

Regulatory Analysis Form		This space for use by IRRC	
(1) Agency Pennsylvania Department of Agriculture		RECEIVED 2001 JAN 24 PM 2:44 REGULATORY COMMISSION	
(2) I.D. Number (Governor's Office Use) 2-119		IRRC Number: 2089	
(3) Short Title The Farm Safety and Occupational Health Small Grants Program ("FSOH")			
(4) PA Code Cite 7 Pa.Code, Chapter 138k.1.-138k.13.	(5) Agency Contact Telephone Numbers Primary Contact: John Tacclosky 717-772-5217 Secondary Contact: Phillip Pitzer 717-772-5206		
(6) Type of Rulemaking (check one) Proposed Rulemaking Final Order Adopting Regulation <input checked="" type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? No <input checked="" type="checkbox"/> Yes: By the Attorney General Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. This regulation establishes criteria for the FSOH. The purpose of the FSOH is to award grants to statewide farm organizations and volunteer fire companies, ambulance services and rescue squads for providing farm safety, occupational health and emergency response programs. The regulation establishes the procedures governing submission, processing and review of grant applications. In addition, it sets forth the documentation required to accompany such applications, eligibility criteria for determining grant amounts and notification and reporting requirements.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The Farm Safety and Occupational Health Act ("Act")(3 P.S. § 1901-1915). Section 6(c)(2) of the act (3 P.S. § 1906(c)(2)) sets forth the specific authority for the FSOH. There are no state or federal court decisions regarding this regulation.			

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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.

The Farm Safety and Occupational Health Act ("Act") (3 P.S. §§ 1901-1915) confers upon the Secretary of Agriculture ("Secretary") the authority to promulgate regulations necessary to implement and administer the act. Section 6(c)(2) of the act (3 P.S. § 1906(c)(2)) states that the Secretary may provide for the establishment of a grant program for the purpose of awarding grants to specific organizations for providing farm safety, occupational health and emergency response programs. Section 13 of the act (3 P.S. § 1913) provides that the Secretary may promulgate, adopt and use guidelines to implement provisions of the act. Such guidelines are effective for a period of not more than two years from the effective date of the act. The Department of Agriculture ("Department") implemented the FSOH through the promulgation of a Statement of Policy (7 Pa.Code §§ 138g.1.-138g.10.). Pursuant to the requirements of the act these guidelines are no longer effective and the Department must promulgate regulations in order to continue to implement and administer the FSOH.

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

The compelling public interest addressed by this regulation is reducing, preventing and rapidly treating injuries in the agricultural industry. Agriculture is the Nation's most hazardous industry and farming accounts for 80 percent of Agriculture's injury toll. The agriculture industry's work death rate is 22 percent higher than the second most hazardous industry. From 1990 through 1995 at least 249 Commonwealth citizens lost their life to hazards associated with farming. In 1994 alone, there were 5,100 injuries and 250 permanent disability injuries related to farming. The core concept of the FSOH is to provide the maximum educational outreach to the farm community, as well as, quick medical responses to farm emergencies at minimum costs. Grant money under this regulation will go to train, educate and provide proper equipment to statewide farm organization and volunteer fire companies, ambulance services and rescue squads who provide farm safety and occupational health education programs and emergency response services. The agricultural community and the general public both benefit from programs which reduce injuries, disabilities and death.

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

Increased or at the very least sustained high incidents of farm accidents, occupational injuries and diseases, disabilities and death related to farming activities. A lack of trained emergency response and medical personnel to deal with farm related accidents, injuries and diseases. Trained and properly prepared and equipped emergency response personnel benefit everyone.

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

The regulation benefits the entire farm community and the general public in the manner described in the answers to questions (11) and (12). Statewide farm organizations and volunteer fire companies, ambulance services and rescue squads benefit through better training and equipment. The farm community and general public benefit through better training in avoidance of injuries, better trained emergency response personnel, better equipped emergency response personnel and fewer injuries, disabilities and deaths. The number of individuals to benefit from this regulation will be related to the number of grant applications received and approved. The Department does not have verifiable statistics on the number of individuals who have benefited from the FSOH since its inception in 1996.

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(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.)

The FSOH regulations will have no adverse effect on any person or group of persons. The grant program is a voluntary program and the only expense to participants is related to record keeping requirements, which are not onerous. The farm community and the general public both benefit through the reduction of injuries, disabilities and death and the increased training and response capabilities of ambulance services, rescue squads and volunteer fire departments.

(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.)

The FSOH is a voluntary program and the only expense to participants is related to record keeping requirements, which are not onerous. Only those eligible organizations who apply and are approved for a grant under the FSOH will be required to comply with the regulations.

(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 Farm Safety and Occupational Health Advisory Board, which is composed of the Secretary of Agriculture, the Secretary of Health, three farmers who represent different statewide farm organizations, a representative of an agricultural equipment manufacturer or dealer, a farm insurance representative, a rural youth organization representative, a manufacturer or dealer of agricultural chemicals, a vocational agriculture instructor, an emergency service provider representative, the director of PEMA and the dean of the College of Agricultural Sciences of The Pennsylvania State University, was involved in the review and promulgation of the Statement of Policy and this regulation. The program has been administered under the Statement of Policy for the past two years and the input received from the grant recipients has been favorable. The proposed regulation mirrors the Statement of Policy.

(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.

As set forth in the answer to question (20) and detailed in the answer to question (20a), the potential savings to the regulated community is \$816,000 per year. This is a very conservative estimate. The estimate is based on National Safety Council data. The Department's saving estimate is arrived at by presuming that the program will prevent just one death and one disabling injury per year. It is likely the program will be much more effective. The costs associated will be minimal. The costs will be paper work costs and the cost of those attending and participating in farm safety programs. The accounting and paperwork is simple and should not require the grant recipient to incur any legal or consulting fees.

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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.

The regulation will impose no costs and have no fiscal impact upon local governments. Local governments are not required to comply with the regulations. Only eligible applicants who apply for a grant and receive a grant are subject to the regulations. Although, not specifically quantifiable, local governments will benefit through decreased farm related deaths, disabilities and injuries.

(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 Department has a continuing appropriation for use in developing the FSOH. The cost of the program is \$50,000 per year. This estimate is based on actual funds available and budgeted for grant applicants. The paperwork and administrative costs are minimal and the program has operated successfully for two years. The savings to state government associated with implementation of the regulations again is not specifically quantifiable other than to reference the projected savings associated with preventing one death and one injury per year. In addition, a well-trained and properly prepared rescue squad is priceless and serves to enhance the health and safety of the entire community.

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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.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated	816,000	816,000	816,000	816,000	816,000	816,000
Local Government	-0-	-0-	-0-	-0-	-0-	-0-
State Government	-0-	-0-	-0-	-0-	-0-	-0-
Total Savings	816,000	816,000	816,000	816,000	816,000	816,000
COSTS:						
Regulated	-0-	-0-	-0-	-0-	-0-	-0-
Local Government	-0-	-0-	-0-	-0-	-0-	-0-
State Government	50,000	50,000	50,000	50,000	50,000	50,000
Total Costs	50,000	50,000	50,000	50,000	50,000	50,000
REVENUE LOSSES:						
Regulated	-0-	-0-	-0-	-0-	-0-	-0-
Local Government	-0-	-0-	-0-	-0-	-0-	-0-
State Government	-0-	-0-	-0-	-0-	-0-	-0-
Total Revenue Losses	-0-	-0-	-0-	-0-	-0-	-0-

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

Savings:

Savings estimates are based on National Safety Council data indicating that one death costs \$790,000 in lost wages, medical and funeral expenses, replacement labor, lost production, investigations, government subsidies and insurance claims, etc. and one disabling injury presents costs of \$26,000. Recent surveys suggest that Pennsylvania has 42 farm related deaths annually and 4,200 injuries that result in at least one lost school or workday. These injury cases are defined as disabling injuries. These statistics result in estimated losses of \$33,180,000 for deaths and \$109,200,000 from injuries annually. Prevention of just one death and injury saves society \$816,000.

Costs:

Costs associated with this regulation are based on actual amounts available and budgeted for grant applicants. Grants are given to volunteer fire companies, ambulance corps, quick response teams, emergency medical groups, and other groups defined by the act. The grants are for training and equipment related to farm rescue and accident prevention. Each year new applications must be filed in order to receive grant monies from the FSOH. Repeat applicants should demonstrate new and innovative training and/or emergency response methods.

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

Program	FY -3	FY -2	FY -1	Current FY
		\$50,000	\$50,000	\$50,000

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

The cost of administering the program is \$50,000 per year plus minimal administrative and record keeping costs. The potential benefit to the farming community and the general public is a savings of \$816,000, and this figure presumes that only one life will be saved and one disabling injury prevented.

Agriculture ranks number 1 as the Nation's most dangerous profession. According to the National Safety Council, growers and farm workers earn their living in a sector of the economy where one person in 2,000 dies as a result of an occupational accident.

The FSOH is designed to promote agricultural worker safety and occupational health through preventative safety practices by providing the agricultural community, volunteer fire companies, ambulance corps, quick response teams, emergency medical groups, and other groups defined in the act with the training and equipment needed to quickly and properly respond to farm accidents. In addition, the FSOH provides training related to farm rescue and accident prevention and methods, as well as, training and information regarding topics such as agricultural equipment technology safety. The FSOH will provide sensible solutions to address agricultural occupational health concerns and will do so at minimal cost to the farm community, the grant recipients and the general public.

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

The act provides for specific grant and loan programs to address the problem of Farm Safety and Occupational Health. The act requires such programs to be administered through regulations. Therefore, no nonregulatory alternatives were considered. The cost associated with not pursuing the programs delineated in the act are increased or at least sustained costs of death and injury related to agricultural operations.

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

The act is very definitive with regard to the programs allowed and the parameters and criteria of those programs. The regulations define and set forth those parameters and criteria.

