

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency Department of Agriculture

(2) I.D. Number (Governor's Office Use)
2-124

Mizner

IRRC Number: 2087

(3) Short Title

Agricultural Land Conservation Assistance Grant Program

(4) PA Code Cite

Agricultural Land Conservation
Assistance Grant Program

(5) Agency Contacts & Telephone Numbers

Primary Contact: Wayne Grube
717/783-3167

Secondary Contact: Sandra Robison
717/783-3167

(6) Type of Rulemaking (check one)

Proposed Rulemaking X

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

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

No X

Yes: By the Attorney General

Yes: By the Governor

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

The regulation will accomplish a revision of the current regulation at 7 Pa. Code Chapter 138(h) (relating to agricultural land conservation assistance grant program). In summary, the Agricultural Land Conservation Assistance Grant Program ("Grant Program") provides grants to certain counties to help fund the creation of spatial mapping databases, train personnel, implement zoning and accomplish other objectives in furtherance of farmland preservation. The current regulations were promulgated in November of 1996. The Department has since administered a complete round of grant applications - from the application process through completion of the grant projects. The Department gained experience in the course of its administration of this first round of grant applications, and identified several regulatory revisions that would facilitate future rounds of grant applications. In summary, the Department seeks to revise the current regulations to remove certain ambiguous or unnecessary language, clarify the criteria pursuant to which grants should be awarded and otherwise facilitate the distribution of grant funds to meet the underlying legislative intent.

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

Section 7.3 of the act of June 18, 1982 (P.L. 549, No. 159)(3 P.S. § 1207.3) authorizes the Department to award grants to counties for designated purposes related to the conservation of agricultural land, and empowers the Department to promulgate regulations necessary to support the grant program. It is under this statutory authority these regulatory revisions are offered.

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(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 regulatory revisions are justifiable and serve the compelling public interest in developing a more workable, understandable, efficient Agricultural Land Conservation Assistance Grant Program.

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

There are no appreciable public health or safety risks associated with nonregulation. In the long run, the general welfare and the environment might benefit from a Grant Program that efficiently works to fund projects that aide in the preservation of the Commonwealth's ever-dwindling farmland resource. The regulatory revisions serve to improve that Grant Program.

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

"Eligible counties " - counties whose governing bodies have passed resolutions to form agricultural land preservation program boards and who are qualified to apply for grant funds - will be the primary beneficiaries of the regulatory revisions. Farmland owners will be secondary beneficiaries, in that the refinements that will be accomplished by these revisions will facilitate the operation of the Grant Program and assist in the general effort to preserve the Commonwealth's remaining farmland.

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.)

These regulatory revisions are not expected to adversely affect any persons.

(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.)

No persons, groups or entities are required to comply with the regulations. Participation in the Grant Program is entirely voluntary.

(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 regulation was reviewed by the State Agricultural Land Preservation Board ("State Board") at its November 5, 1998 meeting. Beyond that, the regulatory revisions were developed without assistance or input from outside the Department.

(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.

The regulatory revisions will not increase or decrease costs to the regulated community. Under the current regulations, a grant applicant must provide matching funds for any grant which it seeks. The Department's contribution under any grant agreement is limited to \$10,000. The regulatory revisions do nothing to change this.

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(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.

Grants awarded under the Agricultural Land Conservation Assistance Grant Program help eligible county governments defray up to \$10,000 of the cost of any qualified project related to the establishment or improvement of an agricultural conservation easement purchase program, or related to any other purpose permitted under 3 P.S. § 1207.3.

(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.

The regulatory revisions will not result in the imposition of any appreciable costs on State government. The statute at 3 P.S. § 1207.3 authorizes the Department to utilize up to \$750,000 from the proceeds of the sale of the Department's land, assets and equipment deposited into the Agricultural Conservation Easement Purchase Fund for grants under the program. The first round of grants resulted in the expenditure of \$145,351.84 of this \$750,000 sum, leaving \$604,648.16 for future grants. Individual grants will not exceed \$10,000. No new appropriation of State funds will be required.

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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.

