or  
10 final-omitted regulation without revisions or further  
11 modifications, the agency shall submit a report to the  
12 committees and the commission within 40 days of the agency's  
13 receipt of the commission's disapproval order. The agency's  
14 report shall contain the final-form or final-omitted  
15 regulation, the commission's disapproval order and the  
16 agency's response and recommendations regarding the final-  
17 form or final-omitted regulation.

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

30 (3) If the agency does not deliver the report to the

1 committees and the commission in the time prescribed under  
2 this subsection, the agency shall be deemed to have withdrawn  
3 the final-form or final-omitted regulation.

4 (c) Modifications before report.--

5 (1) If the agency decides to revise or modify the final-  
6 form or final-omitted regulation in order to respond to  
7 objections raised by the commission and adopt that regulation  
8 with revisions or modifications, the agency shall submit a  
9 report to the committees and the commission within 40 days of  
10 the agency's receipt of the commission's disapproval order.  
11 The agency's report shall contain the revised final-form or  
12 final-omitted regulation, the findings of the commission and  
13 the agency's response and recommendations regarding the  
14 revised final-form or final-omitted regulation.

15 (2) If the committees are prevented from receiving the  
16 report because of adjournment sine die or expiration of the  
17 legislative session in an even-numbered year, the agency  
18 shall submit the report to the commission and the committees  
19 on the fourth Monday in January of the next year. If either  
20 committee has not been designated by the fourth Monday in  
21 January, the agency may not deliver the report to the  
22 committees and the commission until both committees are  
23 designated, but the agency shall deliver its report to the  
24 commission and the committees no later than the second Monday  
25 after the date by which both committee designations have been  
26 published in the Pennsylvania Bulletin.

27 (3) If the agency does not deliver its report to the  
28 commission and the committees in the time prescribed in this  
29 subsection, the agency shall be deemed to have withdrawn the  
30 final-form or final-omitted regulation.

1 (c.1) Approval or disapproval order.--The commission may  
2 have until its next scheduled meeting, which occurs no less than  
3 15 days from receipt of the agency's report, to approve or  
4 disapprove the agency's report. The commission shall deliver its  
5 approval or disapproval order to the committees for  
6 consideration by the General Assembly under subsection (d).

7 (1) If the commission is prevented from delivering its  
8 order to the committees within the time period provided for  
9 under this subsection because of the adjournment sine die or  
10 expiration of the legislative session in an even-numbered  
11 year, the commission shall deliver its order on the fourth  
12 Monday of January of the next year.

13 (2) If either committee has not been designated by the  
14 fourth Monday in January, the commission may not deliver its  
15 order to the committees until both committees are designated,  
16 but the commission shall deliver its order no later than the  
17 second Monday after the date by which both committee  
18 designations have been published in the Pennsylvania  
19 Bulletin.

20 (3) If the commission does not deliver its order  
21 disapproving the agency's report and revised final-form or  
22 final-omitted regulation in the time prescribed under this  
23 subsection, the commission shall be deemed to have approved  
24 the agency's report and the revised final-form or final-  
25 omitted regulation.

26 (d) Legislative presentation by concurrent resolution.--Upon  
27 receipt of the commission's order under subsection (c.1) or at  
28 the expiration of the commission's review period if the  
29 commission does not act on the regulation or does not deliver  
30 its order under subsection (c.1), one or both of the committees



1 may, within 14 calendar days, report to the Senate or House of  
2 Representatives a concurrent resolution and notify the agency.  
3 During the 14-calendar-day period, the agency may not promulgate  
4 the final-form or final-omitted regulation.

5 (1) If, by the expiration of the 14-calendar-day period,  
6 neither committee reports a concurrent resolution, the  
7 committees shall be deemed to have approved the final-form or  
8 final-omitted regulation, and the agency may promulgate that  
9 regulation.

10 (2) If either committee reports a concurrent resolution  
11 before the expiration of the 14-day period, the Senate and  
12 the House of Representatives shall each have 30 calendar days  
13 or ten legislative days, whichever is longer, from the date  
14 on which the concurrent resolution has been reported, to  
15 adopt the concurrent resolution.

16 (3) If the General Assembly adopts the concurrent  
17 resolution by majority vote in both the Senate and the House  
18 of Representatives, the concurrent resolution shall be  
19 presented to the Governor in accordance with section 9 of  
20 Article III of the Constitution of Pennsylvania.

21 (4) If the Governor does not return the concurrent  
22 resolution to the General Assembly within ten calendar days  
23 after it is presented, the Governor shall be deemed to have  
24 approved the concurrent resolution.

