
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1395 Session of
2019

INTRODUCED BY ECKER, GROVE, HERSHEY, ZIMMERMAN, ROTHMAN,
B. MILLER, SAYLOR, KLUNK AND MOUL, MAY 2, 2019

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 2, 2019

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, providing for regulatory review;
3 making a related repeal; and making an editorial change.

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

6 Section 1. The heading of Part V of Title 71 of the
7 Pennsylvania Consolidated Statutes is amended to read:

8 PART V

9 BOARDS, COMMISSIONS AND OFFICES

10 Section 2. Title 71 is amended by adding chapters to read:

11 CHAPTER 42

12 PRELIMINARY PROVISIONS

13 (Reserved)

14 CHAPTER 43

15 REGULATORY REVIEW

16 Sec.

17 4301. Short title of chapter.

18 4302. Legislative intent.

1 4303. Definitions.
2 4304. Composition of commission, membership, compensation,
3 vacancies and removal.
4 4305. Proposed regulations and procedures for review.
5 4306. Final-form and final-omitted regulations and procedures
6 for review.
7 4307. Criteria for review of regulations.
8 4308. Regulatory review and promulgation.
9 4309. Procedures for disapproval of final-form and final-
10 omitted regulations and emergency-certified
11 regulations.
12 4310. Procedures for subsequent review of disapproved final-
13 form or final-omitted regulations.
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15 4312. Changes in final-form and final-omitted regulations.
16 4313. Existing regulations.
17 4314. Commission staff.
18 4315. Subpoena power.
19 4316. Regulations, annual reports, hearings and advisory group
20 meetings.
21 4317. Clearinghouse.
22 4318. Gubernatorial review.
23 § 4301. Short title of chapter.
24 This chapter shall be known and may be cited as the
25 Regulatory Review Act.
26 § 4302. Legislative intent.
27 (a) Declaration.--The General Assembly has enacted a large
28 number of statutes and has conferred on boards, commissions,
29 departments and agencies within the executive branch of
30 government the authority to adopt rules and regulations to

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

23 (b) Findings.--This chapter is intended to improve State
24 rulemaking by creating procedures to analyze the availability of
25 more flexible regulatory approaches for small businesses in
26 accordance with the following findings:

27 (1) A vibrant and growing small business sector is
28 critical to creating jobs in a dynamic economy.

29 (2) Small businesses bear a disproportionate share of
30 regulatory costs and burdens.

1 (3) Fundamental changes that are needed in the
2 regulatory and enforcement culture of agencies to make them
3 more responsive to small business can be made without
4 compromising the statutory missions of the agencies.

5 (4) When adopting regulations to protect the health,
6 safety and economic welfare of the Commonwealth, agencies
7 should seek to achieve statutory goals as effectively and
8 efficiently as possible without imposing unnecessary burdens
9 on small business.

10 (5) Uniform regulatory and reporting requirements can
11 impose unnecessary and disproportionately burdensome demands,
12 including legal, accounting and consulting costs, upon small
13 businesses with limited resources.

14 (6) The failure to recognize differences in the scale
15 and resources of regulated businesses can adversely affect
16 competition in the marketplace, discourage innovation and
17 restrict improvements in productivity.

18 (7) Unnecessary regulations create entry barriers in
19 many industries and discourage potential entrepreneurs from
20 introducing beneficial products and processes.

21 (8) The practice of treating all regulated businesses
22 similarly may lead to inefficient use of regulatory agency
23 resources, enforcement problems and, in some cases, to
24 actions inconsistent with the legislative intent of health,
25 safety, environmental and economic welfare legislation.

26 (9) Alternative regulatory approaches that do not
27 conflict with the stated objective of applicable statutes may
28 be available to minimize the significant economic impact of
29 rules on small businesses.

30 (10) The process by which State regulations are

1 developed and adopted should be reformed to require agencies
2 to solicit the ideas and comments of small businesses, to
3 examine the impact of proposed and existing rules on the
4 businesses and to review the continued need for existing
5 rules.

6 (c) No cause of action.--This chapter is not intended to
7 create a right or benefit, substantive or procedural,
8 enforceable at law by a person against another person or against
9 the Commonwealth, its agencies or its officers.

10 § 4303. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Acceptable data." Empirical, replicable and testable data
15 as evidenced in supporting documentation, statistics, reports,
16 studies or research.

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

24 "Commission." The Independent Regulatory Review Commission.

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 of Representatives. The
29 designation shall prescribe the jurisdiction of each standing
30 committee over the various State agencies for purposes of this

1 chapter. The designation shall be transmitted to the Legislative
2 Reference Bureau for 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 previously published
10 as a proposed regulation under the Commonwealth Documents Law
11 which an agency submits to the commission and the committees
12 following the close of the public comment period.
13 "Final-omitted regulation." A regulation which an agency
14 submits to the commission and the committees for which the
15 agency has omitted notice of proposed rulemaking under section
16 204 of the Commonwealth Documents Law.
17 "Promulgate." To publish an order adopting a final-form or
18 final-omitted regulation in accordance with the the Commonwealth
19 Documents Law.
20 "Proposed regulation." A document intended for promulgation
21 as a regulation which an agency submits to the commission and
22 the committees and for which the agency gives notice of proposed
23 rulemaking and holds a public comment period under the
24 Commonwealth Documents Law.
25 "Regulation." Any rule or regulation, or order in the nature
26 of a rule or regulation, promulgated by an agency under
27 statutory authority in the administration of any statute
28 administered by or relating to the agency or amending, revising
29 or otherwise altering the terms and provisions of an existing
30 regulation, or prescribing the practice or procedure before the

1 agency. The term shall also include actions of the Pennsylvania
2 Liquor Control Board which have an effect on the discount rate
3 for retail licensees. The term shall not include a proclamation,
4 executive order, directive or similar document issued by the
5 Governor, but shall include a regulation which may be
6 promulgated by an agency, only with the approval of the
7 Governor.

8 "Small business." As defined in accordance with the size
9 standards described by the United States Small Business
10 Administration's Small Business Size Regulations under 13 CFR
11 Ch. 1 Part 121 (relating to Small Business Size Regulations) or
12 its successor regulation.

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

17 § 4304. Composition of commission, membership, compensation,
18 vacancies and removal.