See Answer No. 20a below	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue Losses						

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

The Act authorizes (at 3 P.S. § 1207.3), but does not require, a total State expenditure of \$750,000 under the Grant Program. As stated in Answer No. 19, above, the amount of this total remaining available for expenditure is \$604,648.16. Since the Grant Program requires matching funds from a grant applicant, eligible county governments would incur expenses of at least \$750,000 over the life of the Grant Program.

Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
Agricultural Land Conservation Assistance Grant Program	0	0	\$145,351.84	up to \$604,648.16

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

The benefits of these regulatory revisions will outweigh their costs. The revisions will have the ultimate result of improving the Grant Program and increasing the number and effectiveness of agricultural conservation easement purchase programs Statewide. Successful grant applicants will still be required to provide at least half of the costs of projects with respect to which grant funds are awarded.

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

No nonregulatory alternatives were considered, since the objective of this rulemaking is to make necessary revisions to current regulations.

(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, since the objective of this rulemaking is to make necessary revisions to current regulations.

Regulatory Analysis Form

(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?

Not applicable. 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.

No.

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

The Department does not plan any hearings or informational meetings with respect to the rulemaking, although the Independent Regulatory Review Commission will hold a public meeting at which the rulemaking will be considered.

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(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.

Yes. The Department will have to make minor revisions to some of the forms it currently uses in administering the Grant Program. This is not expected to result in an appreciable increase in paperwork.

(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.

No such special provisions have been made.

(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?

This rulemaking will become effective on the earliest date consistent with the requirements of the Regulatory Review Act.

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

The Grant Program is administered by the Department's Bureau of Farmland Protection. That Bureau regularly reviews the efficacy of the regulations it oversees by March 1 of each year.

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Copy below is hereby approved as to
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David J. J. [Signature]
DEPUTY ATTORNEY GENERAL

JAN 04 2000

DATE OF APPROVAL

If applicable
not approved. Objections
rec.

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of a document issued, prescribed or promulgated by:

Department of Agriculture

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 2-124

DATE OF ADOPTION: 11/11/98

BY: *Samuel E. Hayes, Jr.*
SAMUEL E. HAYES, JR.

TITLE: Secretary of Agriculture
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to
form and legality. Executive or independ-
ent Agencies.

Sandra W. Stone

12/22/99

DATE OF APPROVAL

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

Check if applicable. No Attorney Gen-
eral approval or objection within 30
days after submission.

NOTICE OF PROPOSED RULEMAKING
Title 7 - AGRICULTURE
DEPARTMENT OF AGRICULTURE
[7 PA. CODE CH. 138h]
Agricultural Land Conservation
Assistance Grant Program

**Title 7 – AGRICULTURE
DEPARTMENT OF AGRICULTURE
[7 PA. CODE CH. 138h]
Agricultural Land Conservation
Assistance Grant Program**

The Department of Agriculture (Department) proposes to amend the regulations at 7 Pa. Code Chapter 138h (relating to agricultural land conservation assistance grant program).

Authority

Section 7.3 of the act of June 18, 1982 (P.L. 549, No. 159) (3 P.S. § 1207.3) (act) authorizes the Department to award grants to counties for designated purposes related to the conservation of agricultural land, and empowers the Department to promulgate regulations necessary to support the grant program. It is under this statutory authority these regulatory revisions are offered.

The act requires the Department consult with the State Agricultural Land Preservation Board (State Board) in establishing eligibility criteria for grants and in promulgating regulations necessary to administer and enforce the act. The State Board reviewed and approved these proposed regulatory revisions at its November 5, 1998 meeting.

Need for the Regulations

The Department is preparing to solicit a second round of grant applications under the Agricultural Land Conservation Assistance Grant Program (Grant Program). The proposed regulations would help to remove certain ambiguous or unnecessary language, clarify the criteria pursuant to which grants will be awarded and otherwise facilitate the distribution of grant funds to meet the underlying legislative intent.

In summary, the Department is satisfied there is a need for the proposed regulations, and that the proposed regulations are otherwise consistent with Executive Order 1996-1, "Regulatory Review and Promulgation".

