



State of Wisconsin  
Governor Tony Evers

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**Department of Agriculture, Trade and Consumer Protection**  
Secretary Randy Romanski

**DATE:** May 4, 2022

**TO:** Board of Agriculture, Trade and Consumer Protection

**FROM:** Randy Romanski, Secretary  
Krista Knigge, Administrator, Division of Agriculture Development

**SUBJECT: ATCP 161, (Grants and loans)**

**PRESENTED BY:** Sharon Henes, Program Policy Analyst, Division of Agriculture Development

**REQUESTED ACTION:**

At the May 12, 2022, Board meeting, the department will request approval of the attached scope statement regarding ch. ATCP 161 relating to grants and loans. In addition, the department will request approval to hold a preliminary hearing on the scope statement in the event the Joint Committee for Review of Administrative Rules requests a preliminary hearing on the scope.

**SUMMARY:**

The department will conduct a comprehensive review of the ATCP 161 Subchapters I, IV, V and VI to identify and consider the following: updating any burdensome requirements, repealing obsolete references; modernizing to allow for electronic technology; updating contact information; and clarify requirements. The proposed rule will create a new chapter for grants to create clarity between the grant programs and the Something Special from Wisconsin program and reorganize the provisions.

The proposed rule may eliminate the redundancies and conflicts between the accountability provisions in ATCP 161 Subchapter V and the various accountability provisions in the Subchapters I, IV, and VI. The proposed rule may consider general grant requirements for promotion and economic development grants administered by the division rather than each grant program having their own specific rules in order to create consistency and consolidate the grant requirements. The proposed rule may consider separate provisions for grants and loan programs in order to create clarity between grants and loans.

The department is requesting approval to hold a preliminary hearing on the scope statement in the event the Joint Committee for Review of Administrative Rules requests a preliminary hearing on the scope.

The department is requesting approval of the Scope Statement for implementation in order for the department to begin drafting rule revisions.

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# STATEMENT OF SCOPE

## Department of Agriculture, Trade and Consumer Protection

Rule No.: ATCP 161 and 163

Relating to: Grants and loans

Rule Type: Permanent

**1. Finding/nature of emergency (Emergency Rule only):** N/A

**2. Detailed description of the objective of the proposed rule:**

The objective of the proposed rule is to complete a comprehensive review of subchapters I, IV, V and VI of ATCP 161 and to make revisions so that the rule is statutorily compliant, updated for technology, and current with standards and practices. In addition the objective is to create ATCP 163 in order to separate the various grant programs rules from the Something Special from Wisconsin promotional campaign rules which will create clarity for both programs.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The department will conduct a comprehensive review of the ATCP 161 Subchapters I, IV, V and VI to identify and consider the following: updating any burdensome requirements, repealing obsolete references; modernizing to allow for electronic technology; updating contact information; and clarify requirements. The proposed rule will create a new chapter for grants to create clarity between the grant programs and the Something Special from Wisconsin program and reorganize the provisions.

The proposed rule may eliminate the redundancies and conflicts between the accountability provisions in ATCP 161 Subchapter V and the various accountability provisions in the Subchapters I, IV, and VI. The proposed rule may consider general grant requirements for promotion and economic development grants administered by the department rather than each grant program having their own specific rules in order to create consistency and consolidate the grant requirements. The department may consider provisions including: application requirements, evaluation criteria for grant proposals, risk assessments, contract provisions, and reporting requirements. The proposed rule may consider separate provisions for grants and loan programs in order to create clarity between grants and loans.

In addition, the proposed rule will update the formatting to reflect current rule promulgation standards.

The alternative to the update is maintaining rules with obsolete or burdensome requirements. The failure to allow for electronic technology to be utilized creates inconvenience. Currently there are rule provisions, which are in conflict or are unclear and the alternative to revising the rule is to have grant and loan requirements that create confusion rather than having clarity in the requirements.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law [s. 93.07 (1), Stats.]

Establish by rule a requirement that the recipient of a grant or loan under the program of at least \$100,000 submit to the department a verified statement signed by both an independent certified public accountant licensed or certified under ch. 442 and the director or principal officer of the recipient to attest to the accuracy of the verified statement, and make available for inspection the documents supporting the verified statement. The department shall include the requirement established by rule under this subdivision in the contract entered into by a grant or loan recipient. Establish by rule policies and procedures permitting the department to do all of the following if a recipient of a grant or loan or tax benefits under the program submits false or misleading information to the department or fails to comply with the terms of a contract entered into with the department under the program and fails to provide to the satisfaction of the department an explanation for the noncompliance:

- a. Recoup payments made to the recipient.
- b. Withhold payment to be made to the recipient.
- c. Impose a forfeiture on the recipient. [s. 93.07 (18)(b) 6. and 7., Stats.]

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

175 hours

**6. List with description of all entities that may be affected by the proposed rule:**

Entities that may be affected include farmers, food processors, food distributors, nonprofit organizations, and other entities receiving promotion or economic development grants or loans.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There is no existing or proposed federal regulation that addresses the administration of state grant or loan programs. The proposed rules will not displace any federal funding opportunities.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The department anticipates that the proposed rule will have no to minimal negative economic impact. It is not anticipated to have significant economic impact on small businesses.

**Contact Person:** Sharon Henes, Program Policy Analyst, (608) 381-2808



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Randy J. Romanski  
Secretary

7 April 2022  
Date Submitted