19 (a) Composition.--The Independent Regulatory Review
20 Commission shall consist of five members to be known as
21 commissioners. One commissioner shall be appointed by the
22 Governor to serve at the Governor's pleasure, one by the
23 President pro tempore of the Senate, one by the Minority Leader
24 of the Senate, one by the Speaker of the House of
25 Representatives and one by the Minority Leader of the House of
26 Representatives. A member of the General Assembly or any other
27 officer or employee of State government may not serve as a
28 commissioner but a commissioner may serve on advisory boards and
29 commissions or on other boards and commissions that do not
30 promulgate any rules and regulations that may come before the

1 commission for review under this chapter.

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

4 (c) Vacancy.--An appointment to fill a vacancy for the
5 remainder of the unexpired term shall be made in the same manner
6 as set forth in subsection (a). On the expiration of a
7 commissioner's term of office, the commissioner shall continue
8 to hold office until a successor is appointed.

9 (d) Compensation.--The commissioner who is elected to serve
10 as the chairperson under subsection (h) shall receive \$300 per
11 day as compensation for services rendered to the commission.
12 Each of the other commissioners shall receive \$250 per day as
13 compensation for services rendered to the commission. A
14 commissioner shall also be entitled to reimbursement for travel
15 and other necessary expenses incurred as a result of official
16 duties. The expenses incurred by a commissioner, or by an
17 employee of the commission, shall be paid on the presentation of
18 itemized vouchers for incurred expenses, subject to the approval
19 of the commission.

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

30 (f) Suspension of commissioner.--A commissioner formally

1 charged before a court of record with the commission of a felony
2 or with a misdemeanor under 18 Pa.C.S. Pt. II Art. E (relating
3 to offenses against public administration) shall immediately be
4 suspended as a commissioner until the charge is dismissed or a
5 verdict of acquittal is announced. If a commissioner pleads
6 guilty or nolo contendere or is found guilty of the offense, or
7 receives probation without verdict, disposition in lieu of trial
8 or an Accelerated Rehabilitative Disposition for felony or
9 misdemeanor charges in this Commonwealth or in any other
10 jurisdiction, that commissioner shall immediately be removed
11 from the commission upon announcement of the verdict or
12 disposition by the court or upon the court's acceptance of a
13 plea of guilty or nolo contendere.

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

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

27 (h) Chairperson.--The commission shall elect a chairperson,
28 who shall serve for a term of two years and until a successor is
29 elected. The chairperson shall preside at meetings of the
30 commission and shall execute documents relating to the formal

1 actions of the commission.

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

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

21 § 4305. Proposed regulations and procedures for review.

22 (a) Agency submission.--On the same date that an agency
23 submits a proposed regulation to the Legislative Reference
24 Bureau for publication of notice of proposed rulemaking in the
25 Pennsylvania Bulletin as required by the Commonwealth Documents
26 Law, the agency shall submit to the commission and the
27 committees a copy of the proposed regulation and a regulatory
28 analysis form which includes the following:

29 (1) The title of the agency and the names, office
30 addresses and telephone numbers of the agency officials

1 responsible for responding to questions regarding the
2 regulation or for receiving comments relating to the
3 regulation.

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

10 (3) A concise and, when possible, nontechnical
11 explanation of the proposed regulation.

12 (4) A statement of the need for the regulation.

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

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

26 (7) The following notifications and dates:

27 (i) A schedule for review of the proposed
28 regulation, including the date by which the agency must
29 receive comments.

30 (ii) The date or dates on which public hearings will

1 be held.

2 (iii) The expected date of promulgation of the
3 proposed regulation as a final-form regulation.

4 (iv) The expected effective date of the final-form
5 regulation.

6 (v) The date by which compliance with the final-form
7 regulation will be required.

8 (vi) The date by which required permits, licenses or
9 other approvals must be obtained.

10 (8) An identification of the types of persons, small
11 businesses, businesses and organizations that would be
12 affected by the regulation.

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

19 (10) An economic impact statement for a proposed
20 regulation that may have an adverse impact on small
21 businesses that includes the following:

22 (i) An identification and estimate of the number of
23 small businesses subject to the proposed regulation.

24 (ii) The projected reporting, recordkeeping and
25 other administrative costs required for compliance with
26 the proposed regulation, including the type of
27 professional skills necessary for preparation of the
28 report or record.

29 (iii) A statement of the probable effect on impacted
30 small businesses.

1 (iv) A description of any less intrusive or less
2 costly alternative methods of achieving the purpose of
3 the proposed regulation.

4 (11) A description of any special provisions that have
5 been developed to meet the particular needs of affected
6 groups and persons, including minorities, the elderly, small
7 businesses and farmers.

8 (12) A description of any alternative regulatory
9 provisions which have been considered and rejected and a
10 statement that the least burdensome acceptable alternative
11 has been selected.

12 (13) A regulatory flexibility analysis in which the
13 agency shall, where consistent with health, safety,
14 environmental and economic welfare, consider utilizing
15 regulatory methods that will accomplish the objectives of
16 applicable statutes while minimizing adverse impact on small
17 businesses. The agency shall consider, without limitation,
18 each of the following methods of reducing the impact of the
19 proposed regulation on small businesses:

20 (i) the establishment of less stringent compliance
21 or reporting requirements for small businesses;

22 (ii) the establishment of less stringent schedules
23 or deadlines for compliance or reporting requirements for
24 small businesses;

25 (iii) the consolidation or simplification of
26 compliance or reporting requirements for small
27 businesses;

28 (iv) the establishment of performance standards for
29 small businesses to replace design or operational
30 standards required in the proposed regulation; and

1 (v) the exemption of small businesses from all or
2 any part of the requirements contained in the proposed
3 regulation.

4 (14) A description of the plan developed for evaluating
5 the continuing effectiveness of the regulation after the
6 regulation's implementation.

7 (15) A description of any data that a regulation is
8 based on with a detailed explanation of how the data was
9 obtained and why the data is acceptable data. An agency
10 advocating that any data is acceptable data shall have the
11 burden of proving that the data is acceptable.

12 (b) Possibility for alternative information in Notice of
13 Proposed Rulemaking.--The requirements of subsection (a) shall
14 not diminish the requirements of section 201 of the Commonwealth
15 Documents Law, but the information required by this section may
16 be included in the notice of proposed rulemaking published in
17 the Pennsylvania Bulletin in lieu of the information required by
18 section 201(2) and (3) of the Commonwealth Documents Law. The
19 agency shall hold a public comment period which shall commence
20 with the publication of the notice of proposed rulemaking and
21 shall continue for not less than 30 days unless section 203(1)
22 or (2) of the Commonwealth Documents Law applies.