25 (5) If the Governor vetoes the concurrent resolution,  
26 the General Assembly may override that veto by a two-thirds  
27 vote in each house. The Senate and the House of  
28 Representatives shall each have 30 calendar days or ten  
29 legislative days, whichever is longer, to override the veto.

30 (6) If the General Assembly does not adopt the

1 concurrent resolution or override the veto in the time  
2 prescribed under this subsection, it shall be deemed to have  
3 approved the final-form or final-omitted regulation.

4 (7) Notice as to any final disposition of a concurrent  
5 resolution considered in accordance with this section shall  
6 be published in the Pennsylvania Bulletin.

7 (8) If the General Assembly adopts the concurrent  
8 resolution and the Governor approves or is deemed to have  
9 approved the concurrent resolution or if the General Assembly  
10 overrides the Governor's veto of the concurrent resolution,  
11 the agency shall be barred from promulgating the final-form  
12 or final-omitted regulation. The bar on promulgation of the  
13 final-form or final-omitted regulation shall continue until  
14 that regulation has been approved or deemed approved in  
15 accordance with this subsection.

16 (9) If the General Assembly does not adopt the  
17 concurrent resolution or if the Governor vetoes the  
18 concurrent resolution and the General Assembly does not  
19 override the Governor's veto, the agency may promulgate the  
20 final-form or final-omitted regulation. The General Assembly  
21 may, at its discretion, adopt a concurrent resolution  
22 disapproving the final-form or final-omitted regulation to  
23 indicate the intent of the General Assembly but permit the  
24 agency to promulgate that regulation.

25 § 337.1. Classification of documents.

26 If the commission or a committee finds that a published or  
27 unpublished document should be promulgated as a regulation, the  
28 commission or committee may present the matter to the Joint  
29 Committee on Documents. The Joint Committee on Documents shall  
30 determine whether the document should be promulgated as a

1 regulation and may order an agency either to promulgate the  
2 document as a regulation within 180 days or to desist from the  
3 use of the document in the business of the agency.

4 § 338. Changes in final-form and final-omitted regulations.

5 (a) General rule.--Except as provided in subsection (b), an  
6 agency may not make changes to a final-form or final-omitted  
7 regulation after that regulation has been approved or has been  
8 deemed approved by the committees or the commission under this  
9 subchapter.

10 (b) Exception.--Subsection (a) shall not apply to changes  
11 made at the direction of the Office of Attorney General under  
12 its review under section 313 (relating to Attorney General).

13 § 338.1. Existing regulations.

14 The commission, on its motion or at the request of any person  
15 or member of the General Assembly, may review an existing  
16 regulation which has been in effect for at least three years. If  
17 a committee of the Senate or the House of Representatives  
18 requests a review of an existing regulation, the commission  
19 shall perform the review and shall assign it high priority. The  
20 commission may submit recommendations to an agency recommending  
21 changes in existing regulations if it finds the existing  
22 regulations to be contrary to the public interest under the  
23 criteria established under section 335.2 (relating to criteria  
24 for review of regulations). The commission may also make  
25 recommendations to the General Assembly and the Governor for  
26 statutory changes if the commission finds that any existing  
27 regulation may be contrary to the public interest.

28 § 339. Commission staff.

29 (a) Executive director and other employees.--The commission  
30 shall appoint and fix the compensation of a full-time executive

1 director, who shall be responsible for the general supervision  
2 of all the affairs of the commission and for performing any  
3 administrative function or duty which the commission may  
4 delegate to the executive director. The commission shall appoint  
5 and fix the compensation of such other employees as the  
6 commission may find necessary for the proper operation of the  
7 commission.

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

13 § 340. Subpoena power.

14 The commission has the authority to issue subpoenas for the  
15 purpose of requiring the attendance of persons and the  
16 production of documents relating to any function which the  
17 commission or its staff is authorized to perform under this  
18 subchapter. The chairperson or the executive director may sign a  
19 subpoena. The subpoena may be served in any manner authorized  
20 under the laws of this Commonwealth. The commission is  
21 authorized to apply to the Commonwealth Court to enforce its  
22 subpoenas.

23 § 341. Regulations; annual reports; hearings and advisory group  
24 meetings.

25 (a) Regulations.--

26 (1) The commission, in the performance of its functions  
27 under this subchapter, has the power to promulgate and  
28 enforce regulations necessary to carry out the purposes of  
29 this subchapter.

30 (2) Regulations must be promulgated in accordance with

1 the procedures established under Subchapter A (relating to  
2 commonwealth documents law).

3 (3) The regulations shall provide for the commission's  
4 notification of filings of final-form and final-omitted  
5 regulations to parties likely to be affected by the final-  
6 form and final-omitted regulations through publication of a  
7 notice in the Pennsylvania Bulletin.

