

**STATE OF WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER
PROTECTION**

**AGENCY PRIMER:
"WHAT YOU NEED
TO KNOW"**

JANUARY 2023



**INSTITUTE FOR
REFORMING GOVERNMENT**

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FROM THE DESK OF CJ SZAFIR

Freedom and Opportunity. Those are ideals that bind us together as a state. Unfortunately, the size and scope of state government too often gets in the way of individuals and families being able to achieve their full potential as they build their share of the American Dream.

We can do better, and we must do better. We all should ask,– “Is the mission of state government, — of each and every agency, bureau, and division —, aligned with the vision that everyday Wisconsinites have for Wisconsin? Is state government set up to help citizens succeed, or is it a roadblock to success? We need a conservative vision for state government, indeed for each and every agency.

Last spring, with support from our donors and Board of Directors, the Institute for Reforming Government started an ambitious project to help answer those questions about the biggest state agencies to help answer those questions because we believe the best way to enhance liberty is to improve transparency. This project was the work of eight experts in Wisconsin state government, including three senior-level cabinet officials, a budget director, and subject matter experts. In addition, our team had regular meetings with former top officials in state government as well as business leaders and other experts outside of government. We looked at past revenue and spending trends. The findings are not surprising.

State agencies are massive. They spend record amounts of taxpayer dollars year over year. They too often get in the way of individual success and are set up as enforcement agents instead of partners in creating a better Wisconsin. They need reform. We need leaders to bring forward conservative visions to the agencies.

In these briefings, we shine light onto state agencies to help all citizens diagnose what is broken. Later, based on these and discussions with people all over Wisconsin, we'll offer government reform ideas and detailed budget analysis to help chart a new course for Wisconsin, - one where each and every individual in our state has the freedom and opportunity to succeed.

Sincerely,

CJ Szafir

President

Institute for Reforming Government

SUMMARY

“Light and liberty go together”

Thomas Jefferson, In a letter to Tench Coxe, 1795”

This document prepared by the Institute for Reforming Government (IRG) is intended to inform policy makers and the public of the full scope of the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Our partners at the IRG Action Fund will release conservative, free market, and liberty minded policy reforms specifically for DATCP in a separate document.

For the general public, the executive branch of Wisconsin state government can be a mystery. There are countless agencies with billions of tax dollars flowing through them. Although some may have an understanding of an agency because of their daily work or real world experience, few people in Wisconsin have a handle on the entirety of the executive branch. Each agency has its own mission, functions, and programs. Some agencies generate their own revenue, some rely on state tax dollars and many of them take some sort of federal funding. Each agency has unique powers and authorities. The goal of this briefing document is to pull back the veil and show Wisconsinites how their government taxes, spends, and regulates.

Over the course of months, a team of policy experts at IRG pored over all of the information on Wisconsin's biggest agencies. In this briefing document, you will see agency functions, budget trends, a list of past appointees, and policy concerns. These items create a basis for understanding the scope and history of each agency in an effort to inform policy makers in Madison as they carry out their work in the coming legislative session.

DATCP is deeply involved in Wisconsin's agricultural community as the regulatory agency that oversees the industry. The department touches almost all aspects of farming in Wisconsin including food safety, husbandry, agricultural trade, and animal health. DATCP is also Wisconsin's consumer protection agency with authority to regulate what it deems as unfair business practices. This agency, with 641 employees, has a wide reach over the Wisconsin economy.



Like many of Wisconsin's other executive branch agencies, the Department of Agriculture, Trade and Consumer Protection was formed by the consolidation of smaller agencies. Before Wisconsin's statehood in 1848, the territorial legislature had laws in place that regulated weights and measures, food quality, and labeling. Much of this early regulation was vested in county treasurers and stayed that way until the legislature passed a law in 1867 that allowed the governor to appoint a treasury agent. In the succeeding years, the legislature would enact more regulations that would create almost all of the constituent parts of the modern Department of Agriculture, Trade and Consumer Protection.