23 (c) Submission of copies of comments and reports.--From the
24 date of submission of the proposed regulation, the agency shall
25 submit to the commission and the committees, within five
26 business days of receipt, a copy of comments which the agency
27 receives relating to the proposed regulation. The agency shall
28 also, upon request, submit to the commission and the committees
29 copies of reports from advisory groups and other documents
30 received from or disseminated to the public relating to the

1 proposed regulation and public notices or announcements relating
2 to solicitation of public comments or meetings which the agency
3 held or will hold relating to the proposed regulation.

4 (d) Committee submission of comments, recommendations and
5 objections.--The committees may, at any time prior to the
6 submittal of the regulation in final form, convey to the agency
7 and the commission the committee's comments, recommendations and
8 objections to the proposed regulation and a copy of any staff
9 reports deemed pertinent. The comments, recommendations and
10 objections may refer to the criteria in section 4307 (relating
11 to criteria for review of regulations).

12 (e) Agency action guidelines.--An agency may not submit a
13 proposed regulation to the committees for review during the
14 period from the end of the legislative session in an even-
15 numbered year to the date by which both committees have been
16 designated in the next succeeding legislative session, but an
17 agency may submit a proposed regulation and the material
18 required under subsection (a) to the commission and the
19 Legislative Reference Bureau during this period in accordance
20 with subsection (a). The public comment period shall commence
21 with the publication of the notice of proposed rulemaking and
22 end on the date designated by the agency under subsection (b).
23 The agency shall submit the proposed regulation and required
24 material to the committees no later than the second Monday after
25 the date that both committee designations have been published in
26 the Pennsylvania Bulletin. If the agency does not deliver the
27 proposed regulation and all material required under this section
28 in the time prescribed in this subsection, the agency shall be
29 deemed to have withdrawn the proposed regulation.

30 (f) Commission conveyance of recommendation or objection.--

1 The commission may, within 30 days after the close of the public
2 comment period, convey to the agency and committees any
3 comments, recommendations and objections to the proposed
4 regulation. Each comment, recommendation and objection shall
5 specify the regulatory review criterion set forth in section
6 4307 which the proposed regulation has not met. If the
7 commission does not comment on, make recommendations regarding
8 or object to any portion of the proposed regulation within the
9 time provided in this subsection, the commission shall be deemed
10 to have approved that portion of the proposed regulation.

11 Disapproval of the final-form regulation by the commission shall
12 relate only to:

13 (1) comments, recommendations and objections raised by
14 the commission to the proposed regulation;

15 (2) changes that the agency made to the proposed
16 regulation; or

17 (3) recommendations, comments or objections that a
18 committee conveyed to the agency or the commission.

19 (g) Commission submission of comment to agency.--The
20 commission shall provide comments to the agency if the required
21 submissions under subsection (a) (8), (9), (10) and (13)
22 demonstrate an adverse impact on small businesses.

23 § 4306. Final-form and final-omitted regulations and procedures
24 for review.

25 (a) Agency review of comments.--The agency shall review and
26 consider public comments and the comments of the committees and
27 commission under this section. Within five business days of
28 receipt of a public comment, the agency shall notify the
29 commentator of the agency's address and telephone number where
30 the commentator may submit a request for the information

1 concerning the final-form regulation under subsection (b). On
2 completion of the agency's review of comments, the agency shall
3 submit to the commission and the committees a copy of its
4 response to the comments received, the names and addresses of
5 commentators who have requested additional information relating
6 to the final-form regulation and the text of the final-form
7 regulation which the agency intends to adopt. If an agency does
8 not submit or withdraws and does not resubmit the final-form
9 regulation within two years of the close of the public comment
10 period but still desires to promulgate the final-form
11 regulation, the agency shall republish the regulation as a
12 proposed regulation with a new public comment period in
13 accordance with the Commonwealth Documents Law. If the agency is
14 prevented from delivering its final-form regulation to the
15 commission and the committees within the time period provided
16 for in this subsection because of the adjournment sine die or
17 expiration of the legislative session in an even-numbered year,
18 the agency shall deliver its final-form regulation in accordance
19 with subsection (e).

20 (b) Agency submission of notice and copy of final-form
21 regulation.--On the same date that the agency submits the
22 material required in subsection (a) to the commission and the
23 committees, the agency shall send a notice of submission and a
24 copy of the text of the final-form regulation or a copy of all
25 changes to the proposed regulation which are incorporated into
26 the final-form regulation to each commentator who requested this
27 information under subsection (a). The agency shall not be
28 responsible for notifying each party whose name appears on
29 petitions or membership lists who did not present individual
30 comments on the regulation.

1 (c) Agency submission of final-omitted regulations to
2 commission.--The agency shall submit final-omitted regulations
3 to the commission and the committees for review under this
4 section on the same date that the agency submits the regulations
5 to the Attorney General for review under section 204(b) of the
6 Commonwealth Attorneys Act. The requirements of section 4305
7 (relating to proposed regulations and procedures for review),
8 except for the requirements for holding a public comment period
9 and for notifying commentators, are applicable to final-omitted
10 regulations. If the agency makes revisions under subsection (f),
11 the agency shall deliver copies of the revisions to the Attorney
12 General on the same date that the agency delivers the revisions
13 to the commission and the committees.

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

24 (e) Agency deadline for delivery of final-form or final-
25 omitted regulation.--An agency may not deliver a final-form or
26 final-omitted regulation to the commission and the committees
27 after the adjournment sine die or expiration of the legislative
28 session in an even-numbered year. The agency may not deliver the
29 final-form or final-omitted regulation until the fourth Monday
30 in January of the next year. On that date, the agency shall

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

7 (f) Changes to final-form or final-omitted regulations
8 prohibited after submission.--Except as provided in this
9 subsection, the agency may not make any changes to a final-form
10 or final-omitted regulation after the agency submits the final-
11 form or final-omitted regulation to the commission and the
12 committees. The following shall apply:

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

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

1 (3) The committees shall have the remainder of the 20-
2 day review period or 10 days from the date of receipt of the
3 revised final-form or final-omitted regulation or written
4 notification under paragraph (2), whichever is longer, to
5 take action under subsection (i) or (j), and the commission
6 may have until its next scheduled meeting which occurs after
7 the expiration of the committee review period but not less
8 than 15 days after receipt of the revised final-form or
9 final-omitted regulation or written notification under
10 paragraph (2) to review the final-form or final-omitted
11 regulation. If the commission does not disapprove the final-
12 form or final-omitted regulation or a committee does not
13 notify the commission and the agency that it has disapproved
14 the regulation or that it intends to review the regulation
15 under subsection (i), within the respective time periods, the
16 regulation shall be deemed approved.

