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Regulatory Analysis Form

<p>(1) Agency</p> <p>Department of Public Welfare</p>	<p>This space for use by IRRC</p>
<p>(2) I.D. Number (Governor's Office Use)</p>	<p>IRRC Number: 2516</p>
<p>(3) Short Title</p> <p>Emergency Energy Assistance Fund</p>	
<p>(4) PA Code Cite</p> <p>55 Pa. Code Ch. 601</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Edward J. Zogby 787-4081</p> <p>Secondary Contact:: Donna Roe 772-7906</p>
<p>(6) Type of Rule Making (Check One)</p> <p><input type="checkbox"/> Proposed Rule Making</p> <p><input type="checkbox"/> Final Order Adopting Regulation</p> <p><input checked="" type="checkbox"/> Final Order, Proposed Rule Making Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached? (To be used only for emergency-certified regulations.)</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input checked="" type="checkbox"/> Yes: By the Governor</p>
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The purpose of this regulation is to comply with Act 81. Act 81 requires that the criteria and emergency regulations for this program be published in the <i>Pennsylvania Bulletin</i> along with the publication of the Governor's requisite declaration of a threat to public health and insufficient Federal home energy assistance funds to meet the needs of low-income residents of this Commonwealth. The Department will follow criteria set forth in the Federal Fiscal Year (FFY) 2006 Low-Income Home Energy Assistance Program (LIHEAP) Final State Plan and the regulations in Subchapter A of Chapter 601 (relating to Federal Low Income Home Energy Assistance Program) in administering the Emergency Energy Assistance Fund.</p>	

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

The Department of Public Welfare (Department), by this order, adopts the regulation set forth in Annex A pursuant to the authority of subarticle F of Article XVII-A of the Fiscal Code, Act of April 9, 1929, P.L. 343, No. 176 (72 P.S. §§ 1751-A and 1752-A), added by the Act of December 16, 2005, P.L. ____, No. 81, (Act 81) and section 403(b) of the Public Welfare Code, Act of June 13, 1967, P.L. 31, No. 21 (62 P.S. § 403(b)).

(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.

This regulation is mandated by a state law, Act 81.

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

Pursuant to Act 81, the Governor has published an emergency declaration in which he has found that, as a result of natural disasters throughout the country, home heating fuel and natural gas prices have risen and the available Federal Home Energy Assistance funds are not sufficient to meet the needs of low-income residents of this Commonwealth. The Governor has determined that, as a result, there is a threat to public health.

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

Act 81 requires that the criteria and emergency regulations for this program be published in the *Pennsylvania Bulletin* along with the publication of the Governor's requisite declaration of a threat to public health and insufficient Federal home energy assistance funds to meet the needs of low-income residents of this Commonwealth.

(13) Describe who will benefit from the regulation.

For each million dollars allocated to the Department from the Emergency Energy Assistance Fund, approximately 3,300 additional households would be served by LIHEAP.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation.

No individuals or organizations will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation.

Low-income Pennsylvanians in need of home energy assistance will benefit from the availability of the Emergency Energy Assistance Fund.

(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.

The Department finds that, under the present circumstances, notice of proposed rulemaking is impracticable and contrary to the public interest because the time periods required for regulatory review and comment under the provisions of the Regulatory Review Act (71 P.S. § 7451.1-745.14), section 204 of the Commonwealth Attorneys Act (71 P.S. § 732-204) and sections 201 and 203 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1203) would take several months. This delay would not allow for prompt implementation of the Emergency Energy Assistance Fund to benefit low-income residents in need of assistance with their home energy needs.

(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 that may be required.

See Item 20.

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

See Item 20.

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(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 that may be required.

See Item 20.

Linda S Luckberry 1-6-2006

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(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.

(Dollar Amounts In Thousands)

	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	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community						
Local Government						
State Government	\$19,300	\$0	\$0	\$0	\$0	\$0
Total Costs	\$19,300	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

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

Under Act 81, an amount of up to one mill of the gross receipts tax has been appropriated from the General Fund to the Emergency Energy Assistance Fund for the fiscal year July 1, 2005 to June 30, 2006.

