

Regulatory Analysis Form		This space for use by IRRC RECEIVED 2011 JAN 24 PM 2:45 REGULATORY REVIEW COMMISSION	
(1) Agency Pennsylvania Department of Agriculture			
(2) I.D. Number (Governor's Office Use) 2-122		IRRC Number: 2090	
(3) Short Title The Farm Safety and Occupational Health Developmental and Instructional Program ("FSDIP")			
(4) PA Code Cite 7 Pa.Code §§ 138j.1.-138j.13.		(5) Agency Contacts & Telephone Numbers Primary Contact: John Taczlosky 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 a grant program for the purpose of awarding grants to the Pennsylvania Fire Academy, public or private colleges and universities, community colleges and vocational and technical schools which provide technical courses of instruction in farm safety and occupational health to emergency service providers, the farm community and others involved in agricultural production or which, develop farm safety and occupational health programs for implementation by the Department. 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)(1) (3 P.S. § 1906(c)(1)) of the act sets forth the specific authority for the FSDIP. 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)(1) of the act (3 P.S. § 1906(c)(1)) states that the Secretary may provide for the establishment of a grant program for the purpose of awarding grants to specific organizations for providing technical courses in farm safety and occupational health or for developing such programs for implementation by the Department.

(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 and preventing 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 5100 injuries and 250 permanent disability injuries related to farming. The core concept of the FSDIP is to provide the maximum educational outreach to the farm community at minimum costs. Grant money under this regulation will go to the Pennsylvania Fire Academy, colleges and universities and vocational and technical schools that provide or develop technical courses of instruction in farm safety and occupational health. Such courses will be administered to emergency service providers, farmers, farm family members, farm laborers and others involved in agricultural production. FSDIP grants encourage educational programs that focus on recognition and avoidance of farm hazards and preventative measures to reduce or eliminate the most common causes of diseases, injuries, disabilities and death related to farming activities. Such programs will reduce the rate of injury, disability and death in the agricultural industry. 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.

The rate of farm accidents, disability, injury, death and disease will continue to increase. The FSDIP is a very effective way to encourage private and public sector involvement in the education of the agricultural industry. Educational programs, such as those encouraged by the FSDIP, are a low cost and effective means of reducing the injuries, disabilities, death and diseases associated with the agricultural industry.

(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). The farm community and general public benefit through better training and knowledge of techniques which, prevent injuries, disabilities and deaths. The number of individuals to benefit by the regulation will be related to the number of grant applications received and approved and the number and type of programs implemented. As set forth in the answer to question

(13) Continued

(20) and detailed in the answer to question (20a), the potential savings to the regulated community and the general public 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 FSDIP and the programs created thereunder 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, administrative costs and implementation costs. The accounting and paperwork is simple and should not require the grant recipient to incur any legal or consulting fees.

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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 FSDIP is a voluntary program. Only those qualified entities which, submit an application and are approved to receive a FSDIP grant, will be subject to the regulation. The regulation is not onerous and the approved applicant is eligible for as much as \$30,000 per year in grant money. The educational and training programs produced by the FSDIP will benefit the agricultural community and the general public through decreased farm injuries, disabilities and deaths.

(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.)

Section 6(e)(1) of the act provides the list of persons, groups and entities eligible for a FSDIP grant. The Pennsylvania Fire Academy, public and private colleges and universities, community colleges and vocational and technical schools are eligible to apply. The FSDIP is a voluntary program. Only those qualified entities which submit an application and are approved to receive a FSDIP grant will be subject to the regulation.

(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 this regulation.

(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 programs created under the PSDIP will prevent just one death and one disabling injury per year. It is likely the programs will be much more effective. The costs associated will be minimal. The costs will be paper work and development costs and in some cases implementation costs. However, only those entities which apply and are approved will be subject to the regulation and approved entities may receive as much as \$30,000 annually depending on the type and extent of their grant proposal. The application process and accounting and paperwork requirements are 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 those 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 regulation will impose minimal costs and have a minimal fiscal impact upon the Commonwealth, including projected increases in program costs. The Department has a continuing appropriation for use in developing the PSDIP. At this time, the Department will devote \$40,000 per year to the PSDIP. The paperwork and administrative costs are minimal. Additional costs may be incurred in a situation where the Department would approve a program for implementation by the Department. The savings to state government associated with implementation of the regulation again is not specifically quantifiable other than to reference the projected savings associated with preventing one death and one injury per year. Training and education directly catering to the needs of the agricultural community and the unique hazards associated with the agricultural industry will save lives and prevent injuries and disabilities. Programs such as these are priceless and serve to enhance the health, safety and well being 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	40,000	40,000	40,000	40,000	40,000	40,000
Total Costs	40,000	40,000	40,000	40,000	40,000	40,000
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 4200 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 one injury saves society \$816,000.

Costs:

Costs associated with this regulation are based on actual amounts available and budgeted for grant applicants. Grant proposals will be evaluated and approved based on the criteria stated in the act and the regulation. Each year new applications must be filed in order to receive grant monies from the FSDIP. Repeat applicants should demonstrate new and innovative training and/or educational methods and/or quantify the benefits derived from the prior program.

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(20b) Provide the past three-year expenditure history for programs affected by the regulation.
There is no previous expenditure history for the FSDIP. FSDIP is a new program.

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

(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 projected to be \$40,000 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 FSDIP is designed to promote agricultural worker safety and occupational health by providing educational programs, which emphasize preventative safety practices, to the agricultural community and emergency service providers. In addition, the FSDIP provides training and information concerning occupational health hazards, accident prevention methods and agricultural equipment technology safety information and training. The FSDIP will provide sensible solutions to address farm safety issues and agricultural occupational health concerns and will do so at minimal cost to the farm community, the grant recipients and the general public. In addition, the FSDIP provides a minimal regulatory approach to the farm safety and occupational health problem.

(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 FSDIP regulations only apply to grant recipients and provide a minimal regulatory approach to the farm safety and occupational health problem. 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 FSDIP include local farm safety networking, enhanced technological information and answers to questions regarding best management safety practices and a decrease in farm related injuries, disabilities and death. In addition, FSDIP provides a minimal regulatory approach to the farm safety and occupational health problem.

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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?

The adoption of the FSDIP and its regulations will help Pennsylvania 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 training with regard to farm accidents and occupational health hazards. Programs to train and educate the farm community 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 proposed regulations regarding the Farm Safety and Occupational Health Tuition Assistance Program and the Farm Safety and Occupational Health and Small Grants Program to decrease the number of injuries, disabilities and deaths related to farm accidents. 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.

The regulation requires minimal paperwork, accounting and reporting requirements. Many of the requirements follow standard accounting procedures implemented and adopted throughout the Commonwealth. Where the Department accepts a grant proposal which requires implementation by the Department, there may be some additional paperwork requirements. The reporting and record keeping requirements will follow those set forth in the regulation, which are similar to record keeping and reporting requirements of other grant programs administered by the Department.

