



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

Ronald Sklansky  
Clearinghouse Director

Terry C. Anderson  
Legislative Council Director

Richard Sweet  
Clearinghouse Assistant Director

Laura D. Rose  
Legislative Council Deputy Director

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 02-113

AN ORDER to repeal chapter ATCP 98, chapter ATCP 100 (note), subchapters IV and V of chapter ATCP 100 and ATCP 101.08; to renumber subchapter VI (title) of chapter ATCP 100, ATCP 100.98 (5) to (9) and chapter ATCP 101; to renumber and amend ATCP 100.98 (4); to amend ATCP 100.982 (4) (f), subchapter I (note) of chapter ATCP 101 and ATCP 101.01 (intro.); to repeal and recreate chapter ATCP 99, chapter ATCP 100 (title) and subchapters I to III of chapter ATCP 100; and to create subchapter IV (note) of chapter ATCP 100, ATCP 100.98 (4), chapter ATCP 101 (title) and subchapter II of chapter ACTP 101, relating to agricultural producer security.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

08-19-2002 RECEIVED BY LEGISLATIVE COUNCIL.

09-13-2002 REPORT SENT TO AGENCY.

RS:DLL

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]  
Comment Attached      YES       NO
  
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]  
Comment Attached      YES       NO
  
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]  
Comment Attached      YES       NO
  
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]  
Comment Attached      YES       NO
  
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]  
Comment Attached      YES       NO
  
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]  
Comment Attached      YES       NO
  
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]  
Comment Attached      YES       NO



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

Ronald Sklansky  
*Clearinghouse Director*

Terry C. Anderson  
*Legislative Council Director*

Richard Sweet  
*Clearinghouse Assistant Director*

Laura D. Rose  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 02-113

#### Comments

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

#### 2. Form, Style and Placement in Administrative Code

a. Since the term “financial statement” is not a defined term, each subsection of s. ATCP 99.12 should refer to such statements in a consistent manner, i.e., as “a financial statement filed under s. 126.13, Stats.” It is not necessary to include references to subs. (1) or (2) of that section but, if such a reference is included, it should use the word “or,” not “and.” (Compare subs. (1) and (5).)

b. In s. ATCP 99.24 (5) (j), the phrase “for each type of grain” repeats language in the introduction and so should be omitted.

c. Is there a single subchapter of ch. 126, Stats., that is interpreted by subch. II of ch. ATCP 100? If so, the Note following the title of that subchapter should specify it. The same applies to the Notes in subsequent subchapters affected by the rule. Also, should similar notes be provided for the subchapters of ch. ATCP 99?

d. In s. ATCP 100.20 (2) (f), a closed parenthetical notation should be inserted after the number “3.”

e. In each subsection of s. ATCP 100.30 and in the introduction of each paragraph of s. ATCP 100.30 (7), the phrase, “a pay statement shall include” is redundant with s. ATCP 100.30 (intro.) and so should be omitted. In addition, the subsection titles are not necessary, since the subsections are so short that their subject is immediately apparent. Compare this section to s. ATCP 100.32 (1).

f. In the Note created by SECTION 8, the notation "s." should be replaced by the notation "ss."

g. In the Note amended by SECTION 15, the notation "s." is unnecessary and should be deleted.

h. There are two provisions numbered s. ATCP 101.26 (2). It appears that the second of these should be numbered s. ATCP 101.26 (2) (b).

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. The first comma in the first sentence of s. ATCP 99.12 (1) should be omitted.

b. In the second sentence of s. ATCP 99.12 (1), "which" should be replaced by "that". The same error is made in other provisions of the rule. See especially s. ATCP 99.24 (5).

c. In s. ATCP 99.12 (6) (b) 4., there is an extra occurrence of the words "in inventory," which should be deleted.

d. In the last sentence of s. ATCP 99.14 (intro.), there is a stray occurrence of "the." In s. ATCP 100.30 (7) (a) 5., there is a stray occurrence of the word "of."

e. In the notice following s. ATCP 99.14 (2) (c), the notation "[specify form(s) of security]" should be italicized. The same comment applies to the notice provision following s. ATCP 99.26 (2) (b).

f. In s. ATCP 100.16 (1) (a), the word "producers" should be replaced by the word "producer."

g. Should there be a s. ATCP 100.20 (1) (c), requiring a disclosure at any time that there is a change in the conditions requiring a disclosure, as in previous provisions?

**PROPOSED ORDER OF THE STATE OF WISCONSIN  
 DEPARTMENT OF AGRICULTURE, TRADE  
 AND CONSUMER PROTECTION  
 ADOPTING RULES**

1 The state of Wisconsin department of agriculture, trade and consumer protection  
 2 proposes the following order to repeal ch. ATCP 98, ch. ATCP 100 (note), ch. ATCP 100  
 3 subchs. IV and V, and ATCP 101.08; to renumber ch. ATCP 100 subch. VI (title), ATCP  
 4 100.98(5) to (9), and ch. ATCP 101; to renumber and amend ATCP 100.98(4); to amend  
 5 ATCP 100.982(4)(f), ch. ATCP 101 subch. I (note), and ATCP 101.01(intro.); to repeal  
 6 and recreate ch. ATCP 99, ch. ATCP 100 (title), and ch. ATCP 100 subchs. I to III; and  
 7 to create ch. ATCP 100 subch. IV (note), ATCP 100.98(4), ch. ATCP 101 (title), and ch.  
 8 ATCP 101 subch. II; relating to agricultural producer security.

---

**Analysis Prepared by the Department of Agriculture,  
 Trade and Consumer Protection**

Statutory Authority:	ss. 93.07 <sup>19</sup> (1), 97.20(4), 100.20 <sup>16, 109</sup> (2), 126.49, 126.51 and 126.81, Stats.
Statutes Interpreted:	ss. 93.15, 97.20, 100.20 and 100.22, Stats., and ch.126, Stats. <sup>16, 109</sup>

This rule implements Wisconsin's new agricultural producer security law (ch. 126, Stats., created by 2001 Wis. Act 16). The new law is designed to protect agricultural producers against catastrophic financial defaults by grain dealers, grain warehouse keepers, milk contractors and vegetable contractors. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers the new law. This rule amends and repeals current rules, and creates new rules consistent with the new law.

**Background**

Chapter 126, Stats., regulates "contractors" including grain dealers, grain warehouse keepers, milk contractors and vegetable contractors. Contractors must be licensed by DATCP. In most cases, licensed contractors must contribute to Wisconsin's agricultural

producer security fund ("fund"). In some cases, fund participation is voluntary. If a contributing contractor defaults on payments to producers, the fund may partially compensate those producers. Fund contributions are based, in part, on the contractor's financial condition.

Some contractors must file security in addition to, or in lieu of, fund contributions. If the contractor defaults, DATCP may use the security to pay a portion of the producer claims. Security requirements are based on the contractor's financial condition and practices. Contractors who are disqualified from the fund, based on financial condition, must file security with DATCP.

### Grain Dealers

*licensing?*

#### **General**

This rule requires grain dealers to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

#### **Financial Statements; Disclosures**

Under ch. 126, Stats., a grain dealer must file annual financial statements with DATCP if the grain dealer does any of the following:

- Annually pays more than \$500,000 for producer grain procured in this state.
- Procures any producer grain in this state under deferred payment contracts.

Grain dealers who are not required to file financial statements with DATCP may choose to file voluntarily. For example, grain dealers with favorable financial ratios may file voluntary financial statements to qualify for lower fund assessments. A grain dealer's financial ratios, including the grain dealer's debt to equity ratio, may affect the following:

- The grain dealer's eligibility to participate in the fund.
- The amount that the grain dealer must contribute to the fund.
- Whether or not the grain dealer must file security with DATCP.

Under this rule, a grain dealer's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.

- Any note or account receivable from a parent organization, a subsidiary, or an affiliate other than an employee.
- Any note or account that has been receivable for more than one year, unless the grain dealer has established an offsetting reserve for uncollectible notes and accounts receivable.

### **Debt to Equity Ratio; Liability Adjustments**

This rule allows grain dealers to make certain liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. Grain dealers may deduct the following amounts when calculating their liabilities for this purpose:

- Amounts borrowed from a lending institution and deposited with a commodities broker to hedge grain transactions.
- Amounts borrowed from a lending institution to buy grain that the grain dealer has sold and shipped, if the grain dealer maintains a collectible account receivable on the balance sheet.
- Amounts, borrowed from a lending institution, that are secured by grain that the grain dealer owns, holds in inventory on the balance sheet date, and shows as inventory on the balance sheet.
- Amounts borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain dealer holds in inventory on the balance sheet date.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires grain dealers to make security disclosures to grain producers, so that producers understand the extent to which grain payments are secured by the agricultural producer security program. This rule specifies the form in which grain dealers must make the disclosures. A grain dealer must make the disclosures to a producer at all the following times:

- When the grain dealer first procures grain from the producer.
- The first time the grain dealer procures grain from the producer in each new license year.

- The first time the grain dealer procures grain from the producer after any change in circumstances that requires a different disclosure (for example, after a grain dealer begins contributing to the fund).

## Grain Warehouse Keepers

### General

This rule requires grain warehouse keepers to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

### Grain Warehouse Licensing

Under ch. 126, Stats., grain warehouse license and fee requirements are based on the grain warehouse capacity. This rule spells out a standard method for calculating grain warehouse capacity, based on the volume of the grain warehouse and a grain "pack factor" specified in this rule.

