

**Commonwealth of Pennsylvania
Office of the Budget
Deputy Secretary of the Budget**

October 24, 2000

Subject: RE: Title 4 – Administration
Office of the Budget
7 Pa. Code, Chapter 7, Subchapter R – Fiscal Notes
I.D. Number: 009-001

To: Robert E. Nyce
Executive Director
Independent Regulatory Review Commission

From: Robert E. Greenwood 
Deputy Secretary of the Budget

The above referenced regulation, which was delivered to your office on October 23, 2000, is the incorrect version. Please discard it. The corrected regulation is currently being processed.

RECEIVED

2000 OCT 24 AM 7:40

INDEPENDENT REGULATORY
REVIEW COMMISSION

Regulatory Analysis Form

This space for use by IRRC

2000 NOV -8 AM 11:37

REVIEW COMMISSION



(1) Agency

The Office of the Budget

(2) I.D. Number (Governor*s Office Use)

009-001

IRRC Number: 2155

(3) Short Title

Fiscal Notes

(4) PA Code Cite

4 Pa. Code Sections 7.231-5

(5) Agency Contacts & Telephone Numbers

Primary Contact:

Pamela F. Cross 717-787-5311 Ext: 3070

Secondary Contact:

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Administrative departments, boards, commissions and authorities receiving money from the State Treasury are required to provide fiscal notes with every regulatory action and administrative procedure published in the *Pennsylvania Bulletin*. The proposed regulatory change codifies the current practice of writing fiscal notes.

Agencies that are required to submit a regulatory analysis form to the Independent Regulatory Review Commission shall submit to the Office of the Budget one copy of the regulatory analysis form and one copy of the regulatory action or administrative procedure, or changes thereto. Agencies that are not required to submit a regulatory analysis form to the Independent Review Commission for a regulatory action or administrative procedure shall submit the following information to the Office of the Budget:

- (i) One copy of each regulatory action or administrative procedure
- (ii) The designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made and the line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds will occur as a result of the action or procedures.
- (iii) The probable cost for the fiscal year the program is implemented and a projected cost estimate of the program for each of the five succeeding fiscal years.

Regulatory Analysis Form

- (iv) The probable loss of revenue for the fiscal year of its implementation and a projected loss of revenue from the program for each of the five succeeding fiscal years.
- (v) The three year fiscal history of the program for which expenditures are to be made.

The above enumerated information is also required to be submitted for Executive Orders, Statements of Policy and notice of rule changes and notices related to federally required changes and changes in fee structure.

The Office of the Budget reviews the regulatory action or administrative procedure, or changes thereto, and writes a fiscal note explaining its economic impact. The Office of the Budget sends the fiscal note to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The Office of the Budget, under authority contained in section 612 of the Administrative Code of 1929 (71 P.S. § 232), proposes to amend 4 Pa. Code §§ 7.231 to 7.235.

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The amended regulation codifies the current practice of writing fiscal notes and provides more clear instruction for promulgating agencies to ensure efficient writing of fiscal notes.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The former regulation is not indicative of the process for writing fiscal notes now used at the Office of the Budget. Promulgating agencies are often confused by the discrepancy between the regulation and the actual practice of when a fiscal note is necessary. The discrepancy causes inefficiencies for promulgating agencies and may cause delay in regulation approval.

The fiscal note itself is of primary importance when evaluating proposed regulations. The fiscal note is a simple and productive indicator that certifies the fiscal impact of all regulations on the tax revenue of the Commonwealth of Pennsylvania.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All promulgating agencies will benefit from a more descriptive regulation that provides clear instruction on the process to use when obtaining a fiscal note.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Promulgating agencies will need to become aware of the modified regulation, but no adverse effects are predicted because agencies are already following the guidelines implemented by the proposed regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Administrative departments, boards, commissions and authorities receiving money from the State Treasury.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Not Applicable.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Savings may be realized as a result of less work hours spent to understand the process of obtaining a fiscal note.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

No effect on costs or savings is expected from local governments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Savings may be realized as a result of less work hours spent to understand the process of obtaining a fiscal note.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|------------------------|----------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Savings | | | | | | |
| COSTS: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | | | | | | |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | | | | | | |

(20a) Explain how the cost estimates listed above were derived

Not Applicable

(20b) Provide the past three year expenditure history for programs affected by the regulation

Not Applicable

| Program | FY -3 | FY -2 | FY -1 | Current FY |
|----------------|--------------|--------------|--------------|-------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Regulatory Analysis Form

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Not Applicable.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Not Applicable.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not Applicable.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulation will not function to put Pennsylvania at a competitive disadvantage.

Regulatory Analysis Form

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No effect on existing or proposed regulations is expected.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings are scheduled.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No existing reporting or record keeping requirements will be changed.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The effective date of the regulation is expected to be within the next six months.
Compliance will be required on the effective date.
No permits, licenses or other approvals are necessary.

Regulatory Analysis Form

(31) Provide the schedule for continual review of the regulation.