In 1915, the legislature created the Department of Agriculture which combined the Board of Agriculture, Livestock Sanitary Board, State Veterinarian, Inspector of Apiaries, and Orchard and Nursery Inspector. This early version of DATCP promoted the agricultural industry, published data on crop yields, and paid for advertisements in domestic and foreign publications to attract capital and labor. In 1929, further consolidation of the Department of Agriculture, the Department of Markets, the Dairy and Food Commissioner, the State Supervisor of Inspectors of Illuminating Oils, and the State Humane Agent created the Department of Agriculture and Markets which would later become DATCP. The Department was under the supervision of 3 commissioners appointed by the governor. In 1939, it was renamed the Department of Agriculture and a new 7-member board took the place of the commissioners. The board was appointed by the governor and they appointed their own director.

In 1977, the Department's name was once again changed to the Department of Agriculture, Trade and Consumer Protection. 1995 Act 27 officially made the Department's Secretary a gubernatorial appointment and consolidated the state's consumer protection functions within the agency by pulling responsibilities from the Department of Justice.

Today, Wisconsin agriculture is a big economic driver contributing \$104.8 billion annually to our state's economy. The Department's reach is far and wide as it oversees major swaths of the Wisconsin economy. Regulating the food supply chain from farm to consumer, regulating recreational activities, and enforcing consumer protection laws. In one way or another, the department reaches nearly every business in the state.

AGENCY DESCRIPTION, MISSION, & FUNCTION

Information in this section was pulled directly from public sources on the Department of Administration and Department of Agriculture, Trade and Consumer Protection.

Agency Description

The Wisconsin Department of Agriculture, Trade and Consumer Protection is the state's primary consumer protection agency charged with regulating agriculture, trade, and commercial activity in the state. The department is administered by a secretary who is appointed by the governor and confirmed by the Senate.

Mission

The mission of the department is to partner with all the citizens of Wisconsin to grow the economy by promoting quality food, healthy plants and animals, sound use of land and water resources, and a fair marketplace.

Function

The functions of the Department of Agriculture, Trade and Consumer Protection are organized within its six divisions:

Division of Agricultural Development

The division is charged with promoting Wisconsin's agricultural industry and products unique to Wisconsin. As part of that mission, the Economic Development and Innovation Center works to support local and regional food systems around the state. This division also promotes the industry through its long running "Alice in Dairyland" program.

Division of Animal Health

In agriculture, animal health is an important factor in keeping the industry economically viable. The Division of Animal Health monitors for common diseases, investigates outbreaks, regulates the import and movement of livestock, and works to ensure the sale of healthy animals. They also license deer and fish farms, livestock premises, and dog sellers.



Division of Agricultural Resource Management

The division regulates the use of land, water and plant resources in an agricultural context. Working to safeguard the food supply chain, the division regulates the use of pesticides and other agricultural chemicals. They work with local governments to develop best practices for zoning and permitting.

Division of Food and Recreational Safety

The Department regulates lodging establishments, pools, campgrounds, restaurants, and food suppliers. The division also has oversight over milk and dairy production, food processing, and meat and poultry inspections. They oversee the entire food supply chain in Wisconsin, from farm to consumer.

Division of Trade and Consumer Protection

As the state's consumer protection agency, the Department has the authority to regulate what it deems to be unfair business practices. The division's rules have the force of law and they can use these rules to open investigations on Wisconsin businesses. The division also administers the state's "Do Not Call" list, educates consumers, and regulates hazardous consumer products.

Division of Management Services

The Division of Management Services handles all the administrative functions of the agency including finance, information technology, and laboratory services.

AGENCY BUDGET TRENDS

The state budget process begins in September of every even year when each agency sends its budget requests to the Department of Administration. The Governor then has several months to put together the executive budget proposal that is forwarded to the Legislature. The Legislature, through the work of the Joint Finance Committee, then holds hearings and votes on the budget through the spring and summer of the odd year. This culminates with the signing of the budget document that summer. While technically due by July 1 of the budget year, often budget debates will drag into the Summer and sometimes the Fall. However, the government does not shut down in Wisconsin as it does at the federal level when there is a budget impasse - it simply continues on the current spending plan until a new budget is adopted.