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

19 (5) The agency may not submit revisions or notification
20 that the regulation will not be revised after the adjournment
21 sine die or the expiration of the legislative session in an
22 even-numbered year. If the committees and the commission are
23 prevented from completing their review under 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 (j).

28 (g) Acceptance of public comment timeline.--The commission
29 shall accept public comments only up to 48 hours prior to the
30 commission's public meeting unless the comments are submitted at

1 the request of the commission. The commission shall receive
2 comments from the agency or members of the General Assembly
3 until the commission acts on the regulation. The commission
4 shall transmit comments received during the 48-hour period prior
5 to the commission's public meeting to the agency and the
6 committees on receipt. The commission shall accept additional
7 public comments only after the public meeting has been called to
8 order.

9 (h) Timeline for committee action.--A committee shall have
10 at least 20 days from receipt of the information required under
11 subsection (a) or receipt of the information required under
12 subsection (c) to take action under subsection (i). If the
13 committees are prevented from completing their 20-day review
14 because of the adjournment sine die or expiration of the
15 legislative session in an even-numbered year, the committee's
16 review of the final-form or final-omitted regulation shall
17 automatically be suspended until the fourth Monday in January of
18 the next year. On that date, the agency shall resubmit the
19 final-form or final-omitted regulation and required material to
20 the committees and the commission. If either committee has not
21 been designated by the fourth Monday in January, the agency may
22 not deliver the final-form or final-omitted regulation and
23 required material to the commission and the committees until
24 both committees have been designated. If the agency does not
25 deliver the final-form or final-omitted regulation and required
26 material to the commission and the committees by the second
27 Monday after the date by which both committee designations have
28 been published in the Pennsylvania Bulletin, the agency shall be
29 deemed to have withdrawn the regulation. In computing the
30 remaining time for committee review, the number of days in which

1 the committees have had the final-form or the final-omitted
2 regulation under review as of the adjournment sine die or
3 expiration of the prior session shall be subtracted from the 20-
4 day committee review period, but the committee review period in
5 the next succeeding legislative session shall not be less than
6 10 days. The commission shall not act on a regulation until the
7 committee review period has expired. This section shall not
8 apply to emergency-certified regulations adopted under the
9 provisions of section 4309(c) (relating to procedures for
10 disapproval of final-form and final-omitted regulations and
11 emergency-certified regulations).

12 (i) Committee notification of commission and agency of
13 approval or disapproval of final-form or final-omitted
14 regulations.--At any time during the commission's review period
15 up to 24 hours prior to the opening of the commission's public
16 meeting, a committee may notify the commission and the agency
17 that it has approved or disapproved a final-form or final-
18 omitted regulation or that it intends to review the regulation.
19 If the commission approves a regulation and a committee has not
20 notified the commission and the agency that it has disapproved
21 the regulation or that it intends to review the regulation, the
22 agency may promulgate the regulation. If the commission approves
23 a regulation and a committee has notified the commission and the
24 agency that it has disapproved the regulation or that it intends
25 to review the regulation, the agency may not promulgate the
26 regulation for 14 days after the committee has received the
27 commission's approval order. During this 14-day period, the
28 committee may take action on the regulation under section
29 4310(e) (relating to procedures for subsequent review of
30 disapproved final-form or final-omitted regulations). If at the

1 expiration of the 14-day period the committee has not taken
2 action on the regulation under section 4310(e), the agency may
3 promulgate the regulation.

4 (j) Suspension of review.--If the committees are prevented
5 from completing their 14-day review because of adjournment sine
6 die or expiration of the legislative session in an even-numbered
7 year, their review of the final-form or final-omitted regulation
8 shall automatically be suspended until the fourth Monday in
9 January of the next year. On that date, the agency shall
10 resubmit the final-form or final-omitted regulation and required
11 material to the committees and the commission. If either
12 committee has not been designated by the fourth Monday in
13 January, the agency may not deliver the final-form or final-
14 omitted regulation and required material to the committees and
15 the commission until both committees are designated. If the
16 agency does not deliver the final-form or final-omitted
17 regulation and required material to the commission and the
18 committees by the second Monday after the date by which both
19 committee designations have been published in the Pennsylvania
20 Bulletin, the agency shall be deemed to have withdrawn the
21 final-form or final-omitted regulation. In determining the
22 remaining time for committee review, the number of days in which
23 the committees have had the final-form or the final-omitted
24 regulation under review as of the adjournment sine die or
25 expiration of the prior session shall be subtracted from the 14-
26 day committee review period, but the committee review period in
27 the next succeeding legislative session shall not be less than
28 10 days. An agency may not submit a final-form or final-omitted
29 regulation to the commission or the committees for review during
30 the period from the adjournment sine die or expiration of the

1 legislative session of an even-numbered year to the date by
2 which both committees have been designated in the next
3 succeeding legislative session. This subsection shall not apply
4 to emergency-certified regulations adopted under the provisions
5 of section 4309(c).

6 (k) Commission disapproval of regulation.--If the commission
7 disapproves a final-form or final-omitted regulation, the
8 commission, the committees and the agency will proceed in
9 accordance with section 4309.

10 (l) Comments to become public record.--The commission shall
11 note and shall make a part of the public record all comments
12 that the commission receives relating to a regulation and shall
13 retain the comments for four years after the promulgation of the
14 regulation.

15 (m) Promulgation only on completion of agency review.--
16 Except for emergency-certified regulations adopted under section
17 4309(c), an agency may not promulgate a regulation until
18 completion of the review provided for in this chapter.

19 § 4307. Criteria for review of regulations.

20 (a) Public interest determination.--The commission, in
21 determining whether a proposed, final-form, final-omitted or
22 existing regulation is in the public interest, or an agency, in
23 determining whether an existing regulation is in the public
24 interest, shall first determine whether the agency has the
25 statutory authority to promulgate the regulation and whether the
26 regulation conforms to the intention of the General Assembly in
27 the enactment of the statute that the regulation is based on. In
28 making its determination, the commission or agency shall
29 consider written comments submitted by the committees and
30 current members of the General Assembly, pertinent opinions of

1 courts of this Commonwealth and formal opinions of the Attorney
2 General.