Summary of the Proposed Regulations

The proposed revisions reflect the experience the Department gained in administering the Grant Program through its first round of grant applications. The revisions are intended to remove certain ambiguous or unnecessary language, clarify the criteria pursuant to which grants will be awarded and otherwise make the program more workable.

Proposed § 138h.1 (relating to grant program objectives) would emphasize the primary purpose of the Grant Program: the protection and preservation of agricultural

land. The final sentence of this section would be deleted, since the substance of that sentence is set forth in the definitions of “applicant” and “eligible county”, at § 138h.2 (relating to definitions).

A new term – “costs incurred” – would be added at proposed § 138h.2 (relating to definitions). This term is used repeatedly in § 138h.4(c) (relating to uses of grant funds). The definition would help to clarify that costs incurred by an applicant in the absence of a grant agreement specifically addressing those costs will not be reimbursed under the Grant Program.

Proposed § 138h.4 (relating to uses of grant funds) would accomplish several revisions:

Proposed § 138h.4(c)(1) would replace the term “spatial mapping database” with “Geographic Information Systems (GIS) database”. This would make use of the most widely used and accepted term for the type of database described in that paragraph. In addition, the paragraph would reflect that a GIS database is generally available for purchase and need not be “created”. The paragraph would also allow greater flexibility in terms of the resource data a GIS database would contain.

Proposed § 138h.4(c)(4) would be added to allow for up to \$2,000 of a grant to be used for the purchase of computer hardware necessary for a GIS database or to develop ordinances described elsewhere in subsection (c). The Department believes the objectives of the grant program are served when a successful applicant has the full benefit of current computer technology to implement its project.

Proposed § 138h.4(e) would allow “in-kind” or “like-kind” contributions to constitute the lesser of 20% or \$2,000 of an applicant’s contribution of matching funds toward its project.

Proposed § 138h.5(b) (relating to eligibility criteria) would streamline the criteria pursuant to which grants are awarded. Applications would be evaluated but not “ranked”. The “innovativeness” of a project and the availability of funds from other sources would no longer be criteria in evaluating an application. Separate criteria addressing the impact and relevance of the project would be combined. The Department believes these revisions would facilitate the evaluation process.

The proposed regulations would add a new subsection “(c)” to § 138h.6 (relating to applications generally). This subsection would help to facilitate the grant process by reminding an applicant to document that it is an eligible county and reminding persons acting on behalf of an eligible county to confirm their authority in this regard. The proposed revision of this section would also delete the unnecessary requirement that an applicant document it could not borrow matching funds without the grant it seeks from the Department. Subsection (e) would extend the time within which the State Board or the Secretary can request additional documentation by 20 days. This would afford a full 30 days from receipt of application materials within which to request additional

documentation. This extension will be more workable – particularly in light of the meeting schedule of the State Board.

Proposed § 138h.7 (relating to filing applications) would clarify that applications must be received by the Department by 4:00 p.m. on the last day of the 45-day application window. This revision is prompted by the large number of eligible counties that submitted their application materials late during the Grant Program’s first round of applications. The final phrase in proposed § 138h.7(b) would also address applications submitted at the end of the 45-day application window by allowing for the receipt and consideration of additional necessary documentation beyond the date the application window closes.

Proposed § 138h.8 (relating to review of applications by the State Board) would delete the requirement that all applications received within the 45-day application window be reviewed by the State Board at the same meeting. This addresses situations where additional necessary documentation for an application is not received until after the scheduled meeting of the State Board at which all other applications are considered.

Proposed § 138h.10 (relating to grant agreement) would clarify that it is possible to extend the termination date of a grant agreement if the Department and the grant recipient agree in writing, but would limit any such extension to no more than 6 months. This revision is proposed in light of the experience gained by the Department in administering the first round of grant applications. Several worthy grant projects took longer to complete than the grant recipients had, in apparent good faith, anticipated. The proposed revision balances the occasional need for an extension of the grant agreement termination date with the need to administer the grants efficiently and avoid a backlog of uncompleted projects.

Persons Likely to be Affected

The proposed regulations would affect any county agricultural land preservation program seeking a grant for purposes consistent with the act.