The Department of Agriculture, Trade and Consumer Protection's budget is \$221,221,800 for the 2021-2023 biennium, a 15% increase since 2017. DATCP employs 633 employees.

Agency Budget Trend

Fund	2017 ACT 59	2019 ACT 9	2021 ACT 58
GPR	\$52,964,000	\$57,997,700	\$62,055,700
FED	\$21,108,800	\$23,091,900	\$22,909,700
PR	\$51,639,400	\$56,613,200	\$60,382,300
SEG	\$66,572,900	\$72,672,800	\$75,874,100
TOTAL	\$192,285,100	\$210,375,600	\$221,221,800

FTE Position Summary

Fund	2017 ACT 59	2019 ACT 9	2021 ACT 58
GPR	199.4	199.4	201.4
FED	83.77	84.62	83.52
PR	213.72	218.77	217.87
SEG	130.4	130.5	130.5
TOTAL	627.29	633.29	633.29



AGENCY LEADERSHIP

As the head of a cabinet agency, the Secretary is appointed by the Governor with the advice and consent of the Senate and serves at the pleasure of the Governor. The Secretary of each agency then must appoint the other members of their team to help them carry out the duties and responsibilities of the agency. Descriptions of each appointed position are listed below:

Secretary

Appointed by the Governor, the Secretary leads and represents the agency. The position is responsible for directing and managing the agency to execute the Governor's agenda while ensuring the efficient operation of the agency per state statute. The position is also responsible for reporting on the agency's matters to the Governor and Legislature.

Deputy Secretary

The Deputy Secretary serves at the pleasure of the Secretary and is primarily responsible for assisting the Secretary with carrying out the mission of the agency including but not limited to, personnel management, day-to-day operations, and external affairs.

Assistant Deputy Secretary

The Assistant Deputy Secretary also serves at the pleasure of the Secretary and is responsible for assisting both the Secretary and Deputy Secretary. Responsibilities may include but are not limited to day-to-day operations and external affairs aligned with the agency's mission.

Chief Legal Counsel

The Chief Legal Counsel serves at the pleasure of the Secretary and provides legal counsel and support involving the agency's affairs.

Legislative Liaison

The Legislative Liaison is primarily responsible for facilitating and managing relationships with the Legislature and external stakeholders to provide information as needed and requested. The position also helps develop the agency's legislative agenda to align with the Governor's priorities, current industry standards and respond to stakeholder concerns.

Communications Director

The Communications Director supports the Secretary's Office in strategic communications and responds to media inquiries. The position may also speak on behalf of the Secretary and represent the agency in the media.

Division Administrator

Division Administrators, appointed by the Secretary, are responsible for providing leadership, personnel management and guidance on day-to-day operations for their assigned division. These positions typically report to the Deputy Secretary, communicating activities and providing advice to ensure the division is in line with the agency's mission.

These appointments may change during the 4-year term of a governor. Listed here are the teams serving under Gov. Evers in mid-2022, as well as the team that served at the end of Gov. Walker's final term.