This proposed regulation, preamble and RAF have been submitted to the Office of General Counsel, the Secretary of the Budget, and the Governor's Policy Office. There are no time limitations on their approval.

After approval by the Office of General Counsel, the Secretary of the Budget, and the Governor's Policy Office, we will submit the proposed regulation, preamble and RAF to the Attorney General for a 30 day review period.

After Attorney General approval, we plan to submit the proposed regulation, preamble, and RAF to the Commission, the committees, and the Legislative Reference Bureau.

CDL-1

P.R.M. 5

2000 NOV -8 AM 11:37

REVIEW COMMISSION COPY

FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

2155

Copy below is hereby approved as to form and legality. Attorney General

[Signature]

By: (Deputy Attorney General)

OCT 17 2000

DATE OF APPROVAL

Check if applicable Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by.

Office of the Budget

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 009-001

DATE OF ADOPTION

BY [Signature]

TITLE Secretary of the Budget

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality. Executive of Independent Agencies

By [Signature]

DATE OF APPROVAL

(Deputy General Counsel) (Chief Counsel - Independent Agency) (Strike inapplicable title)

Check if applicable. No Attorney General Approval or objection within 30 days after submission.

PROPOSED RULEMAKING

OFFICE OF THE BUDGET TITLE 4 - ADMINISTRATION CHAPTER 7, SUBCHAPTER R FISCAL NOTES

11/17/00

11:30 AM

77

10/24/00

PROPOSED RULEMAKING

OFFICE OF THE BUDGET [4 PA. CODE CH. 7]

Fiscal Notes

The Office of the Budget, under authority contained in section 612 of the Administrative Code of 1929 (71 P.S. §232), proposes to amend §§7.231 to 7.235 to read as set forth in Annex A.

Purpose of Proposed Amendments

This regulatory change will clarify the process that agencies must follow to ensure that fiscal notes accompany every regulatory action and administrative procedure published in the *Pennsylvania Bulletin*.

The Office of the Budget is updating the regulation so that it conforms with the present practice of writing fiscal notes.

Explanation of Regulatory Requirements

Administrative departments, boards, commissions and authorities receiving money from the State Treasury are required to provide fiscal notes with every regulatory action and administrative procedure published in the *Pennsylvania Bulletin*. The proposed regulatory change codifies the current practice of writing fiscal notes.

Agencies that are required to submit a regulatory analysis form to the Independent Regulatory Review Commission shall submit to the Office of the Budget one copy of the regulatory analysis form and one copy of the regulatory action or administrative procedure, or changes thereto. Agencies that are not required to submit a regulatory analysis form to the Independent Review Commission for a regulatory action or administrative procedure shall submit the following information to the Office of the Budget:

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- (ii) The designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made and the line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds will occur as a result of the action or procedures.
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- (iv) The probable loss of revenue for the fiscal year of its implementation and a projected loss of revenue from the program for each of the five succeeding fiscal years.
- (v) The three year fiscal history of the program for which expenditures are to be made.

The above enumerated information is also required to be submitted for Executive Orders, Statements of Policy and notice of rule changes and notices related to federally required changes and changes in fee structure.

The Office of the Budget reviews the regulatory action or administrative procedure, or changes thereto, and writes a fiscal note explaining its economic impact. The Office of the Budget sends the fiscal note to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

Fiscal Impact

The Office of the Budget has determined that the proposed amendments will not have any additional fiscal impact on the Commonwealth.

Paperwork

The proposed amendments will not increase paperwork for the public or the Commonwealth.

Effective Date

The proposed amendments, if approved upon final rulemaking, will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to Pamela F. Cross, Office of the Budget, Legal Office, 7th Floor Bell Tower, 303 Walnut Street, Harrisburg, PA 17101-1808 within 30 days after the date of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Office of the Budget (OB) submitted a copy of the proposed regulations on 4/24/8, 2000, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Appropriations Committees. In addition to submitting the proposed amendments, OB has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by OB. A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed amendments, it will notify OB within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by OB, the Governor, and the General Assembly to review these objections before final publication of the regulation.

Annex A
Title 4
Chapter 7. Miscellaneous Provisions

Subchapter R. FISCAL NOTES

| | |
|--------------|--|
| Sec. | |
| 7.231 | Policy. |
| 7.232 | Definitions. |
| 7.233 | [Publishing of fiscal notes.] <u>Reserved</u> |
| 7.234 | Responsibilities. |
| 7.235 | [Format of fiscal notes.] <u>Reserved</u> |

§ 7.231. Policy.

Administrative departments, boards, commissions and authorities receiving money from the State Treasury shall provide fiscal notes with every regulatory action and administrative procedure published in the *Pennsylvania Bulletin*.

§ 7.232. Definitions.

Regulatory actions and administrative procedures consist of the following:

- (1) Executive orders of the Governor, except such as have no general applicability and legal effect or are effective only against Commonwealth agencies or persons in their capacity as officers, agents or employees thereof.
- (2) Administrative and other regulations.
- (3) Statements of policy which are general and permanent in nature.
- (4) Notice of rule changes and notices related to federally required changes and changes in fee structure.

