

1 (b) Falsify any record or account, or conspire with any other person to falsify  
2 a record or account.

3 (c) Make any false or misleading representation to the department.

4 (d) If the grain dealer is licensed under s. 126.11, engage in any activity that  
5 is inconsistent with a representation made in the grain dealer's annual license  
6 application.

7 (e) Make any false or misleading representation to a grain producer or producer  
8 agent related to any matters regulated under this chapter.

9 (f) Fail to file the full amount of security required under s. 126.16 (7) by the date  
10 that the department specifies.

11 **126.21 Grain producer obligations. (1) DELIVERY PER CONTRACT.** No grain  
12 producer or producer agent who contracts to sell and deliver grain to a grain dealer  
13 at an agreed price may wrongfully refuse to deliver that grain according to the  
14 contract.

15 **(2) DISCLOSURE OF LIENS AND SECURITY INTERESTS.** A grain dealer procuring grain  
16 from a grain producer or producer agent may require the grain producer or producer  
17 agent to disclose any liens or security interests that apply to the grain. The grain  
18 dealer may require the disclosure in writing. The grain dealer may require the grain  
19 producer or producer agent to specify the nature and amount of each lien or security  
20 interest and the identity of the person holding that lien or security interest. No grain  
21 producer may falsify or fraudulently withhold information required under this  
22 subsection in order to sell grain.

23 **SUBCHAPTER IV**

24 **GRAIN WAREHOUSE KEEPERS**

25 **126.25 Definitions.** In this subchapter:

1           (1) “Capacity” means the maximum amount of grain, measured in bushels,  
2 that can be stored in a grain warehouse. The capacity of a grain warehouse is  
3 determined by dividing the cubic volume of all bins, expressed in cubic feet, by 1.244  
4 cubic feet per bushel, and applying a pack factor that the department specifies by  
5 rule.

6           (2) “Contributing grain warehouse keeper” means a grain warehouse keeper  
7 who is licensed under s. 126.26, who either has paid one or more quarterly  
8 installments under s. 126.30 (6) or is required to contribute to the fund, but the first  
9 quarterly installment under s. 126.30 (6) is not yet due, and who is not disqualified  
10 under s. 126.29 (2).

11           (3) “Current ratio” means the ratio of the value of current assets to the value  
12 of current liabilities, calculated according to s. 126.28 (6) (c) 1.

13           (4) “Debt to equity ratio” means the ratio of the value of liabilities to equity,  
14 calculated according to s. 126.28 (6) (c) 2.

15           (5) “Depositor” means any of the following:

16           (a) A person who delivers grain to a grain warehouse keeper for storage,  
17 conditioning, shipping, or handling, without transferring ownership to the  
18 warehouse keeper.

19           (b) A person who owns or legally holds a warehouse receipt or other document  
20 that is issued by a grain warehouse keeper and that entitles the person to receive  
21 stored grain.

22           (6) “Disqualified grain warehouse keeper” means a grain warehouse keeper  
23 who is disqualified from the fund under s. 126.29 (2).

1           (8) “Grain warehouse” means a facility in this state that is used to receive,  
2 store, or condition grain for others or that is used in the shipment of grain for others,  
3 except that “grain warehouse” does not include a transport vehicle.

4           (9) “Grain warehouse keeper” means a person who operates one or more grain  
5 warehouses in this state to receive, store, condition, or ship grain for others, except  
6 that “grain warehouse keeper” does not include a person licensed under the United  
7 States Warehouse Act, 7 USC 241 to 271.

8           (9m) “License year” means the period beginning on September 1 and ending  
9 on the following August 31.

10           (11) “Warehouse receipt” means a receipt for grain, issued by a grain  
11 warehouse keeper, that is also a document of title under s. 401.201 (15).

12           **126.26 Grain warehouse keepers; licensing. (1) LICENSE REQUIRED.** (a)  
13 No grain warehouse keeper may hold at any time more than 50,000 bushels of grain  
14 for others without a current annual license from the department. A grain warehouse  
15 keeper who has grain warehouses with a combined capacity of more than 50,000  
16 bushels shall obtain a license unless the grain warehouse keeper proves to the  
17 department that the grain warehouse keeper holds no more than 50,000 bushels of  
18 grain for others at any time.

19           (b) A license under par. (a) expires on the August 31 following its issuance. No  
20 person may transfer or assign a license issued under par. (a).

21           (2) LICENSE APPLICATION. A person shall apply for a grain warehouse keeper  
22 license in writing, on a form provided by the department. The applicant shall provide  
23 all of the following:

24           (a) The applicant’s legal name and any trade name under which the applicant  
25 proposes to operate as a grain warehouse keeper.

1 (b) A statement of whether the applicant is an individual, corporation,  
2 partnership, cooperative, limited liability company, trust, or other legal entity. If the  
3 applicant is a corporation or cooperative, the applicant shall identify each officer of  
4 the corporation or cooperative. If the applicant is a partnership, the applicant shall  
5 identify each partner.

6 (c) The mailing address of the applicant's primary business location and the  
7 name of a responsible individual who may be contacted at that location.

8 (d) The street address and capacity of every grain warehouse that the applicant  
9 operates or proposes to operate in this state and the name of a responsible individual  
10 who may be contacted at each warehouse.

11 (e) The combined capacity of all grain warehouses identified under par. (d).

12 (f) All license fees and surcharges required under sub. (3).

13 (g) Proof that the applicant is insured as required under s. 126.27, unless the  
14 applicant has previously filed proof that remains current. The proof may consist of  
15 a certification provided by an insurance company licensed to do business in this  
16 state.

17 (h) A financial statement if required under s. 126.28 (1) and not yet filed.

18 (i) Other relevant information required by the department.

19 **(3) LICENSE FEES AND SURCHARGES.** A person applying for a grain warehouse  
20 keeper license shall pay the following fees and surcharges, unless the department  
21 specifies a different fee or surcharge amount by rule:

22 (a) A nonrefundable license processing fee of \$25 plus \$25 for each grain  
23 warehouse identified under sub. (2) (d). If a grain warehouse keeper operates 2 or  
24 more grain warehouses located within 0.5 mile of each other, the grain warehouse

1 keeper may treat those grain warehouses as a single grain warehouse for purposes  
2 of this paragraph and par. (c).

3 (b) The following inspection fee, less any credit provided under sub. (5):

4 1. A fee of \$500 if the combined capacity of the applicant's grain warehouses  
5 is less than 150,000 bushels.

6 2. A fee of \$550 if the combined capacity of the applicant's grain warehouses  
7 is at least 150,000 bushels but less than 250,000 bushels.

8 3. A fee of \$600 if the combined capacity of the applicant's grain warehouses  
9 is at least 250,000 bushels but less than 500,000 bushels.

10 4. A fee of \$650 if the combined capacity of the applicant's grain warehouses  
11 is at least 500,000 bushels but less than 750,000 bushels.

12 5. A fee of \$700 if the combined capacity of the applicant's grain warehouses  
13 is at least 750,000 bushels but less than 1,000,000 bushels.

14 6. A fee of \$800 if the combined capacity of the applicant's grain warehouses  
15 is at least 1,000,000 bushels but less than 2,000,000 bushels.

16 7. A fee of \$900 if the combined capacity of the applicant's grain warehouses  
17 is at least 2,000,000 bushels but less than 3,000,000 bushels.

18 8. A fee of \$1,000 if the combined capacity of the applicant's grain warehouses  
19 is at least 3,000,000 bushels but less than 4,000,000 bushels.

20 9. A fee of \$1,100 if the combined capacity of the applicant's grain warehouses  
21 is 4,000,000 bushels or more.

22 (c) A supplementary inspection fee of \$275 for each grain warehouse that the  
23 applicant operates in excess of one grain warehouse.

24 (d) A license surcharge of \$500 if the department determines that, within 365  
25 days before submitting the license application, the applicant operated as a grain

1 warehouse keeper without a license in violation of sub. (1). The applicant shall also  
2 pay any license fees, license surcharges, and fund assessments that are still due for  
3 the license year in which the applicant violated sub. (1).

4 (e) A license surcharge of \$100 if during the preceding 12 months the applicant  
5 failed to file an annual financial statement required under s. 126.28 (1) (b) by the  
6 applicable deadline.

7 (f) A license surcharge of \$100 if a renewal applicant fails to renew a license  
8 by the license expiration date of August 31.

9 **(3m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (3) (d) does not  
10 relieve the applicant of any other civil or criminal liability that results from the  
11 violation of sub. (1), but does not constitute evidence of any law violation.

12 **(4) LICENSE FOR PART OF YEAR; FEES.** A person who applies for an annual grain  
13 warehouse keeper license after the beginning of a license year shall pay the full  
14 annual fee amounts required under sub. (3).

15 **(5) FEE CREDIT.** If the fund balance contributed by grain warehouse keepers  
16 exceeds \$300,000 on June 30 of any license year, the department shall credit 12.5%  
17 of the excess amount against fees charged under sub. (3) (b) to contributing grain  
18 warehouse keepers who file timely license renewal applications for the next license  
19 year. The department shall credit each contributing grain warehouse keeper on a  
20 prorated basis, in proportion to the total fees that the warehouse keeper has paid  
21 under sub. (3) (b) for the 4 preceding license years.

22 **(6) FEE STATEMENT.** The department shall provide, with each license application  
23 form, a written statement of all license fees and surcharges required under sub. (3)  
24 or the formula for determining them. The department shall specify any fee credit for  
25 which the applicant may qualify under sub. (5).