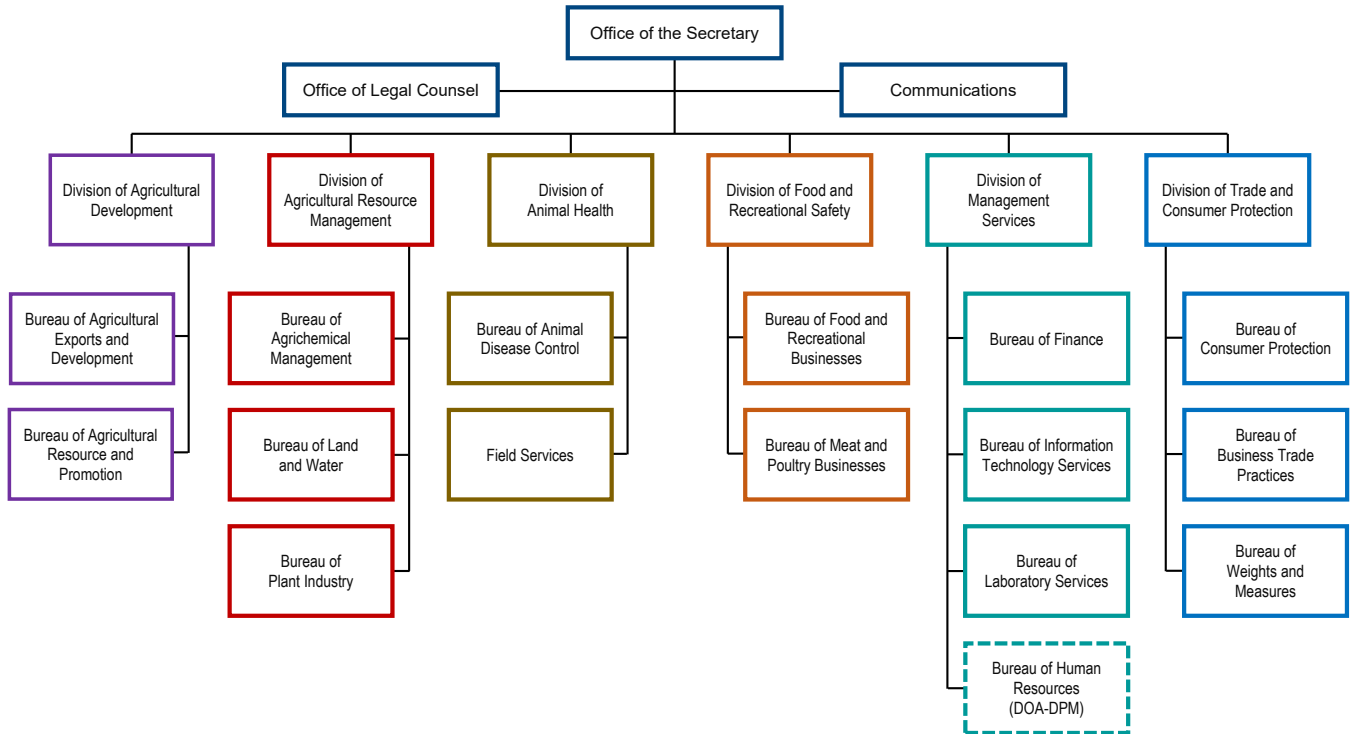
AGENCY LEADERSHIP

POSITION	EVERS	WALKER
SECRETARY	Randy Romanski	Sheila Harsdorf
DEPUTY SECRETARY	Aileen Switzer	Jeff Lyon
ASSISTANT DEPUTY SECRETARY	Vacant	Keith Ripp
CHIEF LEGAL COUNSEL	Fratney L. Miller	Paul Dedinsky
COMMUNICATIONS DIRECTOR	Sam Otterson	Bill Cosh
LEGISLATIVE DIRECTOR	Vacant	Keeley Moll
DIVISION ADMINISTRATORS		
AGRICULTURAL RESOURCE MANAGEMENT	Brian Weigel	John Petty
STATE VETERINARIAN AND ADMINISTRATION	Dr. Darlene Konkle	Dr. Paul McGraw
DIVISION OF FOOD AND RECREATIONAL SAFETY	Joe Meyer	Steve Ingham
AGRICULTURAL DEVELOPMENT	Krista Knigge	Krista Knigge
TRADE AND CONSUMER PROTECTION	Lara Sutherlin	Sean Brown
MANAGEMENT SERVICES	Kelly Smithback	Kelly Smithback



ORGANIZATIONAL CHART

Wisconsin Department of Agriculture, Trade and Consumer Protection



ATTACHED COUNCILS, TASK FORCES, & COMMITTEES

Like most agencies, DATCP has Boards and Councils that are charged with various responsibilities. Generally, these groups either give advice to the Secretary or they are part of the regulatory process itself. The department appoints various citizen advisory committees to advise the department on major policy issues. These include standing advisory committees as well as temporary advisory committees related to specific issues.