Under this rule, an applicant for a grain warehouse license must submit a sworn and notarized statement certifying that the information provided in the license application is complete and accurate.

### Financial Statements; Disclosure Requirements

Under ch. 126, Stats., a grain warehouse keeper must file a financial statement with DATCP if the grain warehouse keeper has total warehouse capacity of more than 300,000 bushels. Other grain warehouse keepers may file *voluntary* financial statements to qualify for lower fund assessments. A grain warehouse keeper's financial ratios, including the warehouse keeper's debt to equity ratio, may affect the following:

- The warehouse keeper's eligibility to participate in the fund.
- The amount that the warehouse keeper must contribute to the fund.
- Whether or not the warehouse keeper must file security with DATCP.

Under this rule, a grain warehouse keeper's financial statement must disclose and describe all the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets on the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.



- Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
  - Any note or account that has been receivable for more than one year, unless the grain dealer has established an offsetting reserve for uncollectible notes and accounts receivable.
- The total number of bushels of grain in the warehouse keeper's warehouse.
  - The total number of bushels of grain forwarded to another warehouse keeper.
  - The total number of bushels of grain the warehouse keeper is obligated to store for depositors.
  - The warehouse keeper's net grain position for each type of grain.

#### **Debt to Equity Ratio; Liability Adjustments**

This rule allows grain warehouse keepers to make certain liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. Grain warehouse keepers may deduct, from their liabilities, the following amounts:

- Amounts borrowed from a lending institution and deposited with a commodities broker to hedge grain transactions.
- Amounts borrowed from a lending institution to buy grain that the grain warehouse keeper has sold and shipped, if the grain warehouse keeper maintains a collectible account receivable on the balance sheet.
- Amounts, borrowed from a lending institution, that are secured by grain that the grain warehouse keeper owns, holds in inventory on the balance sheet date, and shows as inventory on the balance sheet.
- Amounts borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain dealer holds in inventory on the balance sheet date.

#### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

## **Security Disclosures to Producers**

This rule requires grain warehouse keepers to make security disclosures to grain producers, so that producers understand the extent to which producer grain in storage is backed by the agricultural producer security program. This rule specifies the form in which grain warehouse keepers must make the disclosures. A grain warehouse keeper must give disclosures to a producer at all the following times:

- When the grain warehouse keeper first receives grain from the producer.
- The first time the grain warehouse keeper receives grain from the producer in each new license year.
- The first time the grain warehouse keeper receives grain from the producer after any change in circumstances that requires a different disclosure (for example, after a grain warehouse keeper begins contributing to the fund).

## **Milk Contractors**

### **General**

This rule requires milk contractors to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply. This rule does *not* change current rules related to milk price discrimination.

### **Financial Statements; Disclosure Requirements**

Under ch. 126, Stats., a milk contractor must file a financial statement with DATCP if the milk contractor has more than \$1.5 million in annual milk payroll obligations to producers. Other milk contractors may file *voluntary* financial statements in order to avoid paying fund assessments or to qualify for lower fund assessments. A milk contractor's financial ratios, including the contractor's debt to equity ratio, may affect the following:

- The milk contractor's eligibility to participate in the fund.
- The amount that the milk contractor must contribute to the fund.
- Whether or not the milk contractor must file security with DATCP.

Under this rule, a milk contractor's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:

- Any nontrade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
- Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
- Any note or account that has been receivable for more than one year, unless the milk contractor has established an offsetting reserve for uncollectible notes and accounts receivable.

### **Debt to Equity Ratio; Liability Adjustments**

This rule allows milk contractors to make certain liability adjustments when calculating their debt to equity ratios, *but only for the purpose of determining fund assessments*. When calculating their liabilities, milk contractors may deduct amounts borrowed from lending institutions in order to carry "aged cheese" in inventory for the period required by the federal standard of identity for that cheese. "Aged cheese" means cheese for which the federal standard of identity prescribes an aging period of at least 4 months.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires milk contractors to make security disclosures to milk producers, so that producers understand the extent to which milk payments are backed by the agricultural producer security program. This rule specifies the form in which the milk contractor must make the disclosures. A milk contractor must give the disclosures to a producer at all the following times:

- When the milk contractor first procures milk from the producer.
- In June of each year.

### **Custom Processing for Milk Producers; Exemption**

This rule clarifies that ch. 126, Stats., does not apply to a dairy plant operator who takes temporary custody of producer milk for the sole purpose of providing *custom processing* services to milk producers, provided that all the following apply:

- The producers retain title to the milk and to the processed dairy products made from that milk.
- The operator does not market the milk or processed dairy products, but promptly delivers the processed dairy products to the producers or their agent for consumption or marketing.
- The operator does not commingle producer-owned milk or dairy products with other milk or dairy products.
- The operator provides the custom processing services under a written contract with each producer or the producer's agent. The contract must clearly and conspicuously disclose that:
  - The producer retains title to the milk and dairy products.
  - The producer's milk shipments are not secured under ch. 126, Stats.

### **Producer Agents**

Chapter 126, Stats., regulates milk contractors who buy producer milk, or who market producer milk as producer agents. A *producer agent* is a person who markets producer milk for producers without taking title to that milk. Under ch. 126, *producer agents* may have lower security and fund participation requirements than other milk contractors. This rule clarifies that a milk contractor does not qualify as a *producer agent*, for purposes of ch. 126, Stats., unless all the following apply:

- The milk contractor procures producer milk in this state solely as the agent of the milk producers.
- The milk contractor does not take title to the producer milk, or to any dairy products made from the producer milk.
- The milk contractor markets the producer milk under a written contract with each milk producer. The contract must clearly and conspicuously disclose all the following:
  - That the milk contractor does not take title to the producer's milk, or any dairy products made from that milk.
  - That the milk contractor receives payments on behalf of the producer, and holds them in trust for the producer.
  - The terms and conditions of payment to the producer.
  - The procedure by which the milk contractor will receive payment on behalf of the producer and make payments to the producer, including any trust fund arrangement.

- The milk contractor's compensation for serving as the producer's agent, and the method by which the milk contractor will receive that compensation from the milk producer.
  - A security disclosure statement (see below).
- The milk contractor does not process, as a producer agent, more than 5 million pounds of producer milk in any month.
  - The milk contractor gives, to each recipient of producer milk marketed by the contractor, a written invoice stating that the milk is producer milk not owned by the milk contractor.
  - The milk contractor files a monthly report with DATCP. The milk contractor must file the report on or before the 25<sup>th</sup> day of the month. The report must include all the following:
    - The name and address of each person to whom the milk contractor marketed, in the preceding month, producer milk procured in this state.
    - The total pounds of producer milk that the milk contractor marketed to each person in the preceding month.
    - The milk contractor's total milk payment obligation to milk producers for producer milk that the contractor marketed in the preceding month.

### **Marketing Processed Dairy Products for Milk Producers**

This rule clarifies that ch. 126, Stats., does not apply to a person who markets only *processed dairy products* for milk producers, provided that the person does not procure, market or process any *raw producer milk*.

### **Milk Payroll Report; Clarification**

Under ch. 126, Stats., an applicant for an annual milk contractor license must report (1) the applicant's total annual payment obligation to milk producers, and (2) the largest obligation incurred at any time during the applicant's last fiscal year. The reported amounts are used to determine fund assessments and security requirements, if any. This rule clarifies that the applicant must report (1) the total amount paid for milk procured during the applicant's last fiscal year, and (2) the largest amount paid for milk procured in any single month during the last fiscal year.

### **Pay Statements to Milk Producers**

Under current rules, dairy plant operators must provide pay statements to milk producers. A pay statement identifies the producer and pay period, the amount of milk received, the grade of the milk, milk test results, the milk price and price adjustments, the gross amount due, the average gross pay per hundredweight less hauling charges, deductions from the gross amount due, and the net amount due.

This rule re-codifies, but does not change, current pay statement requirements for dairy plant operators. This rule requires all milk contractors, not just dairy plant operators, to provide pay statements to milk producers.

### **Milk Contractor Records**

Under current rules, dairy plant operators must keep certain records, including records of milk receipts and payments. This rule re-codifies, but does not change, current record keeping requirements for dairy plant operators. This rule requires all milk contractors, not just dairy plant operators, to keep records.

### **Milk Price Discrimination**

Current rules prohibit milk price discrimination by dairy plant operators. This rule does *not* extend the current rules to apply to other milk contractors. This rule updates some cross-references in the current rules, but does not change the current rules.

## **Vegetable Contractors**

### **General**

This rule requires vegetable contractors to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

### **Financial Statement; Disclosures**

Under ch. 126, Stats., a vegetable contractor must file annual financial statements with DATCP if the vegetable contractor incurs more than \$500,000 per year in contract obligations to producers. Other vegetable contractors may file *voluntary* financial statements in order to avoid paying fund assessments or to qualify for lower fund assessments. A vegetable contractor's financial ratios may affect the following:

- The vegetable contractor's eligibility to participate in the fund.
- The amount that the vegetable contractor must contribute to the fund.
- Whether or not the vegetable contractor must file security with DATCP.