(23) Continued

Strict Regulatory Control Alternative:

OSHA on the farm would be diametrically opposed by Pennsylvania's farming community as overburdensome government regulation. OSHA regulations may impose restrictions that would limit a farmer's ability to grow certain crops or produce certain types of livestock. Overly restrictive regulations would only add to the farm community's economic struggle for profitability. In light of Pennsylvania's agricultural diversity strict OSHA regulations would be virtually impossible to promulgate equably, thus potentially creating an artificial shift in agricultural production. The alternatives considered would result in higher agriculture production costs and higher costs to the consumer.

The major benefits to be derived from the FSOH include local farm safety networking, enhanced technological information and answers to questions regarding best management safety practices, as well as, quick medical responses to farm emergencies.

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(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?

With the adoption of the FSOH and its regulations, Pennsylvania will assume a leadership role among other states in the Farm Safety and Occupational Health area. The regulation will not put Pennsylvania at a competitive disadvantage with other states. The regulation does not impose any costs on the farm community. The regulation, as explained previously, will save money for the regulated community, the farm community and the general public through education and quick and proper emergency response with regard to farm accidents. Training, education and quick response will decrease death rates and disabling injuries on the farm and in the community.

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

The regulation will work in conjunction with the proposed regulations regarding the Farm Safety and Occupational Health Tuition Assistance Program and the Farm Safety and Occupational Health Developmental and Instructional Program. No other regulations of this agency or any other agency will be affected.

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

No, except as required by the Independent Regulatory Review Commission.

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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.

No. The FSOH has been in existence and administered through a Statement of Policy for two years. The regulation mirrors the Statement of Policy. The reporting, record keeping and other paperwork requirements are already in place and will not be changed or effected by the regulation. The regulation requires minimal paperwork, accounting and reporting requirements. Many of the requirements follow standard accounting procedures implemented and adopted throughout the Commonwealth.

(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.

The FSOH recognizes special need groups and persons through AgrAbility for Pennsylvanians, which is part of a national information and technology network for farmers, farm workers and family members who are continuing to farm despite on-going physical or medical difficulties. All farmers, regardless of their race, gender, age or nationality will benefit from the educational programs, training and quick response programs encouraged and funded by the FSOH. In addition, volunteer fire and ambulance companies are the entities eligible for FSOH grants, therefore, the FSOH caters to small businesses and small and rural communities.

(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?

Upon passing through the regulatory review process, the regulation will take effect immediately. This regulation is not controversial and we expect final approval and promulgation of this regulation by December of 1999. The regulation sets forth the criteria for grant application review and processing. The FSOH is a voluntary program. Only those eligible entities who apply and whose grant proposal is accepted will be subject to the regulation. There are no permits or licenses required.

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

Grant recipients are required to provide the Department with a final report. The final report shall include pertinent documentation and a narrative report describing the effectiveness of the funded project, experience gained and knowledge acquired. The Department will use such reports to judge the effectiveness of the FSOH and any changes which, may be needed to the regulatory criteria in order to make the program more effective. In addition, section 5(c) (3 P.S. § 1905(c)) of the act requires the Secretary to submit an annual report to the chairmen of the House and Senate Agriculture and Rural Affairs Committee covering the administration and operation of the act. The report is to include a summary of program activities, statistics on farm accidents and occupational injuries and diseases, an assessment of the number of persons participating in the programs, recommendations to increase acceptance and utilization of the programs and any comments, recommendations or assessments which the advisory board submits for inclusion in the report.

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REVIEW COMMISSION

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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 true and
correct copy of a document issued, prescribed or
promulgated by:

Department of Agriculture

DOCUMENT/FISCAL NOTE NO. 2-119

DATE OF ADOPTION _____

BY: Samuel E. Hayes, Jr.
Samuel E. Hayes, Jr.

TITLE Secretary

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

BY: Sandra W. Stone

1/8/01
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.

NOTICE OF FINAL RULEMAKING

**Department of Agriculture
Bureau of Plant Industry
7 Pa. Code §§ 138k.1. - 138k.13.
Farm Safety and Occupational Health
Grant Program**

TITLE 7 – Agriculture
DEPARTMENT OF AGRICULTURE
[7 PA. CODE CH 138k]
Farm Safety and Occupational Health Grant
Program

The Department of Agriculture (Department), hereby establishes regulations authorized and required under the act of December 12, 1994, P.L. 944, No. 134, known as the Farm Safety and Occupational Health Act (act) (3 P.S. §§ 1901-1915).

Authority

The Department has the power and authority to adopt these regulations. This authority includes:

- (1) The general authority to adopt rules and regulations conferred by section 5 of the act (3 P.S. § 1905), which delineates the duties of the Secretary of Agriculture (Secretary) and directs the Secretary to "...adopt and promulgate any regulations which may be necessary to implement and administer the act."
- (2) The specific authority conferred by section 6(c)(2) of the act (3 P.S. § 1906(c)(2)) which, authorizes the Secretary to establish a grant program for the purpose of awarding grants to Statewide farm organizations and volunteer fire companies, ambulance services and rescue squads for providing farm safety, occupational health and emergency response programs.
- (3) The specific duty and authority as set forth at section 6(d) of the act (3 P.S. § 1906(d)), which requires the Secretary to adopt and promulgate regulations to govern the awarding of grants under section 6 of the act.

Need for the Regulations

The regulations delineate the objectives of the Farm Safety and Occupational Health Grant Program (FSOH) and establish the procedures governing the submission, processing and review of grant applications. In addition, the regulations set forth the documentation required to accompany such applications, eligibility criteria, criteria and verification, cancellation, notification and reporting requirements. The regulations assure fair and impartial review of FSOH grant applications. These regulations establish a grant program which will make funds available to Statewide farm organizations and volunteer fire companies, ambulance services and rescue squads for providing farm safety, occupational health and emergency response programs.

The Commonwealth's approximately 51,000 farms are the foundation of a \$35 billion industry, employing over 650,000 workers in farming and related services, food processing and food wholesale and retail sales. The National Safety Council reports Agriculture as this Nation's most hazardous industry with a work death rate 22% higher than the second most hazardous industry, mining and quarrying. Farming accounts for

over 80% of Agriculture's injury toll. From 1990 through 1995 at least 249 Commonwealth citizens have lost their life to hazards associated with farming. The victims included 17 infants, toddlers and preschoolers - - all under 5 years of age. Another 29 victims were at least 75 years of age. The oldest was 89 years old. In 1994, a Statewide survey showed one in every ten farm operations in the Commonwealth had at least one recordable work-related injury. Even more startling was that approximately 5% of those injuries resulted in some type of permanent disability to the victim. The numbers evidence the need for farm safety and occupational health programs. In 1994 alone, there were a total of 5100 injuries and 250 permanent disability injuries related to farming. Therefore, the regulations should ultimately benefit both the farming community and the general public.

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

Comments

Notice of Proposed Rulemaking was published at 30 *Pennsylvania Bulletin* 781 (February 12, 2000), and provided for a 30-day public comment period.

Comments were received from the Independent Regulatory Review Commission (IRRC).

Comment: IRRC commented on section 138k.1. of the proposed regulation (relating to Program objectives). IRRC was concerned with the consistency of the section with other regulations (the Farm Safety and Occupational Health Tuition Assistance Program and the Farm Safety and Occupational Health Developmental and Instructional Program) and with the clarity of the section. IRRC commented that subsection (b) of section 138k.1. of the proposed regulation (relating to Competitive program) stated, in part, that "Grant requests ... would be reviewed by the Board...." IRRC commented that giving the Board this duty is inconsistent with similar provisions in the two simultaneously proposed regulations (the Farm Safety and Occupational Health Tuition Assistance Program and the Farm Safety and Occupational Health Developmental and Instructional Program) submitted to IRRC for review. In addition, IRRC was concerned that the Board only met three times annually and the regulation requires the Department to review and approve grant applications within 30 days. Therefore, IRRC stated it was not feasible to include the Board in the review of each application and the Department should revise the regulation to be consistent with the other two regulations.

Response: The Department agrees the language of section 138k.1(b) of the proposed regulation should be revised to be consistent with the other two regulations and because including the Board in the review of each application is not feasible. In addition, giving the Board such power is inconsistent with the section 3(g) of the act (3 P.S. § 1903(g)) which, establishes the duties of the advisory board. The Department has deleted the language regarding review by the Board and has replaced it with “reviewed by the Secretary or his designee”. This language is consistent with the language of the other two regulations.

Comment: IRRC commented that the term “Board” in the definitions section of the regulation and the term “Advisory Board” in the act both refer to the “Farm Safety and Occupational Health Advisory Board”. They suggested that for consistency with the statute, the Department should replace the term “Board” with the term “Advisory Board”.

Response: The Department agrees the terms in the regulations should be consistent with the terms in the act. The Department has changed the term “Board” to “Advisory Board” in section 138k.2 (regarding Definitions) of the final-form regulation. In addition, in the final-form regulation all references to “Board” have been changed to “Advisory Board”.

Comment: IRRC had two comments with regard to the clarity of section 138k.4 of the proposed regulation (relating to Applications generally). First, IRRC commented another part of the proposed regulation, subsection 138k.6(a) (entitled “Grant application requirements”) set forth a list of attachments to an application. IRRC suggested that in order to improve clarity, the contents of subsection 138k.6(a) should be moved to section 138k.4 of the proposed regulation (relating to Applications generally). Alternatively, IRRC suggested the contents could be placed in a new section captioned “Application requirements” following section 138k.4 and preceding section 138k.5 of the proposed regulation (relating to Application deadline).

IRRC’s second comment with regard to section 138k.4 concerned the fact that the proposed regulation requires applicant to complete and submit grant application forms, but does not list the basic information required on a grant application form. IRRC suggested the Department should include basic information on the contents of the application form in this section.

Response: With regard to IRRC’s first comment on section 138k.4, the Department agrees that placing the contents of subsection 138k.6(a) of the proposed regulations into the section regarding “Applications generally” would add clarity to the regulation. In the final-form regulation the Department has placed a subsection entitled “Grant application requirements” into the Section of the final-form regulation regarding “Applications generally”. This change can be found in section 138k.5, subsection (b) of the final-form regulation. In addition, the language of the section 138k.5, subsection (b) (relating to Grant application requirements), has been revised to be consistent with the other two regulations (the Farm Safety and Occupational Health Tuition Assistance Program and the Farm Safety and Occupational Health Developmental and Instructional Program) submitted to IRRC for review.