(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 FSDIP 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 and training programs encouraged and funded by the FSDIP. By the very nature of the community and people its programs serve, the FSDIP caters to small businesses and small and rural communities. The FSDIP will provide funds to local vocational and technical schools and colleges and universities to develop programs that improve safety and health on the farm and in 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 FSDIP 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 FSDIP 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. The report must set forth the Department's actions in 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 developed under the act, 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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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. 2-122

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 Agency

Sandra W. Stoner
BY: _____

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 §§ 138j.1. – 138j.14.
Farm Safety and Occupational Health
Developmental and Instructional Program**

TITLE 7 – Agriculture
DEPARTMENT OF AGRICULTURE
[7 PA. CODE CH 138j]
Farm Safety and Occupational Health Developmental and Instructional
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)(1) of the act (3 P.S. § 1906(c)(1)) which, authorizes the Secretary to establish a grant program for the purpose of awarding grants to the Pennsylvania Fire Academy, public and private colleges and universities, community colleges and vocational and technical schools which provide technical courses of instruction in farm safety and occupational health to emergency service providers and the farm community or which develop farm safety and occupational health training programs for implementation by the Department.
- (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 Developmental and Instructional Program (FSDIP) 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 FSDIP grant applications. These regulations establish a grant program which will make funds available for development and implementation of programs that provide technical courses of instruction on farm safety and occupational health to emergency service providers and the farm community. The grant program is intended to facilitate avoidance and elimination of farming hazards.

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* 776 (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 subsection (a) of section 138j.2. of the proposed regulation (relating to Purpose). IRRC commented that this subsection listed four types of institutions that qualify for FSDIP grants and that this list is repeated in sections 138j.4(a); 138.6(a) and 138j.9(b) of the proposed regulation. In addition, IRRC noted that according to section 6(c)(1) of the act (3 P.S. 1906(c)(1)) these four institutions are the only type of institutions that are eligible for FSDIP grants. They suggested the Department could clarify the regulation by defining "*eligible applicant*" in the definitions section of the final-form regulation and replacing the lists of institutions in the four sections listed above with the term "eligible applicant".

Response: The Department agrees that defining the term “eligible applicant” may add some clarity to the final-form regulation with regard to sections 138j.4(a) and 138.6(a) of the proposed regulation. Therefore, the Department has defined “Eligible applicant” in the final-form regulation. In addition, the Department has replaced the listing of eligible institutions with the term “eligible applicant” in all sections of the final-form regulation except section 138j.1(a) (was section 138j.2(a) of proposed regulation)(relating to Purpose) and section 138j.7(b) (was section 138j.9(b)) of proposed regulation)(relating to Eligible applicants). The Department kept the list of eligible institutions in section 138j.1(a) because that section comes before the definitions section of the regulation where “eligible applicant” is defined. The Department believes referring to “eligible applicant” before it is defined would not add clarity to the regulation. With regard to section 138j.7(b) of the final-form regulation, the Department has deleted that section. Section 138j.7(a) requires the secretary to evaluate applicant eligibility. The Secretary will use the standards set forth in the definition of “eligible applicant” to make such a determination. As IRRC has suggested, there is no need to repeat the criteria. The letters associated with the subsequent subsections of section 138j.7. have been changed to reflect the deletion of section 138j.7(b).

Comment: IRRC commented on subsection (b) of section 138j.2. of the proposed regulation (relating to Purpose). IRRC commented that the phrase “the Secretary or a designee” had been used in various portions of the text of the regulation (sections 138j.2. and 138j.5.-138j.9.) and suggested the term “designee” should be defined.

Response: The Department made three changes to the final-form regulation with regard to this comment. First, the Department defined “designee” in section 138j.2 (regarding Definitions). Second, the Department, at section 138i.2 (regarding Definitions) redefined the term “Secretary” by adding “...or his designee” to the definition. Pursuant to those changes the third change was to delete the phrase “or his designee” from all references to the Secretary, throughout the text of the final-form regulation. The result of the three changes is that the final-form regulation is easier to read and more concise and all references to the Secretary are now interpreted to mean the Secretary or whomever he appoints or assigns to carry out his duties under the 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 138j.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 commented that the term “Farm laborers” in the definitions section of the regulation was not consistent with the definition which read, in part: “An individual employed by a farmer in raising, cultivating...” IRRC commented the term should be changed to “Farm laborer”.

Response: The Department agrees with this comment. The Department has changed the term to “Farm labor” in the final-form regulation.

Comment: IRRC commented that the definition of “Members of farm families”, set forth in section 138j.3. of the proposed regulation (regarding Definitions), now section 138j.2. of the final-form regulations was confusing and that there was a conflict between plural and singular nouns in the definition. The definition included a phrase “...collateral relation of the first degree...” IRRC found this confusing and suggested the Department replace the phrase with “nieces, nephews and grandchildren” and any others the Department would want included in the definition. In addition, IRRC commented that there was a conflict between plural and singular nouns in the term “Members of farm families” and the first phrase of the definition which read: “Any son, daughter or spouse of a farmer...”

Response: The Department believes the phrase “collateral relation of the first degree” is specific and should remain in the definition. However, in response to IRRC’s concern for clarity the Department has added: “...(such as nieces, nephews and grandchildren) ...” to the definition. We believe this should address the clarity issue while at the same time keeping the definition specific and narrow. In response to IRRC’s concern regarding a conflict between plural and singular nouns in the definition of “Members of farm families”, the Department changed the phrase “Members of farm families” to “Members of farm family” and retained the singular form of the words “...son, daughter or spouse of a farmer...” in the definition. The Department believes this change is less confusing than amending the words in the definition to read “...sons, daughters and spouses of a farmer...”

Comment: IRRC commented that the term “FSDIP” was used in the proposed regulation, but was not defined. The term “Program” was defined in the proposed regulation as the “Farm Safety and Occupational Health Developmental and Instructional Program”. IRRC suggested the term “Program” should replace the term “FSDIP” throughout the final-form regulation.

Response: The Department agrees with IRRC’s comment and has replaced the term “FSDIP” with the term “Program” throughout the final-form regulation.

Comment: IRRC expressed two concerns regarding subsection (c) of what was section 138j.5.(relating to General conditions) under the proposed regulation (section 138j.4(c) of the final-form regulations). The first concern related to the final reports mention in subsection (c). IRRC felt the language was unclear as to whether the Department was requesting one or two final reports. In addition, IRRC commented that if only one final report was necessary the Department should include a list of the type of financial information and project data required to be included in the report. IRRC's second concern pertained to the phrase "pertinent documentation". IRRC suggested the Department should provide examples of "pertinent documentation" in the final-form regulation.

Response: The Department has changed the language to make it clear that only one final report is required. In addition, the Department has modified the language of the subsection to specify that the financial information needed is any financial information evidencing the costs associated with the approved Program project and has included examples of what constitutes "pertinent documentation".