Under this rule, a vegetable contractor's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:

- Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
- Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
- Any note or account that has been receivable for more than one year, unless the vegetable contractor has established an offsetting reserve for uncollectible notes and accounts receivable.

**Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

**Security Disclosures to Producers**

This rule requires vegetable contractors to make security disclosures to producers, so that producers understand the extent to which payments are backed by the agricultural security program. This rule specifies the form in which a vegetable contractor must make the disclosures. A vegetable contractor must make the disclosures, in writing, in the proposed vegetable procurement contract with each producer.

1        **SECTION 1.** Chapter ATPC 98 is repealed.

2        **SECTION 2.** Chapter ATPC 99 is repealed and recreated to read:

**CHAPTER ATPC 99  
GRAIN DEALERS AND GRAIN  
WAREHOUSE KEEPERS**

***NOTE:*** This chapter is adopted under authority of ss. 93.07(1), 126.49, 126.51 and 126.81, Stats., and interprets ch. 126, Stats. The Wisconsin department of agriculture, trade and consumer may enforce this chapter under subch. VIII of ch. 126, Stats.

**SUBCHAPTER I  
GENERAL PROVISIONS**

15        **ATPC 99.01 Definitions.** In this chapter:

*none of them needed ✓*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

- (1) "Affiliate" has the meaning given in s. 126.01(1), Stats.
- (2) "Audited financial statement" has the meaning given in s. 126.01(3), Stats.
- (3) "Balance sheet" has the meaning given in s. 126.01(4), Stats.
- (4) "Capacity" has the meaning given in s. 126.25(1), Stats.
- (5) "Contributing grain dealer" has the meaning given in s. 126.10(3), Stats.
- (6) "Contributing grain warehouse keeper" has the meaning given in s. 126.25(2),  
Stats.
- (7) "Deferred payment contract" has the meaning given in s. 126.10(6), Stats.
- (8) "Depositor" has the meaning given in s. 126.25(5), Stats.
- (9) "Fund" has the meaning given in s. 126.01(11), Stats.
- (10) "Grain" has the meaning given in s. 126.01(13), Stats.
- (11) "Grain dealer" has the meaning given in s. 126.10(9), Stats.
- (12) "Grain producer" has the meaning given in s. 126.10(10), Stats.
- (13) "Grain warehouse" has the meaning given in s. 126.25(8), Stats.
- (14) "Grain warehouse keeper" has the meaning given in s. 126.25(9), Stats.
- (15) "Producer agent" has the meaning given in s. 126.10(13), Stats.
- (16) "Procure grain" has the meaning given in s. 126.10(11), Stats.
- (17) "Procure producer grain in this state" has the meaning given in s.  
126.10(12), Stats.
- (18) "Producer grain" has the meaning given in s. 126.10(14), Stats.
- (19) "Reviewed financial statement" has the meaning given in s. 126.01(20),  
Stats.
- (20) "Warehouse receipt" has the meaning given in s. 126.25(11), Stats.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**SUBCHAPTER II  
GRAIN DEALERS**

*not needed ✓*

**ATCP 99.10 General requirements.** A grain dealer shall comply with applicable requirements in ch. 126, Stats.

*not needed*

**ATCP 99.12 Grain dealer; financial statement. (1) GENERAL.** A grain dealer's financial statement, filed under s. 126.13, Stats., shall comply with this section and s. 126.13, Stats. A grain dealer who is required to hold a license under s. 126.11, Stats., shall pay a license surcharge of \$425 if the grain dealer files a financial statement under s. 126.13(1) *that* or (2), Stats., which is not an audited financial statement.

*ok - see s. 126.51 (2) Stat. eff. 1/1/00 also Dept. of Income Taxes*

**(2) LIABILITY DISCLOSURES.** A financial statement shall include a detailed description of all notes, mortgages and other long-term liabilities not due or payable within one year. The description shall be included in the financial statement notes, or as an attachment to the financial statement. The description shall indicate the nature of the liabilities, the due dates and the payment terms.

**(3) LIABILITY CLASSIFICATION.** A financial statement shall classify, as current liabilities, notes payable that do not have specific due dates.

*filed under s. 126.13, Stats. ✓*

**(4) ASSET DISCLOSURES. (a)** A financial statement shall specifically identify and explain, in the financial statement notes or as an attachment to the financial statement, the following assets:

*filed under*

1. Every non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.

1 2. Every note or account receivable from a parent organization, a subsidiary, or  
2 an affiliate, other than an employee.

3 3. Every note or account that has been receivable for more than one year, unless  
4 the grain dealer has established an offsetting reserve for uncollectible notes and accounts  
5 receivable.

6 (b) A financial statement shall include at least one of the following:

7 1. An allowance for doubtful or uncollectible receivables. The notes to the  
8 financial statement shall describe the method used to account for doubtful or  
9 uncollectible receivables.

10 2. A summary classifying the age of all notes and accounts receivable.

11 (5) GRAIN PAYMENT INFORMATION. A grain dealer shall provide the following  
12 information in an attachment to every financial statement filed under s. 126.13(1) and (2),  
13 Stats.:

14 (a) The total amount that the grain dealer paid during the grain dealer's last  
15 completed fiscal year, and during each month of that fiscal year, for producer grain  
16 procured in this state.

17 (b) The total amount that the grain dealer paid during the grain dealer's last  
18 completed fiscal year, and during each month of that fiscal year, for producer grain  
19 procured in this state using deferred payment contracts.

20 (6) DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS. (a) Solely for the purpose  
21 of calculating the debt to equity ratio under s. 126.13(6)(c)2., Stats., a grain dealer may  
22 deduct liabilities identified in par. (b) from liabilities reported in the grain dealer's  
23 financial statement if all the following apply:

~~CF ATP 100. 12(5)  
not same wording?  
14~~  
but see 126.81(3)

OK  
Ron - Does ATP  
has authority to allow  
these deductions?  
the stats. are  
very specific

1           1. The individual liability adjustments and offsetting assets are disclosed in the  
2 financial statement notes or in an attachment to the financial statement.

3           2. No individual liability adjustment exceeds the corresponding asset, identified  
4 in a note or attachment to the financial statement, that justifies that liability adjustment.

5           3. Liability adjustments and offsetting assets are determined as of the date of the  
6 balance sheet.

7           (b) A grain dealer may deduct the following liabilities under par. (a):

8           1. An amount that the grain dealer has borrowed from a lending institution and  
9 deposited with a commodities broker to maintain an account to hedge grain transactions.

10          The amount deducted may not exceed the amount owed to the lending institution or the  
11 amount deposited in the hedge account with the commodities broker, whichever is less.

12          2. An amount that the grain dealer has borrowed from a lending institution to buy  
13 grain that the grain dealer has sold and shipped, provided that the grain dealer has a  
14 collectible account receivable for that grain on the date of the balance sheet. The amount  
15 of the deduction may not exceed the amount receivable by the grain dealer or the amount  
16 owed to the lending institution, whichever is less.

17          3. An amount, borrowed from a lending institution, that is secured by grain that  
18 the grain dealer owns, holds in inventory on the balance sheet date, and shows as  
19 inventory on the balance sheet. The amount deducted may not exceed the amount owed  
20 to the lending institution or the value of the grain dealer's grain given as security and held  
21 in inventory, whichever is less.

22          4. An amount, borrowed from a lending institution, that the grain dealer has used  
23 to pay for fertilizer, pesticides, herbicides or seed that the grain dealer owns, holds in

1 inventory in inventory on the balance sheet date, and shows as inventory on the balance  
2 sheet. The amount deducted may not exceed the amount owed to the lending institution  
3 or the cost of the fertilizer, pesticides, herbicides and seed purchased with the borrowed  
4 funds, whichever is less.

5 (7) ATTACHMENTS. If information required under this section is contained in an  
6 attachment to a reviewed or audited financial statement, the following requirements  
7 apply:

8 (a) The attachment shall be on the letterhead of the certified public accountant  
9 who reviewed or audited the financial statement.

10 (b) The certified public accountant who reviewed or audited the financial  
11 statement shall certify, in the attachment, whether the certified public accountant has  
12 reviewed or audited the attachment.

13 **ATCP 99.14 Grain dealer; disclosure to producers. (1) DISCLOSURE**  
14 **REQUIRED.** A grain dealer shall make a disclosure under sub. (2) to every grain producer  
15 and producer agent from whom the grain dealer procures producer grain in this state. The  
16 grain dealer shall make the disclosure, in the form prescribed under sub. (2), in a written  
17 document given to the producer or producer agent. The disclosure shall be clear and  
18 conspicuous, and shall be set apart from every other writing. The grain dealer shall make  
19 the disclosure to a producer or producer agent at the all the following times:

20 (a) The first time the grain dealer procures producer grain from that producer or  
21 producer agent.

22 (b) The first time the grain dealer procures producer grain from that producer or  
23 producer agent during each license year.

1 (c) The first time the grain dealer procures producer grain from that producer or  
2 producer agent following a change in circumstances that requires a different disclosure  
3 statement under sub. (2).