8 (4) Prior to the regulations taking effect, the  
9 requirements of this subchapter must be satisfied. For the  
10 purposes of reviewing the regulations of the commission and  
11 otherwise satisfying the requirements of this subchapter, the  
12 Joint Committee on Documents shall exercise the rights and  
13 perform the functions of the commission and the commission  
14 shall exercise the rights and perform the functions of an  
15 agency under this subchapter.

16 (b) Annual report.--By April 1, the commission shall file an  
17 annual report of its activities for the prior calendar year with  
18 the Governor, the Secretary of the Senate and the Chief Clerk of  
19 the House of Representatives.

20 (c) Hearings.--The commission may hold public hearings on  
21 any matter before the commission and may meet with advisory  
22 groups regarding matters before the commission.

23 § 342. Clearinghouse.

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

1 the commission. When the commission files its annual report as  
2 provided under section 341 (relating to regulations; annual  
3 reports; hearings and advisory group meetings), the commission  
4 shall include within it a summary of public complaint and  
5 comment along with any recommendations the commission may offer  
6 for statutory change.

7 § 342.1. Gubernatorial review.

8 The Governor may institute procedures for the review and  
9 approval of regulations promulgated by executive agencies prior  
10 to their submittal for review under this subchapter, including  
11 the establishment of a task force or committee, by executive  
12 order. The Governor may also establish procedures for the  
13 effective coordination of the review of regulations under  
14 Subchapters B (relating to legal review) and C (relating to  
15 fiscal review) and section 2203-A of the act of April 9, 1929  
16 (P.L.177, No.175), known as The Administrative Code of 1929.

17 Section 3. Repeals are as follows:

18 (1) The General Assembly declares as follows:

19 (i) The repeal under paragraph (2)(ii) is necessary  
20 to effectuate the addition of 2 Pa.C.S. Ch. 3 Subch. A.

21 (ii) The repeal under paragraph (2)(iii) is  
22 necessary to effectuate the addition of 2 Pa.C.S. Ch. 3  
23 Subch. B.

24 (iii) The repeal under paragraph (2)(i) is necessary  
25 to effectuate the addition of 2 Pa.C.S. Ch. 3 Subch. C.

26 (iv) The repeal under paragraph (2)(iv) is necessary  
27 to effectuate the addition of 2 Pa.C.S. Ch. 3 Subch. D.

28 (2) The following acts and parts of acts are repealed:

29 (i) Section 612 of the act of April 9, 1929

30 (P.L.177, No.175), known as The Administrative Code of

1 1929.

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

4 (iii) Sections 204(b) and 301(10) of the act of  
5 October 15, 1980 (P.L.950, No.164), known as the  
6 Commonwealth Attorneys Act.

7 (iv) The act of June 25, 1982 (P.L.633, No.181),  
8 known as the Regulatory Review Act.

9 Section 4. Continuation is as follows:

10 (1) The addition of 2 Pa.C.S. Ch. 3 Subch. A is a  
11 continuation of the act of July 31, 1968 (P.L.769, No.240),  
12 referred to as the Commonwealth Documents Law. The following  
13 apply:

14 (i) Except as otherwise provided in 2 Pa.C.S. Ch. 3  
15 Subch. A, all activities initiated under the Commonwealth  
16 Documents Law shall continue and remain in full force and  
17 effect and may be completed under 2 Pa.C.S. Ch. 3 Subch.  
18 A. Orders, regulations, rules and decisions which were  
19 made under the Commonwealth Documents Law and which are  
20 in effect on the effective date of section 3(2)(ii) of  
21 this act shall remain in full force and effect until  
22 revoked, vacated or modified under 2 Pa.C.S. Ch. 3 Subch.  
23 A. Contracts, obligations and collective bargaining  
24 agreements entered into under the Commonwealth Documents  
25 Law are not affected nor impaired by the repeal of the  
26 Commonwealth Documents Law.

27 (ii) Except as set forth in subparagraph (iii), any  
28 difference in language between 2 Pa.C.S. Ch. 3 Subch. A  
29 and the Commonwealth Documents Law is intended only to  
30 conform to the style of the Pennsylvania Consolidated

1 Statutes and is not intended to change or affect the  
2 legislative intent, judicial construction or  
3 administration and implementation of the Commonwealth  
4 Documents Law.

5 (iii) (Reserved).