Comment: IRRC commented that for clarity the contents of what was section 138j.9(c) (relating to Grant application requirements) under the proposed regulations, should be moved to what was section 138j.6 (relating to Applications) under the proposed regulations. IRRC commented that alternatively the Department could create a new section captioned "Application requirements" following what was section 138j.6 under the proposed regulations.

Response: The Department agrees with this recommendation and has implemented the suggestion by moving what was section 138j.9(c) (relating to Grant application requirements) under the proposed regulations, to what is now section 138j.5(b) in the final-form regulations. It should be noted that section 138j.5 in the final-form regulation still relates to Applications and is the same as section 138j.6 under the proposed regulation. The section number was changed as a result of another suggestion by IRRC which required the Department to delete section 138j.1 (relating to Authority) in the proposed regulations.

Comment: IRRC commented that subsections 138j.6(a) and (b) require the applicants to complete and submit application forms provided by the Department but, the regulations do not list the basic information that will be required on the application form. IRRC suggested the Department should include basic information on the contents of the application form in this section.

Response: The Department knows of no requirement that an agency include a sample of an application form in the regulation. In addition, the Department will formulate and provide the application form to the applicant. The application form will notify the applicant of the information required. The Department also believes that the basic information needed on an application form is outlined at section 138j.5(b) of the final-form regulations and that further information as to content is supplied throughout the regulation such as in sections 138j.3 (relating to Limitation on grants) and 138j.7(d)

regarding factors to be considered by the Department when reviewing a grant. Section 138j.7(b)(3) of the final-form regulations also sets forth a procedure for notifying applicants when a grant application is incomplete and provides additional time for the applicant to supply any missing information. Therefore, the Department believes the final-form regulations are sufficiently specific and the applicant has sufficient notice with regard to the content of the application.

Comment: IRRC had two comments with regard to what was section 138j.7 of the proposed regulation. The first concern regarded subsection (b). IRRC commented that the subsection is closely related to section 138j.8 of the proposed regulation (relating to Notice of disposition of application) and suggested it should be moved to that section. The second comment pertained subsection (c). IRRC interpreted the language of the subsection to mean that the Advisory Board would have an active role in reviewing **each individual grant application**. Pursuant to that interpretation and the fact the Department plans to review and approve or deny grant applications within 30 days, IRRC was concerned that it would not be feasible to include the Advisory Board in the review of each application. IRRC suggested the Department clarify the language of this section and/or move this subsection to subsection (c) in what was section 138j.4 of the proposed regulations (relating to Limitation on grants).

Response: With regard to IRRC's first concern, the Department believes that subsection 138j.7(b) of the proposed regulation (section 138j.6(a) and (b) of the final-form regulation) is not duplicative. Section 138j.7 of the proposed regulation, deals with the processing of a grant application and is intended to notify the applicant of who will review the grant applications, the time period of the review, and the process for incomplete or inaccurate applications. Section 138j.8 of the proposed regulation (section 138j.8 of the final-form regulation) relating to notice of disposition of a grant application, is intended to inform the applicant of the how and in what time period he will be notified of approval or denial of his grant application. It should be noted that section 138j.8 of the final-form regulation follows sections relating to processing and review of applications. Therefore, the regulation gains a logical flow by notifying the applicant of: (1) how applications will be processed; (2) how an application will be reviewed and ranked; and (3) how and when an applicant will be notified.

With regard to IRRC's concern relating to the function of the Advisory Board, the Department did not intend the language of this subsection to include the Advisory Board in the review of each individual grant application. Such an interpretation of the language of this subsection is in direct conflict with the powers of the Advisory Board enumerated at section 3(g) of the act (3 P.S. § 1903(g)). The Department has changed the language in the final-form regulation to remove all doubt as to the function of the Advisory Board. The revised language makes it clear that the Advisory Board does not and will not review individual grants. The Advisory Board will only carry out those functions set forth in the act, such as recommending overall farm safety and occupational health program priorities and recommending priorities for expenditure of funds for development and implementation of farm safety and occupational health programs. The Department does not agree with moving this language to the section related to limitations on grant funds.

While the Advisory Board's recommendations on funding may effect the number of grants that can be given out under any of the various farm safety and occupational health programs and the overall factors considered when reviewing a grant application, the Advisory Board's function does not directly effect or limit each individual grant application. Therefore, the Department has elected to keep this language in the section related to processing of applications.

In addition it should be noted that IRRC commented with regard to the related section of the regulation delineating the Farm Safety and Occupational Health Tuition Assistance Program, that subsection (a) of section 138i.7. included three different topics, was long and potentially confusing and should be broken down into outline form. The Department agreed with that comment and changed the structure of that section. For the sake of consistency and clarity, the Department has followed the same structure or format in the final-form of this regulation.

Comment: IRRC had two comments concerning section 138j.8 of the proposed regulation (relating to Notice of disposition of application). Both pertained to clarity. The first comment was regarding subsection (a) (relating to Applications deemed complete). IRRC commented that to improve the clarity of the sequence of steps involved with review and approval of applications, the Department should move various sections of the proposed regulation. IRRC recommended that section 138j.8 (relating to Notice of disposition of application) should follow rather than proceed what was section 138j.9 (relating to Review of applications) of the proposed regulation and immediately proceed what was section 138j.10 (relating to Conflict of interest) of the proposed regulation. IRRC's second comment pertained to subsection (b) (relating to Applications deemed incomplete). IRRC commented that this provision followed other sections and subsections related to the approval of applications. IRRC suggested any notice concerning the "completeness" of an application should occur before a final decision and therefore, recommended the subsection should proceed provisions concerning final disposition of applications.

Response: The Department agrees with IRRC's first concern regarding the overall placement of section 138j.8 of the proposed regulations (regarding Notice of disposition of the application). In response, the Department has moved this section in the final-form regulation. Although it remains section 138j.8, in the final-form regulation it now follows the section relating to "Review of applications" (section 138j.7) and immediately proceeds the section relating to "Conflict of interest" (section 138j.9). With regard to IRRC's second comment the Department does not agree with moving subsection (b) pertaining to "Applications deemed incomplete or inaccurate". The regulation follows a logical sequence of "Process", "Review" and "Disposition". Subsection (b) of section 138j.8 sets forth the details regarding how and when a grant applicant will be notified of a denial or a need for additional information. This section and subsection relate to **notice**. In addition, the Department added subsection 138j.8(c) to enhance the clarity of the regulation. Subsection 138j.8(c) sets forth the "notice" provisions with regard to approved grant program applications. This new section contains language establishing the fact that a grant agreement will be mailed to an approved grant program applicant and must be executed by the approved applicant and

the Department before grant funds will be released. Therefore, similar language to that effect has been deleted from subsection 138j.8(a).

Comment: IRRC commented with regard to section 138j.11 of the proposed regulation (relating to Recordkeeping). IRRC commented that grant recipients must submit a final report with documentation of costs, program expenditures and other criteria set forth in section 138j.5(c) of the proposed regulation (relating to Verification)(138j.4(c) of the final-form regulation). It then questioned why an recipient of a grant must retain copies of documents and records for three years after the expiration of the grant.