4 (2) FORM OF DISCLOSURE. A disclosure under sub. (1) shall consist of one of the  
5 following verbatim statements, as applicable:

6 (a) The following statement if the grain dealer is a contributing grain dealer who  
7 is not required to file security under s. 126.16(1), Stats.:

8 **IMPORTANT NOTICE**

9 ***[Name of grain dealer]* contributes to Wisconsin's Agricultural Producer**  
10 **Security Fund. This fund helps ensure that grain producers will be paid for**  
11 **the grain they ship to contributing grain dealers. If a contributing grain**  
12 **dealer fails to pay a producer or producer agent, the fund may pay up to**  
13 **80% of the first \$60,000 of the producer's unpaid claim, and up to 75% of**  
14 **any additional unpaid claim.**

15  
16 (b) The following statement if the grain dealer is a contributing grain dealer and is  
17 required to file security under s. 126.16(1)(b), Stats., but is not required to file security  
18 under 126.16(1)(a), Stats:

19 **IMPORTANT NOTICE**

20 ***[Name of grain dealer]* contributes to Wisconsin's Agricultural Producer**  
21 **Security Fund. This fund helps ensure that grain producers will be paid for**  
22 **the grain they ship to contributing grain dealers. If a contributing grain**  
23 **dealer fails to pay a producer or producer agent, the fund may pay up to**  
24 **80% of the first \$60,000 of the producer's unpaid claim, and up to 75% of**  
25 **any additional unpaid claim. We have also filed security with the State of**  
26 **Wisconsin to help secure grain payments to producers. The security is at**  
27 **least equal to the highest total unpaid obligations that we have had, at any**  
28 **time during the past 12 months, under deferred payment contracts. The**  
29 **security is in the following form(s): *[Specify forms of security]*.**

30  
31 (c) The following statement if the grain dealer is not a contributing grain dealer  
32 and is required to file security under s. 126.16(1)(a), Stats.:

1 **IMPORTANT NOTICE**

2 *[Name of grain dealer]* does not contribute to Wisconsin's Agricultural  
3 **Producer Security Fund. We have filed security with the State of Wisconsin**  
4 **to cover part, but not all, of our grain payment obligations to grain**  
5 **producers and producer agents. The security is at least equal to the sum of**  
6 **the following:**

- 7
- 8 • **35% or our average monthly payments for the 3 months during the past**  
9 **12 months in which we had the largest monthly payments for producer**  
10 **grain.**
- 11 • **Our highest total unpaid obligations, at any time during the past 12**  
12 **months, under deferred payment contracts.**

13  
14 **The security is in the following form(s): [specify form(s) of security].** Ital. 5 ✓

15  
16  
17 **SUBCHAPTER III**  
18 **GRAIN WAREHOUSE KEEPERS**

19  
20 **ATCP 99.20 General requirements.** A grain warehouse keeper shall comply  
21 with applicable requirements in ch. 126, Stats. 2

22 **ATCP 99.22 Grain warehouse keeper licensing. (1) GRAIN WAREHOUSE**  
23 **CAPACITY.** (a) The capacity of a grain warehouse, for purposes of ch. 126, Stats., is the  
24 sum of the capacities of the grain bins comprising that grain warehouse. To calculate the  
25 capacity of each grain bin, divide the number of cubic feet in that bin by 1.244 cubic feet  
26 per bushel and then multiply the result by the appropriate pack factor under par. (b). If  
27 not all walls of the grain bin are vertical, calculate the capacity of each vertical foot of the  
28 bin and add those capacities to obtain the total capacity of the bin.

29 (b) The pack factor under par. (a) is shown in the following table, based on the  
30 shape of the grain bin as viewed from above and the bushels per foot calculated  
31 according to par. (c). If not all walls of the grain bin are vertical, determine the pack

- 1 factor for each vertical foot of the grain bin based on the bushels per foot for that vertical
- 2 foot and the horizontal cross-sectional shape of the grain bin at that level.

Square or Rectangular Bin		Round or Oval Shaped Bin	
Bushels per Foot	Pack Factor	Bushels per Foot	Pack Factor
0 to 24.0	1.020	0 to 15.0	1.040
> 24.0 to 34.0	1.025	> 15.0 to 30.0	1.042
> 34.0 to 41.0	1.030	> 30.0 to 45.0	1.045
> 41.0 to 45.0	1.035	> 45.0 to 75.0	1.048
> 45.0 to 48.0	1.040	> 75.0 to 103.5	1.050
> 48.0 to 50.0	1.042	>103.5 to 123.5	1.052
> 50.0 to 55.0	1.045	>123.5 to 157.5	1.055
> 55.0 to 62.0	1.048	>157.5 to 189.0	1.058
> 62.0 to 67.0	1.050	>189.0 to 211.5	1.060
> 67.0 to 73.0	1.052	>211.5 to 228.0	1.062
> 73.0 to 83.0	1.055	>228.0 to 252.5	1.065
> 83.0 to 94.0	1.058	>252.5 to 278.5	1.068
> 94.0 to 105.0	1.060	>278.5 to 289.0	1.070
>105.0 to 120.0	1.062	>289.0 to 317.0	1.072
>120.0 to 139.0	1.065	>317.0 to 351.5	1.075
>139.0 to 157.0	1.068	>351.5 to 382.0	1.078
>157.0 to 289.0	1.070	>382.0 to 410.5	1.080
>289.0 to 317.0	1.072	>410.5 to 453.5	1.082
>317.0 to 351.5	1.075	>453.5 to 505.5	1.085
>351.5 to 382.0	1.078	>505.5 to 547.5	1.088
>382.0 to 410.5	1.080	>547.5 to 587.5	1.090
>410.5 to 453.5	1.082	>587.5 to 638.5	1.092
>453.5 to 505.5	1.085	>638.5 to 700.0	1.095
>505.5 to 547.5	1.088	>700.0 to 751.5	1.098
>547.5 to 587.5	1.090	>751.5	1.100
>587.5 to 638.5	1.092		
>638.5 to 700.0	1.095		
>700.0 to 751.5	1.098		
>751.5	1.100		

- 3
- 4 (c) To calculate bushels per foot, for purposes of par. (b), divide the number of
- 5 square feet in the floor of the grain bin by 1.244 cubic feet per bushel. If not all walls of
- 6 the grain bin are vertical, calculate bushels per foot for each vertical foot of the grain bin
- 7 based on the number of square feet in a horizontal cross-section of the grain bin at that
- 8 level.

1           (2) SWORN AND NOTARIZED STATEMENT. An applicant for a grain warehouse  
2 keeper license under ch. 126, Stats., shall include, with the license application, a sworn  
3 and notarized statement stating that the information provided on the application is  
4 complete and accurate.

5           **ATCP 99.24 Grain warehouse keeper; financial statement. (1) GENERAL.** A  
6 grain warehouse keeper's financial statement, filed under s. 126.28, Stats., shall comply  
7 with this section and s. 126.28, Stats.

8           (2) LIABILITY DISCLOSURES. A financial statement shall include a detailed  
9 description of all notes, mortgages and other long-term liabilities not due or payable  
10 within one year. The description shall be included in the financial statement notes, or as  
11 an attachment to the financial statement. The description shall indicate the nature of the  
12 liabilities, the due dates and the payment terms.

13           (3) LIABILITY CLASSIFICATION. A financial statement shall classify, as current  
14 liabilities, notes payable that do not have specific due dates.

15           (4) ASSET DISCLOSURES. (a) A financial statement shall specifically identify and  
16 explain, in the financial statement notes or as an attachment to the financial statement, the  
17 following assets:

18           1. Every non-trade note or account receivable from an officer, director,  
19 employee, partner, or stockholder, or from a member of the family of any of those  
20 individuals.

21           2. Every note or account receivable from a parent organization, a subsidiary, or  
22 an affiliate, other than an employee.



1           3. Every note or account that has been receivable for more than one year, unless  
2 the grain warehouse keeper has established an offsetting reserve for uncollectible notes  
3 and accounts receivable.

4           (b) A financial statement shall include at least one of the following:

5           1. An allowance for doubtful or uncollectible receivables. The notes to the  
6 financial statement shall describe the method used to account for doubtful or  
7 uncollectible receivables.

8           2. A summary classifying the age of all notes and accounts receivable.

9           (5) ADDITIONAL INFORMATION. A financial statement shall separately and clearly  
10 disclose, in the financial statement notes or as an attachment to the financial statement, all  
11 of the following information for each kind of grain as of the date of the balance sheet:

12           (a) The total number of bushels of grain in the warehouse keeper's warehouse.

13           (b) The total number of bushels of grain forwarded to another warehouse keeper,  
14 for which the warehouse keeper filing the financial statement holds a warehouse receipt.

15           (c) The combined total bushels of grain under pars. (a) and (b).

16           (d) The total number of bushels of grain <sup>that</sup> which the warehouse keeper is obligated  
17 to store for depositors who hold original negotiable warehouse receipts issued by the  
18 warehouse keeper.

19           (e) The total number of bushels of grain <sup>that</sup> which the warehouse keeper is obligated  
20 to store for depositors who hold original nonnegotiable warehouse receipts issued by the  
21 warehouse keeper.

5

1 (f) The total number of bushels of grain <sup>that</sup> which the warehouse keeper is obligated  
2 to store for depositors who hold scale tickets or other types of receipts, except for  
3 negotiable and nonnegotiable warehouse receipts, issued by the warehouse keeper.

4 (g) The combined total bushels of grain, under pars. (d) to (f), <sup>that</sup> which the  
5 warehouse keeper is obligated to store for depositors.

