

Chapter ATCP 161

AGRICULTURAL DEVELOPMENT AND MARKET PROMOTION

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Note: Chapter Ag 4 was renumbered chapter ATCP 161 under s. 13.93 (2m) (b) I., Stats., Register, April, 1993, No. 448.

Subchapter I

Agricultural Diversification and Development Program

ATCP 161.01 Purpose. This subchapter establishes procedural requirements for administration of the agricultural diversification and development grant program under s. 93.46, Stats.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; am. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.02 Definitions. As used in this subchapter:

(1) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(2) "Individual" means a natural person.

(3) "Organization" means any of the following:

(a) A partnership, firm, association, corporation or other legal entity.

(b) A cooperative organized under ch. 185, Stats., whether or not operated for profit.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; am. (intro.); Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.03 Grant requirements. (1) GENERAL. The department may award grants under s. 93.46, Stats., to individuals or organizations to fund demonstration projects, feasibility analyses, and applied research directed toward new products, technologies and practices that will stimulate agricultural development and diversification of economic activity within agriculture.

(2) ALLOWABLE PURPOSES. The department may not award a grant under sub. (1) unless the project has at least one of the following purposes:

(a) Creation of jobs in the agricultural industry.

(b) New capital investment and expansion in the agricultural industry.

(c) Agricultural product market development and expansion.

(d) Diversification and expansion of the production, processing, and distribution of agricultural products.

(e) Commercial application of new technologies or practices related to agricultural products.

(f) Increased use of surplus agricultural products.

(g) Improvement of the competitive position of this state's agricultural industry.

(h) Efficient use of farmland and other agricultural resources.

(3) PROJECT LIMITATIONS. The department may not award a grant to any project if the proposed length of the project exceeds 3 years. The total funding to a single project may not exceed \$50,000. Individual applicants may cooperate with any public or private organization in conducting a project.

(4) PROJECT CONDUCTED IN THIS STATE. The department may not award a grant under this chapter unless the grant is for a project conducted in this state.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.04 Grant terms and conditions. (1) GENERAL. The department shall establish appropriate terms and conditions for each grant based on the project for which the grant is awarded. Terms and conditions shall be designed to ensure that grant moneys are effectively used for the purposes awarded. The terms and conditions shall be included in the grant contract under s. ATCP 161.07.

(2) PERMITTED USES OF GRANT FUNDS. Permitted uses for grant funds include the following:

(a) Operating expenses including salaries and wages, consulting services, travel, supplies and materials, and public information costs.

(b) Real estate rental payments. Real estate mortgage payments or land contract payments through which a grantee acquires equity in real estate are not a permitted use of grant funds.

(c) Equipment leases.

(d) Purchase of small or low cost equipment items which are normally depreciated within one year.

(e) Purchase of capital equipment. The amount awarded for this purpose in each year of the grant may not exceed the annual straight-line depreciation which would be allowed under generally accepted accounting principles for acquisitions of large capital equipment having a depreciation schedule longer than one year.

(3) PROHIBITED USES OF GRANT FUNDS. Grant funds may not be used for any of the following, except as authorized under sub. (2):

(a) Capital acquisitions by the grantee such as the purchase of land, buildings or machinery.

(b) Administrative overhead expense.

(c) Funding for business start-up costs or expansion.

(d) Business loan payments.

(4) MATCHING CONTRIBUTIONS. The department may give preference to applicants providing matching funds in the form of capital, land, labor, equipment or other eligible categories of expenses.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.05 Application procedures. (1) APPLICATION PERIODS. An individual or organization may file an application for an agricultural diversification or development grant between January 15 and March 15 of each calendar year. Additional application periods may be scheduled at other times at the discretion of the department.

(2) REQUEST FOR PROPOSALS. The department shall give notice of the annual and any additional application periods under sub. (1) by issuing a request for grant proposals. The department shall issue its request for grant proposals by mail to county agriculture

extension agent offices, vocational, technical and adult education districts, the department of development, the Wisconsin housing and economic development authority, and other persons on its program mailing list compiled from inquiries concerning the grant program. The department shall also issue a press release announcing its request for proposals to news media likely to give notice to the public.