Regulatory Analysis Form

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

(Dollar Amounts In Thousands)

Program	FY 02-03	FY 03-04	FY 04-05	FY 05-06
New - Emergency Energy Assistance Fund	\$0	\$0	\$0	\$19,300

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

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

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

Regulatory Analysis Form

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

This regulation benefits low-income Pennsylvanians in need of low income home energy assistance. In compliance with Act 81, the Governor has declared a threat to public health and insufficient Federal home energy assistance funds are available to meet the needs of low-income residents of this Commonwealth.

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

Nonregulatory methods were not considered since this regulation is mandated by state law, Act 81.

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

No alternative regulatory schemes were considered because the Governor has declared a threat to public health and insufficient Federal home energy assistance funds are available to meet the needs of low-income residents of this Commonwealth.

(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. There are no applicable Federal regulations.

Regulatory Analysis Form

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

No.

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

This regulation does not affect existing or proposed regulations of the Department or another state agency.

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

No. The Department will continue to meet with affected individuals and organizations to discuss the application and effectiveness of this regulation.

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

No new reports, forms, recordkeeping or paperwork are required by this regulation.

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

The eligibility criteria and benefits for the state Emergency Energy Assistance Fund shall be as set forth in the Commonwealth's Federal Fiscal Year 2006 LIHEAP State Plan and Subchapter A (relating to the Federal Low Income Energy Assistance Program). Low-income Pennsylvanians in need of home energy assistance will benefit from the availability of the Emergency Energy Assistance Fund.

Regulatory Analysis Form

(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 regulation will be effective upon publication in the *Pennsylvania Bulletin*.

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

This regulation will sunset on June 30, 2006.

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

RECEIVED

2006 JAN 10 AM 10:32

LEGISLATIVE REGULATORY
REVIEW COMMISSION

#2516

DO NOT WRITE IN THIS SPACE

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

By: _____
(Deputy Attorney General)

Date of Approval

☐ Check if applicable
Copy not approved.
Objections attached.

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

DEPARTMENT OF PUBLIC WELFARE

(Agency)

LEGAL COUNSEL: John E. Graybill

DOCUMENT/FISCAL NOTE NO. #14-503

DATE OF ADOPTION: _____

BY: Estelle B. Richman

TITLE: **SECRETARY OF PUBLIC WELFARE**
(Executive Officer, Chairman or Secretary)

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

BY: _____

JAN 09 2006

Date of Approval
EXECUTIVE
(Deputy General Counsel)
(Chief Counsel, Independent Age-
(Strike inapplicable title)

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

**NOTICE OF FINAL-OMITTED RULEMAKING WITHOUT PUBLICATION
AS PROPOSED**

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF INCOME MAINTENANCE

[55 Pa. Code Chapter 601]

Low Income Home Energy Assistance Program

STATUTORY AUTHORITY

The Department of Public Welfare (Department), by this order, adopts the regulation set forth in Annex A pursuant to the authority of subarticle F of Article XVII-A of the Fiscal Code, Act of April 9, 1929, P.L. 343, No. 176 (72 P.S. §§ 1751-A and 1752-A), added by the Act of December 16, 2005, P.L. ____, No. 81, (Act 81) and section 403(b) of the Public Welfare Code, Act of June 13, 1967, P.L. 31, No. 21 (62 P.S. § 403(b)).

OMISSION OF PROPOSED RULEMAKING

Notice of proposed rulemaking is omitted in accordance with § 204 (3) of the Commonwealth Documents Law (45 P.S. § 1204 (3) and 1 Pa. Code § 7.4 (3)). Pursuant to Act 81, the Governor has published an emergency declaration in which he has found that, as a result of natural disasters throughout the country, home heating fuel and natural gas prices have risen and the available Federal Home Energy Assistance funds are not sufficient to meet the needs of low-income residents of this Commonwealth. The Governor has determined that, as a result, there is a threat to public health.