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

9 (1) Economic or fiscal impacts of the regulation,
10 including the following:

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

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

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

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

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

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

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

- 1 (i) Possible conflict with or duplication of
2 statutes or existing regulations.
- 3 (ii) Clarity and lack of ambiguity.
- 4 (iii) Need for the regulation.
- 5 (iv) Reasonableness of requirements, implementation
6 procedures and timetables for compliance by the public
7 and private sectors.
- 8 (v) Whether acceptable data is the basis of the
9 regulation.
- 10 (4) Whether the regulation represents a policy decision
11 of such a substantial nature that it requires legislative
12 review.
- 13 (5) Comments, objections or recommendations of a
14 committee.
- 15 (6) Compliance with the provisions of this chapter or
16 the regulations of the commission in promulgating the
17 regulation.
- 18 (7) Whether the regulation is supported by acceptable
19 data.
- 20 (8) Whether a less costly or less intrusive alternative
21 method of achieving the goal of the regulation has been
22 considered for regulations impacting small business.
- 23 § 4308. Regulatory review and promulgation.
- 24 (a) Agency adherence to promulgation and review
25 principles.--All agencies should adhere to the following
26 principles:
- 27 (1) Regulations should address a compelling public
28 interest.
- 29 (2) Costs of regulations should not outweigh their
30 benefits.

1 (3) Regulations should be written in clear, concise and,
2 when possible, nontechnical language.

3 (4) Regulations should address definable public health,
4 safety or environmental risks.

5 (5) Where Federal regulations exist, Pennsylvania's
6 regulations should not exceed Federal standards unless
7 required by State law.

8 (6) Compliance should be the goal of all regulations.

9 (7) Where viable nonregulatory alternatives exist, they
10 should be preferred over regulations.

11 (8) Regulations should be drafted and promulgated with
12 early and meaningful input from the regulated community.

13 (9) Regulations should not hamper Pennsylvania's ability
14 to compete effectively with other states.

15 (10) All agency heads should be held directly
16 accountable for regulations promulgated by their respective
17 agencies.

18 (b) Evaluation of existing regulations.--The following shall
19 apply to the evaluation of existing regulations:

20 (1) Existing regulations shall be reviewed by agencies
21 for consistency with the principles under subsection (a). A
22 regulation that is inconsistent with these principles shall
23 be considered for amendment or repeal.

24 (2) An agency head shall have the flexibility to
25 construct a program that reviews the agency's existing
26 regulations to assure consistency with the principles under
27 subsection (a). The following shall apply:

28 (i) A plan and schedule for review of existing
29 regulations shall be submitted to the Governor's Policy
30 Office within six months of the effective date of this

1 subsection.

2 (ii) All review programs shall commence within one
3 year of the effective date of this subsection.

4 (3) Regulations proposed for repeal regarding an agency
5 shall be submitted, along with a repeal analysis form, to the
6 General Counsel, the Secretary of the Budget, the Governor's
7 Policy Office, the standing committees with jurisdiction over
8 the agency and the Independent Fiscal Office. The analysis
9 shall state all of the following:

10 (i) The name of the agency.

11 (ii) The name of a contact person at the agency.

12 (iii) A short title of the regulation.

13 (iv) An explanation of the regulation.

14 (v) A justification for the proposed repeal of the
15 regulation.

16 (vi) A proposed schedule for repeal of the
17 regulation, noting public comment periods.

18 (vii) Any costs or savings associated with the
19 repeal of the regulation.

20 (4) If a statute prohibits the repeal of a regulation
21 that the agency deems to be inconsistent with the principles
22 under subsection (a), the agency head shall submit to the
23 General Counsel, the Governor's Policy Office, the Secretary
24 of Legislative Affairs and the standing committees with
25 jurisdiction over the agency the specific citation for the
26 statute that prohibits the repeal and the citation for a
27 regulation that is determined to be inconsistent with the
28 principles, the nature of and reason for the inconsistency
29 and a recommendation for legislative action, if appropriate.

30 (c) Drafting guidelines.--The following shall apply:

1 (1) Before drafting a regulation, an agency, where
2 practical, shall undertake extensive public outreach to those
3 who are likely to be affected by the regulation. Creating
4 advisory committees, using regulatory negotiation and
5 developing other creative procedures shall be encouraged as
6 means to solicit the public's input during the regulatory
7 development process.

8 (2) Persons to be affected by the regulation shall
9 continue to be consulted during the drafting process. When
10 appropriate, members of the regulated community shall be
11 involved with the formulation of language, the development of
12 standards and other areas in which the regulated community
13 has an interest or can provide insight.

14 (3) During the regulation development and drafting
15 process, an agency shall advise and consult with the
16 Governor's Policy Office, the Office of General Counsel, the
17 Budget Office and the standing committees with jurisdiction
18 over the agency whenever the agency determines that
19 involvement would hasten the review process.

20 (4) Each agency shall develop its own policies regarding
21 public involvement tailored best to meet the needs of the
22 agency and the regulated community.

23 (5) Within six months of the effective date of this
24 section, an agency shall submit to the Governor's Policy
25 Office the agency's internal guidelines for drafting public
26 outreach.

27 (d) Gubernatorial review.--The following shall apply to the
28 review by the Governor's Office:

29 (1) Prior to submitting a proposed rulemaking, an agency
30 head shall evaluate each regulation and attest to the fact

1 that the regulation addresses a compelling public need that
2 can be best remedied by the promulgation of the regulation.

3 (2) An agency head shall submit a written regulatory
4 analysis to the General Counsel, the Secretary of the Budget,
5 the Governor's Policy Office and the standing committees with
6 jurisdiction over the agency. The analysis shall state all of
7 the following:

8 (i) The name of the agency.

9 (ii) The name of a contact person at the agency.

10 (iii) A short title for the regulation and a
11 citation from the Pennsylvania Code.

12 (iv) Whether the regulation is a proposed, final-
13 form or final-omitted rulemaking.

14 (v) A brief, clear and, if possible, nontechnical
15 explanation of the regulation.

16 (vi) The statutory authority or mandate for the
17 regulation.

18 (vii) The compelling public need that justifies the
19 regulation.

20 (viii) The public health, safety or environmental
21 risks associated with nonregulation.

22 (ix) Individuals, groups or entities that are likely
23 to benefit from the regulation.