(3) **APPLICATION FORMAT.** An application for a grant under this chapter shall be in the form prescribed by the department in its request for proposals. An application shall include all of the following:

- (a) A cover page which includes:
 1. The name, address and telephone number of the applicant.
 2. The title and brief description of the project.
 3. The amount of funding requested.
 4. The duration of the proposed project.
 5. The name and address of the principal contact person for the proposed project.
- (b) A statement identifying the problem or opportunity to be addressed and the importance of the project to Wisconsin agricultural economic development and diversification.
- (c) A project summary describing the project's objectives, expected results, economic benefits, the approach to be used in addressing the stated problem or opportunity, and the role the proposed project will play in achieving the objectives of the grant program.
- (d) A specific statement of project purposes, which shall be consistent with one or more of the purposes under s. ATCP 161.03 (2).
- (e) A discussion of the expected results from the proposed project, how those results relate to the objectives of the grant program, and how they will benefit agriculture.
- (f) A work plan which identifies specific project tasks, a timetable for completing the tasks, and the persons responsible for completing the tasks.
- (g) The practical or commercial applications of the proposed project, including any economic, environmental or other benefits to agriculture which will result from the project.
- (h) Names, addresses, occupations and project-related qualifications of key personnel responsible for carrying out the proposed project.
- (i) A budget containing line items for project costs by expenditure category, including supplies and services, facilities and equipment, and personnel costs subdivided by number and type of employees and hourly wages.

(4) **PUBLIC ACCESS TO APPLICATIONS.** All grant applications are open to public inspection after the awarding of grants. The department may withhold access to any application or portion of an application containing information qualifying as a trade secret as defined in s. 134.90 (1) (c), Stats.

Note: Grant applicants must identify those portions of an application which contain a trade secret and claim the exemption from public inspection at the time of filing a grant application with the department.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.06 Grant application review and award determination. (1) **REVIEW PERIOD.** The department shall review each grant application submitted under this chapter. The department may require the applicant to provide additional information regarding the application as the department deems necessary. Within 90 days after the close of each application period, the department shall make its grant award decisions.

(2) **AWARD CRITERIA.** The department shall consider all of the following criteria in its review of grant applications:

- (a) The extent to which the project will achieve one or more of the purposes in s. ATCP 161.03 (2).
- (b) The viability of the proposed project.

(c) The perceived benefit of the project to agriculture or agribusiness.

(d) The management and technical qualifications of the applicant.

(e) The qualifications of the persons who will perform the work in carrying out the project.

(f) The financial capacity of the applicant to complete the project as proposed if the requested funding is granted.

(g) The adequacy of the project plan.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.07 Grant contracts. (1) **CONTRACT REQUIRED.** A successful grant applicant shall enter into a contract with the department before any grant money is distributed to the applicant. No funding commitment is final until the contract is executed.

(2) **CONTRACT PROVISIONS.** A grant contract shall be reasonably designed to ensure that the grant recipient carries out the recipient's obligations with respect to the grant. The contract shall be signed by the secretary of the department and the applicant. The parties may amend the contract by mutual written consent.

(3) **BREACH OF CONTRACT.** The department may void a contract and seek return of any funds released under the contract for failure by the award recipient to perform the recipient's obligations under the contract.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.08 Reporting. Every contract under s. ATCP 161.07 shall set forth a schedule of progress reports and payments. Grant payments shall be made in installments, according to the contract payment schedule. A grant recipient shall provide the department with periodic written progress reports throughout the life of the contract. Installment payments shall be conditioned upon the receipt of progress reports, as provided in the contract. All financial and program reports become the property of the department and are open to public inspection.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.09 Program administration. The department shall solicit, evaluate, and approve grant applications; enter into contracts; authorize contract payments; monitor compliance with contractual obligations and project activities of grantees; receive and review progress reports submitted under s. ATCP 161.08; and prepare research findings for public dissemination.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.10 Application materials. The department shall provide application materials upon request to any individual or organization who wishes to apply for a grant. The application materials shall include pertinent instructions, requirements and procedures under this chapter.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

Subchapter II

"Something Special From Wisconsin" Program; Permit and User Fees

ATCP 161.20 Purpose. This subchapter regulates use of the department's "Something Special from Wisconsin" logo and establishes a fee for its use under s. 93.44, Stats.

History: Cr. Register, March 1993, No. 447, eff. 4-1-93.

ATCP 161.21 Definitions. As used in this subchapter:

(1) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(2) "Gross sales" means a person's total annual sales of all products and commodities, regardless of whether the logo was affixed to the products or commodities sold.

(3) "Logo" means the certification mark "Something Special from Wisconsin" registered in the U. S. Patent and Trademark Office on March 7, 1989, under Registration No. 1,529,098.

(4) "Packaging or labeling materials" means package labels, stickers, printed display materials or similar items, featuring the logo, which are produced for sale to other persons, and which are designed to be used by other persons in connection with the sale or distribution of their products or commodities. "Packaging or labeling materials" does not include promotional items.

(5) "Person" means any individual, partnership, firm association, corporation or other business or legal entity.

(6) "Product or commodity" means any article of commerce, including any product of agricultural or industrial production. "Product or commodity" does not include either of the following:

- (a) Promotional items.
- (b) Packaging or labeling materials.

(7) "Promotional item" means clothing, pins, pens, cups, mugs and similar items featuring the logo. "Promotional item" does not include packaging or labeling materials.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.22 Permit required. No person may use the logo on any product or commodity, on any promotional item, or on any packaging or labeling materials without an annual permit from the department. An annual permit expires on June 30 of each year. A permit application filed on or before July 1, 1993, expires on June 30, 1994. To obtain a permit, a person shall submit an application under s. ATCP 161.23. The department may deny, suspend or revoke a permit if the applicant or permit holder violates any provision of this chapter, fails to pay any required fee or royalty, or misrepresents any fact in a permit application.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.23 Permit application. (1) **GENERAL.** To obtain a permit under s. ATCP 161.22, a person shall submit a signed written application on a form provided by the department. The application shall include all of the information required under this section. The application shall also be accompanied by the fees required under s. ATCP 161.24 or 4.25, if any.

Note: A permit application form may be obtained from the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, Marketing Division, P. O. Box 8911, Madison, WI 53708-8911.

(2) **NAME AND BUSINESS ADDRESS.** Every application shall include the applicant's name and business address.

(3) **COMPLIANCE AGREEMENT.** Every application shall include a statement that the applicant agrees to comply with all applicable conditions under this subchapter for the use of the logo.

(4) **PRODUCTS OR COMMODITIES.** If the applicant intends to sell any product or commodity bearing the logo, the application shall include all of the following:

(a) An identification of the specific products or commodities on which the logo will be used.

(b) For each product or commodity identified under par. (a), information showing that the product or commodity complies with the eligibility requirements under s. ATCP 161.25.

(c) The applicant's gross sales of all products and commodities during the applicant's last complete fiscal year, for purposes of calculating the required fee under s. ATCP 161.25. This information is not required if the applicant is applying for a permit for the first time.

(5) **PROMOTIONAL ITEMS.** If the applicant intends to sell any promotional item bearing the logo, the application shall identify

the specific promotional items on which the applicant intends to use the logo.

(6) **PACKAGING OR LABELING MATERIALS.** If the applicant intends to sell packaging or labeling materials bearing the logo, the application shall identify the packaging and labeling materials which the applicant intends to offer for sale.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93; am. (4) (b), Register, February, 1996, No. 482, eff. 3-1-96.

ATCP 161.24 Annual permit fees. (1) **AMOUNT OF FEE.** Except as provided under sub. (2), if a person intends to sell any product, commodity, or promotional item bearing the logo, or sell or use any packaging or labeling materials bearing the logo, that person's annual permit application under s. ATCP 161.23 shall include a fee based on the applicant's gross sales during the last complete fiscal year. The amount of the fee is determined as follows:

(a) If the applicant's gross annual sales are \$10,000 or less, the annual fee is \$10.00.

(b) If the applicant's gross annual sales are more than \$10,000 but not more than \$50,000, the annual fee is \$35.00.

(c) If the applicant's gross annual sales are more than \$50,000 but not more than \$100,000, the annual fee is \$50.00.

(d) If the applicant's gross annual sales are more than \$100,000 but not more than \$250,000, the annual fee is \$100.

(e) If the applicant's gross annual sales are more than \$250,000 but not more than \$500,000, the annual fee is \$150.

(f) If the applicant's gross annual sales are more than \$500,000, the annual fee is \$200.

(2) **EXEMPTION.** The fee under sub. (1) does not apply to a person which is a tax exempt organization under the federal internal revenue code, 26 USC 501 (a).

(3) **FAILURE TO PAY.** The department may suspend or revoke a permit if the permit holder fails to pay annual user permit fees on a timely basis, and may bring an action to collect unpaid permit fees.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.25 Products and commodities; eligibility requirements. No person may use the logo on any product or commodity unless the product or commodity meets both of the following requirements:

(1) At least 50% of the product's or commodity's value added is attributable to Wisconsin ingredients, or to Wisconsin production or processing activities.

(2) The product or commodity is not an imitation of a product or commodity for which there is a standard of identity established under state or federal law.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.26 Prohibitions. No person may do any of the following without the department's written permission:

(1) Use the logo for a different purpose than that described in the person's permit application under s. ATCP 161.23.

(2) Affix the logo to any item other than those described in the person's permit application under s. ATCP 161.23.

(3) Alter the logo in any way.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.