

# Regulatory Analysis Form

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REGULATORY REVIEW COMMISSION

(1) Agency

Pennsylvania Department of Agriculture

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

2-123

**Harbison**

IRRC Number:

2091

(3) Short Title

Farm Safety and Occupational Health Tuition Assistance Program ("FSTAP")

(4) PA Code Cite

7 Pa.Code, Chapter 138i.1. – 138i.13.

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

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

No  X  
 Yes: By the Attorney General  
 Yes: By the Governor

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

This regulation establishes criteria for a grant program for the purpose of awarding tuition assistance grants to rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production who attend farm safety and occupational health training and emergency response programs. The regulation establishes the procedures governing submission, processing and review of grant applications. In addition, it sets forth the documentation required to accompany such applications, eligibility criteria for determining grant amounts and notification and reporting requirements.

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

The Farm Safety and Occupational Health Act ("Act")(3 P.S. §§ 1901-1915). Section 6(a) (3 P.S. § 1906(a)) 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(a) of the act (3 P.S. § 1906(a)) states that the Secretary may establish a grant program to provide tuition assistance to rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production to attend farm safety and occupational health training and emergency response programs.

(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 5,100 injuries and 250 permanent disability injuries related to farming. The core concept of the FSTAP is to provide the maximum educational outreach to the farm community at minimum costs. Grant money under this regulation will go to rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production to attend farm safety and occupational health training and emergency response programs. FSTAP grants provide an incentive to people in the agricultural industry to attend educational programs, such as those developed under the Farm Safety and Occupational Health Developmental and Instructional Program. These programs focus on emergency response techniques, 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 education and programs that 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 FSTAP is a very effective way to encourage farmers, farm families and others involved in agricultural production to attend farm safety and occupational health programs and seminars. Educational programs 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

(13) Continued

approved and the number and type of programs implemented. As set forth in the answer to question (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 the FSTAP and the educational programs attended will prevent 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 FSTAP is a voluntary program. Only those qualified entities which submit an application and are approved to receive a FSTAP grant, will be subject to the regulation. The regulation is not onerous and the approved applicant is eligible to receive \$100 towards tuition charged for a farm safety or occupational health training or educational program. The program encourages increased attendance at farm safety and occupational health educational and training programs. Increased attendance at such programs 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(a) of the act provides the list of persons, groups and entities eligible to receive a FSTAP grant. Rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production, who attend a farm safety or occupational health training or educational program are eligible for FSTAP grants. The FSTAP is a voluntary program. Only those qualified entities which submit an application and are approved to receive a FSTAP 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

(17) Continued

estimate is based on National Safety Council data. The Department's savings estimate is arrived at by presuming that the incentives offered by the FSTAP will encourage increased attendance at farm safety and occupational health training and educational programs. The projected savings will be attained if such increased attendance results in the prevention of 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 and development costs. Only those persons who apply and are approved will be subject to the regulation and approved applicants may receive up to \$100 annually in tuition reimbursement. 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.

Savings:

The potential savings are quantified and explained in answers to questions 20, 20(a) and 20(b).

Costs:

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 FSTAP. At this time, the Department will devote \$20,000 per year to the FSTAP. The paperwork and administrative costs are minimal. 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. Such programs are priceless and serve to enhance the health, safety and well-being of the entire community. The FSTAP provides an additional incentive to attend such programs.

## 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>	20,000	20,000	20,000	20,000	20,000	20,000
<b>Total Costs</b>	20,000	20,000	20,000	20,000	20,000	20,000
<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 4,200 injuries that result in at least one lost school or workday. These injury cases are defined as disabling injuries. These statistics result in estimated losses of \$33,180,000 for deaths and \$109,200,000 from injuries annually. Prevention of just one death and 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. An application must be filed for each farm safety or occupational health training or educational program attended in order to receive FSTAP grants. Repeat applicants should demonstrate the course attended provided new and innovative training and/or educational methods and/or quantify additional benefits derived from the 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 FSTAP. FSTAP 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 \$20,000 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 FSTAP is designed to provide additional incentives for members of the agricultural community to attend programs that promote agricultural worker safety and occupational health by providing educational programs, which emphasize quick response methods and preventative safety practices to the agricultural community and emergency service providers. The FSTAP works with new and existing farm safety programs to assure the farm community is provided with 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 FSTAP 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 FSTAP regulations only apply to grant recipients and provide a minimal regulatory approach to the farm safety and occupational health problem. The costs 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 FSTAP 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, FSTAP 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 FSTAP and its regulations will help Pennsylvania assume a leadership role among other states in the Farm Safety and Occupational Health area. The regulation, in conjunction with the Farm Safety and Occupational Health Developmental and Instructional Program and the Farm Safety and Occupational Health Small Grants Program, will decrease the number of injuries, disabilities and deaths related to farm accidents. The costs imposed on the regulated community are minimal. 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 the proposed regulations regarding the Farm Safety and Occupational Health Developmental and Instructional Program and the Farm Safety and Occupational Health 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 effected.

