

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1874 Session of 2019

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

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 6, 2020

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 FURTHER <--
6 PROVIDING FOR DEFINITIONS AND FOR CLASSIFICATION OF
7 DOCUMENTS.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

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

13 Section 11.1. Review of regulatory actions.

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

19 (b) If the commission determines that the requirements of a

1 ~~regulatory action issued by an agency are excessive and the~~  
2 ~~requirements should be submitted for review as a separate~~  
3 ~~regulation under this act, the commission shall have the~~  
4 ~~following duties:~~

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

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

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

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

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

25 ~~(1) The statutory authority for the regulatory action.~~

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

30 ~~(3) The agency's explanation for utilizing the~~

1 ~~requirements of the regulatory action, rather than submitting~~  
2 ~~the requirements of the regulatory action for review as a~~  
3 ~~separate regulation.~~

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

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

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

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

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

25 ~~(1) Whether the requirements of the regulatory action~~  
26 ~~are excessive.~~

27 ~~(2) Whether the requirements of the regulatory action~~  
28 ~~should be submitted for review under a separate regulation.~~

29 ~~(f) Regulated entities shall not be required to comply with~~  
30 ~~the requirements of a regulatory action under review by the~~

~~1 commission under subsection (e). If the commission determines  
2 that the requirements of a regulatory action should be submitted  
3 for review as a separate regulation, the regulated entities  
4 shall not be required to comply with the requirements unless the  
5 requirements are included in a final form regulation approved  
6 under this act.~~

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

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

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

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

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

~~24 "Regulatory action." Any permit or policy guideline issued  
25 by an agency under this act.~~

~~26 Section 2. This act shall take effect in 60 days.~~

27 SECTION 1. SECTION 3 OF THE ACT OF JUNE 25, 1982 (P.L.633, <--  
28 NO.181), KNOWN AS THE REGULATORY REVIEW ACT, IS AMENDED BY  
29 ADDING A DEFINITION TO READ:  
30 SECTION 3. DEFINITIONS.

1 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
2 HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE  
3 MEANINGS GIVEN TO THEM IN THIS SECTION:

4 \* \* \*

5 "REGULATED ENTITY." ANY INDIVIDUAL, PERSON, ORGANIZATION OR  
6 CORPORATION THAT ENGAGES IN AN ACTIVITY IN THIS COMMONWEALTH  
7 THAT REQUIRES REGULATORY APPROVAL BY AN AGENCY.

8 \* \* \*

9 SECTION 2. SECTION 7.1 OF THE ACT IS AMENDED TO READ:

10 SECTION 7.1. CLASSIFICATION OF DOCUMENTS.

11 IF THE COMMISSION [OR], A COMMITTEE OR A REGULATED ENTITY  
12 FINDS THAT A PUBLISHED OR UNPUBLISHED DOCUMENT SHOULD BE  
13 PROMULGATED AS A REGULATION, THE COMMISSION [OR], COMMITTEE OR  
14 REGULATED ENTITY MAY PRESENT THE MATTER TO THE JOINT COMMITTEE  
15 ON DOCUMENTS. THE JOINT COMMITTEE ON DOCUMENTS SHALL DETERMINE  
16 WHETHER THE DOCUMENT SHOULD BE PROMULGATED AS A REGULATION AND  
17 MAY ORDER AN AGENCY EITHER TO PROMULGATE THE DOCUMENT AS A  
18 REGULATION WITHIN 180 DAYS OR TO DESIST FROM THE USE OF THE  
19 DOCUMENT IN THE BUSINESS OF THE AGENCY.

20 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.