The Board of Agriculture, Trade and Consumer Protection

This nine-member board of private citizens who approve department rules and help set policy for the department.

Wisconsin Veterinary Examining Board

This board is the main governing body for Veterinarians in the state. They are responsible for setting standards, education requirements, and credentialing.

Agricultural Marketing Boards

These boards are used to help DATCP with developing marketing orders for agricultural commodities. Each of these boards represent different growers: Cherries, Cranberries, Corn, Milk, Soybeans, Ginseng, and Potatoes. These boards work with DATCP to find an acceptable fee to cover the cost of marketing their products.

Land and Water Conservation Board

The board works with both state and local government on issues ranging from land and water plans to allocating funds for soil and water conservation.

Livestock Facility Siting Review Board

This board reviews new and expanding livestock facilities and also handles appeals of decisions.

Wisconsin Agriculture Youth Council

The council provides opportunities for high school age youth to interact with Wisconsin's agriculture industry and state government.

The Wisconsin Organic Advisory Council

The council educates the public on organic issues and works to support organic agriculture.



Produce Safety Advisory Council

The council was created by the Department to comply with the federal Food Safety Modernization Act. The council allows for the regulated community to have a voice within the decision making process.

Agricultural Chemical Cleanup Council

Per ATCP 35.34, the council was created to advise DATCP on an agricultural chemical cleanup program.

The Agricultural Producer Security Council

The council has oversight over any changes the Department wishes to make to the Agricultural Producer Security Program.

Fertilizer Research Council

The Fertilizer Research Council recommends research projects to be paid for with fee collections related to fertilizer. These funds are then given to UW-Madison to conduct research.

Wisconsin Farm to School Advisory Council

Aids in the development of Farm to School in Wisconsin and produces an annual report for the legislature.

Dairy Rules Advisory Committee

Members are charged with improving dairy rules in Wisconsin and recommending changes to DATCP for implementation.

Retail Food Safety Advisory Committee

The committee allows for those with a vested interest in food safety to discuss issues relating to retail food regulation.

Wisconsin Agricultural Export Advisory Council

Made up of international trade experts from WEDC and DATCP, the council will help the Department decide how to implement its "Initiative for Agricultural Exports."

CREP Implementation Committee

Conservation Reserve Enhancement Program (CREP) is a cooperative state-federal program that provides over \$240 million for conservation easements on agricultural lands.

Wisconsin Dairy Task Force 2.0

This task force was created in June 2018 as a joint effort between DATCP and the University of Wisconsin System to boost the profitability of the Wisconsin dairy industry. The final report was adopted unanimously and the task force became inactive as of June 2019.

MAJOR PAST INITIATIVES (2011-Present)

Most major policy initiatives happen during the budget process. The Governor, and sometimes the Legislature, will propose a major reduction or increase in spending for any number of programs. The major initiatives dating from 2011 to the present for DATCP is listed below:

Major Past Initiatives

INITIATIVE	GOVERNOR	ENACTED	NOTES
Buy local, buy Wisconsin Program	Walker	Yes	Modified by JFC
Something special from Wisconsin Program	Walker	Yes	
Transfer tank and petroleum testing from DSPS	Walker	Yes	Modified by JFC
Clean sweep grant funding	Walker	Yes	
Transfer facility design responsibilities to the DOA	Walker	No	Deleted by JFC
Study consolidation of DATCP and DSPS into one agency	Walker	Yes	
Transfer Veterinary Examining Board from DSPS to DATCP	Walker	Yes	Modified by JFC
Convert DATCP Board to advisory council (2015-17) budget	Walker	No	Deleted by JFC
Consolidate marketing services within Tourism	Walker	Yes	Modified by JFC
Eliminate Farm-to-School Program	Walker	No	Deleted by JFC