1           (7) NO LICENSE WITHOUT FULL PAYMENT. The department may not grant a license  
2 under sub. (1) until the applicant pays all license fees and surcharges identified in  
3 the department's statement under sub. (6). The department shall refund a fee or  
4 surcharge paid under protest if upon review the department determines that the fee  
5 or surcharge is not applicable.

6           (8) ACTION GRANTING OR DENYING APPLICATION. The department shall grant or  
7 deny a license application under sub. (2) within 30 days after the department  
8 receives a complete application. If the department denies a license application, the  
9 department shall give the applicant a written notice stating the reasons for the  
10 denial.

11           (9) LICENSE DISPLAYED. A grain warehouse keeper who is required to hold a  
12 license under sub. (1) shall prominently display a copy of that license at each grain  
13 warehouse.

14           (10) NOTIFICATION. A licensed warehouse keeper shall notify the department,  
15 in writing, before the warehouse keeper adds a grain warehouse or changes the  
16 location or capacity of any grain warehouse. In the notice, the grain warehouse  
17 keeper shall specify any change in the combined capacity of grain warehouses  
18 operated by the grain warehouse keeper resulting from the proposed addition or  
19 change.

20           **126.27 Grain warehouse keepers; insurance.** (1) FIRE AND EXTENDED  
21 COVERAGE INSURANCE. A grain warehouse keeper licensed under s. 126.26 (1) shall  
22 maintain fire and extended coverage insurance, issued by an insurance company  
23 authorized to do business in this state, that covers all grain in the custody of the grain  
24 warehouse keeper, whether owned by the grain warehouse keeper or held for others,  
25 at the full local market value of the grain.

1           **(2) INSURANCE CANCELLATION; REPLACEMENT.** (a) No person may cancel an  
2 insurance policy required under sub. (1) unless that person serves a written notice  
3 of the intended cancellation on the department at least 30 days before the  
4 cancellation takes effect.

5           (b) Whenever an insurance policy under sub. (1) is canceled, the grain  
6 warehouse keeper shall replace the policy so that there is no lapse in coverage.  
7 Within 20 days after a cancellation notice under par. (a) is served on the department,  
8 and at least 10 days before the cancellation takes effect, the grain warehouse keeper  
9 shall provide the department with proof of the replacement policy. The department  
10 may accept, as proof, a certification provided by an insurance company licensed to  
11 do business in this state.

12           **(3) INSURANCE DEDUCTIBLES.** An insurance policy does not comply with sub. (1)  
13 if it contains any deductible clause that limits the insurer's obligation to pay to each  
14 depositor the full value of the depositor's covered losses under the policy. The grain  
15 warehouse keeper may agree to indemnify the insurer for a portion of each depositor  
16 claim that the insurer pays under the policy if the agreement does not limit the  
17 insurer's obligation to pay each depositor the full amount of the depositor's covered  
18 losses.

19           **(4) INSURANCE DISCLOSURES.** A grain warehouse keeper licensed under s. 126.26  
20 (1) shall disclose all of the following to a depositor if the depositor requests that  
21 information:

22           (a) The material terms of the grain warehouse keeper's fire and extended  
23 coverage insurance policy under sub. (1).

1 (b) Whether the grain warehouse keeper has liability insurance covering the  
2 grain warehouse keeper's grain operations, and the material terms of that liability  
3 insurance policy.

4 (5) INSURANCE COVERAGE; MISREPRESENTATION. No grain warehouse keeper may  
5 misrepresent any of the following to the department or a depositor:

6 (a) That the grain warehouse keeper is insured.

7 (b) The nature, coverage, or material terms of the grain warehouse keeper's  
8 insurance policy.

9 **126.28 Grain warehouse keepers; financial statements.** (1) REQUIRED  
10 ANNUAL FINANCIAL STATEMENT. (a) A grain warehouse keeper shall file an annual  
11 financial statement with the department before the department first licenses the  
12 warehouse keeper under s. 126.26 (1), if the warehouse keeper operates grain  
13 warehouses with a combined capacity of more than 300,000 bushels.

14 (b) A grain warehouse keeper licensed under s. 126.26 (1) shall file an annual  
15 financial statement with the department during each license year if the grain  
16 warehouse keeper operates warehouses with a combined capacity of more than  
17 300,000 bushels. The grain warehouse keeper shall file the annual financial  
18 statement by the 15th day of the 4th month following the close of the grain warehouse  
19 keeper's fiscal year, except that the department may extend the annual filing  
20 deadline for up to 30 days if the grain warehouse keeper, or the accountant reviewing  
21 or auditing the financial statement, files a written extension request at least 10 days  
22 before the filing deadline.

23 (2) VOLUNTARY ANNUAL FINANCIAL STATEMENT. A contributing grain warehouse  
24 keeper who is not required to file an annual financial statement under sub. (1) may

1 file an annual financial statement with the department in order to qualify for a lower  
2 fund assessment under s. 126.30.

3 **(3) REVIEWED OR AUDITED FINANCIAL STATEMENT.** (a) A grain warehouse keeper  
4 filing an annual financial statement under sub. (1) or (2) shall file an audited  
5 financial statement if the warehouse keeper operates grain warehouses with a  
6 combined capacity of more than 500,000 bushels.

7 (b) If par. (a) does not apply, a grain warehouse keeper filing an annual financial  
8 statement under sub. (1) or (2) shall file either a reviewed financial statement or an  
9 audited financial statement.

10 **(4) ACCOUNTING PERIOD.** A grain warehouse keeper filing an annual financial  
11 statement under sub. (1) or (2) shall file a financial statement that covers the grain  
12 warehouse keeper's last completed fiscal year unless the grain warehouse keeper has  
13 been in business for less than one year.

14 **(4m) INTERIM FINANCIAL STATEMENT.** The department may, at any time, require  
15 a grain warehouse keeper licensed under s. 126.26 (1) to file an interim financial  
16 statement with the department. The grain warehouse keeper shall provide, with the  
17 interim financial statement, the warehouse keeper's sworn and notarized statement  
18 that the financial statement is correct. An interim financial statement need not be  
19 a reviewed financial statement or an audited financial statement.

20 **(5) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.** (a) Except as provided in par.  
21 (b), a grain warehouse keeper filing an annual financial statement under this section  
22 shall file a financial statement that is prepared according to generally accepted  
23 accounting principles.

1 (b) If a grain warehouse keeper is a sole proprietor and the grain warehouse  
2 keeper's financial statement is not audited, the grain warehouse keeper shall file a  
3 financial statement that is prepared on a historical cost basis.

4 (6) FINANCIAL STATEMENT CONTENTS. (a) Except as provided in par. (b), a grain  
5 warehouse keeper filing a financial statement under this section shall file a financial  
6 statement that consists of a balance sheet, income statement, equity statement,  
7 statement of cash flows, notes to those statements, and any other information  
8 required by the department. A grain warehouse keeper who is a sole proprietor shall  
9 file his or her business and personal financial statements.

10 (b) If a grain warehouse keeper has been in business for less than one year, the  
11 grain warehouse keeper may file an annual financial statement under sub. (1) or (2)  
12 that consists of a balance sheet and notes.

13 (c) A grain warehouse keeper filing a financial statement under this section  
14 shall include in the financial statement, or in an attachment to the financial  
15 statement, calculations of all of the following:

16 1. The grain warehouse keeper's current ratio, excluding any assets required  
17 to be excluded under sub. (7).

18 2. The grain warehouse keeper's debt to equity ratio, excluding any assets  
19 required to be excluded under sub. (7).

20 (7) ASSETS EXCLUDED. A grain warehouse keeper may not include any of the  
21 following assets in calculating the ratios under sub. (6) (c), unless the department  
22 specifically approves their inclusion:

23 (a) A nontrade note or account receivable from an officer, director, employee,  
24 partner, or stockholder, or from a member of the family of any of those individuals,

1 unless the note or account receivable is secured by a first priority security interest  
2 in real or personal property.

3 (b) A note or account receivable from a parent organization, a subsidiary, or an  
4 affiliate other than an employee.

5 (c) A note or account that has been receivable for more than one year, unless  
6 the grain warehouse keeper has established an equal offsetting reserve for  
7 uncollectible notes and accounts receivable.

8 (9) ENTITY COVERED. A person filing a financial statement under this section  
9 may not file, in lieu of that person's financial statement, the financial statement of  
10 the person's parent organization, subsidiary, predecessor, or successor.

11 (10) DEPARTMENT REVIEW. The department may analyze a financial statement  
12 submitted under this section and may reject a financial statement that fails to  
13 comply with this section.

14 **126.29 Contributing grain warehouse keepers; disqualification. (1)**  
15 CONTRIBUTION REQUIRED. A grain warehouse keeper licensed under s. 126.26 (1) shall  
16 pay fund assessments under s. 126.30 unless the grain warehouse keeper is  
17 disqualified under sub. (2).

18 (2) DISQUALIFIED WAREHOUSE KEEPER. (a) A grain warehouse keeper who is  
19 required to file security under s. 126.31 (1) is disqualified from the fund until the  
20 department releases that security under s. 126.31 (8) (a).

21 (b) A grain warehouse keeper is disqualified from the fund if the department  
22 denies, suspends, or revokes the grain warehouse keeper's license.

23 (3) PAYMENTS BY DISQUALIFIED GRAIN WAREHOUSE KEEPER. (a) The department  
24 may not return, to a disqualified grain warehouse keeper, any fund assessments that  
25 the warehouse keeper paid as a contributing grain warehouse keeper.

1 (b) A disqualified grain warehouse keeper remains liable for any unpaid fund  
2 installment under s. 126.30 that became due while the grain warehouse keeper was  
3 a contributing grain warehouse keeper. A disqualified grain warehouse keeper is not  
4 liable for any fund installment that becomes due after the grain warehouse keeper  
5 is disqualified under sub. (2).

