



State of Wisconsin  
Governor Scott Walker

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**Department of Agriculture, Trade and Consumer Protection**  
Ben Brancel, Secretary

DATE: January 8, 2013

TO: The Honorable Michael Ellis  
President, Wisconsin State Senate  
Room 200 South, State Capitol  
PO Box 7882  
Madison, WI 53707-7882

The Honorable Robin Vos  
Speaker, Wisconsin State Assembly  
Room 211 West, State Capitol  
PO Box 8952  
Madison, WI 53708-895

FROM: Ben Brancel, Secretary  
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **Grow Wisconsin Dairy Producer Grant and Loan Program; ch. ATCP 161**  
**(Clearinghouse Rule # 12-028)**

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) is transmitting this rule for legislative committee review, as provided in s. 227.24(1)(e)1g. DATCP will publish notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.24(1)(c).

### ***Background***

This rule implements the “grow Wisconsin dairy producer” grant and loan program created under s. 20.115 (4) (d) and 93.40 (1) (g), Stats., by 2011 Wisconsin Act 32 (biennial budget act). Under s. 93.40 (1) (g), Stats., the Department of Agriculture, Trade and Consumer Protection (“DATCP”) is authorized to award grants and loans to dairy producers for projects designed to promote the growth of the dairy industry. The budget act transferred an annual appropriation of \$200,000 for each year of the biennium from the then Department of Commerce to DATCP. (See s. 20.115 (4) (d), Stats.)

This rule does all of the following:

- Authorizes DATCP to make grant and loan awards and distribute grant and loan funds appropriated for the “grow Wisconsin dairy producer” grant and loan program.
- Specifies the procedures and criteria that DATCP will use to evaluate grant and loan proposals, make grant and loan awards and distribute grant and loan payments.
- Specifies the purposes for which grant and loan funds may be used, subject to the terms of the grant or loan contract.

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### ***Plain Language Analysis***

The “grow Wisconsin dairy producer” grant and loan program is designed to promote the growth of the dairy industry by providing grants and loans to dairy producers. The biennial budget act transferred \$200,000 in grant funding for each year of the FY 2011-13 fiscal biennium. This rule spells out grant and loan procedures and criteria. Under this rule, the “grow Wisconsin dairy producer” grant and loan program will support projects proposed by dairy producers intended to expand and diversify the dairy industry.

#### **Grant and Loan Purposes**

Under this rule, DATCP may award grants and loans for projects that create, expand, diversify or promote any of the following:

- New capital investment in the dairy industry.
- New technologies or practices related to dairy production.
- Improvement of the competitive position of the Wisconsin dairy industry.
- Efficient use of farmland and other agricultural resources for dairy production.
- Employment in the dairy industry.

#### **Grant and Loan Limits**

Under this rule, DATCP may award no more than \$50,000 of grant funding nor more than \$200,000 in loans to any person or entity in any state fiscal biennium. Once DATCP makes a grant award, DATCP may make the actual grant payments over an original contract term of up to 3 years. Loan awards may be for a term of up to 7 years.

#### **Matching Contribution**

DATCP may give preference to applicants providing matching funds which may be in the form of capital, land, labor, equipment or cash related to the grant or loan project.

#### **Use of Grant and Loan Funds**

Under this rule, grant funds may be used to reimburse any of the following expenses if those expenses are a reasonable and necessary part of the grant project:

- Operating expenses, including expenses for salaries and wages, contract and consulting services, travel, supplies and public information.
- Equipment rental.
- The purchase of equipment whose full value is ordinarily depreciable within one year.

Grant funds may not reimburse any of the following expenses:

- Real estate purchases.
- Repayment of loans or mortgages.
- Rent or contract payments for time periods extending beyond the term of the grant contract.
- Equipment purchases, except for certain equipment purchases and depreciation expenses specifically authorized by this rule.
- Administrative or overhead costs that are not direct costs of the grant project.

Loan funds are subject to the same use limitations as grant funds except that loan funds may be used for purchase of land and equipment without restriction so long as the purchase is related to the loan project.

### **Grant and loan Proposals**

Under this rule, DATCP must issue at least one request for grant and loan proposals in each state fiscal biennium (DATCP may issue more frequent requests, if it chooses to do so). The request for proposals must describe the required form and content of grant and loan proposals, and must specify a deadline for submitting grant and loan proposals. Applicants must submit grant and loan proposals to DATCP, in the manner prescribed by DATCP's request for proposals.