Fiscal Impact

Commonwealth

The proposed regulations will impose no costs and have no fiscal impact upon the Commonwealth. The act, itself, allows for up to \$750,000 to be awarded in grants. The proposed regulation would not increase or decrease that sum, but would help ensure the grant funds are spent for the purposes described in the act. To date, the Department has awarded grants totaling \$145,351.84. As a result, there remains authority to award an additional \$604,648.16 in grants.

Political Subdivisions

The proposed regulations would impose no costs and have no fiscal impact upon political subdivisions. If a county seeks grant funds for a project permitted under the act, though, it must pay at least 50% of the project's costs.

Private Sector

The proposed regulations would impose no costs and have no fiscal impact on the private sector.

General Public

The proposed regulations would impose no costs and have no fiscal impact upon the general public.

Paperwork Requirements

The proposed regulations are not expected to result in an appreciable increase in paperwork. The Department has developed grant application forms which it will distribute to interested persons, and will review completed applications in consultation with the State Board. Paperwork will be minimal.

Public Comment Period

The public comment period with respect to the proposed regulations shall run for 30 days from the date of publication in the Pennsylvania Bulletin.

Regulatory Review

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 24, 2000, the Department submitted a copy of the proposed regulations to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs. In addition to submitting the proposed regulations, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation". A copy of this material is available to the public upon request.

Under § 5(g) of the Regulatory Review Act, if IRRC has an objection to any portion of the proposed regulation, it must so notify the Department within 10 days after the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by the portion of the proposed regulations with respect to which an objection is made. The Regulatory Review Act sets forth detailed procedures for review of these objections by the Department, the General Assembly and the Governor prior to final publication of the proposed regulations.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Farmland Protection, 2301 North Cameron Street, Harrisburg, Pa. 17110-9408, Attention: Raymond C. Pickering, Director.

Sunset/Expiration Date

Although the proposed regulations would have no sunset date, their efficacy would be reviewed on an ongoing basis.

Effective Date

The proposed regulations would take effect on the date of final adoption.

SAMUEL E. HAYES, JR.,
Secretary

Annex A
TITLE 7. AGRICULTURE
PART V-C. FARMLAND AND FOREST LAND

CHAPTER 138h. AGRICULTURAL LAND CONSERVATION ASSISTANCE
GRANT PROGRAM

Sec.	
138h.1.	Grant Program objectives.
138h.2.	Definitions.
138h.3.	Limitations on grants.
138h.4.	Uses of grant funds.
138h.5.	Eligibility criteria.
138h.6.	Applications generally.
138h.7.	Filing applications.
138h.8.	Review of application by State Board.
138h.9.	Notice of disposition of application.
138h.10.	Grant agreement.
138h.11.	Verification of use.
138h.12.	Grant cancellation.
138h.13.	Deficits.
138h.14.	Records.
138h.15.	Final report.

§ 138h.1. Grant Program objectives.

Through the awarding of grants and the placing of conditions upon how grant funds are to be spent, the Grant Program will fund projects which will increase the protection and preservation of agricultural land within this Commonwealth by encouraging the implementation and effectiveness of county programs in each eligible county. [A grant will only be awarded to a county whose governing body has appointed an agricultural land preservation board, even though the county may not have a county program.]

§ 138h.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Agricultural Area Security Law (3 P.S. §§901-915).

Applicant—An eligible county acting through and with the approval of its agricultural land preservation board.

Costs Incurred—Expenses that are permitted under a grant agreement and that have been paid by a grant recipient in expectation of reimbursement under the grant agreement and this chapter.

County Program—A county agricultural land preservation program for the purchase of agricultural conservation easements approved by the State Board under the act.

Department—The Department of Agriculture of the Commonwealth.

Eligible county—A county, not of the first class, whose governing body has passed a resolution forming a county agricultural land preservation board under the law and appointed members to the board by the date of application.

Grant Program—The Agricultural Land Conservation Assistance Grant Program.

Secretary—The Secretary of the Department.

State Board—The State Agricultural Land Preservation Board.

§ 138h.3. Limitations on grants.

(a) The maximum amount of a grant is \$10,000.