6 (h) The total number of bushels of grain to which the warehouse keeper claims  
7 title.

8 (i) The total number of bushels of grain for which the warehouse keeper has  
9 issued outstanding negotiable warehouse receipts that are held as collateral by creditors.

10 (j) The warehouse keeper's net grain position for each type of grain (see infra.)  
11 (6) DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS. (a) Solely for the purpose

12 of calculating the debt to equity ratio under s. 126.28(6)(c)2., Stats., a grain warehouse  
13 keeper may deduct liabilities identified under par. (b) from liabilities reported in the grain  
14 warehouse keeper's financial statement if all the following apply:

15 1. The individual liability adjustments and offsetting assets are disclosed in the  
16 financial statement notes or in an attachment to the financial statement.

17 2. No individual liability adjustment exceeds the corresponding asset, identified  
18 in a note or attachment to the financial statement, that justifies the liability adjustment.

19 3. Liability adjustments and offsetting assets are determined as of the date of the  
20 balance sheet.

21 (b) A grain warehouse keeper may deduct the following amounts under par. (a):

22 1. An amount that the grain warehouse keeper has borrowed from a lending  
23 institution and deposited with a commodities broker to maintain an account to hedge

✓  
(see infra.)  
5  
ditto  
re.  
authority

1 grain transactions. The amount deducted may not exceed the amount owed to the lending  
2 institution or the amount deposited in the hedge account with the commodities broker,  
3 whichever is less.

4 2. An amount that the grain warehouse keeper has borrowed from a lending  
5 institution to buy grain that the warehouse keeper has sold and shipped, provided that the  
6 grain warehouse keeper has a collectible account receivable for that grain on the date of  
7 the balance sheet. The amount of the deduction may not exceed the amount receivable by  
8 the grain warehouse keeper or the amount owed to the lending institution, whichever is  
9 less.

10 3. An amount, borrowed from a lending institution, that is secured by grain that  
11 the grain warehouse keeper owns, holds in inventory on the date of the balance sheet, and  
12 shows as inventory on the balance sheet. The amount deducted may not exceed the  
13 amount owed to the lending institution or the value of the warehouse keeper's grain given  
14 as security and held in inventory, whichever is less.

15 4. An amount, borrowed from a lending institution, that the grain warehouse  
16 keeper has used to pay for fertilizer, pesticides, herbicides or seed that the grain  
17 warehouse keeper owns, holds in inventory on the date of the balance sheet, and shows as  
18 inventory on the balance sheet. The amount deducted may not exceed the amount owed  
19 to the lending institution or the cost of the fertilizer, pesticides, herbicides and seed  
20 purchased with the borrowed funds, whichever is less.

21 (7) ATTACHMENTS. If information required under this section is provided in an  
22 attachment to a reviewed or audited financial statement, the following requirements  
23 apply:

1 (a) The attachment shall be prepared on the letterhead of the certified public  
2 accountant who reviewed or audited the financial statement.

3 (b) The certified public accountant who reviewed or audited the financial  
4 statement shall certify, in the attachment, whether the certified public accountant has  
5 reviewed or audited the attachment.

6 **ATCP 99.26 Grain warehouse keeper; disclosure to depositors. (1)**

7 DISCLOSURE REQUIRED. A grain warehouse keeper shall make a disclosure under sub. (2)  
8 to every grain producer or producer agent who is a depositor for whom the grain  
9 warehouse keeper stores grain in this state. The grain warehouse keeper shall make the  
10 disclosure, in the form prescribed under sub. (2), in a written document given to the  
11 depositor. The disclosure shall be clear and conspicuous, and shall be set apart from  
12 every other writing. The grain warehouse keeper shall make the disclosure at all of the  
13 following times:

14 (a) The first time the grain warehouse keeper accepts a grain deposit from that  
15 depositor.

16 (b) The first time the grain warehouse keeper accepts a grain deposit from that  
17 depositor in each license year.

18 (c) The first time the grain warehouse keeper accepts a grain deposit from that  
19 depositor following a change in circumstances that requires a different disclosure  
20 statement under sub. (2).

21 (2) FORM OF DISCLOSURE. A disclosure under sub. (1) shall consist of one of the  
22 following verbatim statements, as applicable:

1 (a) The following statement if the grain warehouse keeper is a contributing grain  
2 warehouse keeper who is not required to file security under s. 126.31(1), Stats:

3 **IMPORTANT NOTICE**

4 *[Name of grain warehouse keeper]* contributes to Wisconsin's Agricultural  
5 **Producer Security Fund. This fund helps secure producer grain stored in**  
6 **warehouses operated by contributing grain warehouse keepers. If a**  
7 **contributing grain warehouse keeper fails to return producer grain on**  
8 **demand, the fund may reimburse the producer (or producer agent) for up to**  
9 **\$100,000 worth of grain.**

10  
11 (b) The following statement if the grain warehouse keeper is not a contributing  
12 grain warehouse keeper and is required to file security under s. 126.31(1), Stats.:

13 **IMPORTANT NOTICE**

14 *[Name of grain warehouse keeper]* does not contribute to Wisconsin's  
15 **Agricultural Producer Security Fund. We have filed security with the State**  
16 **of Wisconsin to cover part, but not all, of our grain storage obligations. The**  
17 **security is at least equal to 20% of the current local market value of grain**  
18 **stored in our Wisconsin warehouse(s). The security is in the following**  
19 **form(s): [specify forms of security].** *ital* (5)

20  
21  
22 **SECTION 3.** Chapter ATCP 100(title) is repealed and recreated to read:

23 **CHAPTER ATCP 100**  
24 **MILK CONTRACTORS**

25  
26 **SECTION 4.** Chapter ATCP 100(note) is repealed.

27  
28 **SECTION 5.** Chapter ATCP 100 subchapters I to III are repealed and recreated to  
29 read:

30  
31 **SUBCHAPTER I**  
32 **GENERAL PROVISIONS**

33  
34 **ATCP 100.01 Definitions.** In this chapter:

35 (1) "Aged cheese" means cheese for which the standard of identity under 21 CFR  
36 133 requires aging for at least 4 months.

raw needed

1 (2) "Audited financial statement" has the meaning given in s. 126.01(3), Stats.

2 (3) "Contributing milk contractor" has the meaning given in s. 126.40(1), Stats.

3 (4) "Dairy plant operator" has the meaning given in s. 126.40(5), Stats., except as  
4 provided in s. ATCP 100.98(4). *- This is OK, but could use a different term in subch. VI to avoid confusion*

5 (5) "Milk contractor" has the meaning given in s. 126.40(8), Stats.

6 (6) "Milk producer" has the meaning given in s. 126.40(10), Stats.

7 (7) "Procure producer milk in this state" has the meaning given in s. 126.40(12),  
8 Stats.

9 (8) "Producer agent" has the meaning given in s. 126.40(13), Stats.

10 (9) "Producer milk" has the meaning given in s. 126.40(14), Stats. "Producer  
11 milk" includes producer-owned dairy products that a producer agent manufactures from  
12 raw producer milk.

13 (10) "Reviewed financial statement" has the meaning given in s. 126.01(20),

14 Stats.

15  
16 **SUBCHAPTER II**  
17 **FINANCIAL STANDARDS AND SECURITY**

18  
19 **NOTE:** This subchapter is adopted under authority of ss. 93.07(1),  
20 126.49, 126.51 and 126.81, Stats., and interprets ch. 126, Stats.  
21 The Wisconsin department of agriculture, trade and consumer may  
22 enforce this subchapter under subch. VIII of ch. 126, Stats.  
23

24  
25 **ATCP 100.10 Financial standards and security; general.** A milk contractor  
26 shall comply with applicable requirements under ch. 126, Stats.

921 subch

Similar notes  
in ch.  
ATCP 99?

1 **ATCP 100.12 Financial statement. (1) GENERAL.** A milk contractor's

2 financial statement, filed under s. 126.44, Stats., shall comply with this section and s.

3 126.44, Stats.

4 (2) LIABILITY DISCLOSURES. A financial statement shall include a detailed  
5 description of all notes, mortgages and other long-term liabilities not due or payable  
6 within one year. The description shall be included in the financial statement notes or as  
7 an attachment to the financial statement. The description shall indicate the nature of the  
8 liabilities, the due dates, and the payment terms.

9 (3) LIABILITY CLASSIFICATION. A financial statement shall classify, as current  
10 liabilities, notes payable that do not have a specific due date.

11 (4) ASSET DISCLOSURES. (a) A financial statement shall specifically identify and  
12 explain, either in the financial statement notes or as an attachment to the financial  
13 statement, the following assets:

14 1. Every non-trade note or account receivable from an officer, director,  
15 employee, partner, or stockholder, or from a member of the family of any of those  
16 individuals.

17 2. Every note or account receivable from a parent organization, a subsidiary, or  
18 an affiliate, other than an employee.

19 3. Every note or account that has been receivable for more than one year, unless  
20 the milk contractor has established an offsetting reserve for uncollectible notes and  
21 accounts receivable.

22 (b) A financial statement shall include at least one of the following:

*in the debt-to-equity ratio used for any other purpose?*

1           1. An allowance for doubtful or uncollectible receivables. The notes to the  
2 financial statement shall describe the method used to account for doubtful or  
3 uncollectible receivables.