6 **126.30 Grain warehouse keepers; fund assessments.** (1) GENERAL. A  
7 contributing grain warehouse keeper shall pay an annual fund assessment for each  
8 license year. The assessment equals \$20 or the sum of the following, whichever is  
9 greater, unless the department by rule specifies a different assessment:

10 (a) The grain warehouse keeper's current ratio assessment. The current ratio  
11 assessment for a license year is the amount, expressed as dollars, equal to the grain  
12 warehouse keeper's current ratio assessment rate under sub. (2) multiplied by the  
13 number of bushels that the grain warehouse keeper reports under s. 126.26 (2) (e)  
14 or (10).

15 (b) The warehouse keeper's debt to equity ratio assessment. The debt to equity  
16 ratio assessment for each license year is the amount, expressed as dollars, equal to  
17 the grain warehouse keeper's debt to equity ratio assessment rate under sub. (4)  
18 multiplied by the number of bushels that the warehouse keeper reports under s.  
19 126.26 (2) (e) or (10).

20 (2) CURRENT RATIO ASSESSMENT RATE. A grain warehouse keeper's current ratio  
21 assessment rate is calculated, at the beginning of the license year, as follows:

22 (a) If the grain warehouse keeper has filed an annual financial statement  
23 under s. 126.28 and that financial statement shows a current ratio of at least 1.25  
24 to 1.0, the grain warehouse keeper's current ratio assessment rate equals the greater

1 of zero or the current ratio assessment factor in sub. (3) (a) multiplied by an amount  
2 determined as follows:

- 3 1. Subtract one from the current ratio.
- 4 2. Divide the amount determined under subd. 1. by 3.
- 5 3. Multiply the amount determined under subd. 2. by negative one.
- 6 4. Raise the amount determined under subd. 3. to the 3rd power.
- 7 5. Subtract 0.75 from the current ratio.
- 8 6. Divide 0.65 by the amount determined under subd. 5.
- 9 7. Raise the amount determined under subd. 6. to the 5th power.
- 10 8. Add the amount determined under subd. 4. to the amount determined under  
11 subd. 7.
- 12 9. Add 2 to the amount determined under subd. 8.

13 (b) If the grain warehouse keeper has filed an annual financial statement  
14 under s. 126.28 and that financial statement shows a current ratio of less than 1.25  
15 to 1.0, but greater than 1.0 to 1.0, the grain warehouse keeper's current ratio  
16 assessment rate equals the current ratio assessment factor in sub. (3) (b) multiplied  
17 by the following amount:

- 18 1. Subtract one from the current ratio.
- 19 2. Divide the amount determined under subd. 1. by 3.
- 20 3. Multiply the amount determined under subd. 2. by negative one.
- 21 4. Raise the amount determined under subd. 3. to the 3rd power.
- 22 5. Subtract 0.75 from the current ratio.
- 23 6. Divide 0.65 by the amount determined under subd. 5.
- 24 7. Raise the amount determined under subd. 6. to the 5th power.

1           8. Add the amount determined under subd. 4. to the amount determined under  
2 subd. 7.

3           9. Add 2 to the amount determined under subd. 8.

4           (c) If the grain warehouse keeper has filed an annual financial statement under  
5 s. 126.28 and that financial statement shows a current ratio of less than or equal to  
6 1.0 to 1.0, the warehouse keeper's current ratio assessment rate equals the current  
7 ratio assessment factor in sub. (3) (b) multiplied by 120.81376.

8           (d) If the grain warehouse keeper has not filed an annual financial statement  
9 under s. 126.28, the warehouse keeper's current ratio assessment rate equals the  
10 current ratio assessment factor in sub. (3) (b) multiplied by 5.71235.

11           **(3) CURRENT RATIO ASSESSMENT FACTOR.** (a) A grain warehouse keeper's current  
12 ratio assessment factor under sub. (2) (a) is 0.00003 except that, for the grain  
13 warehouse keeper's 5th or higher consecutive full license year as a contributing grain  
14 warehouse keeper, the grain warehouse keeper's current ratio assessment factor is  
15 zero.

16           (b) A grain warehouse keeper's current ratio assessment factor under sub. (2)  
17 (b) to (d) is 0.000045 except that, for the grain warehouse keeper's 5th or higher  
18 consecutive full license year as a contributing grain warehouse keeper, the grain  
19 warehouse keeper's current ratio assessment factor is 0.000036.

20           **(4) DEBT TO EQUITY RATIO ASSESSMENT RATE.** A grain warehouse keeper's debt to  
21 equity ratio assessment rate is calculated, at the beginning of the license year, as  
22 follows:

23           (a) If the grain warehouse keeper has filed an annual financial statement  
24 under s. 126.28 and that financial statement shows positive equity and a debt to  
25 equity ratio of not more than 4.0 to 1.0, the grain warehouse keeper's debt to equity

1 ratio assessment rate equals the greater of zero or the debt to equity ratio assessment  
2 factor in sub. (5) (a) multiplied by the following amount:

- 3 1. Subtract 4 from the debt to equity ratio.
- 4 2. Divide the amount determined under subd. 1. by 3.
- 5 3. Raise the amount determined under subd. 2. to the 3rd power.
- 6 4. Subtract 1.7 from the debt to equity ratio.
- 7 5. Divide the amount determined under subd. 4. by 1.75.
- 8 6. Raise the amount determined under subd. 5. to the 7th power.
- 9 7. Add the amount determined under subd. 3. to the amount determined under  
10 subd. 6.
- 11 8. Add 2 to the amount determined under subd. 7.

12 (b) If the grain warehouse keeper has filed an annual financial statement  
13 under s. 126.28 and that financial statement shows a debt to equity ratio of greater  
14 than 4.0 to 1.0 but less than 5.0 to 1.0, the grain warehouse keeper's debt to equity  
15 ratio assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)  
16 multiplied by the following amount:

- 17 1. Subtract 4 from the debt to equity ratio.
- 18 2. Divide the amount determined under subd. 1. by 3.
- 19 3. Raise the amount determined under subd. 2. to the 3rd power.
- 20 4. Subtract 1.7 from the debt to equity ratio.
- 21 5. Divide the amount determined under subd. 4. by 1.75.
- 22 6. Raise the amount determined under subd. 5. to the 7th power.
- 23 7. Add the amount determined under subd. 3. to the amount determined under  
24 subd. 6.
- 25 8. Add 2 to the amount determined under subd. 7.

1 (c) If the grain warehouse keeper has filed an annual financial statement under  
2 s. 126.28 and that financial statement shows negative equity or a debt to equity ratio  
3 of at least 5.0 to 1.0, the grain warehouse keeper's debt to equity ratio assessment  
4 rate equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by  
5 86.8244.

6 (d) If the grain warehouse keeper has not filed an annual financial statement  
7 under s. 126.28, the grain warehouse keeper's debt to equity ratio assessment rate  
8 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by 8.77374.

9 **(5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR.** (a) A grain warehouse keeper's  
10 debt to equity ratio assessment factor under sub. (4) (a) is 0.0000125, except that it  
11 is zero for the grain warehouse keeper's 5th or higher consecutive full license year  
12 as a contributing grain warehouse keeper.

13 (b) A grain warehouse keeper's debt to equity ratio assessment factor under  
14 sub. (4) (b) to (d) is 0.00001875, except that it is 0.000015 for the grain warehouse  
15 keeper's 5th or higher consecutive full license year as a contributing grain warehouse  
16 keeper.

17 **(6) QUARTERLY INSTALLMENTS.** (a) A contributing grain warehouse keeper shall  
18 pay the grain warehouse keeper's annual fund assessment in equal quarterly  
19 installments that are due as follows:

- 20 1. The first installment is due on October 1 of the license year.
- 21 2. The 2nd installment is due on January 1 of the license year. .
- 22 3. The 3rd installment is due on April 1 of the license year.
- 23 4. The 4th installment is due on July 1 of the license year.

24 (b) A contributing grain warehouse keeper may prepay any of the quarterly  
25 installments under par. (a).

1 (c) A contributing grain warehouse keeper who applies for an annual license  
2 after the beginning of a license year shall pay the full annual fund assessment  
3 required under this section. The grain warehouse keeper shall pay, with the first  
4 quarterly installment that becomes due after the day on which the department  
5 issues the license, all of the quarterly installments that were due before that day.

6 (d) A contributing grain warehouse keeper who fails to pay the full amount of  
7 any quarterly installment when due shall pay, in addition to that installment, a late  
8 payment penalty of \$50 or 10% of the overdue installment amount, whichever is  
9 greater.

10 (7) NOTICE OF ANNUAL ASSESSMENT AND QUARTERLY INSTALLMENTS. When the  
11 department issues an annual license to a contributing grain warehouse keeper, the  
12 department shall notify the grain warehouse keeper of all of the following:

13 (a) The amount of the grain warehouse keeper's annual fund assessment under  
14 this section.

15 (b) The amount of each required quarterly installment under sub. (6), and the  
16 date by which the grain warehouse keeper must pay each installment.

17 (c) The penalty that applies under sub. (6) (d) if the grain warehouse keeper  
18 fails to pay any quarterly installment when due.

19 **126.31 Grain warehouse keepers; security. (1) SECURITY REQUIRED.** A  
20 grain warehouse keeper shall file security with the department, and maintain that  
21 security until the department releases it under sub. (8), if all of the following apply  
22 when the department first licenses the grain warehouse keeper under s. 126.26 (1):

23 (a) The grain warehouse keeper operates grain warehouses with a combined  
24 capacity of more than 300,000 bushels.