MAJOR PAST INITIATIVES (2011-Present)

Transfer human resources functions to DOA	Walker	Yes	
Eliminate BioEnergy Council	Walker	No	Deleted by JFC
Require DATCP and DNR study transferring CAFO regulatory duty from DNR	Walker	No	Deleted by JFC
Repeal Minimum Markup of Motor Vehicle Fuel	Evers	No	Deleted by JFC
Transfer facility design responsibilities to the DOA	Evers	No	Deleted by JFC
Wisconsin Initiative for dairy exports	Evers	Yes	Deleted by JFC
Farmer mental health assistance	Evers	No	Modified by JFC
Transfer abandoned tank removal from DNR	Evers	No	Deleted by JFC
Create equity office position	Walker	Yes	Deleted by JFC
Wisconsin Initiative for agriculture exports	Evers	No	Modified by JFC
Create position for Agriculture Economist	Evers	No	Deleted by JFC
Farmland preservation planning grants	Evers	Yes	Deleted by JFC
Require license for retailers of vapor products	Evers	Yes	Deleted by JFC
Placement of cigarettes, nicotine products, and tobacco products	Evers	No	Deleted by JFC
Landlord-tenant protections	Evers	No	Deleted by JFC

STAKEHOLDERS

Every agency has a number of organizations, professions, and industries that are uniquely interested in the policy or regulatory decisions that could affect their membership or industry. The groups are commonly organized into trade associations and are represented by registered lobbyists that stay in touch with agency leadership. These lobbyists keep their membership informed on current policy debates and use their expertise to educate policy makers on the issues important to their industries. Below is a non-exhaustive list of stakeholders that are interested in DATCP.

STAKEHOLDER	TYPICAL ISSUES
Wisconsin Farm Bureau	Agriculture and business
Wisconsin Dairy Alliance (WDA)	Environmental regulations impacting growth of Wisconsin dairy Industry
Wisconsin Potato & Vegetable Growers Assoc.	Issues affecting field crop production ex. fertilizer, water use
Wisconsin Pork Association	Agriculture, environment, taxation, regulation
Wisconsin State Cranberry Growers Assoc.	Agriculture, environment, taxation
Wisconsin Cattlemen's Association	Legislation impacting production of food, animals and rural Wisconsin
Wisconsin Soybean Association	Legislation impacting biodiesel, alternative fuels, environment and agriculture
Wisconsin Corn Growers Association	Regulatory, tax, legal issues affecting corn production
Wisconsin Counties Association	Land use, public safety, taxation, agriculture
Wisconsin Towns Association	Agriculture, local government, and land use
Wisconsin Realtors Association	Taxation, land use, zoning, real estate, licensing, housing development
Commercial Real Estate Development Association	Taxation, land use, zoning, real estate, licensing
Wisconsin Manufacturers & Commerce	Taxation, labor relations, environment, business regulation, workforce

PAST EXECUTIVE ORDERS

Formal actions by the Governor are conveyed through executive order. These orders often direct state agencies to carry out the Governor's policy goals within their statutory authority. They can be used to create councils to explore public policy solutions, bring the state into compliance with federal requirements, direct agencies to take certain actions, and carry out powers granted to the Governor under Chapter 14 of the Wisconsin Statutes. Below is a list of executive orders that pertain to DATCP.