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 138j.12 of the proposed regulation (relating to Grant cancellation), that the term "used" in the phrase "...grant may be canceled by the Secretary upon a determination that the funds are not being or were not properly used" was not defined and it was unclear as to what the term meant.

Response: The Department added language to this section (which is now 138j.11 in the final-form regulation) that narrows the scope of what the term "used" could mean. The language of this section now refers to violations of any provision of the act, the regulations or the grant agreement and implementation of the project set forth in the grant application.

Comment: IRRC commented that section 138j.1 entitled "Authority" was unnecessary and should be deleted.

Response: The Department agrees with this comment and has deleted section 138j.1 from the final-form regulation.

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 FSDIP 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 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 educational value, skills learned and technical information presented at the educational and preventative programs developed 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 to develop a grant application form to administer the FSDIP. However, the administrative provisions of the FSDIP are very similar to the administrative provisions of the FSOH program and the Department has already developed a grant application form and grant agreement for use in administering the FSOH 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 Occupation Health Grant Program, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408; Attn: John Taczlosky (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* 776 (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* 776 (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 138j. (regarding Farm Safety and Occupational Health Tuition Assistance 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

Annex A
TITLE 7. AGRICULTURE
PART V-C. FARMLAND AND FOREST LAND
CHAPTER 138j. FARM SAFETY AND OCCUPATIONAL HEALTH
DEVELOPMENTAL AND INSTRUCTIONAL PROGRAM GRANTS

Sec.	
138j.1.	Authority PROGRAM OBJECTIVES.
138j.2.	Program-objectives DEFINITIONS.
138j.3.	Definitions LIMITATION ON GRANTS.
138j.4.	Limitation-on-grants GENERAL CONDITIONS.
138j.5.	General-conditions APPLICATIONS.
138j.6.	Applications PROCESSING OF APPLICATIONS.
138j.7.	Processing-of-applications REVIEW OF APPLICATIONS.
138j.8.	Notice of disposition of application.
138j.9.	Review-of-applications CONFLICT OF INTEREST.
138j.10.	Conflict-of-interest RECORDKEEPING.
138j.11.	Recordkeeping GRANT CANCELLATION.
138j.12.	Grant cancellation RIGHT OF RECOVERY.
138j.13.	Right-of-recovery DEFICITS.
138j.14.	Deficits.

§ 138j.1. Authority.

~~The act bestows upon the Secretary of Agriculture of the Commonwealth, the power and duty to "... administer the provisions of this act and ... adopt and promulgate any regulations which may be necessary to implement and administer this act" (3 P. S. § 1905). In addition, section 6(c)(1) of the act (3 P. S. § 1906(c)(1)) allows the Secretary to establish a grant program to provide financial assistance to certain groups, academies, institutions, colleges and schools which implement or develop farm safety projects that comply with the criteria delineated in the act. Section 6(d) of the act directs the Secretary to adopt and promulgate regulations to govern the awarding of grants.~~

~~§ 138j.2.~~ **§ 138j.1. Program objectives.**

(a) *Purpose.* The purpose of the FARM SAFETY AND OCCUPATIONAL HEALTH DEVELOPMENTAL AND INSTRUCTIONAL Program is to provide financial assistance to the Pennsylvania Fire Academy, public or private colleges or universities, community colleges, or vocational or technical schools within this Commonwealth, that provide technical courses of instruction in farm safety and occupational health to emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production or which develop farm safety and occupational health training programs for implementation by the Department.

(b) *Competitive program.* The FARM SAFETY AND OCCUPATIONAL HEALTH DEVELOPMENTAL AND INSTRUCTIONAL Program is competitive. Grant applications and related documents will be collected by the Department and reviewed by the Secretary or his designee. Grants will be awarded annually.

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

~~§ 138j.3.~~ **§ 138j.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).

~~*Agricultural production*--The production for commercial purposes of crops, livestock and livestock products. The term includes the processing or retail marketing of the crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farmer.~~

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

AGRICULTURAL PRODUCTION--THE PRODUCTION FOR COMMERCIAL PURPOSES OF CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS. THE TERM INCLUDES THE PROCESSING OR RETAIL MARKETING OF THE CROPS, LIVESTOCK OR LIVESTOCK PRODUCTS IF MORE THAN 50% OF THE PROCESSED OR MERCHANDISED PRODUCTS ARE PRODUCED BY THE FARMER.

~~*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--THE PENNSYLVANIA FIRE ACADEMY, PUBLIC OR PRIVATE COLLEGES OR UNIVERSITIES, COMMUNITY COLLEGES, OR VOCATIONAL OR TECHNICAL SCHOOLS WITHIN THIS COMMONWEALTH, THAT PROVIDE TECHNICAL COURSES OF INSTRUCTION IN FARM SAFETY AND OCCUPATIONAL HEALTH TO EMERGENCY SERVICE PROVIDERS, FARMERS, MEMBERS OF FARM FAMILIES, FARM LABORERS AND OTHERS INVOLVED IN AGRICULTURAL PRODUCTION OR WHICH DEVELOP FARM SAFETY AND OCCUPATIONAL HEALTH TRAINING PROGRAMS FOR IMPLEMENTATION BY THE DEPARTMENT.

Emergency service provider--An employe, agent, member or officer of a paid or volunteer fire company, ambulance service or rescue squad located in this

Commonwealth which is regularly engaged in providing emergency medical care and transportation, fire protection services or rescue services.

Farm--Land in this Commonwealth which is being used for agricultural production, including all farm structures, buildings, facilities and farm family residences situated on the land.

Farmer--A person who is engaged in agricultural production for commercial purposes.

Farm laborers--An individual employed by a farmer in raising, cultivating, fertilizing, seeding, planting, pruning, harvesting, gathering, washing, sorting, weighing or handling, drying, packing, packaging, grading, storing or delivering to market in its unmanufactured state, any agricultural commodity as defined in 3 Pa.C.S. Chapter 45 (relating to Agricultural Commodities Marketing) or any A farm product as defined in 1 Pa.C.S. § 1991 (relating to definitions).

Members of farm families FAMILY--Any son, daughter or spouse of a farmer or any lineal relation of the farmer who works on the farm or any collateral relation of the first degree (SUCH AS NIECES, NEPHEWS OR GRANDCHILDREN) who works on the farm.

Person--An individual, partnership, corporation, association or other form of business enterprise.

Program--The Farm Safety and Occupational Health Developmental and Instructional Program.

Project--A course, training, program, activity or event or the development of such, pertaining to farm safety and occupational health programs delineated in the act and this chapter.

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

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 fire protection services and other voluntary emergency services within this Commonwealth.

§ 138j.4. § 138j.3. Limitation on grants.