1 (b) The grain warehouse keeper's annual financial statement under s. 126.28  
2 (1) (a) shows negative equity.

3 (2) SECURITY CONTINUED. A grain warehouse keeper who filed security under  
4 ch. 127, 1999 stats., before September 1, 2002, shall maintain that security until the  
5 department releases it under sub. (8).

6 (3) AMOUNT OF SECURITY. A grain warehouse keeper who is required to file or  
7 maintain security under this section shall at all times maintain security equal to at  
8 least 20% of the current local market value of grain that the grain warehouse keeper  
9 holds in this state for others.

10 (4) FORM OF SECURITY. The department shall review, and determine whether  
11 to approve, security filed or maintained under this section. The department may  
12 approve only the following types of security:

13 (a) Currency.

14 (b) A commercial surety bond if all of the following apply:

15 1. The surety bond is made payable to the department for the benefit of  
16 depositors.

17 2. The surety bond is issued by a person authorized to operate a surety business  
18 in this state.

19 3. The surety bond is issued as a continuous term bond that may be canceled  
20 only with the department's written agreement, or upon 90 days' prior written notice  
21 served on the department in person or by certified mail.

22 4. The surety bond is issued in a form, and subject to any terms and conditions,  
23 that the department considers appropriate.

24 (c) A certificate of deposit or money market certificate, if all of the following  
25 apply:

1           1. The certificate is issued or endorsed to the department for the benefit of  
2     depositors.

3           2. The certificate may not be canceled or redeemed without the department's  
4     written permission.

5           3. No person may transfer or withdraw funds represented by the certificate  
6     without the department's written permission.

7           4. The certificate renews automatically without any action by the department.

8           5. The certificate is issued in a form, and subject to any terms and conditions,  
9     that the department considers appropriate.

10          (d) An irrevocable bank letter of credit if all of the following apply:

11           1. The letter of credit is payable to the department for the benefit of depositors.

12           2. The letter of credit is issued on bank letterhead.

13           3. The letter of credit is issued for an initial period of at least one year.

14           4. The letter of credit renews automatically unless at least 90 days before the  
15     scheduled renewal date the issuing bank gives the department written notice, in  
16     person or by certified mail, that the letter of credit will not be renewed.

17           5. The letter of credit is issued in a form, and subject to any terms and  
18     conditions, that the department considers appropriate.

19          (e) Security filed under ch. 127, 1999 stats., before September 1, 2002, except  
20     that on January 1, 2003, the department shall withdraw its approval of any security  
21     that is not approvable under pars. (a) to (d).

22          (5) DEPARTMENT CUSTODY OF SECURITY. The department shall hold, in its custody,  
23     all security filed and maintained under this section. The department shall hold the  
24     security for the benefit of depositors.

1           **(6) ADDITIONAL SECURITY.** (a) The department may, at any time during a license  
2 year, demand additional security from a grain warehouse keeper if any of the  
3 following applies:

4           1. The grain warehouse keeper's existing security falls below the amount  
5 required under sub. (3) for any reason, including depreciation in the value of the  
6 security, increased obligations to depositors, or the cancellation of any security filed  
7 with the department.

8           2. The grain warehouse keeper fails to provide required information that is  
9 relevant to a determination of security requirements.

10           (b) The department shall issue a demand under par. (a) in writing. The  
11 department shall indicate why additional security is required, the amount of  
12 security required, and the deadline date for filing security. The department may not  
13 specify a deadline for filing security that is more than 30 days after the date on which  
14 the department issues its demand for security.

15           (c) A grain warehouse keeper may request a hearing, under ch. 227, on a  
16 demand for security under par. (b). A request for hearing does not automatically stay  
17 a security demand.

18           (d) If a grain warehouse keeper fails to comply with the department's demand  
19 for security under this subsection, the grain warehouse keeper shall give written  
20 notice of that fact to all depositors. If the grain warehouse keeper fails to give  
21 accurate notice under this paragraph within 5 days after the deadline for filing  
22 security under par. (b) has passed, the department shall promptly notify depositors  
23 by publishing a class 3 notice under ch. 985. The department may also give  
24 individual notice to depositors of whom the department is aware.

1 (e) If a grain warehouse keeper fails to comply with the department's demand  
2 for security under this subsection, the department may do any of the following:

- 3 1. Issue an appropriate summary order under s. 126.85 (2).
- 4 2. Suspend or revoke the grain warehouse keeper's license.

5 (7) MONTHLY REPORTS. A grain warehouse keeper who is required to file or  
6 maintain security under this section shall file monthly reports with the department.  
7 The grain warehouse keeper shall file the report by the 10th day of each month, in  
8 a form specified by the department. In a monthly report, the grain warehouse keeper  
9 shall provide information reasonably required by the department, including the  
10 amount of each type of grain stored in each grain warehouse on the last day of the  
11 preceding month.

12 (8) RELEASING SECURITY. (a) The department may release security filed under  
13 sub. (1) if any of the following applies:

- 14 1. The grain warehouse keeper reports grain warehouse capacity under s.  
15 126.26 (2) (e) of less than 300,000 bushels for at least 2 consecutive license years and  
16 the grain warehouse keeper pays the quarterly fund assessment that would have  
17 been required of the grain warehouse keeper if the grain warehouse keeper had been  
18 a contributing grain warehouse keeper on the most recent quarterly installment date  
19 under s. 126.30 (6).

- 20 2. The grain warehouse keeper's annual financial statement under s. 126.28  
21 shows positive equity for at least 2 consecutive years and the grain warehouse keeper  
22 pays the quarterly fund assessment that would have been required of the grain  
23 warehouse keeper if the grain warehouse keeper had been a contributing grain  
24 warehouse keeper on the most recent quarterly installment date under s. 126.30 (6).

1 (b) On December 1, 2002, the department may release security maintained  
2 under sub. (2), unless the grain warehouse keeper is required to file security under  
3 sub. (1).

4 (c) The department may release security to the extent that the security exceeds  
5 the amount required under sub. (3).

6 (d) The department may release security if the grain warehouse keeper files  
7 alternative security, of equivalent value, that the department approves.

8 (e) The department shall release security if the grain warehouse keeper has  
9 gone out of business and has fulfilled all grain obligations to depositors.

10 **126.32 Grain warehouse keepers; records. (1) RECORDS AND ACCOUNTS;**  
11 **GENERAL.** A grain warehouse keeper shall maintain current, complete, and accurate  
12 records and accounts of all grain received into and withdrawn from each grain  
13 warehouse, including records required under subs. (2) and (3).

14 **(2) DAILY POSITION RECORDS.** A grain warehouse keeper shall keep daily position  
15 records for each type of grain, so that the grain warehouse keeper and the  
16 department can easily determine all of the following on a daily basis:

17 (a) The total amount of grain held by the warehouse keeper, including grain  
18 under pars. (b) and (c).

19 (b) The total amount of grain that the warehouse keeper holds for others.

20 (c) The total amount of grain held by the warehouse keeper of which the  
21 warehouse keeper claims ownership.

22 (d) The warehouse keeper's total grain obligations to depositors.

23 **(3) DEPOSITOR RECORDS.** A grain warehouse keeper shall keep for each  
24 depositor, in a form that the grain warehouse keeper and the department can easily  
25 retrieve, records of all of the following:

1 (a) The depositor's name and address.

2 (b) The kinds and amounts of grain that the grain warehouse keeper received  
3 from the depositor, the receipt dates, and the terms under which the grain warehouse  
4 keeper received the grain.

5 (c) The kinds and amounts of grain that the grain warehouse keeper has  
6 released to the depositor and the release dates.

7 (d) The kinds and amounts of grain that the grain warehouse keeper holds for  
8 the depositor. The grain warehouse keeper shall update this record on a daily basis.

9 (4) ADJUSTING RECORDS. (a) Whenever a grain warehouse keeper alters a record  
10 entry under sub. (2) or (3), the grain warehouse keeper shall clearly identify and  
11 explain the alteration so that the reason for the alteration is clear to a person  
12 reviewing the records.

13 (b) Except as provided in par. (c), a grain warehouse keeper may not alter a  
14 record entry under sub. (2) or (3) without the department's prior approval.

15 (c) A grain warehouse keeper may, without the department's prior approval,  
16 correct a record entry under sub. (2) or (3) for any of the following reasons:

17 1. To account for handling losses, if the warehouse keeper corrects for handling  
18 losses at least monthly.

19 2. To account for errors or omissions related to the receipt or withdrawal of  
20 grain, if the warehouse keeper has documentation to support the correction.

21 (5) RECORDS RETENTION; AVAILABILITY. (a) A grain warehouse keeper shall retain  
22 all of the following records for at least 6 years from the date of their creation:

23 1. Records required under this section and s. 126.33 (3).

24 2. Records that the grain warehouse keeper was required to keep under ch. 127,  
25 1999 stats., and department rules, before January 1, 2002.

1 (b) If a grain warehouse keeper keeps records under subs. (2) and (3) in  
2 computerized form, the grain warehouse keeper shall generate a hard copy printout  
3 for each business day unless the grain warehouse keeper retains the ability to  
4 retrieve and print that day's computerized record for at least 6 years.

5 (c) A grain warehouse keeper shall make records required under this section  
6 available to the department for inspection and copying upon request.

7 **(6) REVIEWING RECORDS.** (a) The department shall review the records that a  
8 grain warehouse keeper is required to keep under this section. The department shall  
9 review a grain warehouse keeper's records at least annually, except as provided in  
10 par. (b).