Executive Orders

GOVERNOR	EO#	DATE	DESCRIPTION	STATUS
Walker	66	5/1/2012	WI Lean Government Initiative	Expired
Walker	156	4/20/2015	State of emergency animal disease incident in the State of Wisconsin	Expired
Walker	275	1/24/2018	Wisconsin agriculture market development Initiative	Expired
Evers	72	3/12/2020	Prohibiting price gouging related to pandemic	Active
Evers	164	5/26/2022	Economic disruption with transactions of infant formula	Expired
Evers	170	6/21/2022	Prohibiting price gouging of gasoline and diesel sales	Active



GOVERNMENT REFORM OPPORTUNITIES

Wisconsin government has grown too big and too expensive. This has precipitated issues across the whole of the executive branch that have become a barrier to the success of Wisconsin residents and businesses alike. The Institute for Reforming Government endeavors to shine light on these issues as prime opportunities for bold reform. Below you will find a non-exhaustive list of policy concerns that we have highlighted for the Department of Agriculture, Trade and Consumer Protection.

Prioritize Agriculture

The agricultural community is often reluctant to approach and work with DATCP for fear of being cited for infractions due to a changing regulatory environment. In addition, opportunities are being missed by farmers to access grant funding, alternative crop production, and economic trends. In short, the relationship between regulators and the regulated community is broken. DATCP, like other agencies, need to begin the process of changing this paradigm.

Emerging Agricultural Markets

Recent natural disasters across the country are creating a shortage of food products due to crop loss. Some farmers have stopped production altogether. Wisconsin farmers have the ability to capitalize on changing market needs by growing different crops while engaging with DATCP for available grant opportunities and best agricultural practices. DATCP and the Wisconsin Department of Natural Resources need to refocus on aiding farmers, expand crop production and be less preoccupied with regulation.

Livestock Regulation

Broad regulation and rule interpretation on the agricultural industry leads to lack of clear understanding by those seeking permits. Those who want to follow the rules are continually tripped up by overly burdensome regulations. The process creates unnecessary delays in production and detracts from what should be the goal of DATCP; assisting farmers and businesses in their efforts to stimulate the economy.

Timelines for Consumer Complaints

Currently, the Department is able to pursue consumer protection violations based on consumer complaints through the Civil Investigative Discover (CID) process. For example, an accusation of price gouging can be levied on a company based on subjective information. The department then has no timeline or end-date for resolution, potentially dragging out the investigation for months if not years. This causes unnecessary harm to a companies' reputation with consumers and harming their sales prospects and adds another barrier to business in Wisconsin.

Approval of Permits

Farms, like many businesses across the state, experience frustration with the permitting process. Private industry is often left waiting for government approval while trying to keep projects on a predictable timeline. The compounding effect of project slowdown or delay can lead to significant cost overruns on even the most basic projects, like manure storage or constructing a new milking barn. Simply put, DATCP needs to work with, not against the regulated community.

Timelines for Permit Approval

Wisconsin farmers work hard to provide the food we eat and play a large role in the state's economy. They deserve a government that is responsive and provides clear communication about what the agency needs for approval. We've heard that this is currently not the case. Too often, DATCP is a barrier to innovation and growth of Wisconsin's agricultural industry.

Retaliation Protection

Customers are reluctant to report abuses or overzealous field staff for fear of having their application delayed or denied. State regulators need to educate and work alongside businesses, not against them. Policymakers should look for ways to protect individuals that report abuse or poor customer service by department staff from any sort of retaliation.



At the Institute for Reforming Government we know that the government isn't the way of the future - people are. And we believe that in order to empower people and ideas to flourish, our government needs to get out of the way.

This is nothing new for Wisconsinites- we have a long history as the standard bearer for government reform - we were the first state to implement unemployment insurance, Wisconsin Works (W-2), and we were on the cutting edge of major collective bargaining reform. But today the state we love is beginning to lag behind. Our executive branch has become bloated, slow, and expensive - a burden to the state's economy instead of a catalyst.

The solution to this problem isn't more government, it's less. What we need is a conservative vision for the state. This introductory document lays bare the issues and problems that are standing in the way for Wisconsin. In the coming months, IRG will be releasing a series of reforms that will cast a conservative vision for key executive branch agencies in the state.

Now is the time to renew our faith in the people of Wisconsin, not the government.