With regard to IRRC's second comment concerning section 138k.4, the Department believes that the revised language in section 138k.5 of the final-form regulation and specifically the language in subsection (b) (relating to Grant application requirements) addresses IRRC's concern. In addition, the Department believes it is not required to specifically define the contents of application forms in the regulation.

Comment: IRRC commented with regard to the reasonableness and clarity of section 138k.6, subsection (b) of the proposed regulation (relating to Review of application). Subsection 138k.6(b) of the proposed regulation set forth the factors the Secretary would consider when reviewing a grant application. IRRC suggested the Department should include a reference to subsection 138k.3(c) of the proposed regulation. Subsection 138k.3(c) of the proposed regulation (relating to Recipient's use of Program grant funds) set forth the type of projects for which Program grants may be awarded.

Response: The Department agrees such a reference would add clarity to the regulation. Therefore in the final-form regulation the Department has added language to Section 138k.7 (relating to Review of applications), subsection (d) (relating to Factors) which references section 138k.3(c) (relating to Recipient's use of Program grant funds).

Comment: IRRC had three comments concerning reasonableness and clarity with regard to section 138k.7 of the proposed regulation (relating to Notice of disposition of application). The first comment concerned the length of time it will take the Department to evaluate an application. The language of section 138k.7 of the proposed regulation states, "[G]rant applicant will be notified by the Secretary within 30 days of a decision to reject or approve the grant". IRRC commented this language did not clarify the length of time it will take the Department to issue a decision once the application is received.

The second comment was with regard to the clarity of the last sentence of section 138k.7 of the proposed regulation. IRRC commented that the sentence did not clearly define what constitutes use of the grant money. IRRC was confused as to whether the grant money had to actually be expended within a year, or if it could be merely committed but not actually spent.

IRRC's third comment regarding this section also focused on the last sentence. IRRC commented that the regulation should also state what happens if the grant funds are not used within one year of their receipt. IRRC further commented this section should indicate how a grant recipient could apply for an extension, what action the Department may take and if that action could include cancellation of the grant pursuant to section 138k.10 of the proposed regulation (relating to Grant cancellation).

Response: The Department agrees the language should be revised to further clarify the time period for review of grant applications, what constitutes "use" of the grant funds and to define what actions the Department may take in the event the grant recipient does not comply with this section. With regard to IRRC's first comment, the Department has revised the language of section 138k.8 of the final-form regulation (relating to Notice of disposition of applications) to clarify the Department's time period for review. The section, and all subsections, now state that the grant applicant will be

notified, "...within 30 days of **receipt** of a completed grant application of a decision to approve, approve with special conditions or reject the grant application."

With regard to IRRC's second comment, the Department has revised the language of the subsection 138k.8(c) of the final-form regulation (relating to Approved applications). This subsection states, "[G]rant money shall be **spent**...within the time period specified in the grant agreement, unless an extension is granted by the Secretary." This language clearly states the grant funds must actually be spent and the grant recipient will have a definite time period, set forth in the grant agreement, within which to spend the funds.

The Department responded to IRRC's third comment by adding language to subsection 138k.8(c) of the final-form regulation (relating to Approved applications). The language delineates how a grant applicant may request an extension of time and sets forth the actions the Department may take if grant funds are not spent within specified time period. The section states that failure to spend the grant funds within the specified time period will constitute a default and the Secretary may cancel the grant and seek recovery of the grant funds. The language references section 138k.11 (relating to Grant cancellation) and section 138k.12 (relating to Right of recovery) of the final-form regulation.

In addition, the Department reorganized the section by dividing it into subsections. This adds clarity to the regulation and makes it consistent with the other two farm safety regulations (the Farm Safety and Occupational Health Tuition Assistance Program and the Farm Safety and Occupational Health Developmental and Instructional Program) submitted to IRRC for review.

Comment: IRRC commented with regard to the reasonableness of the paperwork requirements set forth in section 138k.8 of the proposed regulation (relating to Recordkeeping). IRRC's comments concerned the fact that grant recipient's are required to submit a final report with documentation, and are also required to retain copies of documents and records for three years after the grant agreement expires.

Response: The Department requires such retention for audit purposes and in case the copies of the records, documents and receipts contained in the final report and the Department's records are ever questioned or challenged.

Comment: IRRC commented with regard to section 138k.9, subsection (a) of the proposed regulation (relating to Verification of use). IRRC suggested the Department needed to clarify the language of the subsection with regard to the time period for submission of certain reports, receipts and documents. IRRC commented that language sets a definite time period for submission of documentation and receipts but does not delineate a definite time period for submission of the other two reports.

Response: The Department intended for one report, containing a narrative and all necessary documentation of costs and receipts to be submitted to the Department within three months of the project completion date. In response to this comment and in response to IRRC's suggestion that the format of this regulation should be consistent with the format of the other two farm safety regulations (the Farm Safety and Occupational Health Tuition Assistance Program and the Farm Safety and Occupational Health Developmental and Instructional Program) submitted to IRRC for review, the Department has made two revisions to the final-form regulation. First, the Department revised the language of the final-form regulation to reflect that only one report, a final report, was necessary, and to reflect that the final report must be submitted within three months of the project completion date specified in the grant agreement and must include written receipts, records and any other financial records or documents evidencing the project's costs. Secondly, the Department deleted the section on Verification from the final-form regulation and made it two subsection ((c) relating to Verification and (d) relating to Failure to verify), which are under section 138k.4 of the final-form regulation (relating to General conditions). This is consistent with the format of the other two farm safety regulations submitted to IRRC for review.

Comment: IRRC commented on four miscellaneous issues. The comments pertained to the clarity of the regulations and their consistency with the other two farm safety regulations before it. The first comment regarded adding provisions to the regulation for requesting additional documentation from an applicant when an application is deficient. IRRC commented that proposed regulation #2-122 (the Farm Safety and Occupational Health Developmental and Instructional Program) and proposed regulation #2-123 (the Farm Safety and Occupational Health Tuition Assistance Program) both contain such provisions. IRRC suggested the Department should include identical provisions in this regulation.

IRRC commented that the other two farm safety regulations include provisions suspending processing of an incomplete application until the Department receives the additional data requested. IRRC suggested the Department should include identical provisions in this regulation.

IRRC's third comment was a suggestion that the Department add language to this regulation stating that the Department will confirm in writing all request for and submission of additional data.

The fourth comment made by IRRC concerned the conflict of interest provision contained in the other two farm safety regulations being reviewed by IRRC. IRRC suggested an identical provision be included in this regulation.

Response: The Department agrees with all of IRRC's comments and suggestions regarding miscellaneous provisions. In response to IRRC's first comment, the Department has added language to the final-form regulation regarding the Department's ability to and the process for requesting additional data for incomplete or inaccurate applications. Subsection 138k.6(b)(3) of the final-form regulation (relating to Incomplete and inaccurate applications) sets forth these provisions.

With regard to IRRC's second comment, the Department has added subsection 138k.6(b)(3) of the final-form regulation (relating to Incomplete and inaccurate applications). This subsection sets forth provisions for suspending the processing of an incomplete or inaccurate application and delineates the time period for submission requested data.

In response to IRRC's third comment, the Department included language in subsection 138k.6(b)(3) of the final-form regulation (relating to Incomplete and inaccurate applications) regarding the processing of an incomplete or inaccurate application.

The Department addressed IRRC's fourth comment by adding section 138k.9 (entitled "Conflict of interest) to the final-form regulation.

To address IRRC's concerns regarding clarity and consistency among the three farm safety regulations, in addition to the changes noted above, the Department reformatted this final-form regulation so that the format and language is consistent with the final-form of regulation #2-122 (the Farm Safety and Occupational Health Developmental and Instructional Program) and regulation #2-123 (the Farm Safety and Occupational Health Tuition Assistance Program).

Fiscal Impact

Commonwealth

The final-form regulation will impose minimal costs and have minimal fiscal impact upon the Commonwealth, including projected increases in program costs. The Department of Agriculture has an appropriation for use in developing the various Farm Safety and Occupational Health Grant Programs allowed under section 6 of the act. The Secretary, with the advice of the Advisory Board, will determine the amount of funds to allocate to each grant program promulgated under section 6 of the act.

Political Subdivisions

The final-form regulation will impose no direct costs and have no fiscal impact upon political subdivisions.

Private Sector

The final-form regulation will impose minimal costs on those organizations or individuals who are interested in applying for FSOH grants. The costs that may be associated with the regulation would involve the time spent to develop and implement the programs for which grant funds are sought and obtain and fill out a grant application. Organizations and individuals receiving grants would benefit by receiving funds to cover costs associated with developing and implementing the farm safety and occupational health emergency response programs. The private sector may also benefit through the realization of reduced health care and occupational costs resulting from the educational value, skills learned and technical information presented at the educational and preventative programs developed under and espoused by the act and this regulation.

General Public

The final-form regulation will impose no direct costs and have no fiscal impact upon the general public. The farm community and the general public should benefit through the reduction of health care and occupational costs which are likely to result from the emergency response programs developed and implemented under and espoused by the act and this regulation.

Paperwork Requirements

The final-form regulation will not result in an appreciable increase of paperwork. The Department will have a grant application form to administer the FSOH Grant Program. However, the administrative provisions of the FSOH Grant Program regulation are very similar to the administrative provisions of the FSOH Grant Program Statement of Policy. The Department has already developed a grant application form and grant agreement for use in administering the FSOH Grant Program and has administered that program, under a Statement of Policy, since 1996.

Contact Person

Further information is available by contacting the Department of Agriculture, Farm Safety and Occupational Health Grant Program, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408; Attn: John Tacclosky (717) 772-5217.

Regulatory Review

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), as amended by the act of June 25, 1997 (P.L. 252, No. 24), the Department submitted a copy of the Notice of Proposed Rulemaking published at 30 *Pennsylvania Bulletin* 781 (February 12, 2000) on January 31, 2000 to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs for review and comment. In compliance with § 5 (b.1), the Department also provided the Commission and the Committees with copies of all comments received, as well as other documentation.