(b) For projects costing less than \$20,000, the maximum grant will be 50% of the project cost.

(c) A county is not eligible for more than a cumulative total of \$25,000 in grants under the Grant Program.

(d) The total amount of grant funds which may be awarded will not exceed \$750,000 of the funds deposited into the Agricultural Conservation Easement Purchase Fund under section 7.1(a) of the act of June 18, 1982 (P.L. 549, No. 159) (3 P.S. § 1207.1(a)). The amount of grant funds awarded in any particular year will be determined by the State Board, depending on the availability of the funds.

§ 138h.4. Uses of grant funds.

(a) *Conformity to application.* Grant funds awarded to an applicant shall be expended solely for specific projects described in the grant application in accordance with the project budget approved by the State Board and shall be expended within the time period specified in the grant agreement.

(b) *Pennsylvania projects.* Grant funds awarded to an applicant under the Grant Program shall be used only to fund projects within the geographic boundaries of this Commonwealth.

(c) *Allowable expenditures of grant funds.* Grant funds shall be used for one or more of the following purposes:

(1) To cover costs incurred by an applicant in [creating a spatial mapping] obtaining a Geographic Information Systems (GIS) database. The database shall[, at a minimum,] contain such resource data as: county topographic data, property boundaries, soil boundaries, soil capability classes[.and], soil productivity ratings and relative values for soils.

(2) To cover costs incurred by an applicant to develop and implement agricultural zoning ordinances, including model ordinances for possible adoption by local government units.

(3) To cover costs incurred by an applicant to train staff, contract with consultants, and pay for computer software directly linked to achieving the purposes of paragraphs (1) and (2), or to reaching the objective of a fully approved and functioning county program.

(4) To cover costs up to \$2,000 incurred by an applicant in the purchase of computer hardware directly linked to achieving the purposes of paragraphs (1) and (2).

(d) *Ineligible expenditures.* Grant funds may not be used for the purchase of general-use word processing and spreadsheet software.

(e) Use of "in-kind" or "like-kind" funding. The value of in-kind or like-kind contributions shall be considered in calculating an applicant's contribution of matching funds to a project. In-kind or like-kind contributions may be counted toward an applicant's matching contribution. In-kind or like-kind contributions used for this purpose shall not exceed \$2,000 or 20% of an applicant's total matching contribution, whichever is less.

§ 138h.5. Eligibility criteria.

(a) *General.* The following general criteria apply to applications for projects:

(1) The Grant Program will not accept applications for the following:

- (i) Projects already completed.
- (ii) Stages of projects already in progress.

- (iii) Stages of projects for which funding has been included in a county appropriation or where other funding has been approved.

(2) Subsequent stages or upgrades [of previously completed projects for which funding has already been approved] may be considered for funding if documentation is provided to the Department to demonstrate that the stage [of the project] or upgrade [identified in the application] was not included in funding plans for earlier stages of the project.

(b) *Specific.* The following specific criteria will be used to evaluate [and rank] applications for funding consideration:

(1) The acceptability of costs within the proposed budget.

[(2) The availability of funding for the project from a source other than the Commonwealth.]

[(3)] (2) The extent to which the project [shall impact upon] contributes to the Commonwealth's [the] goal of preserving agricultural [lands within this Commonwealth] land.

[(4) The relevance of the project to encouraging the preservation of agricultural lands.]

[(5)] (3) The geographic scope of the project and the amount of agricultural land which will be affected by the project described in the application.

[(6) The value to the community of the project described in the application.]

[(7) The innovativeness of the project.]

[(8)] (4) The anticipated date of full implementation of a county program.

[(9)] (5) The impact the project would have on other county programs.

§ 138h.6. Applications generally.

(a) *Application required.* Applicants shall submit a written grant application to the Department through their county agricultural land preservation boards.

(b) *Obtaining an application.* Applications for grants under this chapter shall be made on forms prepared by the Department. The forms will be furnished, upon request, by the Department.

(c) Authorization. In addition to the application, applicants shall submit a written resolution passed by the county board authorizing the person submitting the grant application to execute the grant application on behalf of the county board.

