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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 13, 2000

Honorable Samuel E. Hayes, Jr., Secretary  
Department of Agriculture  
211 Agriculture Building  
2301 North Cameron Street  
Harrisburg, PA 17110

Re: IRRC Regulation #2-123 (#2091)  
Department of Agriculture  
Farm Safety and Occupational Health Tuition Assistance Program

Dear Secretary Hayes:

Enclosed are our Comments on the subject regulation. They are also available on our website at <http://www.irrc.state.pa.us>.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact John Jewett at 783-5475.

Sincerely,

Robert E. Nyce  
Executive Director

wbg

Enclosure

cc: John Tacelosky  
Philip Pitzer  
Office of General Counsel  
Office of Attorney General  
Lee Ann Labecki

**Comments of the Independent Regulatory Review Commission**  
**on**  
**Department of Agriculture Regulation No. 2-123**  
**Farm Safety and Occupational Health Tuition Assistance Program**  
**April 13, 2000**

We submit for your consideration the following objections and recommendations regarding this regulation. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) list the criteria the Commission must use to determine if the regulation is in the public interest. The Department of Agriculture (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by March 13, 2002, the regulation will be deemed withdrawn.

**1. Section 138i.2. Program objectives. - Reasonableness and Clarity.**

*Subsection (b) Competitive program.*

The phrase "the Secretary or a designee" is used in this subsection and in Sections 138i.7, 138i.8 and 138i.10 in the regulation. However, the term "designee" is not defined. The regulation should include a definition of "designee."

**2. Section 138i.3. Definitions. - Consistency with statute and Clarity.**

*Board*

The definitions of the term "Board" in the regulation and the term "Advisory Board" in the Act are identical. Both refer to the "Farm Safety and Occupational Health Advisory Board." Therefore, for consistency with the statute, the Department should replace "Board" with "Advisory Board."

*Farm laborer*

The last sentence in this definition states, in part: "...or a farm product as defined in 1 Pa. C.S. § 1991." (Emphasis added.) In proposed regulation #2-122, also from the Department, the last sentence in the same definition states: "...or any farm product as defined in 1 Pa.C.S. § 1991." (Emphasis added.) For consistency with other chapters of the Department's regulations, the regulations should use either "any" or "a," but not both, in this definition.

### *Members of farm families*

The definition of “members of farm families” includes the phrase “collateral relation of the first degree.” This phrase is unclear. **It is our understanding that it applies to nieces, nephews and grandchildren. To improve clarity, the phrase “collateral relation of the first degree” should be replaced with “nieces, nephews and grandchildren” and any others that the Department decides to include in this definition. In addition, there is a conflict between plural and singular nouns in the term “members of farm families” and the first phrase of its definition: “Any son, daughter or spouse of a farmer....”**

### **3. Section 138i.6. Applications. - Clarity.**

*Subsection (a) Application required.*

*Subsection (b) Obtaining an application and assistance.*

**Another part of the regulation, Subsection 138i.8(c), is entitled “Grant application requirements.” It sets forth a list of required attachments to an application. To improve clarity, the contents of Subsection 138i.8(c) should be moved to Section 138i.6 (relating to applications). Alternatively, it could be a new section captioned “Application requirements” following Section 138i.6.**

**Subsection 138i.6(a) and (b) require applicants to complete and submit application forms provided by the Department. However, the regulation does not list the basic information that is required on an application form. The Department should include basic information on the contents of the application form in this section.**

*Subsection (d) Application deadline.*

This subsection includes the phrase “Applications for grants under this chapter shall be received by the Department prior to the date of the project the applicant wishes to attend.” The phrase “prior to the date” is unclear. What is the intent? How many days before the project date will be sufficient? The Department should clarify this deadline in the final regulation.

### **4. Section 138i.7. Processing of applications. - Clarity.**

*Subsection (a) Review by the Secretary.*

This subsection includes three different topics: criteria or standards for review of applications; requests for additional information for incomplete applications; and approval of applications. Hence, it duplicates portions of Section 138i.8 relating to review of applications and Section 138i.10 relating to notice of disposition of application. The Department should clarify the purpose and structure of this subsection. The procedures and criteria for reviewing applications and completeness review should be separate from, and precede, those sections relating to final disposition. Provisions concerning the final disposition of an application should be set forth in Section 138i.10.

Additionally, Subsection (a) is very long and confusing. To increase readability, this section could be broken down into outline form.

*Subsection (b) Board.*

This subsection states “the Board shall recommend program priorities to the Secretary.” It adds, “the Board shall recommend the amount of funds to be allocated for Program grants.” It is our understanding that the Board meets three times per year. **Since the Department plans to review and approve grant applications within 30 days, it is not feasible to include the Board in the review of each application. Therefore, it is not practical to include this language in provisions involving the review of applications. The Department should clarify the Board’s role in the grant process.** One alternative would be to place language similar to that in Subsection (b) in Section 138i.4 (relating to limitation on grants).

**3. Section 138i.12. Grant cancellation. – Reasonableness and Clarity.**

This section states that a “grant may be canceled by the Secretary upon a determination that the funds are not being or were not properly used.” What is meant by the term “used”?

**5. Miscellaneous Clarity Issues.**

Section 138i.1 is entitled “Authority” and includes a discussion of three different subsections from the Act. However, the section does not establish or clarify the Department’s procedures and requirements for implementing the Act. The section is unnecessary, and should be deleted.