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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 7, 2000

Honorable Johnny J. Butler, Secretary
Department of Labor & Industry
1700 Labor and Industry Building
Harrisburg, PA 17120

Re: Regulation #12-55 (IRRC #2151)
Department of Labor & Industry
Food-Service Employee Incentive Program

Dear Secretary Butler:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director
wbg
Enclosure

cc: Honorable Joseph M. Gladeck, Jr., Majority Chairman, House Labor Relations Committee
Honorable Robert E. Belfanti, Jr., Democratic Chairman, House Labor Relations Committee
Honorable Gibson E. Armstrong, Chairman, Senate Labor & Industry Committee
Honorable Albert V. Belan, Minority Chairman, Senate Labor & Industry Committee
Robert E. Moore, Director, Department of Labor and Industry
Richard C. Lengler, Deputy Chief Counsel, Department of Labor and Industry

Comments of the Independent Regulatory Review Commission

on

Department of Labor and Industry Regulation No. 12-55

Food-Service Employee Incentive Program

December 7, 2000

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Department of Labor and Industry (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by November 6, 2002, the regulation will be deemed withdrawn.

1. Complaint or dispute resolution. - Reasonableness; Clarity.

This regulation does not provide a method for resolving disputes or complaints dealing with escrow funds or the disbursement of such funds. We understand that the Department will use existing procedures based on Section 260.9a of the Wage Payment and Collection Law (43 P.S. § 260.9a). Adding a new section on complaint or dispute resolution with a citation to this statute would clarify this regulation.

2. Section 231.95. Employee incentive account. - Consistency with statute.

Subsection (b)

For consistency with the Act, the phrase "no less than" should be inserted between the phrases "consisting of" and "the difference" in the first sentence of Subsection (b).

Subsection (f)

Subsection (f) requires the employer to allow the Department access to records maintained pursuant to this section "within seven days following written or verbal notice." Who will give "written or verbal notice"? This should be clarified in the final-form regulation.

3. Section 231.96. Writing required. - Reasonableness; Clarity.

Subsection (d) states "The Department will prepare a recommended notification and acknowledgement form... (and the Department) will make these forms available on its Internet Web site and through other means." The phrase "other means" is unclear. The "other means" should be listed in the final-form regulation.