[(c)](d) *Additional documentation.* The State Board and the Secretary may require an applicant to submit additional documentation to complete or verify the application form. The additional documentation may include a letter, affidavit or other documentation, to:

- (1) Verify [the legitimacy of the applicant's agricultural land preservation board] that the applicant is an eligible county.
- (2) Verify that grant funds will be used for one or more of the purposes in § 138h.4 (relating to uses of grant funds).
- (3) Confirm the applicant has secured funds from another source for the project for which the grant is requested.
- [(4) Obtain from a third party which is providing matching funds to an applicant a recommendation that a grant under this chapter be awarded the applicant and verifying that its contribution of funds to the project would not be available without a grant from the Department.]

[(d)](e) *Request for additional documentation.* If additional documentation is necessary, the State Board or the Secretary will mail a written request for additional documentation to the applicant within [10] 30 days of receipt of the application.

§ 138h.7. Filing applications.

(a) *Place and time.* An application for a grant under the Grant Program shall be received by the program administrator at the Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408, during the specific 45-day annual application period as advertised in the *Pennsylvania Bulletin*. Applications will not be accepted after 4:00 p.m. on the last day (day 45) of the application period. The advertisement will be published at least 30 days prior to the commencement of the application period.

(b) *Incomplete or inaccurate applications.* The Department will review each application and any supporting documentation that is received within the 45-day application period. If an application is found to be incomplete or inaccurate, the Department will request additional information and will discontinue further processing of the application if the documentation is not received by the Department within [the 45-day application period described in subsection (a)] 15 days from the date of the request or the close of the 45-day application period, whichever is longer.

§ 138h.8. Review of application by State Board.

(a) *Transmittal of application to State Board.* When the Department determines a grant application is complete and accurate, it will forward this application, together with supporting documentation submitted therewith, to the State Board for review at its next regularly scheduled meeting. [Since all applications are to be submitted and completed within the same time period, all applications for funding will be transmitted to the State Board at the same time.]

(b) *Factors.* The State Board will review and evaluate the application and supporting documentation and will consider the factors in § 138h.5 (relating to eligibility criteria) in deciding whether to recommend approval or disapproval of the grant request.

(c) *Decisions.* When the State Board has reviewed the grant application and supporting documentation, it will vote on whether to recommend approval or disapproval of the grant application. The State Board will vote on these projects in accordance with its bylaws. The State Board may also recommend the grant be awarded in an amount less than that requested in the grant application. In addition, the State Board may vote to recommend the imposition of restrictions or special conditions upon the issuance of a grant. If the State Board recommends approval of a particular grant application, the Secretary will execute the grant agreement if funding is available and all other conditions have been met.

§ 138h.9. Notice of disposition of application.

The Department will mail to the applicant written notice of the approval or disapproval of a grant application within 30 days of [a] the State Board's decision. This notice will be by regular mail to the address indicated by the applicant on the grant application form.

§ 138h.10. Grant agreement.

(a) *General.* After the State Board approves a grant application, and as a precondition to the Department's release of grant funds to a successful applicant, the Department and the applicant shall execute a written grant agreement which describes the terms and conditions subject to which the grant is made. This grant agreement shall contain and conform to the requirements of this chapter and applicable State laws. It shall also contain any special terms and conditions required by the State Board and the Secretary.

(b) *Extension of project completion date.* Although the project completion date set forth in the grant agreement may be extended by mutual written agreement of the

Department and the grant recipient, under no circumstances will the project completion date be extended more than 6 months.

§ 138h.11. Verification of use.

(a) *Verification.* Within 3 months of the time period specified in the grant agreement, or the completion of the project, whichever is earlier, the grant recipient shall submit to the Department written receipts accounting for the project costs. If the total of the written receipts demonstrates that some portion of the grant amount was not spent, the grant recipient shall also submit payment in the full amount of this unspent sum to the Department. The repayment shall be credited to the Agricultural Conservation Easement Purchase Fund, and may be used to fund this Grant Program. The Department may also require that additional documentation be submitted by the grant recipient to document the expenditure of grant funds.