In preparing this final-form regulation, the Department has considered all comments received from the Commission, the Committees and the public.

This final-form regulation was (deemed) approved by the House Agriculture and Rural Affairs Committee on _____, was (deemed) approved by the Senate Agriculture and Rural Affairs Committee on _____, and was (deemed) approved by the Commission on _____.

Findings

The Department of Agriculture finds the following:

- (1) Public notice of its intention to adopt the regulation encompassed by this Order has been given under §§ 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §§ 1201 and 1202) and their attendant regulations at 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments received were considered.
- (3) The modifications that were made to this regulation in response to comments received do not enlarge the purpose of the proposed regulation published at 30 *Pennsylvania Bulletin* 781 (February 12, 2000).
- (4) The adoption of the regulation in the manner provided in this Order is necessary and appropriate for the administration of the authorizing statute.

Order

The Department of Agriculture, acting under authority of the authorizing statute, orders the following:

- (1) The new regulations of the Department of Agriculture at 7 Pa. Code Chapter 138k. (regarding Farm Safety and Occupational Health Grant Program) are adopted as set forth in Annex "A" attached hereto.
- (2) The Secretary of Agriculture shall submit this Order and Annex "A" to the Office of General Counsel and to the Office of Attorney General for review and approval as to legality and form, as required by law.
- (3) The Secretary of Agriculture shall certify this Order and Annex "A" and deposit them with the Legislative Reference Bureau, as required by law.
- (4) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

BY THE DEPARTMENT OF AGRICULTURE

Samuel E. Hayes, Jr., Secretary

CHAPTER 138g. (Reserved)

§§ 138g.1--138g.10. (Reserved).

CHAPTER 138k. FARM SAFETY AND OCCUPATIONAL HEALTH GRANT PROGRAM

Sec.

138k.1.	Program objectives.
138k.2.	Definitions.
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138k.9.	Verification of use CONFLICT OF INTEREST.
138k.10.	Grant cancellation RECORDKEEPING.
138k.11.	GRANT CANCELLATION.
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138k.13.	DEFICITS.

§ 138k.1. Program objectives.

(a) *Purpose.* The purpose of the ~~FSOH~~ FARM SAFETY AND OCCUPATIONAL HEALTH Grant Program is to fund projects which will increase the knowledge and awareness of farm safety measures and occupational health issues in this Commonwealth, in particular, among the rural youth of this Commonwealth.

(b) *Competitive program.* The ~~FSOH~~ FARM SAFETY AND OCCUPATIONAL HEALTH Grant Program is competitive. Grant requests and related documentation will be collected by the Department and reviewed by the ~~Board and~~ PENNSYLVANIA SECRETARY OF AGRICULTURE. Grants will be awarded annually.

(c) *Funds available basis.* Grants will not be awarded unless funds are available for this purpose.

§ 138k.2. Definitions.

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

Act--The Farm Safety and Occupational Health Act (3 P. S. §§ 1901--1915).

ADVISORY Board--The Farm Safety and Occupational Health Advisory Board.

Department--The Department of Agriculture of the Commonwealth.

DESIGNEE--A PERSON CHOSEN OR APPOINTED BY THE PENNSYLVANIA SECRETARY OF AGRICULTURE TO CARRY OUT THE SECRETARY'S DUTIES UNDER THIS CHAPTER.

ELIGIBLE APPLICANTS-- STATEWIDE FARM ORGANIZATIONS AND VOLUNTEER FIRE COMPANIES, AMBULANCE SERVICES AND RESCUE SQUADS PROVIDING FARM SAFETY, OCCUPATIONAL HEALTH AND EMERGENCY RESPONSE PROGRAMS.

~~*FSOH Grant Program*~~ *Program*--The Farm Safety and Occupational Health Grant Program.

PERSON--AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER FORM OF BUSINESS ENTERPRISE.

PROJECT--THE FARM SAFETY, OCCUPATIONAL HEALTH OR EMERGENCY RESPONSE PROGRAM, DELINEATED IN THE APPLICANT'S PROGRAM APPLICATION.

Secretary--The Secretary of Agriculture of the Commonwealth OR HIS DESIGNEE.

Statewide farm organizations--The term includes any of the following organizations located in this Commonwealth:

- (i) Farmers organizations.

- (ii) Dairy organizations.
- (iii) Livestock and poultry organizations.
- (iv) Veterinary associations.
- (v) Commodity organizations.
- (vi) Food industry organizations.
- (vii) Horticulture and agronomy organizations.
- (viii) Agricultural promotional organizations.
- (ix) Agricultural equipment organizations, including a local, county or regional chapter thereof.

Volunteer ambulance services--A nonprofit chartered corporation, association or organization located in this Commonwealth and which is regularly engaged in the services of providing emergency medical care and transportation of patients.

Volunteer fire company--A nonprofit chartered corporation, association or organization located in this Commonwealth which provides fire protection services and other voluntary emergency services within this Commonwealth.

Volunteer rescue squad--A nonprofit chartered corporation, association or organization located in this Commonwealth which provides rescue services in this Commonwealth.

§ 138k.3. Limitations on grants.

(a) *Financial assistance.* The FSOH Grant Program will award financial assistance, of up to \$2,500, to Statewide farm organizations, volunteer fire companies, ambulance services and rescue squads within this Commonwealth that wish to develop and deliver farm safety, occupational health and emergency response programs.

~~(b) Eligible applicants~~ GRANT AWARDS. AN ELIGIBLE APPLICANT MAY APPLY FOR MORE THAN ONE PROGRAM GRANT PER YEAR. HOWEVER, AN Eligible applicants will MAY not be awarded more than ~~one~~ \$2,500 DOLLARS IN PROGRAM grantS per State IN ANY fiscal year. ~~An applicant may submit more than one type of grant application.~~

~~(c) Recipient's use of FSOH PROGRAM grant funds. Grants awarded to an organization~~ A RECIPIENT OF A PROGRAM GRANT may be used only USE THE FUNDS TO COVER THE COSTS OF ~~for~~ the specific project/event/activity described in the RECIPIENT'S APPROVED grant application AND SIGNED GRANT AGREEMENT. ~~Grants shall only be used to fund projects within the geographic boundaries of this Commonwealth and~~

(D) ELIGIBLE PROJECTS. PROGRAM GRANTS may be awarded for the following types of projects:

- (1) Projects related to methods of preventing or mitigating farm accidents.
- (2) Educational programs relating to agricultural equipment safety programs for farm youth.
- (3) Educational seminars or field demonstrations relating to first aid programs for farm youth.
- (4) Agriculture safety training programs at day camps and demonstration projects for farm youth.
- (5) Development and implementation of age-appropriate rural school curricula.
- (6) Fire/educational safety programs specific to farms.

(7) Development and implementation of age-appropriate adult farmer and farm worker safety training programs.

(8) Farm related emergency response training programs.

(E) *ADDITION LIMITATIONS.*

(1) PROGRAM GRANT FUNDS MAY ONLY BE USED TO PROVIDE FINANCIAL ASSISTANCE FOR PROJECTS ADMINISTERED WITHIN THE GEOGRAPHIC BOUNDARIES OF THIS COMMONWEALTH.

(2) PROGRAM GRANT FUNDS MAY NOT BE USED FOR OR APPLIED TO ANY TRAINING, PROGRAMS, ACTIVITIES, CERTIFICATION OR LICENSING REQUIREMENTS OR EVENTS PERTAINING TO THE PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973 (3 P. S. §§ 111.21--111.60) OR THE REGULATIONS PERTAINING TO PESTICIDES AT CHAPTER 128 OF THE PENNSYLVANIA CODE (7 Pa.Code § 128.1) OR THE STATEMENT OF POLICY REGARDING THE CHEMSWEEP PESTICIDE DISPOSAL PROGRAM AT CHAPTERS 128A. AND 128B. OF THE PENNSYLVANIA CODE (7 Pa.Code §§ 128a.1 and 128b.1).

§ 138k.4. Applications generally GENERAL CONDITIONS.

(A) *GRANT AGREEMENT.* THE RECIPIENT OF A PROGRAM GRANT SHALL SIGN A GRANT AGREEMENT SETTING FORTH THE AMOUNT OF THE GRANT AND OTHER TERMS AND CONDITIONS THE DEPARTMENT MAY REASONABLY REQUIRE.

(B) *DEFAULT.* A RECIPIENT OF A PROGRAM GRANT WHO FAILS TO ABIDE BY THE TERMS OF THE GRANT AGREEMENT OR THE ACT OR THIS CHAPTER

SHALL BE IN DEFAULT. IN THE EVENT OF A DEFAULT, THE SECRETARY MAY CANCEL THE GRANT AND SEEK RECOVERY OF THE GRANT FUNDS AS SET FORTH IN SECTION 138K.12 (RELATING TO RIGHT OF RECOVERY).

THE SECRETARY MAY WAIVE A DEFAULT, AFTER CONSULTATION WITH THE ADVISORY BOARD, AS A RESULT OF EXTENUATING CIRCUMSTANCES.

(C) *VERIFICATION*. WITHIN 3 MONTHS OF THE PROJECT COMPLETION DATE SPECIFIED IN THE GRANT AGREEMENT, THE RECIPIENT SHALL SUBMIT TO THE DEPARTMENT A FINAL REPORT. THE FINAL REPORT SHALL INCLUDE:

(1) WRITTEN RECEIPTS, RECORDS AND ANY OTHER FINANCIAL RECORDS OR DOCUMENTS EVIDENCING THE PROJECT'S COSTS.

(2) PERTINENT DOCUMENTATION (SUCH AS COURSE SYLLABUSES, SCHEDULES, ATTENDANCE RECORDS AND SPEAKER PROFILES) EVIDENCING THE COURSE'S CONTENT.