(a) *Financial assistance.* The Program will award grants to provide financial assistance of up to \$30,000 to the Pennsylvania Fire Academy, public or private colleges or universities, community colleges, or vocational or technical schools within this Commonwealth, that provide technical courses of instruction in farm safety and occupational health to emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production, or which develop farm safety and occupational health training programs for implementation by the Department
ELIGIBLE APPLICANTS.

(b) *Eligible applicants* GRANT AWARDS. Eligible applicants may apply for more than one Program grant per year. However, an eligible applicant may not be awarded more than \$30,000 dollars in Program grants in any fiscal year.

(c) *Recipient's use of FSDIP PROGRAM grant funds.* A recipient of a Program grant may only use the funds to cover the costs of the specific project delineated in the recipient's approved grant application and signed grant agreement.

(d) *Eligible projects.* Program grants may be awarded to provide financial assistance for implementation or development of the types of projects in section 4(b) of the act (3 P. S. § 1904(b)) and in this chapter.

(e) *Additional 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 its attendant 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). ~~See Chapters 128 and 128a (relating to pesticides; and chemsweep pesticide disposal program—statement of policy).~~

~~§ 138j.5.~~ § 138j.4. **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 §-138j.13 138j.12 (relating to right of recovery). The Secretary may waive a default, after consultation with the ADVISORY Board, in the event of a physical disability suffered by the recipient or as a result of other 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 which shall include written receipts, records and other pertinent documentation evidencing the project's costs. In addition, a grant recipient shall submit to the Department a final report including pertinent documentation and a narrative report describing the project objectives and accomplishments. 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 AND THE METHODS USED TO ACCOMPLISH THE STATED OBJECTIVES.

(d) *Failure to verify.* If the A FULLY COMPLETED FINAL REPORT CONTAINING THE required receipts, records and , documentation AND NARRATIVE are IS not submitted within the 3 month period or a portion of the grant proceeds are not accounted

for, the Secretary ~~or a designee~~ may demand the recipient repay the entire amount of the grant or a lesser amount. 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.

§ 138j6. § 138j.5. Applications.

(a) *Eligible applicants.* ~~The Pennsylvania Fire Academy or an interested public or private college or university, a community college, or a vocational or technical school~~ within this Commonwealth ONLY ELIGIBLE APPLICANTS may submit a grant application to the Department.

(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 COSTS 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) 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.

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

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

(7) 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.

(8) A BIOGRAPHICAL SKETCH OF THE 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 assistance.* An application for a grant under this chapter shall be made on a form 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.

(c) (D) *Additional information.* The Secretary or a designee may require an applicant to submit SUCH additional documentation AS MAY BE REASONABLY NECESSARY to complete, verify or clarify the application.

(d) (E) *Application deadline.* Applications for grants under this chapter shall be submitted to the Department by October 31 of each year.

§ 138j.7. § 138j.6. Processing of applications.

~~(a) Review by the Secretary APPROVAL OR DENIAL. Upon receipt of an application for a Program grant and the required supporting documentation, the THE Secretary or a designee will review this information for completeness and accuracy. The Secretary or a designee has the power to 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. If the Secretary or a designee determines the application is incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, processing of the application will cease until the applicant supplies the requested data. The Secretary or a designee will terminate the processing of an incomplete application when the additional data requested is not supplied within 10 days of the request for the data. 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) Approval power *PROCESSING*. The Secretary or a designee may exercise his judgement in approving 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 or a designee may impose restriction or special conditions upon the issuance of a grant.~~ 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.j8(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 138j.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 SECTION 3(g)(2) AND 4(c) (3 P.S. §§ 1903(g)(2) and 1904(c)) OF THE ACT, shall recommend OVERALL 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 for Program grants TO EACH GRANT PROGRAM. THE ADVISORY BOARD HAS NO AUTHORITY TO AND SHALL NOT REVIEW INDIVIDUAL GRANT APPLICATIONS OR HAVE INPUT INTO INDIVIDUAL GRANT AWARDS.

~~§ 138j.8.~~ § 138j.7. Review of applications.

(a) *Evaluation.* The Secretary or a designee 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) *Eligible applicants.* To be eligible for a Program grant, the applicant shall provide technical courses of instruction in farm safety and occupational health to emergency service providers, farmers, members of farm families, farm laborers and others involved~~

~~in agricultural production or the applicant shall develop a farm safety and occupational health training program for implementation by the Department. Only the following groups, organizations and institutions are eligible to apply for a Program grant:~~

- ~~(1) The Pennsylvania Fire Academy.~~
- ~~(2) A public or private college or university.~~
- ~~(3) A community college.~~
- ~~(4) A vocational or technical school.~~

~~(c B) Grant application requirements COMPLETENESS. An application for a Program grant will not be considered by the Secretary or a designee unless the following IT CONTAINS THE REQUIRED INFORMATION AND items are attached: AS SET FORTH IN SECTION 138j.5(b) OF THIS CHAPTER.~~

- ~~(1) A detailed description of the project, including objectives and goals 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 costs 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) 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.~~
- ~~(5) Information regarding the skills, knowledge or experience to be gained from the project.~~

~~(6) Documentation regarding the name and location of the applicant administering the project.~~

~~(7) 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.~~

~~(8) A biographical sketch of the primary persons involved in the project which indicates skills, knowledge, training and prior experience of the persons developing or administering, or both, the project.~~

(d C) *Factors*. Factors to be considered by the Secretary or a designee 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 effect the project will have on hazard elimination.

(4) The scope and duration of the project and how it relates to program components in section 4(b) of the act (3 P. S. § 1904(b)).

(5) The number and type of people or groups who will be affected by the project. A project which involves a wide range of age groups, encourages cooperation between existing community groups and organizations and provides incentives for new groups or organizations to become involved in farm safety and occupational health programs and training will be given priority.

(6) The impact of and the value and benefits bestowed upon the agricultural community by the project.

(7) The continual and progressive nature of the project and the benefits and knowledge to be gained therefrom.

(8) The value to the emergency providers.

(9) Whether the applicant has been the recipient of a Program grant within the same year.

(10) The availability of funding to the applicant from a source other than the Program.

(11) THE WILLINGNESS OF THE APPLICANT TO MAKE IN KIND AND/OR FINANCIAL CONTRIBUTIONS TO THE PROJECT.

(11) (12) The amount of tuition the applicant intends to charge for the courses.

(12) (13) The priorities as the Secretary, in consultation with the ADVISORY Board, set in accordance with section 4(c) of the act (3 P.S. § 1904(c)).

§ 138j.8. Notice of disposition of application.

(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. ~~Recipients will receive a grant agreement which shall be executed by the recipient and the Department prior to the release of funds.~~

(b) *Applications deemed incomplete or inaccurate.* Within 30 days of receipt of a grant application, the Secretary or a designee 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 § ~~138i.7(a)~~ SECTION 138j.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 MUST BE EXECUTED BY THE RECIPIENT AND THE DEPARTMENT PRIOR TO THE RELEASE OF FUNDS. GRANT MONEY MUST 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 MUST BE IN WRITING, STATE THE REASON THE EXTENSION IS NEEDED AND MUST BE SENT TO THE ADDRESS SET FORTH AT SECTION 138j.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 138j.11 (REGARDING GRANT CANCELLATION) AND SECTION 138j.12 (REGARDING RIGHT OF RECOVERY).

