

☞ **03hr\_AC-Ag\_CRule\_02-113\_pt02a**



☞  
(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

**2003-04**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on Agriculture...**

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

**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 1.01(26), 1.03(1)(a)2., 97.04(2)(b), 100.982(4)(f), 101 subch. I (note),  
6 101.01(intro.), 161.31(8)(a) and (b), 161.32(3)(intro.) and 162.02(2); to repeal and  
7 recreate ch. ATCP 99, ch. ATCP 100 (title), and ch. ATCP 100 subchs. I to III; and to  
8 create ch. ATCP 100 subch. IV (note), ATCP 100.98(4), ch. ATCP 101 (title), and ch.  
9 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(1), 97.20(4), 100.20(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.

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**

### **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.
- Whenever there is a change of circumstances that requires a different disclosure statement.



## **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, certain producer agents may have lower security and fund participation requirements than other milk contractors. This rule clarifies that a *producer agent* does not qualify for this special treatment, and may not file a default claim against another milk contractor (seeking reimbursement from the fund), unless all the following apply:

- The producer agent procures producer milk in this state solely as the agent of the milk producers. A milk contractor who buys some milk and procures other milk as a producer agent may file default claims related to milk that the contractor procures according to this rule as a producer agent.
- The producer agent does not take title to the producer milk, or to any dairy products made from the producer milk.
- The producer agent markets the producer milk under a written contract with each milk producer. The contract must clearly and conspicuously disclose all the following:

- That the producer agent does not take title to the producer's milk, or any dairy products made from that milk.
  - That the producer agent 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 producer agent will receive payment on behalf of the producer and make payments to the producer, including any trust fund arrangement.
  - The producer agent's compensation for serving as the producer's agent, and the method by which the producer agent will receive that compensation from the milk producer.
  - A security disclosure statement (see below).
- The producer agent does not process, as a producer agent, more than 5 million pounds of producer milk in any month.
  - The producer agent gives, to each recipient of producer milk marketed by the producer agent, a written invoice stating that the milk is producer milk not owned by the producer agent.
  - The producer agent files a monthly report with DATCP. The producer agent 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 producer agent marketed, in the preceding month, producer milk procured in this state.
    - The total pounds of producer milk that the producer agent marketed to each person in the preceding month.
    - The producer agent's total milk payment obligation to milk producers for producer milk that the producer agent 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*.

This rule also clarifies that ch. 126, Stats., does not apply to a person who collects a producer's milk for delivery to an exempt custom processor (see above), and who receives and markets the custom-processed dairy products for the producer, provided that all the following apply:

- The person does not handle more than 5 million pounds of producer milk in any month, does not process milk or dairy products, and does not otherwise operate as a milk contractor.
- The producer retains title to the milk and processed dairy products.

- The person has a written contract with the producer. The contract must disclose that the producer retains title to the milk and dairy products, and is not secured under ch. 126.
- The person submits an annual affidavit to DATCP, certifying that the person meets the requirements for exemption.

### **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.** ATCP 1.01(26) is amended to read:

2           ATCP 1.01(26) “Special order” means an enforceable or purportedly enforceable  
3 administrative order ~~which~~that the department issues against a named or identified  
4 person under chs. ~~94~~88 to 100, Stats., or ch. ~~127~~126, Stats., or other laws administered by  
5 the department. “Special order” includes special orders identified under s. ATCP  
6 1.03(1)(a). “Special order” does not include any of the actions listed under s. ATCP  
7 1.03(1)(b).

8           **SECTION 2.** ATCP 1.03(1)(a)2. is amended to read:

9           ATCP 1.03(1)(a)2. An administrative injunction, including any order issued  
10 under s. 88.11(7), 94.645(4), 94.71(3)(c), 97.12(3)(a), ~~100.03(18)~~, 100.19(3), 100.20(3),  
11 100.201(9)(b), 100.21(4), 100.22(4)(a), 100.30(5)(a), or ~~127.17(4)~~ 126.85, Stats.

12           **SECTION 3.** ATCP 97.04(2)(b) is amended to read:

13           ATCP 97.04(2)(b) A person operating a warehouse storing only grain, as defined  
14 under s. ~~127.01(18)~~ 126.01(13), Stats.

15           **SECTION 4.** Chapter ATCP 98 is repealed.

16           **SECTION 5.** Chapter ATCP 99 is repealed and recreated to read:

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  
36  
37  
38  
39  
40  
41  
42

**CHAPTER ATCP 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 protection may enforce this chapter under subch. VIII of ch. 126, Stats.

**SUBCHAPTER I  
GENERAL PROVISIONS**

**ATCP 99.01 Definitions.** In this chapter:

- (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.