(3) A NARRATIVE REPORT STATING THE PROJECT OBJECTIVES AND SETTING FORTH WHAT OBJECTIVES WERE ACCOMPLISHED, THE EXPERIENCE GAINED AND KNOWLEDGE ACQUIRED AND THE METHODS USED TO ACCOMPLISH THE STATED OBJECTIVES.

(D) *FAILURE TO VERIFY*. IF A FULLY COMPLETED FINAL REPORT CONTAINING THE REQUIRED RECEIPTS, RECORDS, DOCUMENTATION AND NARRATIVE IS NOT SUBMITTED WITHIN THE 3 MONTH PERIOD OR A PORTION OF THE GRANT PROCEEDS ARE NOT ACCOUNTED FOR, THE SECRETARY MAY DEMAND THE RECIPIENT REPAY THE ENTIRE AMOUNT OF THE GRANT OR A LESSER AMOUNT, PLUS LEGAL INTEREST THEREON.

THE DEMAND WILL BE MADE IN WRITING AND DELINEATE THE DEFICIENCIES IN THE VERIFICATION DOCUMENTS. THE RECIPIENT SHALL HAVE 30 DAYS, FROM THE RECEIPT OF WRITTEN NOTICE, TO REMEDY THE STATED DEFICIENCIES OR PAYMENT SHALL BE DUE WITHIN 60 DAYS OF THE WRITTEN DEMAND.

~~§ 138k.5. Application deadline.~~

~~An application for a grant under this chapter shall be received by the Department at the address in § 138k.4(b) (relating to applications generally) by October 31 of the year preceding the fiscal year in which the grant funds are sought.~~

§ 138K.5. APPLICATIONS GENERALLY.

~~(a) *Application required.* Interested Statewide farm organizations, volunteer fire companies, ambulance services and rescue squads within this Commonwealth may submit grant applications to the Department at the address in subsection (b).~~

(A) *ELIGIBLE APPLICANTS.* ONLY ELIGIBLE APPLICANTS MAY SUBMIT A GRANT APPLICATION TO THE DEPARTMENT. ELIGIBLE APPLICANTS MAY SUBMIT GRANT APPLICATIONS TO THE DEPARTMENT AT THE ADDRESS IN SUBSECTION (C) OF THIS SECTION.

(B) *GRANT APPLICATION REQUIREMENTS.* AN APPLICATION FOR A PROGRAM GRANT WILL NOT BE CONSIDERED BY THE SECRETARY UNLESS THE FOLLOWING ITEMS ARE ATTACHED:

(1) A DETAILED DESCRIPTION OF THE PROJECT, INCLUDING OBJECTIVES, GOALS AND MATERIALS TO BE FUNDED BY THE GRANT.

(2) A REASONABLE AND ACCURATE STATEMENT OF THE ESTIMATED COST OF THE PROJECT. THE STATEMENT SHALL INCLUDE A SEPARATE BREAKDOWN OF THE PERSONNEL PORTION OF THE COSTS, THE MATERIALS PORTION OF THE COST, AND ANY OTHER NECESSARY OR ANTICIPATED COSTS ASSOCIATED WITH THE PROJECT. THE APPLICANT SHALL PROVIDE ANY DOCUMENTATION OR FINANCIAL STATEMENTS AVAILABLE TO SUPPORT THE ESTIMATED PROJECT COSTS.

(3) A STATEMENT REGARDING THE AMOUNT OF TUITION TO BE CHARGED FOR THE COURSES.

(4) A COPY OF THE OFFICIAL ORGANIZATION BOARD MINUTES WHEN ACTION WAS TAKEN ON THE PROJECT OR A SIGNED STATEMENT ATTESTING TO THE APPLICANT'S COMMITMENT TO THE PROJECT.

(5) INFORMATION REGARDING THE BREADTH OF THE PROJECT, INCLUDING THE INDIVIDUALS OR GROUPS TO BE SERVED BY THE PROJECT AND THE GEOGRAPHIC AREA TO BE SERVED BY THE PROJECT. MAPS OR OTHER GEOGRAPHIC AIDS MAY BE ATTACHED.

(6) INFORMATION REGARDING THE SKILLS, KNOWLEDGE OR EXPERIENCE TO BE GAINED FROM THE PROJECT.

(7) DOCUMENTATION REGARDING THE NAME AND LOCATION OF THE APPLICANT ADMINISTERING THE PROJECT.

(8) A BIOGRAPHICAL SKETCH OF PRIMARY PERSONS INVOLVED IN THE PROJECT WHICH INDICATES SKILLS, KNOWLEDGE, TRAINING AND PRIOR EXPERIENCE OF THE PERSONS DEVELOPING AND/OR ADMINISTERING THE PROJECT.

~~(b)~~ (C) *Obtaining an application and technical assistance.* AN application for A grants under this chapter shall be made on A forms prepared by the Department. For applications and for assistance, contact the Farm Safety and Occupational Health Grant Program, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110, ~~(717) 787-4843~~.

~~(e)~~ (D) *Additional information.* The ~~Board and the~~ Secretary may require that an applicant submit SUCH additional documentation AS MAY REASONABLY BE NECESSARY to complete, verify or clarify the application.

(E) *APPLICATION DEADLINE.* AN APPLICATION FOR A GRANT UNDER THIS CHAPTER SHALL BE SUBMITTED TO THE DEPARTMENT BY OCTOBER 31 OF EACH YEAR.

§ 138k.6. ~~Review of application~~ PROCESSING OF APPLICATIONS.

(A) *APPROVAL OR DENIAL.* THE SECRETARY SHALL APPROVE, APPROVE WITH SPECIAL CONDITIONS OR REJECT GRANT APPLICATIONS AND ISSUE GRANTS IN ACCORDANCE WITH THE GENERAL CONSIDERATIONS AND CRITERIA OF THE ACT AND THIS CHAPTER. THE SECRETARY MAY EXERCISE HIS JUDGMENT IN APPROVING GRANT APPLICATIONS AND IN DETERMINING THE DISTRIBUTION OF GRANTS SO THAT THE WIDEST POSSIBLE AUDIENCE BECOMES ACQUAINTED WITH FARM SAFETY AND

OCCUPATIONAL HEALTH PRACTICES AND TECHNIQUES ESPOUSED BY THE ACT AND THIS CHAPTER. THE SECRETARY MAY IMPOSE RESTRICTIONS OR SPECIAL CONDITIONS UPON THE ISSUANCE OF A GRANT.

(B) *PROCESSING*. AN APPLICATION FOR A PROGRAM GRANT SHALL BE PROCESSED IN THE FOLLOWING MANNER:

(1) *COMPLETENESS AND ACCURACY*. UPON RECEIPT OF AN APPLICATION FOR A PROGRAM GRANT AND THE REQUIRED SUPPORTING DOCUMENTATION, THE SECRETARY WILL REVIEW THIS INFORMATION FOR COMPLETENESS AND ACCURACY.

(2) *COMPLETE AND ACCURATE APPLICATIONS*. APPLICATIONS CONTAINING ALL THE REQUIRED INFORMATION AND SUPPORTING DOCUMENTATION WILL BE REVIEWED IN ACCORDANCE WITH THE CRITERIA SET FORTH IN THE ACT AND THIS CHAPTER AND ACCEPTED, ACCEPTED WITH SPECIAL CONDITIONS OR REJECTED. GRANT APPLICANTS WILL BE NOTIFIED IN WRITING AS SET FORTH AT SECTION 138.k8(a) OF THIS CHAPTER (RELATING TO NOTICE OF DISPOSITION OF APPLICATIONS).

(3) *INCOMPLETE OR INACCURATE APPLICATIONS*. IF THE SECRETARY DETERMINES AN APPLICATION IS INCOMPLETE OR INACCURATE, FINAL PROCESSING OF THE APPLICATION MAY BE DISCONTINUED OR ADDITIONAL DATA MAY BE REQUESTED. IF ADDITIONAL DATA IS REQUESTED SUCH REQUEST SHALL BE IN WRITING AS SET FORTH AT SECTION 138k.8(b) OF THIS CHAPTER (RELATING TO NOTICE OF DISPOSITION OF APPLICATIONS) AND WILL BE SENT TO THE ADDRESS

LISTED ON THE GRANT APPLICATION. THE PROCESSING OF THE APPLICATION WILL CEASE UNTIL THE APPLICANT SUPPLIES THE REQUESTED DATA. THE SECRETARY WILL TERMINATE THE PROCESSING OF AN INCOMPLETE APPLICATION WHEN THE ADDITIONAL DATA REQUESTED IS NOT SUPPLIED WITHIN 10 DAYS OF THE REQUEST FOR SUCH DATA.

(C) *ADVISORY BOARD*. THE ADVISORY BOARD, AS REQUIRED UNDER SECTIONS 3(g)(2) AND 4(c) (3 P.S. §§ 1903(g)(2) and 1904(c)) OF THE ACT, SHALL RECOMMEND OVERALL [PROGRAM] PRIORITIES FOR EACH GRANT PROGRAM TO THE SECRETARY. ADDITIONALLY, THE ADVISORY BOARD, AS REQUIRED BY SECTION 3(g)(3) (3 P.S. § 1903(g)(3)) OF THE ACT, SHALL RECOMMEND THE AMOUNT OF FUNDS TO BE ALLOCATED TO EACH GRANT PROGRAM. THE ADVISORY BOARD HAS NO AUTHORITY TO AND SHALL NOT REVIEW INDIVIDUAL GRANT APPLICATIONS AND SHALL HAVE NO INPUT INTO INDIVIDUAL GRANT AWARDS.

§ 138k.7. ~~Notice of disposition of application~~ REVIEW OF APPLICATIONS.

~~(a) *Grant application requirements*. The Board or the Secretary will not consider an application for a grant unless the following items are attached:~~

- ~~–(1) A detailed description of the project to be funded by the grant.~~
- ~~–(2) A reasonable and accurate statement of the estimated cost of the project. A separate breakdown on the labor portion of the cost, on the materials portion of the cost, and on any other type of expense anticipated shall be provided.~~
- ~~–(3) A statement regarding the amount of tuition to be charged for the courses.~~

~~(4) A copy of the official organization board minutes when action was taken on this project.~~

(5) Information of the project or area to be served by the proposed project. Maps or other geographic aids may be attached.