24 (x) Individuals, groups or entities that will be
25 required to comply with the regulation.

26 (xi) The outreach conducted by the agency with the
27 regulated community prior to submission of the
28 regulation.

29 (xii) An estimate of the costs or savings associated
30 with compliance and implementation.

1 (xiii) A cost-benefit analysis of the regulation.

2 (xiv) Nonregulatory alternatives considered and the
3 reasons for their dismissal.

4 (xv) Alternative regulatory schemes considered and
5 the reasons for their dismissal.

6 (xvi) A statement of the compelling Pennsylvania
7 interest if the regulation exceeds Federal standards.

8 (xvii) Any requirements that would place
9 Pennsylvania at a competitive disadvantage compared to
10 other states.

11 (xviii) An intra-agency review schedule for the
12 regulation.

13 (3) Each regulation submitted for review shall contain a
14 brief preamble, written in clear and concise language, which
15 shall describe in nontechnical terms the following:

16 (i) The compelling public need that the regulation
17 is designed to address.

18 (ii) The legal and practical requirements of the
19 regulation.

20 (4) The following shall apply:

21 (i) The regulatory analysis, along with the preamble
22 and draft regulation, shall be reviewed by the Office of
23 General Counsel for form, language and legal authority.
24 The Office of General Counsel shall also consider whether
25 the proposed regulation exceeds Federal standards.

26 (ii) The Governor's Policy Office shall review the
27 request to determine that public interest is compelling,
28 that no viable alternative to the regulation exists and
29 that the costs of the regulation reasonably relate to the
30 benefits.

1 (iii) The Governor's Budget Office shall evaluate
2 the cost analysis prepared by the agency and prepare a
3 fiscal note for the regulation.

4 (5) An agency may not proceed with a proposed, final-
5 form or final-omitted regulation until the General Counsel,
6 the Secretary of the Budget and the Governor's Policy Office
7 have informed the agency that the regulation is consistent
8 with the regulatory principles and overall policies of the
9 Governor's Office. Review by the General Counsel, the
10 Secretary of the Budget and the Governor's Policy Office
11 shall be conducted in a fair and timely manner.

12 (e) Nonregulatory document guidelines.--The following shall
13 apply to nonregulatory documents:

14 (1) Nonregulatory public documents such as internal
15 guidelines, policy statements, guidance manuals, decisions,
16 rules and other written materials that provide directives,
17 guidance or other relevant compliance-related information to
18 the public shall be cataloged by each agency.

19 (2) The cataloged titles of the documents under
20 paragraph (1), along with an agency contact and phone number,
21 shall be transmitted to the Legislative Reference Bureau for
22 publication in the Pennsylvania Bulletin within six months of
23 the effective date of this subsection. Each year thereafter,
24 each agency shall update its list and transmit notice to the
25 Legislative Reference Bureau for publication in the
26 Pennsylvania Bulletin on the first Saturday in August.

27 (f) Regulatory petition process and agency procedures.--To
28 further the goal of greater public participation in the
29 regulatory process, individuals, groups and businesses shall be
30 encouraged to use the regulatory petition process outlined in 1

1 Pa. Code § 35.18 (relating to petitions for issuance, amendment,
2 waiver or deletion of regulations). An agency that has not
3 already done so shall develop internal procedures to receive and
4 review petitions in a fair and timely manner.

5 (g) Regulatory review schedule.--Each regulation shall be
6 reviewed in accordance with the review schedule published
7 annually by each agency. As part of its review, the agency shall
8 determine whether the regulation continues to effectively
9 fulfill the goals for which it was intended and remains
10 consistent with the principles under subsection (a) (6).

11 (h) Regulatory agendas.--The following shall apply to
12 regulatory agendas:

13 (1) Semiannually, on February 1 and July 1, each agency
14 head shall submit to the General Counsel, the Secretary of
15 the Budget, the Governor's Policy Office, the General
16 Assembly and the Independent Fiscal Office a regulatory
17 agenda under development or consideration and transmit the
18 agenda to the Legislative Reference Bureau for publication in
19 the Pennsylvania Bulletin.

20 (2) The regulatory agenda under paragraph (1) shall
21 describe the following:

22 (i) Each regulation being considered.

23 (ii) The proposed date for promulgation.

24 (iii) The need and legal basis for the action being
25 taken.

26 (iv) The status of regulations previously listed on
27 the agenda.

28 (3) Each item on the regulatory agenda under paragraph
29 (1) shall also include a contact person within the agency
30 from whom additional information may be obtained.

1 (i) Nonapplicability of section.--The procedure prescribed
2 under this section shall not apply to:

3 (1) An emergency-certified regulation as provided under
4 this chapter.

5 (2) A regulation for which consideration or
6 reconsideration under this section would conflict with a
7 deadline imposed by statute, consent decree or judicial order
8 if the regulation is reported to the Governor's Policy Office
9 together with a brief explanation of the conflict. The agency
10 shall transmit notice to the Legislative Reference Bureau for
11 publication in the Pennsylvania Bulletin a statement of the
12 reasons that it is impracticable for the agency to follow the
13 procedures of this section regarding the regulation. The
14 agency, in consultation with the Governor's Policy Office,
15 shall adhere to the requirements of this section to the
16 extent permitted by statutory or judicial deadlines.

17 (j) No cause of action.--This section is intended only to
18 improve the internal management of agencies and is not intended
19 to create a right or benefit, substantive or procedural,
20 enforceable at law by a party against the Commonwealth, its
21 agencies, its officers or a person.

22 § 4309. Procedures for disapproval of final-form and final-
23 omitted regulations and emergency-certified
24 regulations.

25 (a) Delivery of commission disapproval.--If the commission
26 disapproves a final-form or final-omitted regulation, the
27 commission shall transmit its disapproval order to the
28 Legislative Reference Bureau for publication in the Pennsylvania
29 Bulletin, the committees and the agency. The commission shall
30 notify commentators who have requested additional information

1 under section 4306(a) (relating to final-form and final-omitted
2 regulations and procedures for review) of the commission's vote
3 to disapprove. The disapproval order shall specify the
4 regulatory review criteria which the final-form or final-omitted
5 regulation has not met. The agency shall review the commission's
6 order and proceed under section 4310(a) (relating to procedures
7 for subsequent review of disapproved final-form or final-omitted
8 regulations).