11 (b) The department shall review a grain warehouse keeper's records at least  
12 once every 2 years if the grain warehouse keeper files an annual financial statement  
13 under s. 126.28 and that annual financial statement shows a current ratio of at least  
14 2.0 to 1.0, positive equity, and a debt to equity ratio of not more than 2.0 to 1.0.

15 **126.33 Receipts for grain. (1) REQUIREMENT.** Immediately after a grain  
16 warehouse keeper receives grain from a depositor, the grain warehouse keeper shall  
17 give the depositor a warehouse receipt or other storage receipt that includes all of the  
18 following:

19 (a) The name and permanent address of the grain warehouse keeper, the  
20 location of the grain warehouse, and a statement indicating whether the grain  
21 warehouse keeper is a corporation.

22 (b) A statement identifying the document as a warehouse receipt or other  
23 storage receipt.

24 (c) The date on which the grain warehouse keeper received the grain.

25 (d) The kind of grain received.

1 (e) The net weight of grain received.

2 (f) The grade and quality of grain received, if determined.

3 (g) The word “negotiable” or “nonnegotiable,” conspicuously, if the document is  
4 issued as a warehouse receipt. If a grain warehouse keeper transfers  
5 depositor-owned grain to another warehouse keeper, the receiving grain warehouse  
6 keeper shall issue a receipt that conspicuously bears the word “nonnegotiable.”

7 (h) A statement indicating that the depositor must remove the grain from  
8 storage by a specified date that is not more than 3 years after the date of deposit. This  
9 requirement does not apply to any of the following:

10 1. A warehouse receipt.

11 2. A receipt for grain owned by the federal commodity credit corporation.

12 3. A receipt for grain pledged as collateral for a loan from the federal  
13 department of agriculture.

14 **(2) GRAIN OWNERSHIP.** If a person delivers grain to a recipient who is both a grain  
15 warehouse keeper and a grain dealer, as defined in s. 126.10 (9), the delivery is  
16 considered a deposit for storage unless it is clearly documented as a delivery of  
17 purchased grain. A receipt issued by such a recipient is considered a storage receipt  
18 unless it is clearly designated as a receipt for the delivery of purchased grain.

19 **(3) WAREHOUSE KEEPERS COPY.** A grain warehouse keeper shall keep a copy of  
20 every warehouse receipt and other document that the grain warehouse keeper issues  
21 under sub. (1). The grain warehouse keeper shall retain a copy of each document for  
22 at least 6 years after the grain warehouse keeper issues the document and shall  
23 make copies available to the department for inspection and copying upon request.

1           **126.34 Grain warehouse keepers; business practices.** (1) GRAIN WEIGHT,  
2 GRADE, AND QUALITY. A grain warehouse keeper shall do all of the following when  
3 determining the weight, grade, or quality of grain:

4           (a) Accurately determine the weight, grade, or quality using accurate weighing,  
5 testing, or grading equipment.

6           (b) Accurately record the determined weight, grade, or quality.

7           **(2) CARE OF GRAIN; FACILITIES.** A grain warehouse keeper shall safeguard grain  
8 held for others and shall protect that grain from loss or abnormal deterioration. A  
9 grain warehouse keeper shall maintain adequate facilities and equipment for that  
10 purpose.

11           **(3) SUFFICIENT INVENTORY.** A grain warehouse keeper shall at all times maintain  
12 grain inventories sufficient in quantity and quality to meet all outstanding  
13 obligations to depositors.

14           **(4) RETURNING GRAIN TO DEPOSITORS.** (a) Except as provided in par. (b), a grain  
15 warehouse keeper shall deliver to a depositor, upon demand, the same grade and  
16 amount of grain as was deposited.

17           (b) If a grain warehouse keeper does not have enough grain of the appropriate  
18 grade to satisfy a depositor's demand under par. (a), the warehouse keeper may  
19 substitute any of the following with the agreement of the depositor:

20           1. A monetary payment sufficient to provide the depositor with equivalent  
21 value, based on current local grain prices.

22           2. A sufficient amount of a higher grade of grain to provide the depositor with  
23 equivalent value, based on current local grain prices.

24           (c) A grain warehouse keeper may not provide grain or payments under par.  
25 (b) whose value exceeds the current value of the grain that was deposited.



1           (4) “Dairy plant” has the meaning given in s. 97.20 (1) (a).

2           (5) “Dairy plant operator” means a person who holds or is required to hold a  
3 dairy plant license under s. 97.20.

4           (6) “Debt to equity ratio” means the ratio of the value of liabilities to equity,  
5 calculated according to s. 126.44 (8) (c) 2.

6           (7) “Disqualified milk contractor” means a milk contractor who is disqualified  
7 from the fund under s. 126.45 (3).

8           (7m) “License year” means the period beginning on May 1 and ending on the  
9 following April 30.

10           (8) “Milk contractor” means a person who buys producer milk or who markets  
11 producer milk as a producer agent. “Milk contractor” does not include any of the  
12 following:

13           (a) A person who merely brokers a contract between a milk producer and a milk  
14 contractor, without becoming a party to the contract, taking control of milk, or  
15 accepting payment on behalf of the milk producer.

16           (b) A person who merely buys or sells milk on a board of trade or commodity  
17 exchange.

18           (9) “Milk payroll obligation” means a milk contractor’s gross obligation to a  
19 milk producer or producer agent, whether paid or unpaid, for producer milk that the  
20 milk contractor procures in this state.

21           (10) “Milk producer” means a person who produces milk on a dairy farm.

22           (11) “Procure producer milk” means to buy producer milk or acquire the right  
23 to market producer milk.

24           (12) “Procure producer milk in this state” means any of the following:

25           (a) To buy producer milk for receipt in this state.

1 (b) To receive producer milk directly from a dairy farm in this state.

2 (c) To collect producer milk from a dairy farm in another state, for direct  
3 shipment to a dairy plant that the milk contractor operates in this state.

4 (d) To acquire the right to market producer milk that is produced in this state.

5 **(13)** “Producer agent” means a person who acts on behalf of a milk producer  
6 to market or accept payment for producer milk without taking title to that milk,  
7 including a person who uses a producer trust fund to market or accept payment for  
8 producer milk. “Producer agent” does not include any of the following:

9 (a) A person who merely brokers a contract between a milk producer and a milk  
10 contractor, without becoming a party to the contract, taking control of milk, or  
11 accepting payment on behalf of the milk producer.

12 (b) A person who merely holds or transports milk for a milk producer without  
13 marketing or accepting payment for milk on behalf of the milk producer.

14 **(14)** “Producer milk” means milk that is owned by or held in trust for one or  
15 more milk producers. “Producer milk” includes milk that a producer agent markets  
16 for a producer, without taking title to the milk.

17 **126.41 Milk contractors; licensing. (1) ANNUAL LICENSE.** (a) No milk  
18 contractor may do any of the following without a current annual license from the  
19 department:

20 1. Receive producer milk in this state.

21 2. Collect producer milk from a dairy farm in another state for direct shipment  
22 to a dairy plant that the milk contractor operates in this state.

23 3. Acquire the right to market, as a producer agent, producer milk produced in  
24 this state.

1           (b) A milk contractor who is not engaged in any activities under par. (a) may  
2 volunteer to be licensed if the milk contractor receives, outside this state, direct  
3 shipments of producer milk from dairy farms in this state.

4           (c) The department shall issue annual milk contractor licenses under pars. (a)  
5 and (b). A license expires on the April 30 following its issuance. No person may  
6 transfer or assign a license issued under par. (a) or (b).

7           **(2) LICENSE APPLICATION.** A milk contractor shall apply for a license under sub.  
8 (1) in writing, on a form provided by the department. An applicant shall provide all  
9 of the following:

10           (a) The applicant's legal name and any trade name under which the applicant  
11 proposes to operate as a milk contractor. If the milk contractor is a dairy plant  
12 operator licensed under s. 97.20, the milk contractor shall use the same legal name  
13 in both license applications.

14           (b) A statement of whether the applicant is an individual, corporation,  
15 partnership, cooperative, limited liability company, trust, or other legal entity. If the  
16 applicant is a corporation or cooperative, the applicant shall identify each officer of  
17 the corporation or cooperative. If the applicant is a partnership, the applicant shall  
18 identify each partner.

19           (c) The mailing address of the applicant's primary business location and the  
20 name of a responsible individual who may be contacted at that location.

21           (d) The street address of each business location from which the applicant will  
22 operate under the license and the name of a responsible person who may be contacted  
23 at each location that is staffed.

24           (e) All license fees and surcharges required under sub. (3).

25           (f) The sworn and notarized statement required under sub. (6).

1 (g) A financial statement if required under s. 126.44 (1) and not yet filed.

2 (h) Other relevant information required by the department.

3 **(3) ANNUAL LICENSE FEES AND SURCHARGES.** A milk contractor applying for a  
4 license under sub. (1) shall include the following fees and surcharges with the license  
5 application, unless the department specifies a different fee or surcharge amount by  
6 rule:

7 (a) A nonrefundable license processing fee of \$25, regardless of whether  
8 application is made after the beginning of a license year.

9 (b) A license surcharge of \$500 if the department determines that, within 365  
10 days before submitting the license application, the applicant operated without a  
11 license in violation of sub. (1). The applicant shall also pay any license fees, license  
12 surcharges, and fund assessments that are still due for any license year in which the  
13 applicant violated sub. (1).

14 (c) A license surcharge of \$100 if during the preceding 12 months the applicant  
15 failed to file an annual financial statement required under s. 126.44 (1) (b) by the  
16 applicable deadline.

17 (d) A license surcharge of \$100 if a renewal applicant fails to renew a license  
18 by the license expiration date of April 30.