### **Grant and Loan Awards**

Under this rule, DATCP must evaluate grant and loan proposals and issue its grant awards within 90 days after the application deadline. DATCP must clearly identify each award recipient, the amount of the award, and the purposes for which the award is given. DATCP must consider all of the following criteria when evaluating grant proposals and making grant and loan awards:

- The extent to which a proposed project will benefit the dairy industry.
- Whether the proposal complies with DATCP's request for proposals.
- Whether the proposed project meets the standards prescribed in this rule.
- The viability of the proposed project.
- The management and technical qualifications of the grant applicant.
- The qualifications of the persons who will carry out the project.
- The financial capacity of the grant applicant to complete the project as proposed.
- The adequacy of the project plan and budget.
- Whether the grant proposal adequately identifies the nature of project expenses to be reimbursed under the proposed grant.

### **Grant Contracts**

Under this rule, DATCP must enter into a contract with a grant or loan recipient before distributing any funds to that recipient. The contract must spell out grant or loan terms and conditions, including performance requirements, reporting requirements and payment terms.

## **Grant Payments**

Under this rule, DATCP may distribute grant funds in one or more payments, based on documented progress toward completion of the grant project. Loan funds may be distributed upon execution of the loan contract. The contract must describe payment terms and conditions. DATCP may require a grant and loan recipient to file progress reports and require grant recipients to submit expense documentation as necessary to support grant payments.

### ***Fiscal Impact***

This rule will have a fiscal impact on DATCP operations. Under this rule, DATCP must issue at least one request for grant proposals in each state fiscal biennium. DATCP staff must review grant applications, recommend grant awards, administer grants, and ensure compliance with applicable requirements. DATCP staff will also provide technical assistance to grant and loan applicants and recipients, as appropriate.

Program administration will occupy at least .5 FTE staff in DATCP's Division of Agricultural Development (this does not include legal, managerial, DATCP central accounting, or other indirect staff support). The cost for the .5 FTE staff will be \$50,000 per year, including salary, fringe benefits and support costs (there will be a smaller proportionate cost for the remainder of the current fiscal year). DATCP will try to fill program staffing needs by shifting current staff from other agricultural development programs. A complete Fiscal Estimate is attached.

### ***Effect on Small Business***

The "grow Wisconsin dairy producer" grant and loan program is voluntary and thus imposes no cost on businesses. By providing \$200,000 in grant and loan funding to dairy producers, the "grow Wisconsin dairy producer" grant and loan program will benefit dairy farms, other dairy businesses and communities that participate in production, distribution or marketing of dairy products. Grant and loan recipients will benefit directly, while others will benefit indirectly from the creation of a stronger dairy industry. DATCP plans to use application procedures that will make the cost of applying insignificant and particularly make it possible for small businesses to apply for funding without hiring consulting services. A complete Business Impact Analysis is attached.

### ***Analysis and Supporting Documents to Determine Effect on Small Business***

Because it is a voluntary grant and loan program neither analysis nor supporting documents are needed to determine that the proposed rule will impose no cost or other obligation on small business.

### ***Environmental Impact***

This rule will not have any environmental impact.

## *Federal and Surrounding State Programs*

### **Federal Programs**

There are currently no similar federal programs.

### **Surrounding State Programs**

The Minnesota Dairy Development and Profitability Enhancement program awards \$200,000 annually in grants of up to \$5,000 per dairy producer to cover half the cost of a comprehensive business plan to evaluate farm start-up, modernization and expansion.

In 2009-2010, 50 Minnesota producers were selected to share \$1 million in grants aimed at boosting the state's livestock sector with projects that include renovation of milking facilities, barn upgrades, technology modernization, improved waste management systems and business transitions.

There are no similar programs in Illinois, Indiana, Iowa, or Michigan.

## *Data and Analytical Methodologies*

DATCP worked with representatives of various dairy producer groups to develop standards for grant and loan determinations contained in this rule.

## *Public Hearing*

DATCP held one public hearing on Thursday, June 28, 2012, at the Department of Agriculture, Trade and Consumer Protection. Following the public hearing, the hearing record remained open until July 12, 2012 for additional written comments. No comments were received in either the public hearing or the open hearing record period.

## *Changes from Hearing Draft*

DATCP made minor editorial changes suggested by the Legislative Council Rules Clearinghouse.