4           2. A summary classifying the age of all notes and accounts receivable.

5           **(5) DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS.** Solely for the purpose of  
6 calculating a milk contractor's fund assessment under s. 126.46, Stats., a milk contractor  
7 may adjust the milk contractor's debt to equity ratio under s. 126.44(8)(c)2., Stats., by  
8 deducting, from liabilities reported in the milk contractor's financial statement, an  
9 amount borrowed from a financial institution in order to hold aged cheese in inventory  
10 for the aging period required for that cheese under 21 CFR 133. A milk contractor may  
11 not make this adjustment unless all the following apply:

12           (a) The milk contractor holds the aged cheese in inventory on the date of the  
13 balance sheet.

14           (b) The lending institution holds a security interest in the aged cheese, to secure  
15 repayment of the amount borrowed.

16           (c) The amount of the liability deduction does not exceed the amount owed to the  
17 lending institution on the date of the balance sheet, or the value of the aged cheese on the  
18 date of the balance sheet, whichever is less.

19           (d) The liability deduction and offsetting cheese inventory asset are identified in  
20 the financial statement notes or as an attachment to the financial statement.

21           (e) The amount of aged cheese in the milk contractor's inventory, expressed as a  
22 percentage of the milk contractor's total cheese inventory, does not exceed the highest  
23 percentage that existed during the preceding license year.



*is the debt-to-equity ratio used for any other purpose under ch 126? If so, this belongs in*

1 **NOTE:** The liability adjustment under this section does not apply to the milk  
2 contractor's debt to equity ratio when used for any purpose under ch. 126,  
3 Stats., other than the calculation of fund assessments under s. 126.46,  
4 Stats.  
5

6 **(6) ATTACHMENTS.** If information required under this section is provided in an  
7 attachment to a reviewed or audited financial statement, the following requirements  
8 apply:

9 (a) The attachment shall be prepared on the letterhead of the certified public  
10 accountant who reviewed or audited the financial statement.

11 (b) The certified public accountant who reviewed or audited the financial  
12 statement shall certify, in the attachment, whether the certified public accountant has  
13 reviewed or audited the attachment.

14 **ATCP 100.14 Custom processing services to milk producers.** Chapter 126,  
15 Stats., does not apply to a dairy plant operator who takes temporary custody of producer  
16 milk solely to process it for the milk producer, provided that all the following apply:

17 (1) The producer retains title to all of the milk and all of the processed dairy  
18 products made from that milk.

19 (2) The operator does not market the milk or processed dairy products, but  
20 promptly returns the processed dairy products to the producer or the producer's agent for  
21 consumption or marketing.

22 (3) The operator does not commingle producer-owned milk or dairy products  
23 with other milk or dairy products.

24 (4) The operator provides the processing services under a written contract with  
25 the producer or the producer's agent. The contract shall clearly and conspicuously  
26 disclose all the following:

1 (c) The total dollar value of producer milk that the milk contractor marketed to  
2 each person under par. (a) in the preceding month.

3 (d) The milk contractor's total gross payments to milk producers for producer  
4 milk that the contractor marketed under par. (a) in the preceding month.

5 **ATCP 100.18 Marketing processed dairy products for milk producers.**

6 Chapter 126, Stats., does not apply to a person who markets only processed dairy  
7 products for milk producers, provided that the person does not procure, market or process  
8 raw producer milk.

9 **ATCP 100.20 Disclosures to milk producers. (1) DISCLOSURE REQUIRED.** A

10 milk contractor shall make a disclosure under sub. (2) to every milk producer and  
11 producer agent from whom the milk contractor procures producer milk in this state. The  
12 milk contractor shall make the disclosure, in the form prescribed under sub. (2), in a  
13 written document given to the producer or producer agent. The disclosure shall be clear  
14 and conspicuous, and shall be set apart from every other writing. The milk contractor  
15 shall make the disclosure to the producer or producer agent at all of the following times:

16 (a) When the milk contractor first procures producer milk from that producer or  
17 producer agent.

18 (b) In June of each year in which the milk contractor procures milk from that  
19 producer or producer agent.

20 (2) FORM OF DISCLOSURE. A disclosure under sub. (1) shall consist of one of the  
21 following verbatim statements, as applicable:

② (c) ?

1 (a) The following statement if the milk contractor is required to pay fund  
2 assessments under s. 126.45, Stats., and is not a producer agent who is also required to  
3 file security under s. 126.47(3)(c), Stats.:

4 **IMPORTANT NOTICE**

5 ***[Name of milk contractor]*** contributes to Wisconsin's Agricultural Producer  
6 **Security Fund. This fund helps ensure that milk producers and producer**  
7 **agents will be paid for the milk they ship to contributing contractors. If a**  
8 **contributing contractor fails to pay a producer or producer agent, the fund**  
9 **may pay up to 80% of the first \$60,000 of the producer's unpaid milk**  
10 **payment claim, and up to 75% of any additional unpaid milk payroll claim.**

11  
12 (b) The following statement if the milk contractor is not required to pay fund  
13 assessments, but has voluntarily chosen to do so:

14 **IMPORTANT NOTICE**

15 ***[Name of milk contractor]*** contributes to Wisconsin's Agricultural Producer  
16 **Security Fund. This fund helps ensure that milk producers and producer**  
17 **agents will be paid for the milk they ship to contributing contractors. If a**  
18 **contributing contractor fails to pay a producer or producer agent, the fund**  
19 **may pay up to 80% of the first \$60,000 of the producer's unpaid milk**  
20 **payment claim, and up to 75% of any additional unpaid milk payroll claim.**  
21 **We are not required to contribute to this fund because our financial**  
22 **statement shows positive equity, a current ratio of at least 1.25 to 1.0, and a**  
23 **debt-to-equity ratio of no more than 2.0 to 1.0, but we have elected to join the**  
24 **fund as a voluntary contributor.**

25  
26 (c) The following statement if the milk contractor files security under s. 126.47,  
27 Stats., but is not a producer agent filing security under s. 126.47(3)(b) or (c), Stats.:

28 **IMPORTANT NOTICE**

29 ***[Name of milk contractor]*** does not participate in Wisconsin's Agricultural  
30 **Producer Security Fund. We have filed security with the State of Wisconsin**  
31 **to cover part, but not all, of our milk payment obligations to milk producers**  
32 **and producer agents. The security equals at least 75% of the largest amount**  
33 **that we owed producers and producer agents at any time during our last**  
34 **completed fiscal year. The security is in the following form(s): *[specify forms***  
35 ***of security]*.**

1 (d) The following statement if the milk contractor is not a contributing milk  
2 contractor, and has not filed security, but has filed financial statements that meet the  
3 standards under s. 126.45(1)(b), Stats.:

4 **IMPORTANT NOTICE**

5 ***[Name of milk contractor]* does not participate in Wisconsin's Agricultural**  
6 **Producer Security Fund, and has not filed security with the State of**  
7 **Wisconsin to secure payments to milk producers and producer agents. Our**  
8 **financial statement shows positive equity, a current ratio of at least 1.25 to**  
9 **1.0, and a debt-to-equity ratio of no more than 2.0 to 1.0.**

10  
11 (e) One of the following statements if the milk contractor is a producer agent who  
12 is required to file security under s. 126.47, Stats., and does not contribute to the fund:

13 1. The following statement if the milk contractor makes the disclosure before  
14 May 1, 2003:

15 **IMPORTANT NOTICE**

16 ***[Name of milk contractor]* does not participate in Wisconsin's Agricultural**  
17 **Producer Security Fund. We have filed security with the State of Wisconsin**  
18 **to cover part, but not all, of our milk payment obligations to milk producers.**  
19 **The security equals 15% of the largest amount that we owed to producers at**  
20 **any time during our last completed fiscal year. The security is in the**  
21 **following form(s): *[specify forms of security]*.**

22  
23 2. The following statement if the milk contractor makes the disclosure on or after  
24 May 1, 2003 but before May 1, 2004:

25 **IMPORTANT NOTICE**

26 ***[Name of milk contractor]* does not participate in Wisconsin's Agricultural**  
27 **Producer Security Fund. We have filed security with the State of Wisconsin**  
28 **to cover part, but not all, of our milk payment obligations to milk producers.**  
29 **The security equals 30% of the largest amount that we owed to producers at**  
30 **any time during our last completed fiscal year. The security is in the**  
31 **following form(s): *[specify forms of security]*.**  
32





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**SUBCHAPTER III  
MILK CONTRACTOR PAYMENTS  
TO PRODUCERS; RECORDS**

*more specific*

**NOTE:** This subchapter is adopted under authority of ss. 93.07(1), 97.20(4), 126.49, 126.51 and 126.81, Stats., and interprets ss. 93.15 and 97.20, Stats., and ch. 126, Stats. The Wisconsin department of agriculture, trade and consumer protection may enforce this subchapter under ss. 93.06(7) and (8), Stats., s. 93.21(4), Stats., and subch. VIII of ch. 126, Stats., as appropriate.

**ATCP 100.30 Pay statements to milk producers.** On each producer pay date under s. 126.48(1) or (2), Stats., a milk contractor shall provide each milk producer with a written pay statement that includes all the following:

(1) **MILK CONTRACTOR IDENTIFICATION.** A pay statement shall include the name and address of the milk contractor.