§ 7.233. [Publishing of fiscal notes.] Reserved

[(a) Except as noted in subsection (b), fiscal notes are to be published once for each regulatory action or administrative procedure, and changes thereto, appearing in the *Pennsylvania Bulletin*, as follows:

- (1) When the initial text of a regulatory action or administrative procedure is published with notice of proposed rulemaking.
- (2) When a regulatory action or administrative procedure is published in final text without notice of proposed rulemaking.

(b) When a proposed regulatory action or administrative procedure is modified to such a degree following notice of proposed rulemaking that the original fiscal note is no longer applicable, a new fiscal note shall be published with the final text of the regulatory action or administrative procedure.]

Reserved

§ 7.234. Responsibilities

(a) Agencies required by § 7.231 (relating to policy) to publish fiscal notes are to establish procedures to insure that fiscal notes are included with regulatory actions and administrative procedures as follows:

[(1) Proposed regulatory action or administrative procedure. A fiscal note, in triplicate, and one copy of each proposed regulatory action or administrative procedure is to be delivered by the promulgating agency to the Office of the Budget at the time the proposed regulatory action or administrative procedure is deposited with the Legislative Reference Bureau or, if required, with the Department of Justice for review as to legality.

(2) Final regulatory action or administrative procedure. A fiscal note, in triplicate, and one copy of each final regulatory action or administrative procedure not subject to proposed rule making or a fiscal note, in triplicate, as required by §7.233(b) (relating to publishing of fiscal notes) is to be delivered by the promulgating agency to the Office of the Budget at the time the final regulatory action or administrative procedure is deposited with the Department of Justice for review as to legality or, if Department of Justice review is not required, with the Legislative Reference Bureau.]

(1) Agencies that are required to submit a regulatory analysis form to the Independent Regulatory Review Commission under the Regulatory Review Act (71 P.S. §§745.1-745.14) shall submit one copy of a regulatory analysis form and one copy of the regulatory action or administrative procedure, or changes thereto, to the Office of the Budget prior to the time that the regulatory action or administrative procedure, is deposited with the Legislative Reference Bureau.

(2) Agencies that are not required to submit a regulatory analysis form to the Independent Regulatory Review Commission for a regulatory action or administrative procedure shall submit the following information to the Office of the Budget:

(i) One copy of each regulatory action or administrative procedure.

(ii) The designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made and the line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds will occur as a result of the action or procedures.

(iii) The probable cost for the fiscal year the program is implemented and a projected cost estimate of the program for each of the five succeeding fiscal years.

(iv) The probable loss of revenue for the fiscal year of its implementation and a projected loss of revenue from the program for each of the five succeeding fiscal years.

(v) The three year fiscal history of the program for which expenditures are to be made.

(b) The Secretary of the Budget shall review or have reviewed each fiscal note before publication in the Pennsylvania Bulletin. The Secretary shall, as appropriate, include recommendations and the reasons therefore.

(c) The Legislative Reference Bureau shall publish information contained in fiscal notes required by this subchapter.

§ 7.235. [Format of fiscal notes.] Reserved

[(a) Fiscal notes shall be prepared on Form OA-536.

(b) The following guidelines are furnished for preparation of Form OA-536:

(1) Agency identification number. Each agency should cross-identify fiscal notes with regulations and administrative procedures by use of an identification system that includes the agency, year, and sequential numbers for the year. For example: Exec Bd-78-1 or Agric-78-14.

(2) If all four NO blocks, relating to loss of revenue or increased costs, are checked, complete only the next two items (FUND and APPROPRIATION).

(3) If loss of revenue or increased costs are applicable to political subdivisions, identify the FUND(S) blocks the subdivisions or classes of subdivisions to which the loss or increase will apply.

(4) The 3-year history of program cost is for the current and two immediately preceding years.

(5) Do not enter remarks in the block for the Budget Secretary's recommendations.

(6) Remove the two copies marked for the Legislative Reference Bureau. Complete the remaining sections on the Budget Office and Agency copies and forward the first three copies as shown in §7.234 (relating to responsibilities).]

Reserved.

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

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REGULATORY REVIEW COMMISSION

I.D. NUMBER: 9-1
SUBJECT: Fiscal Notes
AGENCY: OFFICE OF THE BUDGET

TYPE OF REGULATION

- X Proposed Regulation
Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|---------|--------------------|--|
| 11/8/00 | <i>Jeff. Kulec</i> | HOUSE COMMITTEE ON APPROPRIATIONS |
| 11/8/00 | <i>J. Duraga</i> | |
| 11/8/00 | <i>J. Merrick</i> | SENATE COMMITTEE ON APPROPRIATIONS |
| 11/8/00 | <i>M. Sanchez</i> | |
| 11/8/00 | <i>Elena Pagui</i> | INDEPENDENT REGULATORY REVIEW COMMISSION |
| | | ATTORNEY GENERAL |
| 11/8/00 | <i>C. L. Brown</i> | LEGISLATIVE REFERENCE BUREAU |

November 7, 2000