19 **(3m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (3) (b) does not  
20 relieve the applicant of any other civil or criminal liability that results from the  
21 violation of sub. (1), but does not constitute evidence of any law violation.

22 **(4) FEE STATEMENT.** The department shall provide, with each license application  
23 form, a written statement of all license fees and surcharges required under sub. (3).

24 **(5) NO LICENSE WITHOUT FULL PAYMENT.** The department may not issue a license  
25 under sub. (1) until the applicant pays all license fees and surcharges identified in

1 the department's statement under sub. (4). The department shall refund a fee or  
2 surcharge paid under protest if upon review the department determines that the fee  
3 or surcharge is not applicable.

4 **(6) SWORN AND NOTARIZED STATEMENT.** As part of a license application under sub.  
5 (2), an applicant shall provide a sworn and notarized statement, signed by the  
6 applicant or an authorized officer of the applicant, that reports all of the following  
7 information:

8 (a) The total milk payroll obligations that the applicant incurred during the  
9 applicant's last completed fiscal year. If the applicant has not yet operated as a milk  
10 contractor, the applicant shall estimate the total milk payroll obligations that the  
11 applicant will incur during the applicant's first complete fiscal year.

12 (b) The largest amount of unpaid milk payroll obligations that the milk  
13 contractor had at any time during the milk contractor's last completed fiscal year.

14 (c) The identity of any producer agents from whom the milk contractor procures  
15 producer milk.

16 (d) Other relevant information required by the department.

17 **(7) ACTION GRANTING OR DENYING APPLICATION.** The department shall grant or  
18 deny a license application under sub. (2) within 30 days after the department  
19 receives a complete application. If the department denies a license application, the  
20 department shall give the applicant written notice stating the reasons for the denial.

21 **(8) LICENSE DISPLAYED.** A milk contractor licensed under sub. (1) shall  
22 prominently display a true copy of that license at each business location from which  
23 the milk contractor operates in this state.

1           **(9) NOTIFICATION REQUIRED.** A milk contractor who files security under s. 126.47  
2 shall immediately notify the department if, at any time, the milk contractor's unpaid  
3 milk payroll obligations exceed the amount last reported under sub. (6) (b).

4           **126.42 Milk contractors; monthly license fee. (1) MONTHLY LICENSE FEE**  
5 **PAYMENT.** Except as provided under sub. (5) or (6), a milk contractor licensed under  
6 s. 126.41 (1) shall pay to the department, by the 25th day of each month, a monthly  
7 license fee of 0.15 cent for each 100 pounds of producer milk that the milk contractor  
8 procured in this state during the preceding month. The milk contractor shall submit,  
9 with the fee payment, a report stating the number of pounds of producer milk that  
10 the milk contractor procured in this state during the preceding month.

11           **(2) LATE PAYMENT SURCHARGE.** If a milk contractor fails to pay a monthly fee  
12 under sub. (1) when due, the milk contractor shall pay, in addition to that monthly  
13 fee, a surcharge equal to 20% of the monthly fee. The milk contractor shall pay the  
14 surcharge by the 25th day of the following month.

15           **(3) FEE CREDITS.** If the balance in the fund contributed by milk contractors  
16 exceeds \$4,000,000 on February 28 of any license year, the department shall credit  
17 50% of the excess amount against fees charged under sub. (1) to contributing milk  
18 contractors who file timely renewal applications for the next license year. The  
19 department shall credit each contributing milk contractor on a prorated basis, in  
20 proportion to the total fees that the milk contractor has paid under sub. (1) for the  
21 4 preceding license years. Each month that a contributing contractor who qualifies  
22 for a credit under this subsection pays fees under sub. (1), the department shall credit  
23 to the contributing milk contractor one-twelfth of the total annual credit determined  
24 under this subsection.

1           (4) **FEE STATEMENT.** Whenever the department issues an annual license to a  
2 milk contractor under s. 126.41 (1), the department shall give the milk contractor  
3 notice of the monthly fees required under this section. The department shall specify  
4 all of the following:

5           (a) The method for computing the monthly fee.

6           (b) The date by which the milk contractor must pay the fee each month.

7           (c) The late payment surcharge that may apply under sub. (2).

8           (d) The fee credit, if any, that applies under sub. (3).

9           (5) **PRODUCER AGENTS; EXEMPTION.** A producer agent is not required to pay the  
10 monthly fee under sub. (1) for producer milk that the producer agent markets to a  
11 milk contractor who is licensed under s. 126.41 (1) and who pays the monthly fee on  
12 the same milk.

13           (6) **FEE CHANGES.** The department may modify the license fees under sub. (1)  
14 by rule, as provided under s. 126.81 (2).

15           **126.43 Milk contractors; insurance.** (1) **FIRE AND EXTENDED COVERAGE**  
16 **INSURANCE.** A milk contractor licensed under s. 126.41 (1) shall maintain fire and  
17 extended coverage insurance that covers, at their full value, all milk and milk  
18 products in the possession, custody, or control of the milk contractor. If the milk  
19 contractor is required to be licensed under s. 126.41 (1) (a), the milk contractor shall  
20 maintain insurance issued by an insurance company authorized to do business in  
21 this state.

22           (2) **INSURANCE CANCELLATION; REPLACEMENT.** Whenever an insurance policy  
23 under sub. (1) is canceled, the milk contractor shall replace the policy so that there  
24 is no lapse in coverage.

1           **(3) INSURANCE COVERAGE; MISREPRESENTATION.** No milk contractor may  
2 misrepresent any of the following to the department or to any milk producer or  
3 producer agent:

4           (a) That the milk contractor is insured.

5           (b) The nature, coverage, or material terms of the milk contractor's insurance  
6 policy.

7           **126.44 Milk contractors; financial statements. (1) REQUIRED ANNUAL**  
8 **FINANCIAL STATEMENT.** (a) A milk contractor shall file an annual financial statement  
9 with the department before the department first licenses the milk contractor under  
10 s. 126.41 (1), unless the milk contractor reports no more than \$1,500,000 in annual  
11 milk payroll obligations under s. 126.41 (6) (a).

12           (b) Except as provided in par. (c), a milk contractor licensed under s. 126.41 (1)  
13 shall file an annual financial statement with the department during each license  
14 year. The milk contractor shall file the annual financial statement by the 15th day  
15 of the 4th month following the close of the milk contractor's fiscal year. The  
16 department may extend the filing deadline for up to 30 days if the milk contractor,  
17 or the accountant preparing the financial statement, files a written extension  
18 request at least 10 days before the filing deadline.

19           (c) Paragraph (b) does not apply to any of the following:

20           1. A contributing milk contractor who reports no more than \$1,500,000 in  
21 annual milk payroll obligations under s. 126.41 (6) (a).

22           2. A contributing milk contractor who procures producer milk in this state  
23 solely as a producer agent.

1           **(2) VOLUNTARY ANNUAL FINANCIAL STATEMENT.** A milk contractor licensed under  
2 s. 126.41 (1) who is not required to file a financial statement under sub. (1) may file  
3 an annual financial statement with the department for any of the following reasons:

4           (a) To avoid being required to contribute to the fund under s. 126.45 (1) (a).

5           (b) To qualify for a lower fund assessment under s. 126.46.

6           **(3) QUARTERLY FINANCIAL STATEMENTS.** A milk contractor licensed under s.  
7 126.41 (1) who is not a contributing milk contractor shall file quarterly financial  
8 statements with the department for the first 3 quarters in each of the milk  
9 contractor's fiscal years. The milk contractor shall file each quarterly financial  
10 statement no later than 60 days after the end of the fiscal quarter to which the  
11 financial statement pertains. With each quarterly financial statement, the milk  
12 contractor shall include the milk contractor's sworn and notarized statement that  
13 the financial statement is correct.

14           **(5) REVIEWED OR AUDITED FINANCIAL STATEMENT.** (a) A milk contractor filing an  
15 annual financial statement under sub. (1) or (2) shall file an audited financial  
16 statement if the milk contractor reports more than \$6,000,000 in annual milk payroll  
17 obligations under s. 126.41 (6) (a).

18           (b) If par. (a) does not apply, a milk contractor filing an annual financial  
19 statement under sub. (1) or (2) shall file either a reviewed financial statement or an  
20 audited financial statement.

21           **(6) ACCOUNTING PERIOD.** A milk contractor filing an annual financial statement  
22 under sub. (1) or (2) shall file a financial statement that covers the milk contractor's  
23 last completed fiscal year unless the milk contractor has been in business for less  
24 than one year.

1           **(6m) INTERIM FINANCIAL STATEMENT.** The department may, at any time, require  
2 a milk contractor licensed under s. 126.41 (1) to file an interim financial statement  
3 with the department. With the interim financial statement, the milk contractor shall  
4 provide the milk contractor's sworn and notarized statement that the financial  
5 statement is correct. An interim financial statement need not be a reviewed financial  
6 statement or an audited financial statement.

7           **(7) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.** (a) Except as provided in par.  
8 (b), a milk contractor filing an annual financial statement under this section shall  
9 file a financial statement that is prepared according to generally accepted accounting  
10 principles.

11           (b) If a milk contractor is a sole proprietor and the milk contractor's financial  
12 statement is not audited, the milk contractor shall file a financial statement that is  
13 prepared on a historical cost basis.

14           **(8) FINANCIAL STATEMENT CONTENTS.** (a) Except as provided in par. (b), a milk  
15 contractor filing a financial statement under this section shall file a financial  
16 statement that consists of a balance sheet, income statement, equity statement,  
17 statement of cash flows, notes to those statements, and any other information  
18 required by the department. If the milk contractor is a sole proprietor, the milk  
19 contractor shall file his or her business and personal financial statements.