The Department finds that, under the present circumstances, notice of proposed rulemaking is impracticable and contrary to the public interest because the time periods required for regulatory review and comment under the provisions of the Regulatory Review Act (71 P.S. § 7451.1-745.14), section 204 of the Commonwealth Attorneys Act (71 P.S. § 732-204) and sections 201 and 203 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1203) would take several months. This delay would not allow for

prompt implementation of the Emergency Energy Assistance Fund to benefit low-income residents in need of assistance with their home energy needs.

In addition, the Department is adopting these amendments because of an emergency, as that term is defined in Section 6 of the Regulatory Review Act. (71 P.S. § 745.6.) An immediate emergency-certified regulation is needed to address the threat to public health occasioned by rising home heating fuel and natural gas prices. Such costs adversely impact low-income residents of the Commonwealth. As a result, the General Assembly enacted Act 81 to appropriate funds to the Emergency Energy Assistance Fund. The Governor, pursuant to Act 81, has declared that recent natural disasters and high energy prices are a threat to public health and insufficient federal funds are available to meet the need. Also, Act 81 explicitly authorizes the Department to publish emergency regulations for this Fund.

Under Section 6(d) of the Regulatory Review Act, these amendments take effect immediately and remain in effect for 120 days. During the 120 day period, the amendments are subject to review under the procedures for review of final-omit regulation under the Regulatory Review Act. (71 P.S. § 745.6(d).)

PURPOSE

The purpose of this regulation is to comply with Act 81. Act 81 requires that the criteria and emergency regulations for this program be published in the *Pennsylvania Bulletin* along with the publication of the Governor's requisite declaration of a threat to public health and insufficient Federal home energy assistance funds to meet the needs of low-income residents of this Commonwealth. The Department will follow criteria set forth in the Federal Fiscal Year (FFY) 2006 Low-Income Home Energy Assistance

Program (LIHEAP) Final State Plan and the regulations in Subchapter A of Chapter 601 (relating to Federal Low Income Home Energy Assistance Program) in administering the Emergency Energy Assistance Fund.¹

REQUIREMENTS

The Department has amended Chapter 601 by dividing it into two subchapters. Subchapter A contains the requirements for the Federal LIHEAP program. New Subchapter B describes the eligibility criteria for the state-funded Emergency Energy Assistance Fund and establishes a sunset date. Specifically, § 601.151 provides that the eligibility criteria and benefits for the state Emergency Energy Assistance Fund shall be as set forth in the Commonwealth's Federal Fiscal Year 2006 LIHEAP State Plan and Subchapter A (relating to the Federal Low Income Energy Assistance Program). Section 601.152 provides for the program to sunset on June 30, 2006.

AFFECTED INDIVIDUALS AND ORGANIZATIONS

Low-income Pennsylvanians in need of home energy assistance will benefit from the availability of the Emergency Energy Assistance Fund.

ACCOMPLISHMENTS AND BENEFITS

¹ Notice of the availability of the LIHEAP State Plan for FFY 2006 was published at 35 Pa. B. 5053 (September 10, 2005). Copies of the state plan are available to the public upon request and the plan is published on the Department's website at <http://www.dpw.state.pa.us/LowInc/HeatAssistance/003671219.htm>.

The regulation will benefit low-income Pennsylvanians by providing state funds in addition to the Federal LIHEAP funds for eligible households.

FISCAL IMPACT

Under Act 81, an amount of up to one mill of the gross receipts tax has been appropriated from the General Fund to the Emergency Energy Assistance Fund for the fiscal year July 1, 2005 to June 30, 2006.

PAPERWORK REQUIREMENTS

No additional paperwork requirements are anticipated as a result of this regulation.

EFFECTIVE DATE

The regulation will be effective upon publication in the *Pennsylvania Bulletin*.

PUBLIC COMMENT

Although this regulation is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections regarding the regulation to the Department at the following address:
Department of Public Welfare, Office of Income Maintenance, Edward J. Zogby,
Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg,

Pennsylvania, 17120. Comments will be reviewed and considered for any subsequent revision of the regulation.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

SUNSET DATE

This regulation will sunset on June 30, 2006.