9 (b) Agency bar from promulgation.--The commission's order
10 disapproving a final-form or final-omitted regulation shall bar
11 the agency from promulgating that regulation pending subsequent
12 review under section 4310.

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

1 disapproved under those procedures, that regulation shall be
2 rescinded after 120 days or upon final disapproval, whichever
3 occurs later.

4 § 4310. Procedures for subsequent review of disapproved final-
5 form or final-omitted regulations.

6 (a) Agency procession with disapproved regulation.--An
7 agency may select one of the following options for proceeding
8 with a regulation that has been disapproved by the commission:

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

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

13 (3) To withdraw the final-form or final-omitted
14 regulation.

15 (b) Agency adoption of regulation without revision.--If the
16 agency decides to adopt the final-form or final-omitted
17 regulation without revisions or further modifications, the
18 agency shall submit a report to the committees and the
19 commission within 40 days of the agency's receipt of the
20 commission's disapproval order. The agency's report shall
21 contain the final-form or final-omitted regulation, the
22 commission's disapproval order and the agency's response and
23 recommendations regarding the final-form or final-omitted
24 regulation. If the committees are prevented from receiving the
25 report because of adjournment sine die or expiration of the
26 legislative session in an even-numbered year, the agency shall
27 submit its report to the commission and the committees on the
28 fourth Monday in January of the next year. If the committees
29 have not been designated by the fourth Monday in January, the
30 agency may not deliver the report to the committees and the

1 commission until both committees are designated, but the agency
2 shall deliver its report to the commission and the committees no
3 later than the second Monday after the date by which both
4 committee designations have been published in the Pennsylvania
5 Bulletin. If the agency does not deliver the report to the
6 committees and the commission in the time prescribed in this
7 subsection, the agency shall be deemed to have withdrawn the
8 final-form or final-omitted regulation.

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

1 Pennsylvania Bulletin. If the agency does not deliver its report
2 to the commission and the committees in the time prescribed in
3 this subsection, the agency shall be deemed to have withdrawn
4 the final-form or final-omitted regulation.

5 (d) Agency report.--The commission may have until its next
6 scheduled meeting, which occurs no less than 15 days from
7 receipt of the agency's report to approve or disapprove the
8 agency's report. The commission shall deliver its approval or
9 disapproval order to the committees for consideration by the
10 General Assembly under this subsection. If the commission is
11 prevented from delivering its order to the committees within the
12 time period provided for in this subsection because of the
13 adjournment sine die or expiration of the legislative session in
14 an even-numbered year, the commission shall deliver its order on
15 the fourth Monday of January of the next year. If either
16 committee has not been designated by the fourth Monday in
17 January, the commission may not deliver its order to the
18 committees until both committees are designated, but the
19 commission shall deliver its order no later than the second
20 Monday after the date by which both committee designations have
21 been published in the Pennsylvania Bulletin. If the commission
22 does not deliver its order disapproving the agency's report and
23 revised final-form or final-omitted regulation in the time
24 prescribed by this subsection, the commission shall be deemed to
25 have approved the agency's report and the revised final-form or
26 final-omitted regulation.

27 (e) Concurrent resolution.--On receipt of the commission's
28 order under subsection (d) or at the expiration of the
29 commission's review period if the commission does not act on the
30 regulation or does not deliver its order under subsection (d),

1 one or both of the committees may, within 14 calendar days,
2 report to the Senate or the House of Representatives a
3 concurrent resolution and notify the agency. During the 14-
4 calendar-day period, the agency may not promulgate the final-
5 form or final-omitted regulation. If, by the expiration of the
6 14-calendar-day period, neither committee reports a concurrent
7 resolution, the committees shall be deemed to have approved the
8 final-form or final-omitted regulation, and the agency may
9 promulgate that regulation. If either committee reports a
10 concurrent resolution before the expiration of the 14-calendar-
11 day period, the Senate and the House of Representatives shall
12 each have 30 calendar days or 10 legislative days, whichever is
13 longer, from the date on which the concurrent resolution has
14 been reported to adopt the concurrent resolution. If the General
15 Assembly adopts the concurrent resolution by majority vote in
16 both the Senate and the House of Representatives, the concurrent
17 resolution shall be presented to the Governor in accordance with
18 section 9 of Article III of the Constitution of Pennsylvania. If
19 the Governor does not return the concurrent resolution to the
20 General Assembly within 10 calendar days after it is presented,
21 the Governor shall be deemed to have approved the concurrent
22 resolution. If the Governor vetoes the concurrent resolution,
23 the General Assembly may override that veto by a two-thirds vote
24 in each house. The Senate and the House of Representatives shall
25 each have 30 calendar days or 10 legislative days, whichever is
26 longer, to override the veto. If the General Assembly does not
27 adopt the concurrent resolution or override the veto in the time
28 prescribed in this subsection, it shall be deemed to have
29 approved the final-form or final-omitted regulation. Notice as
30 to any final disposition of a concurrent resolution considered

1 in accordance with this section shall be transmitted to the
2 Legislative Reference Bureau for publication in the Pennsylvania
3 Bulletin. The bar on promulgation of the final-form or final-
4 omitted regulation shall continue until that regulation has been
5 approved or deemed approved in accordance with this subsection.
6 If the General Assembly adopts the concurrent resolution and the
7 Governor approves or is deemed to have approved the concurrent
8 resolution or if the General Assembly overrides the Governor's
9 veto of the concurrent resolution, the agency shall be barred
10 from promulgating the final-form or final-omitted regulation. If
11 the General Assembly does not adopt the concurrent resolution or
12 if the Governor vetoes the concurrent resolution and the General
13 Assembly does not override the Governor's veto, the agency may
14 promulgate the final-form or final-omitted regulation. The
15 General Assembly may, at its discretion, adopt a concurrent
16 resolution disapproving the final-form or final-omitted
17 regulation to indicate the intent of the General Assembly but
18 permit the agency to promulgate that regulation.

19 § 4311. Classification of documents.

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

28 § 4312. Changes in final-form and final-omitted regulations.

29 (a) General rule.--Except as provided in subsection (b), an
30 agency may not make changes to a final-form or final-omitted

1 regulation after that regulation has been approved or has been
2 deemed approved by the committees or the commission under this
3 chapter.

4 (b) Exception.--Subsection (a) shall not apply to changes
5 made at the direction of the Office of Attorney General under
6 its review under section 204(b) of the Commonwealth Attorneys
7 Act.

8 § 4313. Existing regulations.

