

# Regulatory Analysis Form

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REGULATORY REVIEW SUBMISSION

Harbison

IRRC Number: 2090

(1) Agency

Pennsylvania Department of Agriculture

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

2-122

(3) Short Title

The Farm Safety and Occupational Health Developmental and instructional Program ("FSDIP")

(4) PA Code Cite

7 Pa.Code §§ 138j.1.-138j.14.

(5) Agency Contacts & Telephone Numbers

Primary Contact: John Tacosky 717-772-5217

Secondary Contact: Phillip Pitzer 717-772-5206

(6) Type of Rulemaking (check one)

Proposed Rulemaking   
Final Order Adopting Regulation  
Final Order, Proposed Rulemaking Omitted

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

No   
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.

## Regulatory Analysis Form

(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.

### **Regulatory Analysis Form**

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

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(c)(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 FSDIP 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.

### **Regulatory Analysis Form**

(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 an appropriation for use in developing the FSDIP. At this time, the Department will devote \$40,000 per year to the FSDIP. 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 that are priceless and serve to enhance the health, safety and well being of the entire community.

## Regulatory Analysis Form

(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
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated</b>	816,000	816,000	816,000	816,000	816,000	816,000
<b>Local Government</b>	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
<b>State Government</b>	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
<b>Total Savings</b>	816,000	816,000	816,000	816,000	816,000	816,000
<b>COSTS:</b>						
<b>Regulated</b>	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
<b>Local Government</b>	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
<b>State Government</b>	40,000	40,000	40,000	40,000	40,000	40,000
<b>Total Costs</b>	40,000	40,000	40,000	40,000	40,000	40,000
<b>REVENUE LOSSES:</b>						
<b>Regulated</b>	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
<b>Local Government</b>	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
<b>State Government</b>	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
<b>Total Revenue Losses</b>	- 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.

## Regulatory Analysis Form

(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.

**Regulatory Analysis Form**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

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

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.

## Regulatory Analysis Form

(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.



FACE SHEET  
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WITH THE LEGISLATIVE REFERENCE  
BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REGULATORY  
REVIEW COMMISSION

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

*David J. Doherty*  
\_\_\_\_\_  
(Deputy Attorney General)

JAN 21 2000

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 of Independent Agencies

*Sandra W. Stoner*  
BY: \_\_\_\_\_

*1/17-2000*  
\_\_\_\_\_  
DATE OF APPROVAL

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 PROPOSED RULEMAKING

Department of Agriculture  
Bureau of Plant Industry  
7 Pa. Code §§ 138j.1. - 138j.14.  
Farm Safety and Occupational Health  
Developmental and Instructional Program

**Department of Agriculture – Notice of Proposed Rulemaking**

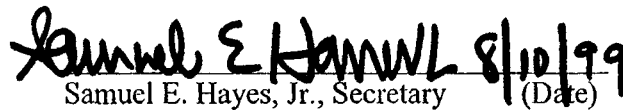
**PA Code Cite:** 7 Pa. Code §§ 138j.1. – 138j.14.

**Regulation Title:** Farm Safety and Occupational Health Developmental and Instructional Program

**I.D. Number:** 2-122

**SECRETARY'S CERTIFICATION**

I, Samuel E. Hayes, Jr. do hereby certify that I have reviewed this regulation and determined that the regulation is consistent with the principles outlined in Executive Order 1996-1.

 Samuel E. Hayes, Jr., Secretary (Date) 8/10/99

**TITLE 7 - AGRICULTURE**  
**(7 Pa. Code Chapter 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 (3 P.S. §§ 1905 and 1906) of 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), hereby proposes to establish Chapter 138j. (7 Pa.Code §§ 138j.1.-138j.14.) which shall be known as the Farm Safety and Occupational Health Developmental and Instructional Program ("FSDIP"). 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.

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

## **BACKGROUND**

Pennsylvania'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 percent higher than the second most hazardous industry, mining and quarrying. Farming accounts for over 80 percent 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 the age of five. 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 state had at least one recordable work-related injury. Even more startling was that approximately five percent 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 5100 injuries and 250 permanent disability injuries related to farming.