(2) **PRODUCER IDENTIFICATION.** A pay statement shall include the producer's name and identification number.

(3) **PAY PERIOD.** A pay statement shall specify the milk delivery dates for which payment is being made.

(4) **MILK VOLUME.** A pay statement shall specify the total weight of milk, in hundredweights, which the milk contractor received from the milk producer on the dates specified in sub. (3).

(5) **GRADE OF MILK.** A pay statement shall specify the grade of milk that the milk contractor received from the milk producer on the dates specified in sub. (3).

(6) **MILK TEST RESULTS.** If the price paid to the milk producer is affected by test results related to milk components, milk quality or other variables, the pay statement

*ATCP 100.32 (1) (p. 42)*

*2*

*d.H.*



1       **NOTE:** Federal milk marketing orders specify, for each pay period, minimum  
2           producer price differentials for grade A milk covered by those orders.

3  
4       2. The pounds of butterfat contained in the milk received from the producer on  
5 the dates specified in sub. (3), multiplied by the applicable butterfat price per pound.

6       **NOTE:** Federal milk marketing orders specify, for each pay period, minimum  
7           butterfat prices for grade A milk covered by those orders.

8  
9       3. The pounds of protein contained in the milk received from the producer on the  
10 dates specified in sub. (3), multiplied by the applicable protein price per pound.

11       **NOTE:** Federal milk marketing orders specify, for each pay period, minimum  
12           protein prices for grade A milk covered by those orders.

13  
14       4. The pounds of other solids contained in the milk received from the producer on  
15 the dates specified in sub. (3), multiplied by the applicable price per pound for other  
16 solids.

17       **NOTE:** Federal milk marketing orders specify, for each pay period, minimum  
18           "other solids" prices for grade A milk covered by those orders.

19  
20       5. For each applicable price adjustment based on milk grade or quality, the milk  
21 volume in hundredweights under sub. (4) multiplied by the price adjustment per  
22 hundredweight. The pay statement shall identify the basis for each price adjustment  
23 under this subdivision.

24       **NOTE:** This includes price adjustments for bacteria count, somatic cell count, or  
25           other measures of grade or quality. Federal milk marketing orders specify,  
26           for each pay period, minimum somatic cell adjustments for grade A milk  
27           covered by those orders.

28  
29       6. For each applicable price adjustment based on volume or other factors, the  
30 milk volume in hundredweights under sub. (4) multiplied by the price adjustment per  
31 hundredweight. The pay statement shall identify the basis for each price adjustment  
32 under this paragraph.



1           7. The producer's average gross pay per hundredweight of milk, calculated as the  
2 sum of the value used under subs. 1. to 6., divided by the milk volume in  
3 hundredweights under sub (4).

4           (8) GROSS AMOUNT DUE. A pay statement shall specify the gross amount due the  
5 producer for milk delivered on the dates specified under sub. (3), prior to any deductions  
6 under sub. (11).

7           (9) AVERAGE GROSS PAY PER HUNDREDWEIGHT LESS HAULING CHARGES. A pay  
8 statement shall specify the producer's average gross pay per hundredweight less hauling  
9 charges. This consists of the gross amount due under sub. (8) less total hauling expenses  
10 charged to the producer for the pay period under sub. (11)(a), divided by the milk volume  
11 in hundredweights under sub. (4).

12           (10) NET AMOUNT DUE. A pay statement shall specify the net amount due the  
13 producer for the milk delivered on the dates specified in sub. (3). This consists of the  
14 total amount due under sub. (8) less all deductions under sub. (11).

15           (11) DEDUCTIONS. A pay statement shall specify the nature and amount of every  
16 deduction from the gross amount due the producer under sub. (8), including deductions  
17 for any of the following that apply:

- 18           (a) Milk hauling expenses charged to the producer.
- 19           (b) Deductions related to drug residue violations.
- 20           (c) Dairy products that the producer buys from the milk contractor.
- 21           (d) Supplies that the milk contractor provides to the milk producer.
- 22           (e) Wisconsin milk marketing board deductions.
- 23           (f) National dairy promotion deductions.

1 (g) Commodity credit corporation deductions.

2 (h) Insurance deductions.

3 (i) Cooperative fees or capital retained.

4 (j) Creditor assignments.

5 (k) Other deductions.

6 **ATCP 100.32 Pay records. (1) RECORDS REQUIRED.** A milk contractor shall  
7 keep accurate records and accounts of milk receipts, payments for milk received, and  
8 amounts owed to milk producers. Records shall include all the following:

9 (a) A copy of every contract between the milk contractor and a milk producer.

10 (b) A record of all milk receipts from producers, showing the amount received  
11 from each producer and the date of each receipt.

12 (c) A record of every milk producer pay statement under s. ATCP 100.30.

13 (d) Records showing the nature and amount of any non-price consideration that  
14 the milk contractor furnishes to a producer in return for the producer's sale or  
15 consignment of milk to the milk contractor, but which is not reflected in the producer's  
16 pay statement under s. ATCP 100.30. In this subsection, "non-price consideration" has  
17 the meaning given in s. ATCP 100.98(6).

18 (e) The result of every test on a producer milk delivery, including any test related  
19 to milk components or milk quality. Records shall specify the delivery to which each test  
20 pertains.

21 (f) A payroll summary showing, for each payroll period, the amount of milk  
22 received from producers, the gross amounts owed to producers for milk received, the

1 amount and disposition of any payroll deductions, the net amounts owed to producers  
2 after deductions, and the amounts paid to producers.

3 (g) Other computer records, worksheets and accounting records showing how the  
4 milk contractor computed payment obligations to milk producers.

5 (h) Records showing the milk contractor's use and disposition of milk and dairy  
6 products received by the milk contractor. Records shall enable the milk contractor to do  
7 all the following:

8 1. Account for the sale, use or disposition of all milk and dairy products received  
9 by the milk contractor.

10 2. Account for the source of all milk and dairy products sold, marketed or  
11 otherwise disposed of by the milk contractor.

12 (2) FALSE RECORDS. (a) No milk contractor may falsify any record or account,  
13 or conspire with any other person to falsify a record or account.

14 (b) No milk contractor may provide any milk producer with any statement or  
15 accounting which is false or misleading, or which contains any false or misleading  
16 computation or arrangement of figures.

17 (3) RECORDS RETENTION AND INSPECTION. A milk contractor shall retain the  
18 records required under this section for at least 3 years, and shall make the records  
19 available to the department for inspection and copying upon request.

20 SECTION 6. Chapter 100 subchapters IV and V are repealed.

21 SECTION 7. Chapter 100 subchapter VI (title) is renumbered subchapter IV (title).

22 SECTION 8. Chapter 100 subchapter IV (note) is created to read:

23 NOTE: This subchapter is adopted under authority of <sup>ss.</sup> § 93.07(1), 97.20(4), and  
24 100.20(2), Stats., and interprets ss. 93.15, 97.20, 100.20 and 100.22, Stats.

1 Violations are subject to the sanctions provided in ss. 93.21(4), 97.72,  
2 97.73, 100.20, 100.22(4) and (5), 100.24, and 100.26(3), (5) and (6), Stats.  
3 Violations of this subchapter may also result in license sanctions under ss.  
4 93.06(7) and (8) and 97.20, Stats.

5  
6 **SECTION 9.** ATCP 100.98(4) is renumbered (5) and amended to read:

7 100.98(5) "Milk price" means a producer's average gross pay per hundredweight  
8 less hauling charges, calculated for a pay period according to s. ATCP ~~100.75(9)~~  
9 100.30(9).

10 **SECTION 10.** ATCP 100.98(4) is created to read:

11 ATCP 100.98(4) "Dairy plant operator" means either of the following:

12 (a) A person who holds, or is required to hold, a dairy plant license under s.  
13 97.20, Stats., and who buys milk from producers.

14 (b) A person who operates a dairy plant outside this state, and who buys milk  
15 from Wisconsin producers for delivery to that out-of-state dairy plant.

16 **SECTION 11.** ATCP 100.98(5) to (9) are renumbered (7) to (9), (6) and (10).

17 **SECTION 12.** ATCP 100.982(4)(f) is amended to read:

18 ATCP 100.982(4)(f) The dairy plant operator complies with s. 80.26(2) and  
19 ~~100.75~~ 100.30.

20 **SECTION 13.** Chapter ATCP 101 is renumbered chapter ATCP 101 subchapter I:

21  
22 **SECTION 14.** Chapter ATCP 101 (title) is created to read:

23  
24 **CHAPTER ATCP 101**  
25 **VEGETABLE CONTRACTORS**

26  
27 **SECTION 15.** Chapter ATCP 101 subchapter I (note) is amended to read.