9 The commission, on its motion or at the request of any person
10 or member of the General Assembly, may review an existing
11 regulation that has been in effect for at least three years. If
12 a committee of the Senate or the House of Representatives
13 requests a review of an existing regulation, the commission
14 shall perform the review and shall assign it high priority. The
15 commission may submit recommendations to an agency recommending
16 changes in existing regulations if the commission finds the
17 existing regulations to be contrary to the public interest under
18 the criteria established in section 4307 (relating to criteria
19 for review of regulations). The commission may also make
20 recommendations to the General Assembly and the Governor for
21 statutory changes if the commission finds that an existing
22 regulation may be contrary to the public interest.

23 § 4314. Commission staff.

24 (a) Commission employees and salaries.--The commission shall
25 appoint and fix the compensation of a full-time executive
26 director, who shall be responsible for the general supervision
27 of all the affairs of the commission and for performing any
28 administrative function or duty that the commission may delegate
29 to the executive director. The commission shall appoint and fix
30 the compensation of other employees as the commission may find

1 necessary for the proper operation of the commission.

2 (b) Commission chief counsel.--The commission shall appoint
3 and fix the compensation of a full-time chief counsel, who shall
4 not be subject to the supervision of the Attorney General or the
5 General Counsel. The chief counsel shall supervise, coordinate
6 and administer the legal services provided to the commission.
7 § 4315. Subpoena power.

8 The commission has the authority to issue subpoenas for the
9 purpose of requiring the attendance of persons and the
10 production of documents relating to any function that the
11 commission or its staff is authorized to perform under this
12 chapter. The chairperson or the executive director may sign a
13 subpoena. The subpoena may be served in any manner authorized
14 under the laws of this Commonwealth. The commission is
15 authorized to apply to Commonwealth Court to enforce the
16 commission's subpoenas.

17 § 4316. Regulations, annual reports, hearings and advisory
18 group meetings.

19 (a) Promulgation of regulations and review by Joint
20 Committee on Documents.--The commission, in the performance of
21 its functions under this chapter, has the power to promulgate
22 and enforce regulations necessary to carry out the purposes of
23 this chapter. Regulations must be promulgated in accordance with
24 the procedures established in the Commonwealth Documents Law.
25 The regulations shall provide for the commission's notification
26 of filings of final-form and final-omitted regulations to
27 parties likely to be affected by the final-form and final-
28 omitted regulations through publication of a notice in the
29 Pennsylvania Bulletin. Prior to the regulations taking effect,
30 the requirements of this chapter must be satisfied. For the

1 purposes of reviewing the regulations of the commission and
2 otherwise satisfying the requirements of this chapter, the Joint
3 Committee on Documents shall exercise the rights and perform the
4 functions of the commission, and the commission shall exercise
5 the rights and perform the functions of an agency under this
6 chapter.

7 (b) Annual report of commission.--On or before April 1, the
8 commission shall file an annual report of its activities for the
9 prior calendar year with the Governor and the General Assembly.

10 (c) Public hearings and advisory groups permitted.--The
11 commission may hold public hearings on any matter before the
12 commission and may meet with advisory groups regarding matters
13 before the commission.

14 § 4317. Clearinghouse.

15 The commission shall act as a clearinghouse for complaints,
16 comments and other input from members of the General Assembly
17 and from the public regarding existing, proposed, final-form and
18 final-omitted regulations. The commission shall maintain
19 accurate records regarding complaints and comments the
20 commission receives and shall maintain such records by
21 departmental and subject matter categories for four years after
22 the date of receipt by the commission. The commission shall
23 include within the annual report filed under section 4316
24 (relating to regulations, annual reports, hearings and advisory
25 group meetings) a summary of public complaint and comment along
26 with any recommendations the commission may offer for statutory
27 change.

28 § 4318. Gubernatorial review.

29 The Governor may institute procedures for the review and
30 approval of regulations promulgated by executive agencies prior

1 to the regulations submittal for review under this chapter,
2 including, but not limited to, the establishment of a task force
3 or committee, by executive order. The Governor may also
4 establish procedures for the effective coordination of the
5 review of regulations under the Commonwealth Attorneys Act and
6 sections 612 and 2203-A of the act of April 9, 1929 (P.L.177,
7 No.175), known as The Administrative Code of 1929.

8 Section 3. Repeals are as follows:

9 (1) The General Assembly declares that the repeal under
10 paragraph (2) is necessary to effectuate the addition of 71
11 Pa.C.S. Ch. 43.

12 (2) The act of June 25, 1982 (P.L.633, No.181), known as
13 the Regulatory Review Act, is repealed.

14 Section 4. The addition of 71 Pa.C.S. Ch. 43 is a
15 continuation of the act of June 25, 1982 (P.L.633, No.181),
16 known as the Regulatory Review Act. The following apply:

17 (1) Except as otherwise provided in 71 Pa.C.S. Ch. 43,
18 all activities initiated under the Regulatory Review Act
19 shall continue and remain in full force and effect and may be
20 completed under 71 Pa.C.S. Ch. 43. Orders, regulations, rules
21 and decisions which were made under the Regulatory Review Act
22 and which are in effect on the effective date of section 5 of
23 this act shall remain in full force and effect until revoked,
24 vacated or modified under 71 Pa.C.S. Ch. 43. Contracts,
25 obligations and collective bargaining agreements entered into
26 under the Regulatory Review Act are not affected nor impaired
27 by the repeal of the Regulatory Review Act.

28 (2) Except as set forth in paragraph (3), any difference
29 in language between 71 Pa.C.S. Ch. 43 and the Regulatory
30 Review Act is intended only to conform to the style of the

1 Pennsylvania Consolidated Statutes and is not intended to
2 change or affect the legislative intent, judicial
3 construction or administration and implementation of the
4 Regulatory Review Act.

5 (3) Paragraph (2) does not apply to the addition of the
6 following:

7 (i) 71 Pa.C.S. Ch. 42.

8 (ii) 71 Pa.C.S. § 4307(a).

9 (iii) 71 Pa.C.S. § 4308.

10 Section 5. This act shall take effect as follows:

11 (1) The following provisions shall take effect
12 immediately:

13 (i) This section.

14 (ii) The amendment of 71 Pa.C.S. Pt. V heading.

15 (iii) The addition of 71 Pa.C.S. Chs. 42 and 43.

16 (iv) Section 4.

17 (2) The remainder of this act shall take effect in 60
18 days.