1 (16) “Procure grain” has the meaning given in s. 126.10(11), Stats.

2 (17) “Procure producer grain in this state” has the meaning given in s.  
3 126.10(12), Stats.

4 (18) “Producer grain” has the meaning given in s. 126.10(14), Stats. “Producer  
5 grain” does not include grain that a producer has purchased from another person, or  
6 represents as grain purchased from another person.

7 (19) “Reviewed financial statement” has the meaning given in s. 126.01(20),  
8 Stats.

9 (20) “Warehouse receipt” has the meaning given in s. 126.25(11), Stats.

10  
11 **SUBCHAPTER II**  
12 **GRAIN DEALERS**  
13

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

16 **ATCP 99.12 Grain dealer; financial statement.** (1) GENERAL. A grain  
17 dealer’s financial statement filed under s. 126.13, Stats., shall comply with this section  
18 and s. 126.13, Stats.

19 (2) LIABILITY DISCLOSURES. A financial statement filed under s. 126.13, Stats.,  
20 shall include a detailed description of all notes, mortgages and other long-term liabilities  
21 not due or payable within one year. The description shall be included in the financial  
22 statement notes, or as an attachment to the financial statement. The description shall  
23 indicate the nature of the liabilities, the due dates and the payment terms.

1           (3) LIABILITY CLASSIFICATION. A financial statement filed under s. 126.13,  
2 Stats., shall classify, as current liabilities, notes payable that do not have specific due  
3 dates.

4           (4) ASSET DISCLOSURES. (a) A financial statement filed under s. 126.13, Stats.,  
5 shall specifically identify and explain, in the financial statement notes or as an attachment  
6 to the financial statement, the following assets:

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

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

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

15          (b) A financial statement filed under s. 126.13, Stats., shall include at least one of  
16 the following:

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

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

21          (5) GRAIN PAYMENT INFORMATION. A grain dealer shall provide the following  
22 information in an attachment to every financial statement filed under s. 126.13, Stats.:



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

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

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

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

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

15 3. Liability adjustments and offsetting assets are determined as of the date of the  
16 balance sheet.

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

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

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

22 2. An amount that the grain dealer has borrowed from a lending institution to buy  
23 grain that the grain dealer has sold and shipped, provided that the grain dealer has a

1 collectible account receivable for that grain on the date of the balance sheet. The amount  
2 of the deduction may not exceed the amount receivable by the grain dealer or the amount  
3 owed to the lending institution, whichever is less.

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

9 4. An amount, borrowed from a lending institution, that the grain dealer has used  
10 to pay for fertilizer, pesticides, herbicides or seed that the grain dealer owns, holds in  
11 inventory on the balance sheet date, and shows as inventory on the balance sheet. The  
12 amount deducted may not exceed the amount owed to the lending institution or the cost  
13 of the fertilizer, pesticides, herbicides and seed purchased with the borrowed funds,  
14 whichever is less.

15 (7) ATTACHMENTS. If information required under this section is contained in an  
16 attachment to a reviewed or audited financial statement filed under s. 126.13, Stats., the  
17 following requirements apply:

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

20 (b) The certified public accountant who reviewed or audited the financial  
21 statement shall certify, in the attachment, whether the certified public accountant has  
22 reviewed or audited the attachment.

1 **ATCP 99.14 Grain dealer; disclosure to producers. (1) DISCLOSURE**

2 REQUIRED. A grain dealer shall make a disclosure under sub. (2) to every grain producer  
3 and producer agent from whom the grain dealer procures producer grain in this state. The  
4 grain dealer shall make the disclosure, in the form prescribed under sub. (2), in a written  
5 document given to the producer or producer agent. The disclosure shall be clear and  
6 conspicuous, and shall be set apart from every other writing. The grain dealer shall make  
7 the disclosure to a producer or producer agent at all of the following times:

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

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

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

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

17 (a) The following statement if the grain dealer is a contributing grain dealer who  
18 is not required to file security under s. 126.16(1), 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.**  
26

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

4 **IMPORTANT NOTICE**

5 ***[Name of grain dealer]* contributes to Wisconsin's Agricultural Producer**  
6 **Security Fund. This fund helps ensure that grain producers will be paid for**  
7 **the grain they ship to contributing grain dealers. If a contributing grain**  
8 **dealer fails to pay a producer or producer agent, the fund may pay up to**  
9 **80% of the first \$60,000 of the producer's unpaid claim, and up to 75% of**  
10 **any additional unpaid claim. We have also filed security with the State of**  
11 **Wisconsin to help secure grain payments to producers. The security is at**  
12 **least equal to the highest total unpaid obligations that we have had, at any**  
13 **time during the past 12 months, under deferred payment contracts. The**  
14 **security is in the following form(s): *[Specify forms of security]*.**