28  
29 **NOTE:** This ~~chapter subchapter~~ is adopted under authority of s. 100.20(2), Stats.,  
30 and is administered by the Wisconsin department of agriculture, trade and  
31 consumer protection. Violations of this subchapter may be prosecuted  
32 under s. 100.20(6), or s. 100.26(3) or (6), Stats. A person who suffers a

1 monetary loss because of a violation of this ~~chapter~~ subchapter may sue  
2 the violator directly under s. 100.20(5), Stats., and may recover twice the  
3 amount of the loss, together with costs and reasonable attorneys' fees.  
4

5 SECTION 16. ATCP 101.01(intro.) is amended to read:  
6

7 ATCP 101.01 **Definitions.** In this ~~chapter~~ subchapter:  
8

9 SECTION 17. ATCP 101.08 is repealed.  
10

11 SECTION 18. Chapter ATCP 101 subchapter II is created to read:  
12

13 **SUBCHAPTER II**  
14 **FINANCIAL STANDARDS AND SECURITY**  
15

16 *NOTE:* This subchapter is adopted under authority of ss. 93.07(1),  
17 126.49, 126.51 and 126.81, Stats., and interprets ch. 126, Stats.  
18 The Wisconsin department of agriculture, trade and consumer may  
19 enforce this subchapter under subch. VIII of ch. 126, Stats.  
20

21 ATCP 101.20 **Definitions.** In this subchapter:

22 (1) "Affiliate" has the meaning given in s. 126.01(1), Stats.

23 (2) "Audited financial statement" has the meaning given in s. 126.01(3), Stats.

24 (3) "Contributing vegetable contractor" has the meaning given in s. 126.55(4),  
25 Stats.

26 (4) "Producer agent" has the meaning given in s. 126.55(12), Stats.

27 (5) "Reviewed financial statement" has the meaning given in s. 126.01(20), Stats.

28 (6) "Vegetable contractor" has the meaning given in s. 126.55(14), Stats.

29 (7) "Vegetable procurement contract" has the meaning given in s. 126.55(15),  
30 Stats.

31 (8) "Vegetable producer" has the meaning given in s. 126.55(16), Stats.

32 ATCP 101.22 **General requirements.** A vegetable contractor shall comply with  
33 applicable requirements in ch. 126, Stats.

1           **ATCP 101.24 Financial statement. (1) GENERAL.** A vegetable contractor's  
2 financial statement, filed under s. 126.58, Stats., shall comply with this section and s.  
3 126.58, Stats.

4           **(2) LIABILITY DISCLOSURES.** A financial statement shall include a detailed  
5 description of all notes, mortgages and other long-term liabilities not due or payable  
6 within one year. The description shall be included in the financial statement notes or as  
7 an attachment to the financial statement. The description shall indicate the nature of the  
8 liabilities, the due dates and the payment terms.

9           **(3) LIABILITY CLASSIFICATION.** A financial statement shall classify, as current  
10 liabilities, notes payable that do not have specific due dates.

11           **(4) ASSET DISCLOSURES. (a)** A financial statement shall specifically identify and  
12 explain, in the financial statement notes or as an attachment to the financial statement, the  
13 following assets:

14           1. Every non-trade note or account receivable from an officer, director,  
15 employee, partner, or stockholder, or from a member of the family of any of those  
16 individuals.

17           2. Every note or account receivable from a parent organization, a subsidiary, or  
18 an affiliate, other than an employee.

19           3. Every note or account that has been receivable for more than one year, unless  
20 the vegetable contractor has established an offsetting reserve for uncollectible notes and  
21 accounts receivable.

22           **(b)** A financial statement shall include at least one of the following:

1           1. An allowance for doubtful or uncollectible receivables. The notes to the  
2 financial statement shall describe the method used to account for doubtful or  
3 uncollectible receivables.

4           2. A summary classifying the age of all notes and accounts receivable.

5           **(5) ATTACHMENTS.** If information required under this section is provided in an  
6 attachment to a reviewed or audited financial statement, the following requirements  
7 apply:

8           (a) The attachment shall be prepared on the letterhead of the certified public  
9 accountant who reviewed or audited the financial statement.

10          (b) The certified public accountant who reviewed or audited the financial  
11 statement shall certify, in the attachment, whether the certified public accountant has  
12 reviewed or audited the attachment.

13          **ATCP 101.26 Disclosure to producers. (1) DISCLOSURE REQUIRED.** A  
14 vegetable contractor shall make a disclosure under sub. (2) to every vegetable producer  
15 and producer agent with whom the vegetable contractor enters into a vegetable  
16 procurement contract. The vegetable contractor shall make the disclosure, in the form  
17 prescribed under sub. (2), as part of each proposed vegetable procurement contract  
18 offered to the vegetable producer or producer agent. The disclosure shall be clear and  
19 conspicuous, and shall be set apart from every other writing.

20          **(2) FORM OF DISCLOSURE.** A disclosure under sub. (1) shall consist of one of the  
21 following verbatim statements, as applicable:

22          (a) The following statement if the vegetable contractor is a contributing vegetable  
23 contractor:

1 **IMPORTANT NOTICE**

2 *[Name of vegetable contractor]* contributes to Wisconsin's Agricultural  
3 Producer Security Fund. This fund helps ensure that vegetable producers  
4 and producer agents will be paid for processing vegetables grown under  
5 vegetable procurement contracts. If a contributing vegetable contractor fails  
6 to pay a producer or producer agent, the fund may pay up to 90% of the first  
7 \$40,000 of the producer's allowed claim, 85% of the producers next \$40,000  
8 allowed claim, 80% of the producers next \$40,000 allowed claim, and 75% of  
9 any allowed claim in excess of \$120,000.

10  
11 (b) (2) The following statement if the vegetable contractor has filed security under s.  
12 126.61, Stats:

13 **IMPORTANT NOTICE**

14 *[Name of vegetable contractor]* does not participate in Wisconsin's  
15 Agricultural Producer Security Fund. We have filed security with the State  
16 of Wisconsin to cover part, but not all, of our vegetable payment obligations  
17 to producers and producer agents. The security equals at least 75% of the  
18 largest amount that we owed producers and producer agents at any time  
19 during our last completed fiscal year. The security is in the following  
20 form(s): *[specify forms of security]*.

21  
22 (c) The following statement if the vegetable contractor is not a contributing  
23 vegetable contractor, and has not filed security with the department under s. 126.61,  
24 Stats.:

25 **IMPORTANT NOTICE**

26 *[Name of vegetable contractor]* does not contribute to Wisconsin's  
27 Agricultural Producer Security Fund, and has filed no security with the State  
28 of Wisconsin to secure payment for vegetables grown under vegetable  
29 procurement contracts.  
30



1        **EFFECTIVE DATE:** The rules contained in this order shall take effect on the first  
2        day of the month following publication in the Wisconsin administrative register, as  
3        provided under s. 227.22(2) (intro.), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

By \_\_\_\_\_  
James E. Harsdorf,  
Secretary

### Fiscal Estimate — 2001 Session

- Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number Chapters ATCP 99 and 100

Subject  
 Agricultural Producer Security

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.

Yes       No

Decrease Costs

Local:  No Local Government Costs

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:

- Towns       Villages       Cities  
 Counties       Others  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR       FED       PRO       PRS       SEG       SEG-S

Affected Chapter 20 Appropriations  
 s. 20.115(1)(q), Wis. Stats.

**Assumptions Used in Arriving at Fiscal Estimate**

This rule implements changes to the Agricultural Producer Security laws. In general, this law (Ch. 126, Stats) overhauls the states system of securing payments to grain, dairy and vegetable producers. Previous law was based on individual grain dealers, grain warehouse keepers, dairy plants and vegetable contractors either meeting minimum financial standards or providing security (such as a bond or a letter of credit) to pay producers in the event of a default. The new law introduces a shared risk concept where "contractors" are assessed an annual amount to be collected by the state and placed in the Agricultural Producer Security Fund (the fund). Assessments are based on the contractors financial statement ratios and the amount of business that they do with producers.

The Department expects revenue from the statutory fund assessments to be roughly \$2 million per year in first couple years of the program, and then gradually dropping to about \$900,000. (The assessment rates were designed to gradually reduce the cost to the industry as the fund builds a sufficient balance.)

This rule clarifies that grain dealers, grain warehouse keepers and some milk contractors are allowed to make certain adjustments to their balance sheets and thereby reduce the amount of their assessment. Depending on the number of companies that are in a position to use the allowed adjustments, the department estimates that this will reduce assessment revenue by \$50,000 to \$70,000 per year.

**Long-Range Fiscal Implications**

Prepared By: Kevin LeRoy	Telephone No. 608/224-4928	Agency DATCP
Authorized Signature <i>Barbara Knapp</i>	Telephone No. 608/224-4746	Date (mm/dd/ccyy) 7-15-02

**Fiscal Estimate Worksheet — 2001 Session**  
 Detailed Estimate of Annual Fiscal Effect

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number Chapters ATCP 99 and 100

Subject  
 Agricultural Producer Security

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations — Salaries and Fringes	\$	\$ -	
(FTE Position Changes)	( FTE )	( - FTE )	
State Operations — Other Costs		-	
Local Assistance		-	
Aids to Individuals or Organizations		-	
<b>Total State Costs by Category</b>	<b>\$</b>	<b>\$ -</b>	
<b>B. State Costs by Source of Funds</b>			
GPR	\$	\$ -	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			- 60,000
<b>Total State Revenues</b>	<b>\$</b>	<b>\$ -</b>	<b>60,000</b>

**Net Annualized Fiscal Impact**

	State	Local
Net Change in Costs	\$	\$
Net Change in Revenues	\$ 60,000	\$

Prepared By: Kevin LeRoy	Telephone No. 608/224-4928	Agency DATCP
Authorized Signature <i>Barbara Knapp</i>	Telephone No. 608/224-4746	Date (mm/dd/ccyy) 7-15-02