(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. 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 FSTAP 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 FSTAP. By the very nature of the community and people the FSTAP serves, it caters to small businesses and small and rural communities (i.e. family farms and rural and volunteer fire and medical care providers).

(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 FSTAP is a voluntary program. Only those eligible persons 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 training or educational program attended, its effectiveness and the experience gained and knowledge acquired. The Department will use such reports to judge the effectiveness of the FSTAP 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 for 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.



FACT SHEET  
FOR FILING DOCUMENTS  
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LEGISLATIVE COMMISSION

DO NOT WRITE IN THIS SPACE

#2091

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

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

Department of Agriculture  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 2-123

DATE OF ADOPTION:

*Samuel E. Hayes, Jr.*

Samuel E. Hayes, Jr.  
TITLE: Secretary of Agriculture

EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY

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

*Sandra W. Stover*

12/22/99  
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.

PROPOSED RULEMAKING  
Department of Agriculture  
7 Pa. Code §§ 138i.1. - 138i.13.  
Farm Safety and Occupational Health  
Tuition Assistance Program

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

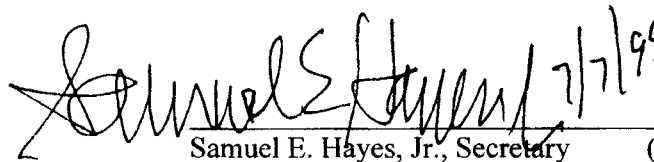
**PA Code Cite:** 7 Pa. Code §§ 138i.1. – 138i.13.

**Regulation Title:** Farm Safety and Occupational Health Tuition Assistance Program

**I.D. Number:** 2-123

**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.

 7/7/99  
\_\_\_\_\_  
Samuel E. Hayes, Jr., Secretary (Date)

**TITLE 7 - AGRICULTURE  
(7 Pa. Code Chapter 138i)  
FARM SAFETY AND OCCUPATIONAL HEALTH  
TUITION ASSISTANCE 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 138i. (7 Pa.Code §§ 138i.1.-138i.13.) which shall be known as the Farm Safety and Occupational Health Tuition Assistance Program ("FSTAP"). 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(a) of the act (3 P.S. § 1906(a)) allows the Secretary to establish a grant program to provide tuition assistance to rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production to attend farm safety and occupational health training and emergency response programs. Section 6(d) of the act (3 P.S. § 1906(d)) 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 purpose of the Farm Safety and Occupational Health Tuition Assistance Program is to provide tuition assistance to rural emergency service providers and members of the farm community in order to assist them and encourage their attendance at farm safety and occupational health programs and seminars intended to facilitate avoidance and elimination of farming hazards. The FSTAP 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 and the proposed Farm Safety and Occupational Health Developmental and Instructional Program intended to be established as Chapter 138j (7 Pa.Code §§ 138j.1.-138j.14.).

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 FSTAP.

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

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

**Section 138i.1.** (relating to authority) delineates the Secretary's authority to establish the Farm Safety and Occupational Health Tuition Assistance 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 138i.2.** (relating to program objectives) sets forth that the objective of the grant program is to provide tuition assistance to rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production, in order to allow them to attend farm safety and occupational health programs and emergency response programs. It stipulates that grants will be awarded on a funds available basis and through a competitive application process.

