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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1874 Session of  
2019

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INTRODUCED BY GROVE, JONES, MILLARD, METCALFE, ECKER, KAUFFMAN,  
RYAN, STAATS, PYLE, PICKETT, MOUL, HICKERNELL, ZIMMERMAN,  
B. MILLER, KEEFER AND GAYDOS, SEPTEMBER 25, 2019

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 25, 2019

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AN ACT

1 Amending the act of June 25, 1982 (P.L.633, No.181), entitled  
2 "An act providing for independent oversight and review of  
3 regulations, creating an Independent Regulatory Review  
4 Commission, providing for its powers and duties and making  
5 repeals," providing for review of regulatory actions.

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

8 Section 1. The act of June 25, 1982 (P.L.633, No.181), known  
9 as the Regulatory Review Act, is amended by adding a section to  
10 read:

11 Section 11.1. Review of regulatory actions.

12 (a) Upon request by a regulated entity, the commission shall  
13 determine whether the requirements of a regulatory action issued  
14 by an agency are excessive and whether the requirements of the  
15 regulatory action should be submitted for review as a separate  
16 regulation under this act.

17 (b) If the commission determines that the requirements of a  
18 regulatory action issued by an agency are excessive and the  
19 requirements should be submitted for review as a separate

1 regulation under this act, the commission shall have the  
2 following duties:

3 (1) Require the agency to revise the requirements of the  
4 regulatory action and submit the requirements for review as a  
5 separate regulation under this act.

6 (2) Notify the agency of the requirements of the  
7 regulatory action which the commission determines to be  
8 excessive and provide recommendations to the agency on how to  
9 improve the requirements.

10 (3) Notify the agency on why the requirements of the  
11 regulatory action should be issued for review as a separate  
12 regulation.

13 (4) Refrain from providing the agency with any  
14 information relating to whether the commission would approve  
15 a proposed regulation with the requirements of the regulatory  
16 action.

17 (c) Upon receiving a request from a regulated entity to  
18 review a regulatory action, the commission shall order the  
19 agency to provide the commission with information pertaining to  
20 the regulatory action no later than 45 days after the agency  
21 receives the order. The information shall include all of the  
22 following:

23 (1) The statutory authority for the regulatory action.

24 (2) The agency's explanation of the necessary functions  
25 of the regulatory action, including whether the requirements  
26 of the regulatory action should be submitted for review under  
27 a separate regulation.

28 (3) The agency's explanation for utilizing the  
29 requirements of the regulatory action, rather than submitting  
30 the requirements of the regulatory action for review as a

1 separate regulation.

2 (4) Any costs, including indirect costs, associated with  
3 the regulatory action to the Commonwealth.

4 (5) Any costs, including indirect costs, associated with  
5 regulatory action to regulated entities.

6 (6) The estimated or average duration of time it takes  
7 for a regulated entity to comply with the requirements of the  
8 regulatory action.

9 (d) In order to comply with subsection (c), an agency may  
10 request an additional 15 days to comply with the commission's  
11 order to provide the commission with information pertaining to  
12 the regulatory action.

13 (e) After the commission receives the information required  
14 from the agency under subsection (c), the commission shall allow  
15 regulated entities a 30-day period to submit comments to the  
16 commission pertaining to whether the requirements of the  
17 regulatory action should be submitted as a separate regulation.  
18 No later than 30 days after the commission receives the comments  
19 from the regulated entities or at the next meeting of the  
20 commission, whichever is later, the commission shall review the  
21 comments and the information received from the agency under  
22 subsection (c) and make a determination on all of the following:

23 (1) Whether the requirements of the regulatory action  
24 are excessive.

25 (2) Whether the requirements of the regulatory action  
26 should be submitted for review under a separate regulation.

27 (f) Regulated entities shall not be required to comply with  
28 the requirements of a regulatory action under review by the  
29 commission under subsection (e). If the commission determines  
30 that the requirements of a regulatory action should be submitted

1 for review as a separate regulation, the regulated entities  
2 shall not be required to comply with the requirements unless the  
3 requirements are included in a final-form regulation approved  
4 under this act.

5 (g) An agency may not issue similar requirements through a  
6 regulatory action if the commission has determined that similar  
7 requirements should be submitted for review as a separate  
8 regulation.

9 (h) As used in this section, the following words and phrases  
10 shall have the meanings given to them in this subsection unless  
11 the context clearly indicates otherwise:

12 "Excessive." A regulatory action that exceeds or is beyond  
13 the scope of an agency's approved regulatory authority by the  
14 commission.

15 "Permit." An authorization issued by an agency that approves  
16 the performance of an activity under the agency's jurisdiction.  
17 The term includes an authorization permit and a plan approval or  
18 registration under a general permit.

19 "Regulated entity." Any individual, person, organization or  
20 corporation that engages in an activity in this Commonwealth  
21 that requires regulatory approval by an agency.

22 "Regulatory action." Any permit or policy guideline issued  
23 by an agency under this act.

24 Section 2. This act shall take effect in 60 days.