6 (2) The addition of 2 Pa.C.S. Ch. 3 Subch. B is a  
7 continuation of sections 204(b) and 301(10) of the act of  
8 October 15, 1980 (P.L.950, No.164), known as the Commonwealth  
9 Attorneys Act. The following apply:

10 (i) Except as otherwise provided in 2 Pa.C.S. Ch. 3  
11 Subch. B, all activities initiated under sections 204(b)  
12 and 301(10) of the Commonwealth Attorneys Act shall  
13 continue and remain in full force and effect and may be  
14 completed under 2 Pa.C.S. Ch. 3 Subch. B. Orders,  
15 regulations, rules and decisions which were made under  
16 sections 204(b) and 301(10) of the Commonwealth Attorneys  
17 Act and which are in effect on the effective date of  
18 section 3(2)(iii) of this act shall remain in full force  
19 and effect until revoked, vacated or modified under 2  
20 Pa.C.S. Ch. 3 Subch. B. Contracts, obligations and  
21 collective bargaining agreements entered into under  
22 sections 204(b) and 301(10) of the Commonwealth Attorneys  
23 Act are not affected nor impaired by the repeal of  
24 sections 204(b) and 301(10) of the Commonwealth Attorneys  
25 Act.

26 (ii) Except as set forth in subparagraph (iii), any  
27 difference in language between 2 Pa.C.S. Ch. 3 Subch. B  
28 and sections 204(b) and 301(10) of the Commonwealth  
29 Attorneys Act is intended only to conform to the style of  
30 the Pennsylvania Consolidated Statutes and is not



1 intended to change or affect the legislative intent,  
2 judicial construction or administration and  
3 implementation of sections 204(b) and 301(10) of the  
4 Commonwealth Attorneys Act.

5 (iii) Subparagraph (ii) does not apply to the  
6 addition of 2 Pa.C.S. § 311.

7 (3) The addition of 2 Pa.C.S. Ch. 3 Subch. C is a  
8 continuation of section 612 of the act of April 9, 1929  
9 (P.L.177, No.175), known as The Administrative Code of 1929.  
10 The following apply:

11 (i) Except as otherwise provided in 2 Pa.C.S. Ch. 3  
12 Subch. C, all activities initiated under section 612 of  
13 The Administrative Code of 1929 shall continue and remain  
14 in full force and effect and may be completed under 2  
15 Pa.C.S. Ch. 3 Subch. C. Orders, regulations, rules and  
16 decisions which were made under section 612 of The  
17 Administrative Code of 1929 and which are in effect on  
18 the effective date of section 3(2)(i) of this act shall  
19 remain in full force and effect until revoked, vacated or  
20 modified under 2 Pa.C.S. Ch. 3 Subch. C. Contracts,  
21 obligations and collective bargaining agreements entered  
22 into under section 612 of The Administrative Code of 1929  
23 are not affected nor impaired by the repeal of section  
24 612 of The Administrative Code of 1929.

25 (ii) Except as set forth in subparagraph (iii), any  
26 difference in language between 2 Pa.C.S. Ch. 3 Subch. C  
27 and section 612 of The Administrative Code of 1929 is  
28 intended only to conform to the style of the Pennsylvania  
29 Consolidated Statutes and is not intended to change or  
30 affect the legislative intent, judicial construction or

1 administration and implementation of section 612 of The  
2 Administrative Code of 1929.

3 (iii) Subparagraph (ii) does not apply to the  
4 addition of 2 Pa.C.S. § 321.

5 (4) The addition of 2 Pa.C.S. Ch. 3 Subch. D is a  
6 continuation of the act of June 25, 1982 (P.L.633, No.181),  
7 known as the Regulatory Review Act. The following apply:

8 (i) Except as otherwise provided in 2 Pa.C.S. Ch. 3  
9 Subch. D, all activities initiated under the Regulatory  
10 Review Act shall continue and remain in full force and  
11 effect and may be completed under 2 Pa.C.S. Ch. 3 Subch.  
12 D. Orders, regulations, rules and decisions which were  
13 made under the Regulatory Review Act and which are in  
14 effect on the effective date of section 3(iv) of this act  
15 shall remain in full force and effect until revoked,  
16 vacated or modified under 2 Pa.C.S. Ch. 3 Subch. D.  
17 Contracts, obligations and collective bargaining  
18 agreements entered into under the Regulatory Review Act  
19 are not affected nor impaired by the repeal of the  
20 Regulatory Review Act.

21 (ii) Except as set forth in subparagraph (iii), any  
22 difference in language between 2 Pa.C.S. Ch. 3 Subch. D  
23 and the Regulatory Review Act is intended only to conform  
24 to the style of the Pennsylvania Consolidated Statutes  
25 and is not intended to change or affect the legislative  
26 intent, judicial construction or administration and  
27 implementation of the Regulatory Review Act.

28 (iii) (Reserved).

29 Section 5. This act shall take effect in 60 days.