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

**Section 138i.4.** (relating to limitations on grants) defines who is an eligible applicant, describes the proper use of grant funds and sets forth the procedure for

substitution of person or project. This section specifically delineates the total dollar amount an eligible applicant may be awarded in tuition assistance. Each applicant may receive up to one hundred (\$100) dollars in tuition assistance per calendar year. This section also sets forth restrictions on the use of grant funds.

**Section 138i.5.** (relating to general conditions) provides that a grant recipient will be required to sign the approved grant application form, which shall then constitute the grant agreement. Additionally, this section sets forth default, verification and failure to verify provisions.

**Section 138i.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 must be received prior to the date of the project the applicant wishes to attend.

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

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

**Section 138i.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 138i.12.** (relating to grant cancellation) provides for the cancellation of a grant where funds have not been spent in accordance with the grant agreement or these regulations or upon failure of the recipient to satisfy the verification requirements of this chapter.

**Section 138i.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.

This proposed regulation sets forth the basic process by which the Department will 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 or individuals who are interested in applying for FSTAP grants. The costs that may be associated with the regulation would involve the time spent to obtain and fill out a grant application. Organizations and individuals receiving grants would benefit by receiving funds to cover tuition costs associated with attending some farm safety and occupational health programs. The private sector may also benefit through the realization of reduced health care and occupational costs resulting from increased attendance at the educational and preventative programs 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 result from increased attendance at 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 to administer the FSTAP. However, the administrative provisions of the FSTAP 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 Tacelosky (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 138i. FARM SAFETY AND OCCUPATIONAL HEALTH  
TUITION ASSISTANCE PROGRAM**

Sec.

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

**§ 138i.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(a) of the act (3 P.S. § 1906(a)) allows the Secretary to establish a grant program to provide tuition assistance to certain individuals and groups to attend farm safety and occupational health training and emergency response programs. 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 under Section 6.

**§ 138i.2. Program objectives.**

(a) *Purpose.* The purpose of the Farm Safety and Occupational Health Tuition Assistance Program is to provide tuition assistance to rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production, in order to allow them to attend farm safety and occupational health projects and emergency response programs.

(b) *Competitive program.* The Farm Safety and Occupational Health Tuition Assistance 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.

**§ 138i.3. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless 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.

*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 September 20, 1961 (P.L. 1541, No. 657), known as the "Pennsylvania Agricultural Commodities Marketing Act of 1968," (3 P.S. §§ 1001 et seq.) or any farm product as defined in 1 Pa. C.S. § 1991 (relating to definitions).

*FSTAP*-The Farm Safety and Occupational Health Tuition Assistance 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 pertaining to farm safety and occupational health or emergency response programs.

*Rural emergency services providers-* Any employee, agent member or officer of a paid or volunteer fire company, ambulance service or rescue squad located in or servicing a rural area of this Commonwealth which, is regularly engaged in providing emergency medical care and transportation, fire protection services or rescue services.

*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 rescue services within this Commonwealth.

**§ 138i.4. Limitation on grants.**

(a) *Tuition assistance.* The FSTAP will award grants to provide tuition assistance to approved applicants under this chapter. The FSTAP will provide grants of up to \$100 per calendar year to an approved applicant.

(b) *Eligible applicants.* An eligible applicant may apply for more than one (1) FSTAP grant per year. However, an eligible applicant may not be awarded more than \$100 in tuition assistance grants in any calendar year.

(c) *Recipient's use of FSTAP grant funds.* A recipient of a FSTAP grant may only use such funds to cover or supplement the cost of tuition for the specific project delineated in the recipient's grant application.

(d) *Substitution of person.* Once an applicant has been approved to receive tuition reimbursement for a specific project, no other person or project may be substituted. Any change in person or project shall require submission and review of a new application.

(e) *Eligible courses, programs, training, activities or events.* FSTAP grants may be awarded to cover or supplement tuition for the types of projects delineated at Section 4(b) (3 P.S. § 1904(b)) of the act.

(f) *Additional limitations.*

(1) FSTAP grant funds may only be used to provide tuition assistance for farm safety and occupational health projects or emergency response programs administered within the geographic boundaries of this Commonwealth.

(2) FSTAP grant funds shall not be used to cover the cost of travel, lodging or any other expenses incurred by the grant recipient other than the cost of tuition.

(3) FSTAP grant funds shall not be used for or applied to any training, programs, activities, certification or licensing requirement 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.

(4) FSTAP grant funds shall be awarded to reimburse the tuition expenses of an approved applicant who submits the documentation required by this chapter.

**§ 138i.5. General conditions.**

(a) *Grant agreement.* The approved, signed application for a FSTAP grant shall constitute the grant agreement. The recipient of a FSTAP grant shall sign the application which shall set forth the amount of the grant and other terms and conditions as the Department may reasonably require. Upon completion of all the terms of the agreement, a reimbursement check will be issued in the name of the recipient and mailed to the address indicated on the recipient's approved and signed application.

(b) *Default.* Any recipient of a FSTAP 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. 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.* In order to receive a FSTAP reimbursement payment, a recipient shall, within two (2) weeks of the completion of the specific project delineated in the recipient's grant application, submit to the Department a final report which includes a written receipt(s) evidencing the cost of tuition and records or any other pertinent documentation evidencing the grant recipient's attendance and the program agenda. At the same time, the applicant shall also submit a narrative report of at least one page but not more than two pages, describing the effectiveness of the project and the experience gained and personal knowledge acquired.



(d) *Failure to verify.* If the required receipts, records and documentation are not submitted within the two (2) week period, the FSTAP grant recipient shall be deemed to have defaulted. The Secretary may direct that no FSTAP grant funds be paid to the defaulting recipient. The Secretary may extend the verification deadline if he determines the grant recipient has made a reasonable effort to verify, but such verification was incomplete, or for extenuating circumstances.

**§ 138i.6. Applications.**

(a) *Application required.* An interested rural emergency service provider, farmer, member of a farm family, farm laborer or anyone else involved in agricultural production 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.* Applications for grants under this chapter must be received by the Department prior to the date of the project the applicant wishes to attend.

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

(a) *Review by the Secretary.* Upon receipt of an application for a FSTAP 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. 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.

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

**§ 138i.8. Review of applications.**

(a) *Evaluation.* The Secretary or his designee will evaluate an application based on the applicant eligibility and grant application requirements, as well, as the factors in the act and this chapter.

(b) *Applicant eligibility.* To be eligible for a FSTAP grant, the applicant must be a rural emergency service provider, farmer, member of a farm family or farm laborer or be otherwise involved in agricultural production.

(1) Emergency service provider. An emergency service provider must submit an application for each individual member for which it wishes to receive a FSTAP grant. Each member for which it receives a FSTAP grant must comply with all the criteria established by the act and this chapter, including the verification criteria.

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

(1) A detailed description of the farm safety project to be attended by the applicant, including documentation delineating the focus of the project.

(2) A reasonable and accurate statement of the estimated or actual cost of tuition.

(3) Information regarding the skills, knowledge or experience to be gained from the project.

(4) Documentation regarding the name and location of the person 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 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 as described in the application.
- (6) The impact upon and the value and benefits to the agricultural community of the project described in the application.
- (7) The continual and progressive nature of the project and the benefits and knowledge gained therefrom.
- (8) The value to those who work directly with farm accident victims.
- (9) Whether the applicant has been the recipient of a FSTAP grant within the same year.
- (10) The availability of funding to the applicant from a source other than the FSTAP.
- (11) 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.

**§ 138i.9. 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).

**§ 138i.10. 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.

(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.

**§ 138i.11. Record keeping.**

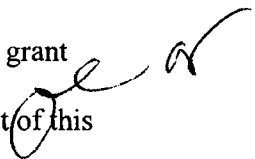
A FSTAP grant recipient shall maintain all receipts, supporting documents, final reports and other documents pertaining to the project and the FSTAP grant. These records shall be retained for one (1) year beginning at the conclusion of the project. Such records shall be made available to the Department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

**§ 138i.12. Grant cancellation.**

A FSTAP 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.





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 138i: Farm Safety and Occupational Health**  
**Tuition Assistance Program**  
**I.D. No. 2-123**

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

INDEPENDENT REGULATORY  
REVIEW COMMISSION

I.D. NUMBER: 2-123  
 SUBJECT: Farm Safety & Occupational Health Tuition Assistance Program  
 AGENCY: DEPARTMENT OF AGRICULTURE

**TYPE OF REGULATION**

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

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
1-31		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