(b) *Extension of time.* The 3- month period described in subsection (a) may only be extended by the written permission of the Secretary. An extension will be for a specific period of time.

(c) *Failure to verify use.* If required receipts or documentation are not submitted to the Department as described in subsections (a) and (b), or if the grant funds or a portion thereof are unaccounted for, the Secretary may demand, in writing, the return by the grant recipient of the entire grant sum or a lesser amount, plus appropriate legal interest as prescribed in section 202 of the act of January 30, 1974 (P.L. 13, No. 6) (41 P.S. § 202). The grant recipient shall repay a sum of grant funds and interest demanded by the Department within 60 days of the mailing of the written demand. The repayment shall be credited to the Agricultural Conservation Easement Purchase Fund, and may be used to fund this Grant Program.

§ 138h.12. Grant cancellation.

(a) *Misuse of funds.* A grant may be canceled by the Department if the Secretary determines grant funds are not being spent in accordance with the terms and conditions of the grant agreement. In the event of cancellation, the Department may demand the return of the entire grant sum, or a portion thereof, and the grant recipient shall repay the sum in the manner described in § 138h.11(c) (relating to verification of use).

(b) *Failure to [establish a] obtain State Board approval of a county program.* If, within 2 calendar years of the date of the first grant agreement to that county, the grant recipient does not have a county program in place, the grant funds provided to the eligible county under this chapter shall be returned to the Department in full as described in § 138h.11(c).

§ 138h.13. Deficits.

The Department's financial obligation or liability is limited to the amount of the grant. The Department will not be financially responsible for cost overruns incurred by grant recipients, or any other costs resulting from establishment of a county program.

§ 138h.14. Records.

(a) The grant recipient shall maintain books, records and other evidence pertinent to costs incurred in connection with the project. The books and records shall be maintained according to generally-accepted accounting principles.

(b) Financial records, supporting documents, statistical records and other records pertaining to the grant shall be retained by the grant recipient for 3 years following the date final payment is made. The records and documents shall be available for inspection or audit by the Commonwealth, its agencies and instrumentalities during this time period.

§ 138h.15. Final report.

Within 3 months of the date of completion of the project, the grant recipient shall submit a final report delineating the progress made towards meeting the objectives in the initial grant application.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
LEGAL OFFICE

January 24, 2000

The Independent Regulatory Review Commission
14th Floor
333 Market Street
Harristown #2
Harrisburg, PA 17120

Re: NOTICE OF PROPOSED RULEMAKING
Department of Agriculture, Bureau of Farmland Protection
7 Pa. Code Chapter 138h: Agricultural Land Conservation
Assistance Grant Program
I.D. No. 2-124

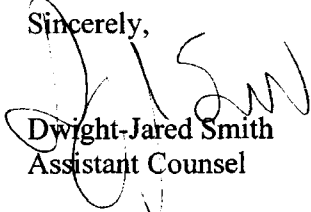
Dear Sirs:

Please find enclosed copies of the Face Sheet, Preamble, Annex "A" and Regulatory Analysis Form with respect to the above proposed regulation.

Copies of these documents have been submitted to the majority and minority chairpersons of the House and Senate Agriculture and Rural Affairs Committees and to the Legislative Reference Bureau on this date.

The proposed regulation will be published in the February 5, 2000 edition of the *Pennsylvania Bulletin*. If I may be of further information, please advise.

Sincerely,


Dwight-Jared Smith
Assistant Counsel

Enclosures

2301 NORTH CAMERON STREET
HARRISBURG, PA 17110-9408
717-787-8744
FAX 717-787-1270

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

2000 JAN 24 PM 3:06

I.D. NUMBER: 2-124
SUBJECT: Agricultural Land Conservation Assistance Grant Program
AGENCY: DEPARTMENT OF AGRICULTURE

INDEPENDENT REGULATORY
REVIEW COMMISSION

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
1/24/00	<i>C. D. ...</i>	HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1/24/00	<i>Tricia Costello</i>	SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1/24/00	<i>Kim C. ...</i>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL
1/24/00	<i>Mary ...</i>	LEGISLATIVE REFERENCE BUREAU

January 18, 2000