REGULATORY REVIEW ACT

Under § 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on **JAN 10 2006** the Department submitted a copy of this regulation, with proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of the Attorney General for review and approval pursuant to the Commonwealth Attorneys Act.

In accordance with § 5.1 (j.1) and (j.2) of the Regulatory Review Act, this regulation was *deemed* approved by the Committees on . The IRRC met on and approved the regulation.

In addition to submitting the final-omit rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

ORDER

The Department finds:

- (a) That notice of proposed rulemaking is omitted in accordance with § 204 (3) of the Commonwealth Documents Law (45 P.S. § 1204(3)) and 1 Pa. Code § 7.4 (3) and section 6(d) of the Regulatory Review Act because notice of proposed rulemaking is, under the circumstances, impracticable and contrary to the public interest.
- (b) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of Act 81.
- (c) That adoption by this regulation is necessary to ameliorate an emergency condition that threatens the public health.

The Department acting pursuant to Section 1752-A of the Fiscal Code and Section 403(b) of the Public Welfare Code orders:

- (a) The regulation of the Department is adopted to read as set forth in Annex A of this Order.

- (b) The Secretary of the Department shall submit this Order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.
- (c) The Secretary of the Department shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.
- (d) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

ANNEX A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

CHAPTER 601. LOW INCOME ENERGY ASSISTANCE PROGRAM

Subchapter A. FEDERAL LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

GENERAL

* * * * *

Subchapter B. STATE EMERGENCY ENERGY ASSISTANCE FUND

§ 601.151. Eligibility Criteria

Eligibility criteria and benefits for the State Emergency Energy Assistance Fund shall be as set forth in the Commonwealth's Federal Fiscal Year 2006 LIHEAP State Plan and Subchapter A.

§ 601.152. Sunset Date

This subchapter will sunset on June 30, 2006.



Governor's Office

PROCLAMATION

DECLARATION OF EMERGENCY THREAT TO PUBLIC HEALTH

WHEREAS, Due to recent natural disasters that have occurred in various parts of the country, the cost of home heating fuel and natural gas has been rising, and will continue to rise sharply; and

WHEREAS, the rise in the cost of home heating fuel and natural gas is having, and will continue to have, a huge impact on low-income Commonwealth residents; and

WHEREAS, the inability of low-income Commonwealth residents to pay for home heating fuel and natural gas in the coming winter months is a threat to their health.

NOW THEREFORE, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section 7101 et seq.) and Subarticle F, Section 1752-A of the Fiscal Code (Act No. 81 of 2005), I do hereby declare that high energy prices caused by weather conditions constitute an emergency threat to public health within this Commonwealth and that available federal home energy assistance funds are not sufficient to meet the needs of residents.

FURTHER, I hereby direct and authorize the Secretary of Public Welfare to administer state funds from the Energy Emergency Assistance Fund available to those in need in a manner consistent with the criteria under the Low Income Home Energy Assistance Program (55 Pa.Code 601 et seq.) and the regulatory changes published concurrently with this declaration.



Given under my hand and the Seal of the Governor, at in the City of Harrisburg, on this ninth day of January in the year of our Lord two thousand and six, and of the Commonwealth the two hundred and thirtieth.

Edward G. Rendell

EDWARD G. RENDELL
Governor

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 14-503

SUBJECT: Low Income Home Energy Assistance Program

AGENCY: DEPARTMENT OF PUBLIC WELFARE

Please Return To:

**IRRC
14th Floor
HARRISTOWN II**

TYPE OF REGULATION

Proposed Regulation

Final Regulation

X Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

X 120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b. Without Revisions

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

1/10 D. Pucker

HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES

1/10 V. Barowski

1/10/06 mal

SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE

1/10/2006 J. Caher

1/10/06 J. Gilbert

INDEPENDENT REGULATORY REVIEW COMMISSION

1-10-06 M. Yumment

ATTORNEY GENERAL (for Final Omitted only)

1/10/06 C. Lee Brun

LEGISLATIVE REFERENCE BUREAU (~~for Proposed only~~)

January 9, 2006