~~§-138j.10~~, § 138j.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).

~~§ 138j-11.~~ § 138j.10. Recordkeeping.

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.

~~§ 138j-12.~~ § 138j.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 are not being or were not properly-used 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 in ~~§ 138j-13~~ AT SECTION 138j.12 OF THIS CHAPTER (relating to Right of recovery).

~~§ 138j.13.~~ § 138j.12. Right of recovery.

The Department has the right to make a claim for and receive from the grant recipient money 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.14.~~ § 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.

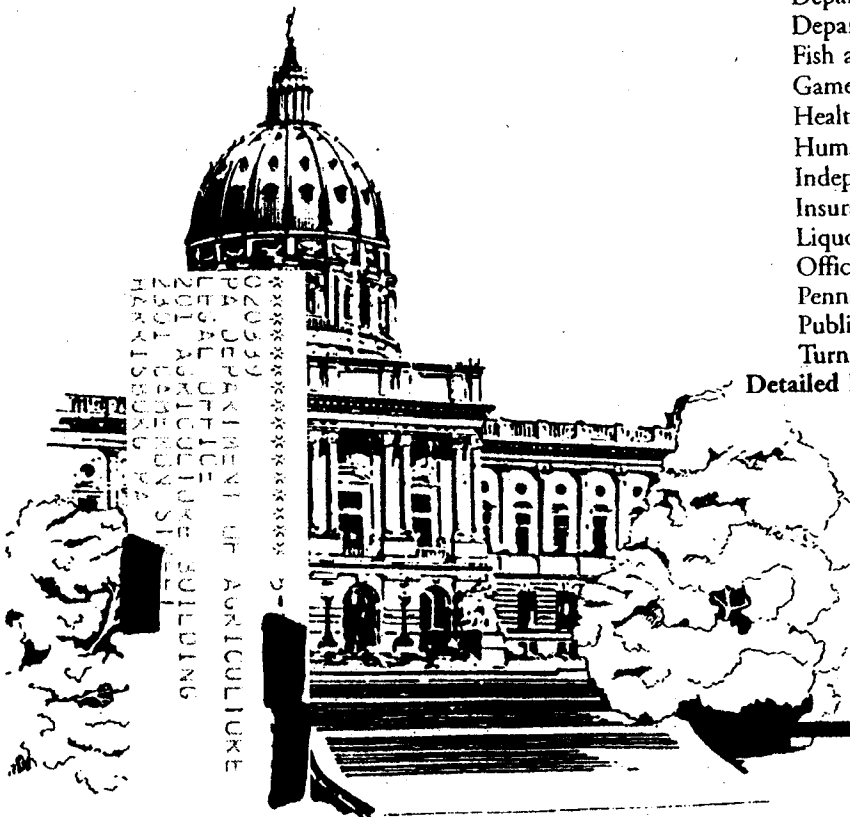
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(b) *Applications deemed incomplete.* Within 30 days of receipt of a grant application, the Secretary or a designee will notify the applicant of a decision to reject the grant application or notify the applicant of a deficiency in the grant application 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 § 138i.7(a) (relating to processing of applications).

§ 138i.11. Recordkeeping.

A Program grant recipient shall maintain all receipts, supporting documents, final reports and other documents pertaining to the project and the Program grant. These records shall be retained for 1 year beginning at the conclusion of the project. The records shall be made available to the Department upon request.

§ 138i.12. Grant cancellation.

A Program grant may be canceled by the Secretary upon a determination that the funds were not properly used, or upon failure of the recipient to satisfy the verification requirements of this chapter.

§ 138i.13. Right of recovery.

The Department has the right to make a claim for and receive from the grant recipient moneys not expended in accordance with the act, the grant agreement of this chapter.

[Pa.B. Doc. No. 00-241. Filed for public inspection February 11, 2000, 9:00 a.m.]

[7 PA. CODE CH. 138j]

Farm Safety and Occupational Health Developmental and Instructional 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 138j (relating to Farm Safety and Occupational Health Developmental and Instructional Program) (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)(1) of the act allows the Secretary to establish a grant program for the purpose of awarding grants to the Pennsylvania Fire Academy, public and private colleges and universities, community colleges and vocational and technical schools which provide technical courses of instruction in farm safety and occupational health to emergency service providers and the farm community or which develop farm safety and occupational health training programs for implementation by the Department. 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, this proposed chapter sets forth the documentation required to accompany the applications, eligibility criteria, criteria for determining grant amounts and verification, cancellation, notification and reporting requirements.

Background

This 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 lives 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 act bestows upon the Secretary the authority to establish a grant program to provide grants of up to \$30,000 to organizations, colleges, universities and vocational and technical schools which provide technical courses in farm safety and occupational health. The purpose of this Program is to provide funding for technical and educational programs, directed toward the farm community, which will increase awareness of potential farm hazards and provide information and technical support intended to facilitate avoidance and elimination of these hazards. This Program will compliment the Farm Safety and Occupational Health Grant Program, which exists as a statement of policy in Chapter 138g, but will be supplanted by regulations that are currently in the proposal stage. (*Editor's Note:* For text of the proposed rulemaking concerning Chapter 138k (relating to Farm Safety and Occupational Health Grant Program, see 30 Pa.B. 781 (February 12, 2000).)

Therefore, in the interest of continuing to carry out its statutory duties and promoting the development and implementation of technical and educational farm safety programs that benefit the farming community, the Department has promulgated this proposed rulemaking. This proposed rulemaking is intended to establish reasonable guidelines, standards, criteria and procedures for the administration and implementation of grants under the Program.

Summary of Major Features

Proposed § 138j.1 (relating to authority) delineates the Secretary's authority to establish this Program and sets forth the Secretary's power and duty to adopt and promulgate regulations to govern the awarding of grants under section 6 of the act.

Proposed § 138j.2 (relating to program objectives) set forth that the objective of this grant Program is to fund the development and implementation of programs which will increase the awareness of farm safety and occupational health issues among the farm community. The awarding of the grant moneys are on a funds available basis and through a competitive application process.

Proposed § 138j.3 (relating to definitions) defines various recurring terms such as "farm," "farm laborer," "members of farm families," "emergency service provider" and "project."

PROPOSED RULEMAKING

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Proposed § 138j.4 (relating to limitations on grants) describes the type of organization and project which is eligible for a grant award. This section specifically delineates that eligible applicants may be awarded financial assistance in amounts of up to \$30,000. This section also sets forth restrictions on the use of grant funds.

Proposed § 138j.5 (relating to general conditions) provides that a grant recipient is required to sign a grant agreement and sets forth default, verification and failure to verify provisions.

Proposed § 138j.6 (relating to applications generally) provides that an eligible applicant shall submit an application prepared by the Department and provides information regarding how to obtain an application and who to contact for assistance. This section notifies the applicant that additional information may be requested by the Secretary and that the application deadline will be October 31, of the year preceding the fiscal year in which the grant funds are sought.

Proposed § 138j.7 (relating to processing of applications) describes the procedure for processing applications and delineates review and approval powers of the Secretary and the Board. This section sets forth processing requirements for applications which are incomplete or contain inaccurate information.

Proposed § 138j.8 (relating to review of application) delineates the specific information that must be included in a grant application, defines applicant eligibility requirements and sets forth the factors to be considered by the Secretary in selecting grant recipients.

Proposed § 138j.9 (relating to conflicts of interest) sets forth the legal provisions a Board member shall follow to avoid a conflict of interest, when the Board member or his agent or employe is a grant applicant.

Proposed § 138j.10 (relating to notice of disposition of applications) sets forth type of notice required and the time periods for notification.

Proposed § 138j.11 (relating to recordkeeping) describes the type of records which shall be kept by the grant recipient and the time period for which those records shall be kept. This section also provides for inspection and audit of those records by the Department.

Proposed § 138j.12 (relating to grant cancellation) provides for the cancellation of a grant when funds are not being or have not been spent in accordance with the grant agreement or these regulations.

Proposed § 138j.13 (relating to right of recovery) sets forth the Department's right to make a claim for grant money not expended in accordance with the act, the grant agreement or the regulations.

Proposed § 138j.14 (relating to deficits) provides that the Department's financial obligation is limited to the amount of the grant.

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.

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

various farm safety and occupational health grant programs allowed under section 6 of the act. The Secretary with the advice of the Board will determine the amount of funds to allocate to each grant program promulgated under section 6 of the act.

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 who are interested in applying for grant moneys. The costs which may be associated with the regulations would involve the time spent to obtain and fill out a grant application. Organizations receiving grants would benefit by receiving funds to cover all or part of the costs associated with developing or developing and implementing the projects set forth in their grant application. The private sector will also benefit through the realization of reduced health care and occupational costs associated with educational and preventative programs such as those espoused by the act and these proposed regulations.

General Public

The proposed regulations will impose no costs and have no fiscal impact on 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 be associated with educational and preventative programs such as those espoused by the act and these proposed regulations.

Paperwork Requirements

The proposed regulations will not result in an appreciable increase of paperwork. The Department will have to develop a grant application form and a grant agreement to administer the Program. However, the administrative provisions of the Program are very similar to the administrative provisions of the Farm Safety and Occupational Health Grant Program and the Department has already developed a grant application form and grant agreement for use in administering the Farm Safety and Occupational Health Grant Program and has administered that program, under Chapter 138g, 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 an objection to any portion of the proposed regulations, it will notify the Department within 10 days after the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by 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 Tancelosky (717) 772-5217.

Effective Date

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

SAMUEL E. HAYES, Jr.,
Secretary

Fiscal Note: 2-122. (1) General Fund; (2) Implementing Year 1999-00 is \$40,000; (3) 1st Succeeding Year 2000-01 is \$40,000; 2nd Succeeding Year 2001-02 is \$40,000; 3rd Succeeding Year 2002-03 is \$40,000; 4th Succeeding Year 2003-04 is \$40,000; 5th Succeeding Year 2004-05 is \$40,000; (4) Fiscal Year 1998-99 \$N/A; Fiscal Year 1997-98 \$N/A; Fiscal Year 1996-97 \$N/A; (7) Farm Safety; (8) recommends adoption.

Annex A**TITLE 7. AGRICULTURE****PART V-C. FARMLAND AND FOREST LAND****CHAPTER 138j. FARM SAFETY AND OCCUPATIONAL HEALTH DEVELOPMENTAL AND INSTRUCTIONAL PROGRAM GRANTS**

Sec.	
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138j.2.	Program objectives.
138j.3.	Definitions.
138j.4.	Limitation on grants.
138j.5.	General conditions.
138j.6.	Applications.
138j.7.	Processing of applications.
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138j.10.	Conflict of interest.
138j.11.	Recordkeeping.
138j.12.	Grant cancellation.
138j.13.	Right of recovery.
138j.14.	Deficits.

§ 138j.1. Authority.

The act bestows upon the Secretary of Agriculture of the Commonwealth, the power and duty to "... administer the provisions of this act and ... adopt and promulgate any regulations which may be necessary to implement and administer this act" (3 P.S. § 1905). In addition, section 6(c)(1) of the act (3 P.S. § 1906(c)(1)) allows the Secretary to establish a grant program to provide financial assistance to certain groups, academies, institutions, colleges and schools which implement or develop farm safety projects that comply with the criteria delineated in the act. Section 6(d) of the act directs the Secretary to adopt and promulgate regulations to govern the awarding of grants.

§ 138j.2. Program objectives.

(a) *Purpose.* The purpose of the Program is to provide financial assistance to the Pennsylvania Fire Academy, public or private colleges or universities, community colleges, or vocational or technical schools within this Commonwealth, that provide technical courses of instruction in farm safety and occupational health to emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production or which develop farm safety and occupational health training programs for implementation by the Department.

(b) *Competitive program.* The Program is competitive. Grant applications and related documents will be col-

lected by the Department and reviewed by the Secretary or a designee. Grants will be awarded annually.

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

§ 138j.3. 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).

Agricultural production—The production for commercial purposes of crops, livestock and livestock products. The term includes the processing or retail marketing of the crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farmer.

Board—The Farm Safety and Occupational Health Advisory Board.

Department—The Department of Agriculture of the Commonwealth.

Emergency service provider—An employe, agent, member or officer of a paid or volunteer fire company, ambulance service or rescue squad located in this Commonwealth which is regularly engaged in providing emergency medical care and transportation, fire protection services or rescue services.

Farm—Land in this Commonwealth which is being used for agricultural production, including all farm structures, buildings, facilities and farm family residences situated on the land.

Farmer—A person who is engaged in agricultural production for commercial purposes.

Farm laborers—An individual employed by a farmer in raising, cultivating, fertilizing, seeding, planting, pruning, harvesting, gathering, washing, sorting, weighing or handling, drying, packing, packaging, grading, storing or delivering to market in its unmanufactured state, any agricultural commodity as defined in 3 Pa.C.S. Chapter 45 (relating to Agricultural Commodities Marketing) or any farm product as defined in 1 Pa.C.S. § 1991 (relating to definitions).

Members of farm families—Any son, daughter or spouse of a farmer or any lineal relation of the farmer who works on the farm or any collateral relation of the first degree who works on the farm.

Person—An individual, partnership, corporation, association or other form of business enterprise.

Program—The Farm Safety and Occupational Health Developmental and Instructional Program.