~~(6) A biographical sketch of primary persons involved in the project which indicates skills, knowledge and prior experience required for the completion of the project.~~

(A) *EVALUATION*. THE SECRETARY WILL EVALUATE AN APPLICATION BASED ON THE APPLICANT'S ELIGIBILITY AND GRANT APPLICATION REQUIREMENTS, AS WELL AS THE FACTORS SET FORTH IN THE ACT AND THIS CHAPTER.

(B) *GRANT APPLICATION COMPLETENESS*. AN APPLICATION FOR A PROGRAM GRANT WILL NOT BE CONSIDER BY THE SECRETARY UNLESS IT CONTAINS THE REQUIRED INFORMATION AND ITEMS SET FORTH IN SECTION 138k.5(b) OF THIS CHAPTER (RELATING TO APPLICATIONS GENERALLY).

~~(b)~~ (C) *Factors*. Factors to be considered by the ~~Board or the~~ Secretary in selecting grant recipients include the following:

- (1) The relevance of the project to farm safety or rural health issues.
- (2) The innovativeness of the project.
- (3) The scope AND DURATION of the project, the number of people who will be affected by the project as described in the application AND HOW IT RELATES TO PROGRAM COMPONENTS IN SECTION 4(B) OF THE ACT (3 P.S. § 1904(B)).
- (4) The value to the agricultural community of the project described in the application.

(5) The willingness of the applicant to make in kind AND/or financial contributions, ~~or both,~~ to the project.

(6) The availability of funding for the project from a source other than the FSOH Grant Program.

(7) The impact the project will have upon rural youth or farmers, growers or producers within this Commonwealth.

(8) The value to those who work directly with farm accident victims.

(9) Whether the applicant has been, in whole or in part, the recipient of another A PROGRAM grant under the act within the same State fiscal year.

(10) Whether a local, county or regional farm organization is affiliated with a Statewide farm organization.

(11) The amount of tuition the applicant intends to charge for the courses administered under the project.

(12) THE PRIORITIES THE SECRETARY, IN CONSULTATION WITH THE ADVISORY BOARD, SETS IN ACCORDANCE WITH SECTION 4(C) OF THE ACT (3 P.S. § 1904(c)).

§ 138k.8. Recordkeeping NOTICE OF DISPOSITION OF APPLICATION.

~~Grant applicants will be notified by the Secretary within 30 days of a decision to reject or approve the grant. This notice will be sent by regular mail to the address indicated by the applicant on the grant application. Recipients will receive a grant agreement which shall be executed by the recipient and the Department prior to the release of funds. Grant money shall be used within 1 year of the date of the grant agreement unless an extension is granted by the Secretary.~~

(A) *APPLICATIONS DEEMED COMPLETE.* THE SECRETARY WILL NOTIFY GRANT APPLICANTS WITHIN 30 DAYS OF RECEIPT OF THEIR COMPLETED GRANT APPLICATION OF A DECISION TO APPROVE, APPROVE WITH SPECIAL CONDITIONS OR REJECT THE GRANT APPLICATION. THIS NOTICE WILL BE SENT BY REGULAR MAIL TO THE ADDRESS INDICATED BY THE APPLICANT ON THE GRANT APPLICATION.

(B) *APPLICATIONS DEEMED INCOMPLETE OR INACCURATE.* WITHIN 30 DAYS OF RECEIPT OF A GRANT APPLICATION, THE SECRETARY WILL NOTIFY THE APPLICANT OF A DECISION TO REJECT THE GRANT APPLICATION OR NOTIFY THE APPLICANT OF A DEFICIENCY IN THE GRANT APPLICATION AND REQUEST ADDITIONAL DATA. IF ADDITIONAL DATA IS REQUESTED, NOTIFICATION SHALL BE IN WRITING AND DETAIL THE ADDITIONAL DATA NEEDED. THE SECRETARY WILL FOLLOW THE ACTION PRESCRIBED IN SECTION 138k.6(b)(3) (RELATING TO PROCESSING OF INCOMPLETE OR INACCURATE APPLICATIONS).

(C) *APPROVED APPLICATIONS.* APPLICANTS APPROVED FOR A PROGRAM GRANT WILL RECEIVE A GRANT AGREEMENT WHICH SHALL BE EXECUTED BY THE RECIPIENT AND THE DEPARTMENT PRIOR TO THE RELEASE OF FUNDS. GRANT MONEY SHALL BE SPENT BY THE GRANT RECIPIENT WITHIN THE TIME PERIOD SPECIFIED IN THE GRANT AGREEMENT UNLESS AN EXTENSION IS GRANTED IN WRITING BY THE SECRETARY. A REQUEST FOR AN EXTENSION SHALL BE IN WRITING, STATE THE REASON THE EXTENSION IS NEEDED AND MUST BE SENT TO THE ADDRESS SET FORTH

AT SECTION 138k.5(c) (REGARDING OBTAINING AN APPLICATION AND TECHNICAL ASSISTANCE). FAILURE TO SPEND THE GRANT FUNDS WITHIN THE SPECIFIED TIME PERIOD SHALL CONSTITUTE A DEFAULT ON THE PART OF THE GRANT RECIPIENT. THE SECRETARY MAY CANCEL THE GRANT AND SEEK RECOVERY OF THE GRANT FUNDS AS SET FORTH IN SECTION 138k.11 (REGARDING GRANT CANCELLATION) AND SECTION 138k.12 (REGARDING RIGHT OF RECOVERY).

~~§ 138k.9. Verification of use.~~

~~(a) *Verification.* An organization receiving a grant shall maintain books, records and other evidence pertaining to costs incurred for expenditures associated with the project funded by the grant. The books and records shall be maintained according to generally accepted accounting principles. Within 3 months of the project completion date specified in the grant agreement, the recipient shall submit to the Department written receipts for the project costs. Grant recipients shall provide to the Department a final report, which includes pertinent documentation, as well as a narrative report describing the effectiveness of the project, experience gained and knowledge acquired.~~

~~(b) *Failure to verify use.* If required receipts or documentation, or both, are not submitted to the Department as described in subsection (a), 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. The grant recipient shall repay a sum demanded by the Department within 60 days of a written demand.~~

§ 138K.9. CONFLICT OF INTEREST.

A MEMBER OF THE ADVISORY BOARD MAY APPLY FOR A GRANT PROVIDED ALL DECISIONS REGARDING THE GRANT APPLICATION ARE SUBJECT TO 65 Pa.C.S. § 1103(j) (RELATING TO RESTRICTED ACTIVITIES) AND THE ACTION DOES NOT VIOLATE THE STATE ADVERSE INTEREST ACT (71 P. S. §§ 776.1--776.9), OR 4 Pa. Code, Chapter 7, Subchapter K (RELATING TO CODE OF CONDUCT FOR APPOINTED OFFICIALS AND STATE EMPLOYEES).

§ 138k.10. ~~Grant cancellation~~ RECORDKEEPING.

~~Financial records, supporting documents, statistical records and other records pertaining to the project shall be retained for 3 years beginning at the end of the grant year. The records and documents shall be available for inspection or audit at all reasonable times by the Department or its authorized representative.~~

A PROGRAM GRANT RECIPIENT SHALL MAINTAIN ALL BOOKS, RECORDS, RECEIPTS, SUPPORTING DOCUMENTS, FINANCIAL STATEMENTS, FINAL REPORTS AND OTHER DOCUMENTS PERTAINING TO THE PROJECT, THE PROJECT COSTS AND THE PROGRAM GRANT. THESE RECORDS SHALL BE RETAINED FOR 3 YEARS BEGINNING AT THE END OF THE GRANT YEAR. THE BOOKS, RECORDS, RECEIPTS, SUPPORTING DOCUMENTS, FINANCIAL STATEMENTS, FINAL REPORTS AND OTHER DOCUMENTS SHALL BE MAINTAINED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THE RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT OR ITS AGENT UPON REQUEST.

§ 138K.11. GRANT CANCELLATION.

A PROGRAM GRANT MAY BE CANCELED BY THE SECRETARY UPON A DETERMINATION THAT THE GRANT RECIPIENT HAS VIOLATED ANY PROVISION OF THE ACT, THIS CHAPTER OR THE GRANT AGREEMENT, THE GRANT FUNDS OR ANY PORTION THEREOF WERE NOT UTILIZED OR SPENT IN THE MANNER DELINEATED IN THE GRANTEE'S APPROVED GRANT APPLICATION OR WERE NOT USED TO IMPLEMENT THE PROJECT SET FORTH IN THE GRANTEE'S APPROVED GRANT APPLICATION. IN ADDITION, A PROGRAM GRANT MAY BE CANCELED UPON FAILURE OF THE RECIPIENT TO SATISFY THE VERIFICATION REQUIREMENTS OF THIS CHAPTER. UPON CANCELLATION THE SECRETARY MAY SEEK RECOVERY OF THE GRANT FUNDS OR ANY PORTION THEREOF AS DELINEATED AT SECTION 138j.12 OF THIS CHAPTER (RELATING TO RIGHT OF RECOVERY).

§ 138J.12. RIGHT OF RECOVERY.

THE DEPARTMENT HAS THE RIGHT TO MAKE A CLAIM FOR AND RECEIVE FROM THE GRANT RECIPIENT GRANT FUNDS NOT EXPENDED IN ACCORDANCE WITH THE ACT, THE GRANT AGREEMENT OR THIS CHAPTER, AND MAY DEMAND THE RETURN OF THE GRANT SUM, OR A PORTION THEREOF, PLUS LEGAL INTEREST THEREON.

§ 138J.13. DEFICITS.

THE DEPARTMENT'S FINANCIAL OBLIGATION IS LIMITED TO THE AMOUNT OF THE GRANT. THE DEPARTMENT IS NOT RESPONSIBLE FOR FUNDING ANY COST OVERRUNS INCURRED BY THE GRANT RECIPIENT.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
LEGAL OFFICE

January 24, 2001

Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17120

RE: FINAL-FORM REGULATION
Department of Agriculture
Bureau of Plant Industry
7 Pa. Code §§ 138k.1.-138k.13.
I.D. No. 2-119
Proposed Rulemaking: 30 Pennsylvania Bulletin
781 (February 12, 2000)
Final-Form Regulation Approved by
Office of General Counsel: January 8, 2001

Dear Sir or Madam:


Please find enclosed a copy of the above-referenced final-form regulation. This material includes copies of the Preamble and Annex "A". Copies of the Notice of Proposed Rulemaking and Regulatory Analysis Form are also enclosed.

I respectfully request the Independent Regulatory Review Commission review and approve the above-referenced final-form regulation in accordance with the requirements and procedures of the Regulatory Review Act.

This Department's responses to the comments received from the public, the Legislature and the Independent Regulatory Review Commission with respect to the proposed regulation are set forth in the Preamble to the final-form regulation. Copies of this final-form regulation have been delivered to the appropriate Legislative Committees (the House and Senate Committees for Agriculture and Rural Affairs), and have been mailed or delivered to each commentator on this date. In response to the requirement (at 71 P.S. § 745.5a(b) and 1 Pa. Code § 307.2(c)(7)) that this Department provide the names and addresses of commentators who requested additional information on the final-form regulation, the Department relates that no commentators have made this request.

The Department will provide you with any assistance you may require to facilitate a thorough review of this final-form regulation. Thank you for your attention to this matter.

Sincerely,


David C. Kennedy
Assistant Counsel

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

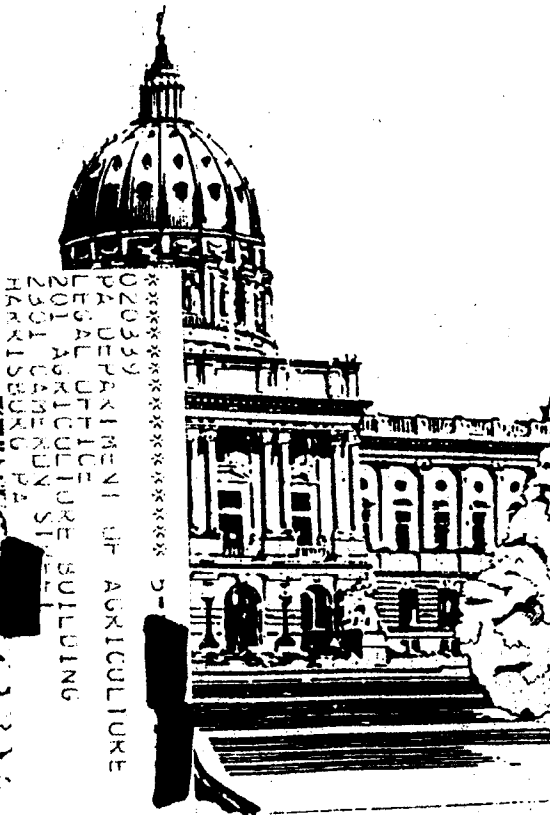
PENNSYLVANIA BULLETIN

Volume 30 Number 7
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Pages 755—856

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chapter, and may demand the return of the grant sum, or a portion thereof, plus legal interest thereon.

§ 138j.14. Deficits.

The Department's financial obligation is limited to the amount of the grant. The Department is not responsible for funding any cost overruns incurred by the grant recipient.

[Pa.B. Doc. No. 00-242. Filed for public inspection February 11, 2000, 9:00 a.m.]

[7 PA. CODE CH. 138k]

Farm Safety and Occupational Health Grant Program

The Department of Agriculture (Department), under the specific authority conferred by sections 5 and 6 of the Farm Safety and Occupational Health Act (act) (3 P.S. §§ 1905 and 1906) proposes to adopt Chapter 138k (relating to Farm Safety and Occupational Health Grant Program). Section 5 of the act delineates the duties of the Secretary of Agriculture (Secretary) and directs the Secretary to "... adopt and promulgate any regulations which may be necessary to implement and administer the act." Section 6(c)(2) of the act allows the Secretary to establish a grant program for the purpose of awarding grants to Statewide farm organizations and volunteer fire companies, ambulance services and rescue squads for providing farm safety, occupational health and emergency response programs. Section 6(d) of the act requires the Secretary to adopt and promulgate regulations to govern the awarding of grants under section 6 of the act.

The proposed regulations establish the procedures governing the submission, processing and review of grant applications. In addition, it sets forth the documentation required to accompany the applications, eligibility criteria, criteria for determining grant amounts and notification and reporting requirements.

Background

The Commonwealth's approximately 51,000 farms are the foundation of a \$35 billion industry, employing over 650,000 workers in farming and related services, food processing and food wholesale and retail sales. The National Safety Council reports agriculture as this Nation's most hazardous industry with a work death rate 22% higher than the second most hazardous industry, mining and quarrying. Farming accounts for over 80% of agriculture's injury toll. From 1990 through 1995, at least 249 Commonwealth citizens have lost their life to hazards associated with farming. The victims included 17 infants, toddlers and preschoolers—all under 5 years of age. Another 29 victims were at least 75 years of age. The oldest was 89 years of age. In 1994, a Statewide survey showed one in every ten farm operations in the State had at least one recordable work-related injury. Even more startling was that approximately 5% of those injuries resulted in some type of permanent disability to the victim. The numbers evidence the need for farm safety and occupational health programs. In 1994 alone, there was a total of 5,100 injuries and 250 permanent disability injuries related to farming.

The Farm Safety and Occupational Health (FSOH) Program was first developed and implemented by the Department in 1996. The Department administered the Program under a statement of policy in Chapter 138g,

authorized under section 13 of the act (3 P.S. § 1913). The Program has proven to be an effective program.

The core concept of the FSOH Program was to provide the maximum educational outreach to the farm community, as well as, quick medical responses to farm emergencies at the minimum costs. The FSOH Program has been successful in providing educational and technical assistance to the agriculture community and in disseminating information regarding best management farm safety practices to those engaged in production agriculture. As such, the FSOH Program has become a very important component in assuring the success of the act.

Therefore, in the interest of continuing to carry out its statutory duties and promoting the development and implementation of best management farm safety practices and quick medical responses to farm emergencies, the Department has promulgated these proposed regulations. These regulations are intended to establish reasonable guidelines, standards, criteria and procedures for the continued administration and implementation of the FSOH Program. Given the success of the FSOH Program to date, the language of the proposed regulations is virtually unchanged from that of the statement of policy in Chapter 138g.

The only changes appear in §§ 138k.5 and 138k.6(a)(3) and (b)(11) (relating to application deadline; and review of application). The changes require applications to be submitted by October 31 of the year preceding the fiscal year in which grant funds are sought and require an applicant to disclose the amount of tuition it intends to charge for courses which would be administered under the programs delineated in the grant application.

Summary of Major Features

Proposed § 138k.1 (relating to program objectives) sets forth that the objective of the grant program is to fund projects which will increase the awareness of farm safety and occupational health issues and other issues specific to emergency response programs. The awarding of the grant moneys are on a funds available basis and through a competitive application process.

Proposed § 138k.2 (relating to definitions) defines various recurring terms such as "Statewide farm organizations," "volunteer fire company," "volunteer ambulance services" and "volunteer rescue squad."

Proposed § 138k.3 (relating to limitations on grants) describes the type of organization which is eligible for the grant awards. This section specifically delineates that eligible applicants may be awarded financial assistance in amounts of up to \$2,500.

Proposed § 138k.4 (relating to applications generally) provides that an application is required and from whom organizations may request applications.

Proposed § 138k.5 (relating to application deadline) provides that the application deadline will be October 31 of the year preceding the fiscal year in which grant funds are sought.

Proposed § 138k.6 (relating to review of application) sets forth the grant application requirements and the factors which the Board or the Secretary may consider in reviewing grant applications.

Proposed § 138k.7 (relating to disposition of application) describes the time frame for notification of rejection or approval of the application and the procedure by which the Secretary will notify the applicant.

Proposed § 138k.8 (relating to recordkeeping) describes what type of records shall be kept by the grant recipient and for how long those records shall be kept. This section also provides for inspection and audit of those records by the Department.

Proposed § 138k.9 (relating to verification of use) requires a grant recipient to document the expenditures of grant funds within 3 months of project completion. This section also specifically delineates the ramifications of failure to provide the documentation.

Proposed § 138k.10 (relating to grant cancellation) provides for the cancellation of a grant which is not being spent in accordance with the grant agreement and the repayment thereof.

These proposed regulations set forth the basic process by which the Department may exercise its administrative discretion with respect to the expenditure of the funds appropriated to it by the General Assembly for farm safety and occupational health programs.

These proposed regulations are intended to supplant the current statement of policy in Chapter 138g under which the FSOH Program is being administered.

Fiscal Impact

Commonwealth

The proposed regulations will impose minimal costs and have minimal fiscal impact upon the Commonwealth, including projected increases in program costs. The Department has an appropriation for use in developing the FSOH Program.

Political Subdivisions

The proposed regulations will impose no costs and have no fiscal impact upon political subdivisions.

Private Sector

The proposed regulations will impose minimal costs on those organizations that are interested in applying for grant moneys. The costs most likely will be associated with attending and participating in farm safety training programs.

General Public

The proposed regulations will impose no costs and have no fiscal impact on the general public.

Paperwork Requirements

The proposed regulations will not result in an appreciable increase of paperwork. The Department has developed a grant application form for use in administering the FSOH Program and has administered the program, under a statement of policy, since 1996.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 31, 2000, the Department submitted a copy of these proposed regulations to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee. 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 agency in compliance with Executive Order 1996-1 (Regulatory Review and Promulgation). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed regulations, it will notify the Department within 10 days after the close of the Committees' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

Contact Person

Further information is available by contacting the Department of Agriculture, Farm Safety and Occupation Health Grant Program, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attn: John Tacelosky (717) 772-5217.

Effective Date

These proposed regulations will be effective upon final publication as final-form in the *Pennsylvania Bulletin*.