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

17 **IMPORTANT NOTICE**

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

- 23
- 24 • **35% of our average monthly payments for the 3 months during the past**
  - 25 **12 months in which we had the largest monthly payments for producer**
  - 26 **grain.**
  - 27 • **Our highest total unpaid obligations, at any time during the past 12**
  - 28 **months, under deferred payment contracts.**

29 **The security is in the following form(s): *[specify form(s) of security]*.**

30

31 **SUBCHAPTER III**

32 **GRAIN WAREHOUSE KEEPERS**

33

34 **ATCP 99.20 General requirements.** A grain warehouse keeper shall comply

35 with applicable requirements in ch. 126, Stats.

36

37

38

**ATCP 99.22 Grain warehouse keeper licensing. (1) GRAIN WAREHOUSE**

CAPACITY. (a) The capacity of a grain warehouse, for purposes of ch. 126, Stats., is the sum of the capacities of the grain bins comprising that grain warehouse. To calculate the capacity of each grain bin, divide the number of cubic feet in that bin by 1.244 cubic feet per bushel and then multiply the result by the appropriate pack factor under par. (b). If not all walls of the grain bin are vertical, calculate the capacity of each vertical foot of the bin and add those capacities to obtain the total capacity of the bin.

(b) The pack factor under par. (a) is shown in the following table, based on the shape of the grain bin as viewed from above and the bushels per foot calculated according to par. (c). If not all walls of the grain bin are vertical, determine the pack factor for each vertical foot of the grain bin based on the bushels per foot for that vertical foot and the horizontal cross-sectional shape of the grain bin at that level.

| <b>Square or Rectangular Bin</b> |                    | <b>Round or Oval Shaped Bin</b> |                    |
|----------------------------------|--------------------|---------------------------------|--------------------|
| <b>Bushels per Foot</b>          | <b>Pack Factor</b> | <b>Bushels per Foot</b>         | <b>Pack Factor</b> |
| 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 |                 |       |

1

2

(c) To calculate bushels per foot, for purposes of par. (b), divide the number of

3

square feet in the floor of the grain bin by 1.244 cubic feet per bushel. If not all walls of

4

the grain bin are vertical, calculate bushels per foot for each vertical foot of the grain bin

5

based on the number of square feet in a horizontal cross-section of the grain bin at that

6

level.

7

(2) SWORN AND NOTARIZED STATEMENT. An applicant for a grain warehouse

8

keeper license under ch. 126, Stats., shall include, with the license application, a sworn

9

and notarized statement stating that the information provided on the application is

10

complete and accurate.

11

**ATCP 99.24 Grain warehouse keeper; financial statement. (1) GENERAL.** A

12

grain warehouse keeper's financial statement, filed under s. 126.28, Stats., shall comply

13

with this section and s. 126.28, Stats.

14

(2) LIABILITY DISCLOSURES. A financial statement shall include a detailed

15

description of all notes, mortgages and other long-term liabilities not due or payable

16

within one year. The description shall be included in the financial statement notes, or as

17

an attachment to the financial statement. The description shall indicate the nature of the

18

liabilities, the due dates and the payment terms.

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

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

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

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

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

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

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

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

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

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

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

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

4 (d) The total number of bushels of grain that the warehouse keeper is obligated to  
5 store for depositors who hold original negotiable warehouse receipts issued by the  
6 warehouse keeper.

7 (e) The total number of bushels of grain that the warehouse keeper is obligated to  
8 store for depositors who hold original nonnegotiable warehouse receipts issued by the  
9 warehouse keeper.

10 (f) The total number of bushels of grain that the warehouse keeper is obligated to  
11 store for depositors who hold scale tickets or other types of receipts, except for negotiable  
12 and nonnegotiable warehouse receipts, issued by the warehouse keeper.

13 (g) The combined total bushels of grain, under pars. (d) to (f), that the warehouse  
14 keeper is obligated to store for depositors.

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

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

19 (j) The warehouse keeper's net grain position.

20 **(6) DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS.** (a) Solely for the purpose  
21 of calculating the debt to equity ratio under s. 126.28(6)(c)2., Stats., a grain warehouse  
22 keeper may deduct liabilities identified under par. (b) from liabilities reported in the grain  
23 warehouse keeper's financial statement if all the following apply:



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 the liability adjustment.

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

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

8           1. An amount that the grain warehouse keeper has borrowed from a lending  
9 institution and deposited with a commodities broker to maintain an account to hedge  
10 grain transactions. The amount deducted may not exceed the amount owed to the lending  
11 institution or the amount deposited in the hedge account with the commodities broker,  
12 whichever is less.