20           (b) If a milk contractor has been in business for less than one year, the milk  
21 contractor may file an annual financial statement under sub. (1) or (2) consisting of  
22 a balance sheet and notes. A milk contractor may file a quarterly financial statement  
23 under sub. (3) consisting of a balance sheet and income statement.

1           (c) A milk contractor filing a financial statement under this section shall  
2 include in the financial statement, or in an attachment to the financial statement,  
3 calculations of all of the following:

4           1. The milk contractor's current ratio, excluding any assets required to be  
5 excluded under sub. (9).

6           2. The milk contractor's debt to equity ratio, excluding any assets required to  
7 be excluded under sub. (9).

8           **(9) ASSETS EXCLUDED.** A milk contractor may not include any of the following  
9 assets in the calculations under sub. (8) (c), unless the department specifically  
10 approves their inclusion:

11           (a) A nontrade note or account receivable from an officer, director, employee,  
12 partner, or stockholder, or from a member of the family of any of those individuals,  
13 unless the note or account receivable is secured by a first priority security interest  
14 in real or personal property.

15           (b) A note or account receivable from a parent organization, a subsidiary, or an  
16 affiliate other than an employee.

17           (c) A note or account that has been receivable for more than one year, unless  
18 the milk contractor has established an equal offsetting reserve for uncollectible notes  
19 and accounts receivable.

20           **(10) ENTITY COVERED.** A person filing a financial statement under this section  
21 may not file, in lieu of that person's financial statement, the financial statement of  
22 the person's parent organization, subsidiary, predecessor, or successor.

23           **(11) DEPARTMENT REVIEW.** The department may analyze a financial statement  
24 submitted under this section and may reject a financial statement that fails to  
25 comply with this section.

1           **126.45 Contributing milk contractors; disqualification. (1) REQUIRED**  
2           CONTRIBUTORS. (a) Except as provided in sub. (3), a licensed milk contractor shall pay  
3           fund assessments under s. 126.46 if the milk contractor does not file annual and  
4           quarterly financial statements under s. 126.44.

5           (b) Except as provided in sub. (3), a licensed milk contractor shall pay fund  
6           assessments under s. 126.46 if the milk contractor files an annual, quarterly, or  
7           interim financial statement under s. 126.44 that shows a current ratio of less than  
8           1.25 to 1.0, a debt to equity ratio of more than 2.0 to 1.0, or negative equity. The milk  
9           contractor shall continue to pay fund assessments until the milk contractor files 2  
10          consecutive annual financial statements under s. 126.44 that show a current ratio  
11          of at least 1.25 to 1.0, positive equity, and a debt to equity ratio of not more than 2.0  
12          to 1.0.

13          **(2) VOLUNTARY CONTRIBUTORS.** Except as provided in sub. (3), a licensed milk  
14          contractor who is not required to pay fund assessments under s. 126.46 may elect to  
15          do so.

16          **(3) DISQUALIFIED CONTRACTORS. (a)** A milk contractor who is required to file  
17          security under s. 126.47 (1) is disqualified from the fund until the department  
18          releases that security under s. 126.47 (7) (a).

19          (b) A milk contractor is disqualified from the fund if the department denies,  
20          suspends, or revokes the milk contractor's license.

21          (c) The department may, by written notice, disqualify a milk contractor for any  
22          of the following reasons:

- 23               1. Failure to pay fund assessments under s. 126.46 when due.
- 24               2. Failure to file a financial statement under s. 126.44 when due.

1           3. Failure to reimburse the department, within 60 days after the department  
2 issues a reimbursement demand under s. 126.73 (1), for the full amount that the  
3 department pays to claimants under s. 126.72 (1) because of that milk contractor's  
4 default.

5           4. Failure to reimburse a bond surety, within 60 days after the bond surety  
6 issues a reimbursement demand under s. 126.73 (2), for the full amount that the  
7 surety pays to the department under s. 126.72 (2) or (3) for the benefit of claimants  
8 affected by that milk contractor's default.

9           (4) EFFECT OF DISQUALIFICATION. (a) A milk contractor disqualified under sub.  
10 (3) (c) may not engage in any activities for which a license is required under s. 126.41  
11 (1) (a) if the milk contractor files an annual, quarterly, or interim financial statement  
12 under s. 126.44 that shows a current ratio of less than 1.25 to 1.0, a debt to equity  
13 ratio of more than 2.0 to 1.0, or negative equity.

14           (b) The department may not return, to a disqualified milk contractor, any fund  
15 assessments that the milk contractor paid as a contributing milk contractor.

16           (c) A disqualified milk contractor remains liable for any unpaid fund  
17 installment under s. 126.46 that became due while the milk contractor was a  
18 contributing milk contractor. A disqualified milk contractor is not liable for any fund  
19 installment that becomes due after the milk contractor is disqualified under sub. (3).

20           **126.46 Contributing milk contractors; fund assessments.** (1) GENERAL.  
21 A contributing milk contractor shall pay an annual fund assessment for each license  
22 year. The assessment equals \$20 or the sum of the following, whichever is greater,  
23 unless the department by rule specifies a different assessment:

24           (a) The milk contractor's current ratio assessment. The current ratio  
25 assessment for a license year equals the milk contractor's current ratio assessment

1 rate under sub. (2) multiplied by the annual milk payroll obligations reported under  
2 s. 126.41 (6) (a) in the milk contractor's license application for that license year.

3 (b) The milk contractor's debt to equity ratio assessment. The debt to equity  
4 ratio assessment for a license year equals the milk contractor's debt to equity ratio  
5 assessment rate under sub. (4) multiplied by the annual milk payroll obligations  
6 reported under s. 126.41 (6) (a) in the milk contractor's license application for that  
7 license year.

8 **(2) CURRENT RATIO ASSESSMENT RATE.** A milk contractor's current ratio  
9 assessment rate is calculated, at the beginning of the license year, as follows:

10 (a) If the milk contractor has filed an annual financial statement under s.  
11 126.44 and that financial statement shows a current ratio of at least 1.25 to 1.0, the  
12 milk contractor's current ratio assessment rate equals the greater of zero or the  
13 current ratio assessment factor in sub. (3) (a) multiplied by the following amount:

- 14 1. Subtract 3 from the current ratio.
- 15 2. Divide the amount determined under subd. 1. by 6.
- 16 3. Multiply the amount determined under subd. 2. by negative one.
- 17 4. Raise the amount determined under subd. 3. to the 3rd power.
- 18 5. Divide 0.55 by the current ratio.
- 19 6. Raise the amount determined under subd. 5. to the 7th power.
- 20 7. Add the amount determined under subd. 4. to the amount determined under  
21 subd. 6.
- 22 8. Add 0.075 to the amount determined under subd. 7.

23 (b) If the milk contractor has filed an annual financial statement under s.  
24 126.44 and that financial statement shows a current ratio of less than 1.25 to 1.0, but

1 greater than 1.05 to 1.0, the milk contractor's current ratio assessment rate equals  
2 the current ratio assessment factor in sub. (3) (b) multiplied by the following amount:

3 1. Subtract 3 from the current ratio.

4 2. Divide the amount determined under subd. 1. by 6.

5 3. Multiply the amount determined under subd. 2. by negative one.

6 4. Raise the amount determined under subd. 3. to the 3rd power.

7 5. Divide 0.55 by the current ratio.

8 6. Raise the amount determined under subd. 5. to the 7th power.

9 7. Add the amount determined under subd. 4. to the amount determined under  
10 subd. 6.

11 8. Add 0.075 to the amount determined under subd. 7.

12 (c) If the milk contractor has filed an annual financial statement under s.  
13 126.44 and that financial statement shows a current ratio of less than or equal to 1.05  
14 to 1.0, the milk contractor's current ratio assessment rate equals the current ratio  
15 assessment factor in sub. (3) (b) multiplied by 0.1201478.

16 (d) Except as provided in par. (e), if the milk contractor has not filed an annual  
17 financial statement under s. 126.44, the milk contractor's current ratio assessment  
18 rate equals the current ratio assessment factor in sub. (3) (b) multiplied by 0.103005.

19 (e) If the milk contractor has not filed an annual financial statement under s.  
20 126.44 and the milk contractor procures producer milk in this state solely as a  
21 producer agent, the milk contractor's current ratio assessment rate is 0.00025,  
22 except that, for the milk contractor's 5th or higher consecutive full license year of  
23 participation in the fund, the milk contractor's current ratio assessment rate is  
24 0.000175.

1           **(3) CURRENT RATIO ASSESSMENT FACTOR.** (a) A milk contractor's current ratio  
2 assessment factor under sub. (2) (a) is 0.001, except as follows:

3           1. For the milk contractor's 3rd consecutive full license year as a contributing  
4 milk contractor, the milk contractor's current ratio assessment factor is 0.0007.

5           2. For the milk contractor's 4th consecutive full license year as a contributing  
6 milk contractor, the milk contractor's current ratio assessment factor is 0.0003.

7           3. For the milk contractor's 5th or higher consecutive full license year as a  
8 contributing milk contractor, the milk contractor's current ratio assessment factor  
9 is zero.

10           (b) A milk contractor's current ratio assessment factor under sub. (2) (b) to (d)  
11 is 0.0015, except that, for the milk contractor's 5th or higher consecutive full license  
12 year of participation in the fund, the milk contractor's current ratio assessment  
13 factor is 0.000675.