The act bestows upon the Secretary of Agriculture of the Commonwealth of Pennsylvania ("Secretary") the authority to establish a grant program to provide grants of unto thirty-thousand (\$30,000) dollars to organizations, colleges, universities and vocational and technical schools which provide technical courses in farm safety and occupational health. The purpose of the Farm Safety and Occupational Health Developmental and Instructional 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 such hazards. The FSDIP will compliment the Farm Safety and Occupational Health Grant Program, which exists as a statement of policy at (7 Pa.Code §§ 138g.1. -138g.10.), but will be supplanted by regulations that are currently in the proposal stage.

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 regulation. This regulation is intended to establish reasonable guidelines, standards, criteria and procedures for the administration and implementation of grants under the FSDIP.

The major features of the proposed regulation are summarized as follows:

#### **SUMMARY OF MAJOR FEATURES**

**Section 138j.1.** (relating to authority) delineates the Secretary's authority to establish the Farm Safety and Occupational Health Developmental and Instructional Program and sets forth the Secretary's power and duty to adopt and promulgate regulations to govern the awarding of grants under Section 6 (3 P.S. § 1906) of the act.

**Section 138j.2.** (relating to program objectives) sets forth that the objective of the 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.

**Section 138j.3.** (relating to definitions) defines various recurring terms such as "Farm", "Farm laborers", "Members of farm families", "Emergency service provider" and "Project".

**Section 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.

**Section 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.

**Section 138j.6.** (relating to applications generally) provides that an eligible applicant must 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.

**Section 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.

**Section 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.

**Section 138j.9.** (relating to conflicts of interest) sets forth the legal provisions a Board member must follow to avoid a conflict of interest, where such Board member or his agent or employee is a grant applicant.

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

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

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

**Section 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.

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

This proposed regulation sets 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 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 Board will determine the amount of funds to allocate to each grant program promulgated under section 6 of the act.

#### **Political Subdivisions**

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

#### **Private Sector**

The proposed regulation will impose minimal costs on those organizations who are interested in applying for grant moneys. The costs which may be associated with the regulation 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 this regulation.

### **General Public**

The proposed regulation 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 this regulation.

### **PAPERWORK REQUIREMENTS**

The proposed regulation 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 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.

### **REGULATORY REVIEW**

Under Section 5(a) of the Regulatory Review Act , the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§ 745.1 – 745.15), as amended by the Act of June 25, 1997 (P.L. 252, No. 24), the Department submitted a copy of these proposed regulations on January 31, 2000 to the Independent Regulatory Review Commission 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 the Commission 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.

If the Commission has an objection to any portion of the proposed regulation, it will notify the Department within 30 days after the close of the public comment period. Such 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, Pennsylvania 17110-9408; Attn: John Tacosky (717) 772-5217.

**EFFECTIVE DATE**

This proposed regulation is effective upon publication in the *Pennsylvania Bulletin*.

By the Department of Agriculture  
SAMUEL E. HAYES, JR., SECRETARY

**CHAPTER 138j. FARM SAFETY AND OCCUPATIONAL HEALTH  
DEVELOPMENTAL AND INSTRUCTIONAL PROGRAM GRANTS**

Sec.

- 138j.1. Authority.
- 138j.2. Program objectives.
- 138j.3. Definitions.
- 138j.4. Limitation on grants.
- 138j.5. General conditions.
- 138j.6. Applications.
- 138j.7. Processing of applications.
- 138j.8. Notice of disposition of application.
- 138j.9. Review of applications.
- 138j.10. Conflict of interest.
- 138j.11. Record keeping.
- 138j.12. Grant cancellation.
- 138j.13. Right of recovery.
- 138j.14. Deficits.

**§ 138j.1. Authority.**

The Farm Safety and Occupational Health Act (“Act”) (3 P.S. §§ 1901-1915) 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) 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 (3 P.S. § 1906(d)) directs the Secretary to adopt and promulgate regulations to govern the awarding of grants.

**§ 138j.2. 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. Definitions.**

The following words and terms, when used in this chapter, shall 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 such 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-* Any employee, 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 such 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 the act of March 24, 1998 (P.L. 217, No. 39), known as the "Agricultural Commodities Marketing Act" (3 Pa. C. S. §§ 4501-4513), or any farm product as defined in 1 Pa. C.S. § 1991 (relating to definitions).

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

*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.

*Project*- Any 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.

*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. Limitation on grants.**

(a) *Financial assistance.* The FSDIP 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 (1) FSDIP grant per year. However, an eligible applicant may not be awarded more than \$30,000 dollars in FSDIP grants in any fiscal year.

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

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

(e) *Additional limitations.*

(1) FSDIP grant funds may only be used to provide financial assistance for projects administered within the geographic boundaries of this Commonwealth.

(2) FSDIP grant funds shall not be used for or applied to any training, programs, activities, certification or licensing requirements or events pertaining to the act of March 1, 1974 (P.L. 90, No. 24) known as the Pennsylvania Pesticide Control Act of 1973 (3 P.S. §§ 111.21 *et seq.*) or its attendant regulations.

**§ 138j.5. General conditions.**

(a) *Grant agreement.* The recipient of a FSDIP grant shall sign a grant agreement setting forth the amount of the grant and other terms and conditions as the Department may reasonably require.

(b) *Default.* Any recipient of a FSDIP grant who fails to abide by the terms of the grant agreement or the provisions of 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. of this chapter. 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 three (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 any 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 three (3) month period or a portion of the grant proceeds are not accounted for, the Secretary or his designee may demand the recipient repay the entire amount of the grant or a lesser amount. Such demand shall be made in writing and shall 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 sixty (60) days of such 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 his designee may require an applicant to submit additional documentation to complete, verify or clarify the application.

(d) *Application deadline.* The Department shall receive applications for grants under this chapter no later than October 31 of each year.

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

(a) *Review by the Secretary.* Upon receipt of an application for a FSDIP grant and the required supporting documentation, the Secretary or his designee will review this information for completeness and accuracy. The Secretary or his designee shall have 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 his 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 his designee shall terminate the processing of an incomplete application when the additional data requested is not supplied within ten (10) days of the request for such data.

(b) *Approval Power.* The Secretary or his 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 his 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 FSDIP grants.

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

(a) *Applications deemed complete.* The Secretary will notify grant applicants within thirty (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 thirty (30) days of receipt of a grant application, the Secretary or his designee shall 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 shall follow the action prescribed in Section 138i.7(a) of this chapter.

**§ 138j.9. Review of applications.**

(a) *Evaluation.* The Secretary or his 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 FSDIP grant, the applicant must 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 must 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 FSDIP 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 FSDIP grant will not be considered by the Secretary or his 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. Such 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 course(s).

(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 where 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.

(d) *Factors.* Factors to be considered by the Secretary or his 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 delineated at Section 4(b) (3 P.S. § 1904(b)) of the act.

(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 FSDIP grant within the same year.

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

(11) The amount of tuition the applicant intends to charge for the course(s).

(12) Such priorities as the Secretary, in consultation with the Board, shall set in accordance with Section 4(c) (3 P.S. § 1904(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 the provisions of Section 3(j) of the Public Official and Employee Ethics Act (65 Pa.C.S. § 1103(j)) 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. Record keeping.**

A FSDIP 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 FSDIP grant. These records shall be retained for three (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. Such records shall be made available to the Department or its agent upon request.

**§ 138j.12. Grant cancellation.**

A FSDIP grant may be canceled by the Secretary upon a determination that the funds are not being or were not properly used. Upon cancellation, the Secretary may seek recovery of the grant funds as delineated in Section 138j.13. of this chapter.

**§ 138j.13. Right of recovery.**

The Department has the right to make a claim for and receive from the grant recipient money 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. Deficits.**

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



COMMONWEALTH OF PENNSYLVANIA  
**DEPARTMENT OF AGRICULTURE**  
LEGAL OFFICE

January 31, 2000

The Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17120

**RE: NOTICE OF PROPOSED RULEMAKING**  
**Department of Agriculture, Bureau of Plant Industry**  
**7 Pa. Code Chapter 138j: Farm Safety and Occupational Health**  
**Developmental and Instructional Program**  
**I.D. No. 2-122**

Dear Sir or Madam:

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

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

The proposed regulation will be published in the February 12, 2000 edition of the *Pennsylvania Bulletin*. If I may be of further information, please advise.

Sincerely,

A handwritten signature in cursive script that reads "David C. Kennedy".

David C. Kennedy  
Assistant Counsel

Enclosures



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

**RECEIVED**

2000 JAN 31 PM 3:39

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

REGULATORY  
REVIEW COMMISSION

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a.  With Revisions
  - b.  Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
1-31		HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1-31		
1/31		SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1/31		
1/31/00		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

January 25, 2000