Project—A course, training, program, activity or event or the development of such, pertaining to farm safety an occupational health programs delineated in the act in this chapter.

Secretary—The Secretary of Agriculture of the Commonwealth.

Volunteer ambulance services—A nonprofit chartered corporation, association or organization located in the 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 Comm

wealth 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 fire protection services and other voluntary emergency services within this Commonwealth.

§ 138j.4. Limitation on grants.

(a) *Financial assistance.* The Program will award grants to provide financial assistance of up to \$30,000 to the Pennsylvania Fire Academy, public or private colleges or universities, community colleges, or vocational or technical schools within this Commonwealth, that provide technical courses of instruction in farm safety and occupational health to emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production, or which develop farm safety and occupational health training programs for implementation by the Department.

(b) *Eligible applicants.* Eligible applicants may apply for more than one Program grant per year. However, an eligible applicant may not be awarded more than \$30,000 dollars in Program grants in any fiscal year.

(c) *Recipient's use of FSDIP grant funds.* A recipient of a Program grant may only use the funds to cover the costs of the specific project delineated in the recipient's approved grant application and signed grant agreement.

(d) *Eligible projects.* Program grants may be awarded to provide financial assistance for implementation or development of the types of projects in section 4(b) of the act (3 P. S. § 1904(b)) and in this chapter.

(e) Additional 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 its attendant regulations. See Chapters 128 and 128a (relating to pesticides; and chemsweep pesticide disposal program—statement of policy).

§ 138j.5. 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 § 138j.13 (relating to right of recovery). The Secretary may waive a default, after consultation with the Board, in the event of a physical disability suffered by the recipient or as a result of other 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 which shall include written receipts, records and other pertinent documentation evidencing the project's costs. In addition, a grant recipient shall submit to the Department a final report including pertinent documentation and a narrative report describing the project objectives and accomplishments.

(d) *Failure to verify.* If the required receipts, records and documentation are not submitted within the 3 month period or a portion of the grant proceeds are not accounted for, the Secretary or a designee may demand the recipient repay the entire amount of the grant or a lesser amount. 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.

§ 138j.6. Applications.

(a) *Eligible applicants.* The Pennsylvania Fire Academy or an interested public or private college or university, a community college, or a vocational or technical school within this Commonwealth may submit a grant application to the Department.

(b) *Obtaining an application and assistance.* An application for a grant under this chapter shall be made on a form 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.

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

(d) *Application deadline.* Applications for grants under this chapter shall be submitted to the Department by October 31 of each year.

§ 138j.7. Processing of applications.

(a) *Review by the Secretary.* Upon receipt of an application for a Program grant and the required supporting documentation, the Secretary or a designee will review this information for completeness and accuracy. The Secretary or a designee has the power to approve, approve with special conditions or reject applications and issue grants in accordance with the general considerations and criteria of the act and this chapter. If the Secretary or a designee determines the application is incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, processing of the application will cease until the applicant supplies the requested data. The Secretary or a designee will terminate the processing of an incomplete application when the additional data requested is not supplied within 10 days of the request for the data.

(b) *Approval power.* The Secretary or a designee may exercise his judgement in approving 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 or a designee may impose restrictions or special conditions upon the issuance of a grant.

(c) *Board.* The Board shall recommend program priorities to the Secretary. Additionally, the Board shall recommend the amount of funds to be allocated for Program grants.

§ 138j.8. Notice of disposition of application.

(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. 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.

(b) *Applications deemed incomplete.* Within 30 days of receipt of a grant application, the Secretary or a designee 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 § 138i.7(a) (relating to processing of applications).

§ 138j.9. Review of applications.

(a) *Evaluation.* The Secretary or a designee 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) *Eligible applicants.* To be eligible for a Program grant, the applicant shall provide technical courses of instruction in farm safety and occupational health to emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production or the applicant shall develop a farm safety and occupational health training program for implementation by the Department. Only the following groups, organizations and institutions are eligible to apply for a Program grant:

- (1) The Pennsylvania Fire Academy.
- (2) A public or private college or university.
- (3) A community college.
- (4) A vocational or technical school.

(c) *Grant application requirements.* An application for a Program grant will not be considered by the Secretary or a designee unless the following items are attached:

- (1) A detailed description of the project, including objectives and goals 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 costs 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) 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.
- (5) Information regarding the skills, knowledge or experience to be gained from the project.
- (6) Documentation regarding the name and location of the applicant administering the project.
- (7) 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.
- (8) A biographical sketch of the primary persons involved in the project which indicates skills, knowledge, training and prior experience of the persons developing or administering, or both, the project.

(d) *Factors.* Factors to be considered by the Secretary or a designee 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 effect the project will have on hazard elimination.
- (4) The scope and duration of the project and how it relates to program components in section 4(b) of the act (3 P. S. § 1904(b)).
- (5) The number and type of people or groups who will be affected by the project. A project which involves a wide range of age groups, encourages cooperation between existing community groups and organizations and provides incentives for new groups or organizations to become involved in farm safety and occupational health programs and training will be given priority.
- (6) The impact of and the value and benefits bestowed upon the agricultural community by the project.
- (7) The continual and progressive nature of the project and the benefits and knowledge to be gained therefrom.
- (8) The value to the emergency providers.
- (9) Whether the applicant has been the recipient of a Program grant within the same year.
- (10) The availability of funding to the applicant from a source other than the Program.
- (11) The amount of tuition the applicant intends to charge for the courses.
- (12) The priorities as the Secretary, in consultation with the Board, set in accordance with section 4(c) of the act.

§ 138j.10. Conflict of interest.

A member of the 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 Subchapter K (relating to code of conduct for appointed officials and state employees).

§ 138j.11. Recordkeeping.

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 designee upon request.

§ 138j.12. Grant cancellation.

A Program grant may be canceled by the Secretary upon a determination that the funds are not being properly used. Upon cancellation, the Secretary may seek recovery of the grant funds as delineated in § 138j.13 (relating to right of recovery).

§ 138j.13. Right of recovery.

The Department has the right to make a claim against the grant recipient for the amount of the grant not expended in accordance with the act, the grant agreement

PROPOSED RULEMAKING

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) The Program has proven to be an effective program.

The core concept of the FSOH Program is 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.



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 §§ 138j.1.-138j.14.
I.D. No. 2-122
Proposed Rulemaking: 30 Pennsylvania Bulletin
776 (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

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

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 2-122
SUBJECT: Farm Safety & Occupational Health Developmental & Instructional Program
AGENCY: DEPARTMENT OF AGRICULTURE

2001 JAN 24 PM 2:45

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

1/24/01 *Lou Hoffman*

[REDACTED]

SENATE COMMITTEE ON AGRICULTURE & RURAL
AFFAIRS

Cecilia Boyer 1/24/01

SENATE COMMITTEE ON AGRICULTURE & RURAL
AFFAIRS

1-24-01 Elena Pagan

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

LEGISLATIVE REFERENCE BUREAU

January 9, 2001