14           **(4) DEBT TO EQUITY RATIO ASSESSMENT RATE.** A milk contractor's debt to equity  
15 ratio assessment rate is calculated, at the beginning of the license year, as follows:

16           (a) If the milk contractor has filed an annual financial statement under s.  
17 126.44 and that financial statement shows positive equity and a debt to equity ratio  
18 of not more than 2.0 to 1.0, the milk contractor's debt to equity ratio assessment rate  
19 equals the greater of zero or the debt to equity ratio assessment factor in sub. (5) (a)  
20 multiplied by the following amount:

21           1. Subtract 2 from the debt to equity ratio.

22           2. Divide the amount determined under subd. 1. by 3.

23           3. Raise the amount determined under subd. 2. to the 9th power.

24           4. Divide the debt to equity ratio by 3.25.

25           5. Raise the amount determined under subd. 4. to the 5th power.

1           6. Add the amount determined under subd. 3. to the amount determined under  
2 subd. 5.

3           7. Add 0.025 to the amount determined under subd. 6.

4           (b) If the milk contractor files an annual financial statement under s. 126.44  
5 and that financial statement shows a debt to equity ratio of greater than 2.0 to 1.0  
6 but less than 3.1 to 1.0, the milk contractor's debt to equity ratio assessment rate  
7 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by the  
8 following amount:

9           1. Subtract 2 from the debt to equity ratio.

10          2. Divide the amount determined under subd. 1. by 3.

11          3. Raise the amount determined under subd. 2. to the 9th power.

12          4. Divide the debt to equity ratio by 3.25.

13          5. Raise the amount determined under subd. 4. to the 5th power.

14          6. Add the amount determined under subd. 3. to the amount determined under  
15 subd. 5.

16          7. Add 0.025 to the amount determined under subd. 6.

17          (c) If the milk contractor has filed an annual financial statement under s.  
18 126.44 and that financial statement shows negative equity or a debt to equity ratio  
19 of at least 3.1 to 1.0, the milk contractor's debt to equity ratio assessment rate equals  
20 the debt to equity ratio assessment factor in sub. (5) (b) multiplied by 0.8146917.

21          (d) Except as provided in par. (e), if the milk contractor has not filed an annual  
22 financial statement under s. 126.44, the milk contractor's debt to equity ratio  
23 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)  
24 multiplied by 0.11325375.

1 (e) If the milk contractor has not filed an annual financial statement under s.  
2 126.44 and the milk contractor procures producer milk in this state solely as a  
3 producer agent, the milk contractor's debt to equity ratio assessment rate is 0.00025,  
4 except that, for the milk contractor's 5th or higher consecutive full license year of  
5 participation in the fund, the milk contractor's debt to equity ratio assessment rate  
6 is 0.000175.

7 **(5) DEBT TO EQUITY RATIO ASSESSMENT FACTOR.** (a) A milk contractor's debt to  
8 equity ratio assessment factor under sub. (4) (a) is 0.0015, except as follows:

9 1. For the milk contractor's 3rd consecutive full license year as a contributing  
10 milk contractor, the milk contractor's current ratio assessment factor is 0.001.

11 2. For the milk contractor's 4th consecutive full license year as a contributing  
12 milk contractor, the milk contractor's current ratio assessment factor is 0.0005.

13 3. For the milk contractor's 5th or higher consecutive full license year as a  
14 contributing milk contractor, the milk contractor's current ratio assessment factor  
15 is zero.

16 (b) A milk contractor's debt to equity ratio assessment factor under sub. (4) (b)  
17 to (d) is 0.00225, except that, for the milk contractor's 5th or higher consecutive full  
18 license year as a contributing milk contractor, the milk contractor's debt to equity  
19 ratio assessment factor is 0.001.

20 **(6) QUARTERLY INSTALLMENTS.** (a) A contributing milk contractor shall pay the  
21 milk contractor's annual fund assessment in equal quarterly installments that are  
22 due as follows:

23 1. The first installment is due on June 1 of the license year.

24 2. The 2nd installment is due on September 1 of the license year.

25 3. The 3rd installment is due on December 1 of the license year.

1           4. The 4th installment is due on March 1 of the license year.

2           (b) A contributing milk contractor may prepay any of the quarterly  
3 installments under par. (a).

4           (c) A contributing milk contractor who applies for an annual license after the  
5 beginning of a license year shall pay the full annual fund assessment required under  
6 this section. The milk contractor shall pay, with the first quarterly installment that  
7 becomes due after the day on which the department issues the license, all of the  
8 quarterly installments for that license year that were due before that day.

9           (d) If s. 126.45 (1) (b) requires a licensed milk contractor to become a  
10 contributing milk contractor during the license year, the milk contractor shall pay  
11 only those quarterly installments that become due after the requirement takes  
12 effect.

13           (e) A contributing milk contractor who fails to pay the full amount of any  
14 quarterly installment when due shall pay, in addition to that installment, a late  
15 payment penalty of \$50 or 10% of the overdue installment amount, whichever is  
16 greater.

17           (7) NOTICE OF ANNUAL ASSESSMENT AND QUARTERLY INSTALLMENTS. When the  
18 department issues an annual license to a contributing milk contractor, the  
19 department shall notify the milk contractor of all of the following:

20           (a) The amount of the milk contractor's annual fund assessment under this  
21 section.

22           (b) The amount of each required quarterly installment under sub. (6) and the  
23 date by which the milk contractor must pay each installment.

24           (c) The penalty that applies under sub. (6) (e) if the milk contractor fails to pay  
25 any quarterly installment when due.

1           **126.47 Milk contractors; security. (1) SECURITY REQUIRED.** A milk  
2 contractor shall file security with the department, and maintain that security until  
3 the department releases it under sub. (7), if all of the following apply when the  
4 department first licenses the milk contractor under s. 126.41 (1):

5           (a) The milk contractor reports more than \$1,500,000 in annual milk payroll  
6 obligations under s. 126.41 (6) (a).

7           (b) The milk contractor files an annual financial statement under s. 126.44 (1)  
8 and that financial statement shows negative equity.

9           **(2) SECURITY CONTINUED.** A milk contractor who filed security under s. 100.06,  
10 1999 stats., before May 1, 2002, shall maintain that security until the department  
11 releases it under sub. (7).

12           **(3) AMOUNT OF SECURITY.** A milk contractor who is required to file or maintain  
13 security under this section shall at all times maintain security equal to the following  
14 amount:

15           (a) Except for a milk contractor who procures producer milk in this state solely  
16 as a producer agent, at least 75% of the amount last reported under s. 126.41 (6) (b)  
17 or (9).

18           (b) For a milk contractor who procures milk in this state solely as a producer  
19 agent, at least the following amounts:

20           1. For the license year beginning on May 1, 2002, 15% of the amount last  
21 reported under s. 126.41 (6) (b) or (9).

22           2. For the license year beginning on May 1, 2003, 30% of the amount last  
23 reported under s. 126.41 (6) (b) or (9).

24           3. For the license year beginning on May 1, 2004, 45% of the amount last  
25 reported under s. 126.41 (6) (b) or (9).

1           4. For the license year beginning on May 1, 2005, 60% of the amount last  
2 reported under s. 126.41 (6) (b) or (9).

3           5. For a license year beginning after May 1, 2005, 75% of the amount last  
4 reported under s. 126.41 (6) (b) or (9).

5           (4) FORM OF SECURITY. The department shall review, and determine whether  
6 to approve, security filed under this section. The department may approve only the  
7 following types of security:

8           (a) Currency.

9           (b) A commercial surety bond if all of the following apply:

10           1. The surety bond is made payable to the department for the benefit of milk  
11 producers and producer agents.

12           2. The surety bond is issued by a person authorized to operate a surety business  
13 in this state.

14           3. The surety bond is issued as a continuous term bond that may be canceled  
15 only with the department's written agreement or upon 90 days' prior written notice  
16 served on the department in person or by certified mail.

17           4. The surety bond is issued in a form, and subject to any terms and conditions,  
18 that the department considers appropriate.

19           (c) A certificate of deposit or money market certificate, if all of the following  
20 apply:

21           1. The certificate is issued or endorsed to the department for the benefit of milk  
22 producers and producer agents.

23           2. The certificate may not be canceled or redeemed without the department's  
24 written permission.

1           3. No person may transfer or withdraw funds represented by the certificate  
2 without the department's written permission.

3           4. The certificate renews automatically without any action by the department.

4           5. The certificate is issued in a form, and subject to any terms and conditions,  
5 that the department considers appropriate.

6           (d) An irrevocable bank letter of credit if all of the following apply:

7           1. The letter of credit is payable to the department for the benefit of milk  
8 producers or producer agents.

9           2. The letter of credit is issued on bank letterhead.

10          3. The letter of credit is issued for an initial period of at least one year.

11          4. The letter of credit renews automatically unless, at least 90 days before the  
12 scheduled renewal date, the issuing bank gives the department written notice, in  
13 person or by certified mail, that the letter of credit will not be renewed.

14          5. The letter of credit is issued in a form, and subject to any terms and  
15 conditions, that the department considers appropriate.

16          (e) Security filed with the department under s. 100.06, 1999 stats., before May  
17 1, 2002, except that on January 1, 2003, the department shall withdraw its approval  
18 of any security that is not approvable under pars. (a) to (d).

19          (f) A dairy plant trusteeship created before May 1, 2002, under s. 100.06, 1999  
20 stats. This paragraph does not apply after January 1, 2003.

21          **(5) DEPARTMENT CUSTODY OF SECURITY.** The department shall hold, in its custody,  
22 all security filed and maintained under this section. The department shall hold the  
23 security for the benefit of milk producers and producer agents.

24          **(6) ADDITIONAL SECURITY.** (a) The department may, at any time, demand  
25 additional security from a milk contractor if any of the following applies: