



State of Wisconsin  
Governor Scott Walker

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

**DATE:** January 5, 2015

**TO:** The Honorable Mary Lazich  
President, Wisconsin State Senate  
Room 220 South, State Capitol  
PO Box 7882  
Madison, Wisconsin 53707

The Honorable Robin Vos  
Speaker, Wisconsin State Assembly  
Room 211 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708

**FROM:** Ben Brancel, Secretary

**SUBJECT:** **ATCP 161.62, Stats; Final Draft** *relating to* the “grow Wisconsin dairy processor” grant program created under ss. 20.115 (4) (dm) and 93.40 (1) (g), Stats

The Department of Agriculture, Trade and Consumer Protection (DATCP) is transmitting this rule for legislative committee review, as provided in s. 227.19 (2) and (3), Stats. DATCP will publish notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19 (2), Stats.

### ***Background***

The “dairy processor” grant program is designed to promote the growth of the dairy industry by providing grants to dairy processors. The biennial budget act appropriated \$200,000 in grant funding for each year of the FY 2013-15 fiscal biennium. This proposed rule spells out grant procedures and criteria. Under this proposed rule, the “dairy processor” grant program will support projects proposed by dairy processors intended to expand and diversify the dairy industry. On January 20, 2014 DATCP adopted an emergency rule that is virtually identical to this proposed rule.

### ***Rule Content***

Under this proposed rule, DATCP may award grants 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.

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- 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 Limits**

Under this proposed rule, DATCP may award no more than \$50,000 of grant funding 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.

### **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 project.

### **Use of Grant Funds**

Under this proposed 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.

### **Grant Proposals**

Under this proposed rule, DATCP must issue at least one request for grant 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 proposals. Applicants must submit grant proposals to DATCP, in the manner prescribed by DATCP's request for proposals.

## **Grant Awards**

Under this proposed rule, DATCP must evaluate grant proposals and issue its grant awards within 90 days after receipt of a complete proposal. 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 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 emergency 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 proposed rule, DATCP must enter into a contract with a grant recipient before distributing any funds to that recipient. The contract must spell out grant terms and conditions, including performance requirements, reporting requirements and payment terms.

## **Grant Payments**

Under this proposed rule, DATCP may distribute grant funds in one or more payments, based on documented progress toward completion of the grant project. DATCP may require a grant recipient to file progress reports and require grant recipients to submit expense documentation as necessary to support grant payments.

### ***Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations***

#### **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.

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

The "dairy processor" grant program is voluntary and thus imposes no cost on businesses. By providing \$200,000 in grant funding to dairy processors, the "dairy processor" grant program will benefit dairy farms, other dairy businesses and communities that participate in production, distribution or marketing of dairy products. Grant 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 Regulatory Flexibility Analysis is attached.

### ***Small Business Regulatory Review Report***

The Small Business Regulatory Review Board did not issue a report on this rule.

### ***Public Hearing***

DATCP held one public hearing on April 18, 2014, at the Department of Agriculture, Trade and Consumer Protection. Following the public hearing, the hearing record remained open until May 2, 2014 for additional written comments. DATCP received one comment stating support for the proposed rule.

### ***Changes from the Hearing Draft***

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