SAMUEL E. HAYES, Jr.,
Secretary

Fiscal Note: 2-119. No fiscal impact; (8) recommends adoption. Funds are included in the 1999-00 budget for these grants. Grants are limited to the amount of money available for these grants.

Annex A

TITLE 7. AGRICULTURE

PART V-C. FARMLAND AND FOREST LAND

(*Editor's Note:* As part of this proposal the Department intends to delete the statement of policy in Chapter 138g which appears at 7 Pa. Code pages 138g-1—138g-5, serial pages (222551) to (222555).)

CHAPTER 138g. (Reserved)

§§ 138g.1—138g.10. (Reserved).

CHAPTER 138k. FARM SAFETY AND OCCUPATIONAL HEALTH GRANT PROGRAM

Sec.	
138k.1.	Program objectives.
138k.2.	Definitions.
138k.3.	Limitations on grants.
138k.4.	Applications generally.
138k.5.	Application deadline.
138k.6.	Review of application.
138k.7.	Notice of disposition of application.
138k.8.	Recordkeeping.
138k.9.	Verification of use.
138k.10.	Grant cancellation.

§ 138k.1. Program objectives.

(a) *Purpose.* The purpose of the FSOH Grant Program is to fund projects which will increase the knowledge and awareness of farm safety measures and occupational health issues in this Commonwealth, in particular, among the rural youth of this Commonwealth.

(b) *Competitive program.* The FSOH Grant Program is competitive. Grant requests and related documentation will be collected by the Department and reviewed by the Board and Secretary. Grants will be awarded annually.

(c) *Funds available basis.* Grants will not be awarded unless funds are available for this purpose.

§ 138k.2. Definitions.

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

Act—The Farm Safety and Occupational Health Act P. S. §§ 1901—1915).

Board—The Farm Safety and Occupational Health Advisory Board.

Department—The Department of Agriculture of the Commonwealth.

FSOH Grant Program—The Farm Safety and Occupational Health Grant Program.

Secretary—The Secretary of Agriculture of the Commonwealth.

Statewide farm organizations—The term includes any of the following organizations located in this Commonwealth:

- (i) Farmers organizations.
- (ii) Dairy organizations.
- (iii) Livestock and poultry organizations.
- (iv) Veterinary associations.
- (v) Commodity organizations.
- (vi) Food industry organizations.
- (vii) Horticulture and agronomy organizations.
- (viii) Agricultural promotional organizations.
- (ix) Agricultural equipment organizations, including a local, county or regional chapter thereof.

Volunteer ambulance services—A nonprofit chartered corporation, association or organization located in this Commonwealth and which is regularly engaged in the services of providing emergency medical care and transportation of patients.

Volunteer fire company—A nonprofit chartered corporation, association or organization located in this Commonwealth which provides fire protection services and other voluntary emergency services within this Commonwealth.

Volunteer rescue squad—A nonprofit chartered corporation, association or organization located in this Commonwealth which provides rescue services in this Commonwealth.

§ 138k.3. Limitations on grants.

(a) **Financial assistance.** The FSOH Grant Program will award financial assistance, of up to \$2,500, to Statewide farm organizations, volunteer fire companies, ambulance services and rescue squads within this Commonwealth that wish to develop and deliver farm safety, occupational health and emergency response programs.

(b) **Eligible applicants.** Eligible applicants will not be awarded more than one \$2,500 grant per State fiscal year. An applicant may submit more than one type of grant application.

(c) **Recipient's use of FSOH grant funds.** Grants awarded to an organization may be used only for the specific project/event/activity described in the grant application. Grants shall only be used to fund projects within the geographic boundaries of this Commonwealth and may be awarded for the following types of projects:

- (1) Projects related to methods of preventing or mitigating farm accidents.
- (2) Educational programs relating to agricultural equipment safety programs for farm youth.
- (3) Educational seminars or field demonstrations relating to first aid programs for farm youth.
- (4) Agriculture safety training programs at day camps and demonstration projects for farm youth.

(5) Development and implementation of age-appropriate rural school curricula.

(6) Fire/educational safety programs specific to farms.

(7) Development and implementation of age-appropriate adult farmer and farm worker safety training programs.

(8) Farm related emergency response training programs.

§ 138k.4. Applications generally.

(a) **Application required.** Interested Statewide farm organizations, volunteer fire companies, ambulance services and rescue squads within this Commonwealth may submit grant applications to the Department at the address in subsection (b).

(b) **Obtaining an application and technical assistance.** Application for grants under this chapter shall be made on forms prepared by the Department. For applications and for assistance, contact the Farm Safety and Occupational Health Grant Program, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110, (717) 787-4843.

(c) **Additional information.** The Board and the Secretary may require that an applicant submit additional documentation to complete, verify or clarify the application.

§ 138k.5. Application deadline.

An application for a grant under this chapter shall be received by the Department at the address in § 138k.4(b) (relating to applications generally) by October 31 of the year preceding the fiscal year in which the grant funds are sought.

§ 138k.6. Review of application.

(a) **Grant application requirements.** The Board or the Secretary will not consider an application for a grant unless the following items are attached:

- (1) A detailed description of the project to be funded by the grant.
 - (2) A reasonable and accurate statement of the estimated cost of the project. A separate breakdown on the labor portion of the cost, on the materials portion of the cost, and on any other type of expense anticipated shall be provided.
 - (3) A statement regarding the amount of tuition to be charged for the courses.
 - (4) A copy of the official organization board minutes when action was taken on this project.
 - (5) Information of the project or area to be served by the proposed project. Maps or other geographic aids may be attached.
 - (6) A biographical sketch of primary persons involved in the project which indicates skills, knowledge and prior experience required for the completion of the project.
- (b) **Factors.** Factors to be considered by the Board or the Secretary in selecting grant recipients include the following:

- (1) The relevance of the project to farm safety or rural health issues.
- (2) The innovativeness of the project.
- (3) The scope of the project and the number of people who will be affected by the project as described in the application.

(4) The value to the agricultural community of the project described in the application.

(5) The willingness of the applicant to make in kind or financial contributions, or both, to the project.

(6) The availability of funding for the project from a source other than the FSOH Grant Program.

(7) The impact the project will have upon rural youth or farmers, growers or producers within this Commonwealth.

(8) The value to those who work directly with farm accident victims.

(9) Whether the applicant has been, in whole or in part, the recipient of another grant under the act within the same State fiscal year.

(10) Whether a local, county or regional farm organization is affiliated with a Statewide farm organization.

(11) The amount of tuition the applicant intends to charge for the courses administered under the project.

(c) *Approval power.* The Secretary may impose restrictions or special conditions upon the issuance of a grant. The Secretary will review the recommendations of the Board, but will have final authority to accept or reject these recommendations.

§ 138k.7. Notice of disposition of application.

Grant applicants will be notified by the Secretary within 30 days of a decision to reject or approve the grant. This notice will be sent by regular mail to the address indicated by the applicant on the grant application. Recipients will receive a grant agreement which shall be executed by the recipient and the Department prior to the release of funds. Grant money shall be used within 1 year of the date of the grant agreement unless an extension is granted by the Secretary.

§ 138k.8. Recordkeeping.

Financial records, supporting documents, statistical records and other records pertaining to the project shall be retained for 3 years beginning at the end of the grant year. The records and documents shall be available for inspection or audit at all reasonable times by the Department or its authorized representative.

§ 138k.9. Verification of use.

(a) *Verification.* An organization receiving a grant shall maintain books, records and other evidence pertaining to costs incurred for expenditures associated with the project funded by the grant. The books and records shall be maintained according to generally accepted accounting principles. Within 3 months of the project completion date specified in the grant agreement, the recipient shall submit to the Department written receipts for the project costs. Grant recipients shall provide to the Department a final report, which includes pertinent documentation, as well as a narrative report describing the effectiveness of the project, experience gained and knowledge acquired.

(b) *Failure to verify use.* If required receipts or documentation, or both, are not submitted to the Department as described in subsection (a), 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. The grant recipient shall repay a sum demanded by the Department within 60 days of a written demand.

§ 138k.10. Grant cancellation.

The Department may cancel a grant if the Secretary determines that 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 grant sum, or a portion thereof, plus legal interest thereon.

[Pa.B. Doc. No. 00-243. Filed for public inspection February 11, 2000, 9:00 a.m.]

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 31]

Sales and Use Tax; Computer Software, Hardware and Related Transactions

The Department of Revenue (Department), under authority contained in section 270 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7270), proposes to adopt § 31.33 (relating to computer software, hardware and related transactions) to read as set forth in Annex A.

Purpose of Regulation

Under the act of May 7, 1997 (P. L. 85, No. 7), various types of computer services are no longer subject to Sales and Use Tax on or after July 1, 1997. However, certain computer software, hardware and related transactions remain subject to tax. The purpose of this proposed regulation is to provide guidance concerning these transactions.

Explanation of Regulatory Requirements

Subsection (a) sets forth definitions of various terms utilized in the section. The application of tax as it relates to computer hardware is addressed in subsection (b)(1). The application of tax as it relates to computer software, including canned and custom software, is addressed in subsection (b)(2). Exemptions from taxation are addressed in subsection (c).

Affected Parties

Taxpayers obligated to collect or remit Sales and Use Tax relating to computer software and hardware transactions could be affected by the regulation.

Fiscal Impact

The Department has determined that the proposed regulation will have no fiscal impact on the Commonwealth.

Paperwork

The proposed regulation will not generate additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The proposed regulation will become effective upon final publication in the *Pennsylvania Bulletin*. The regulation is scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing comments, suggestions or objections regarding the proposed regulation to Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days after the date the publication of this notice in the *Pennsylvania Bulletin*.

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

RECEIVED

I.D. NUMBER: 2-119
 SUBJECT: Farm Safety & Occupational Health Grant Program
 AGENCY: DEPARTMENT OF AGRICULTURE

2001 JAN 24 PM 2:44

INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

Proposed Regulation

X 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
1/24/01	<i>Laut Hoffmann</i>	HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1-24-01	<i>Cecilia Boyer</i>	SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1-24-01	<i>Elena Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

January 9, 2001