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

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

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

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

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

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

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

16 DISCLOSURE REQUIRED. A grain warehouse keeper shall make a disclosure under sub. (2)  
17 to every grain producer or producer agent who is a depositor for whom the grain  
18 warehouse keeper stores grain in this state. The grain warehouse keeper shall make the  
19 disclosure, in the form prescribed under sub. (2), in a written document given to the  
20 depositor. The disclosure shall be clear and conspicuous, and shall be set apart from  
21 every other writing. The grain warehouse keeper shall make the disclosure at all of the  
22 following times:

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

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

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

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

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

12 **IMPORTANT NOTICE**

13 ***[Name of grain warehouse keeper]* contributes to Wisconsin's Agricultural**  
14 **Producer Security Fund. This fund helps secure producer grain stored in**  
15 **warehouses operated by contributing grain warehouse keepers. If a**  
16 **contributing grain warehouse keeper fails to return producer grain on**  
17 **demand, the fund may reimburse the producer (or producer agent) for up to**  
18 **\$100,000 worth of grain.**

19  
20 (b) The following statement if the grain warehouse keeper is not a contributing  
21 grain warehouse keeper and is required to file security under s. 126.31(1), Stats.:

22 **IMPORTANT NOTICE**

23 ***[Name of grain warehouse keeper]* does not contribute to Wisconsin's**  
24 **Agricultural Producer Security Fund. We have filed security with the State**  
25 **of Wisconsin to cover part, but not all, of our grain storage obligations. The**  
26 **security is at least equal to 20% of the current local market value of grain**  
27 **stored in our Wisconsin warehouse(s). The security is in the following**  
28 **form(s): *[specify forms of security]*.**

29  
30  
31 **SECTION 6.** Chapter ATCP 100(title) is repealed and recreated to read:

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

**CHAPTER ATCP 100  
MILK CONTRACTORS**

13  
14

SECTION 7. Chapter ATCP 100(note) is repealed.

15  
16  
17  
18

SECTION 8. Chapter ATCP 100 subchapters I to III are repealed and recreated to read:

19  
20  
21  
22

**SUBCHAPTER I  
GENERAL PROVISIONS**

23  
24  
25  
26

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

27  
28  
29

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

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

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

(4) "Dairy plant operator" has the meaning given in s. 126.40(5), Stats., except as provided in s. ATCP 100.98(4).

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

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

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

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

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

**SUBCHAPTER II  
FINANCIAL STANDARDS AND SECURITY**

*NOTE:* This subchapter 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 protection may enforce this subchapter under subch. VIII of ch. 126, Stats.

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

12       **ATCP 100.12 Financial statement. (1) GENERAL.** A milk contractor's financial statement, filed under s. 126.44, Stats., shall comply with this section and s. 126.44, Stats.

13  
14  
15       **(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.

16  
17  
18  
19  
20       **(3) LIABILITY CLASSIFICATION.** A financial statement shall classify, as current liabilities, notes payable that do not have a specific due date.

21  
22       **(4) ASSET DISCLOSURES. (a)** A financial statement shall specifically identify and explain, either in the financial statement notes or as an attachment to the financial statement, the following assets:

23  
24  
25       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 milk contractor has established an offsetting reserve for uncollectible notes and  
5 accounts 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) DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS.** (a) Solely for the purpose  
12 of calculating a milk contractor's fund assessment under s. 126.46, Stats., a milk  
13 contractor may adjust the milk contractor's debt to equity ratio under s. 126.44(8)(c)2.,  
14 Stats., by deducting, from liabilities reported in the milk contractor's financial statement,  
15 an amount borrowed from a lending institution in order to hold aged cheese in inventory  
16 for the aging period required for that cheese under 21 CFR 133. A milk contractor may  
17 not make this adjustment unless all the following apply:

18          1. The milk contractor holds the aged cheese in inventory on the date of the  
19 balance sheet.

20          2. The lending institution holds a security interest in the aged cheese, to secure  
21 repayment of the amount borrowed.

1           3. The amount of the liability deduction does not exceed the amount owed to the  
2 lending institution on the date of the balance sheet, or the value of the aged cheese on the  
3 date of the balance sheet, whichever is less.

4           4. The liability deduction and offsetting cheese inventory asset are identified in  
5 the financial statement notes or as an attachment to the financial statement.

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

10  
11           (b) If aged cheese inventory value as a percentage of total cheese inventory value  
12 is greater on the current annual balance sheet date than on the last preceding annual  
13 balance sheet date, the liability deduction under par. (a) may not exceed that prior year's  
14 percentage multiplied by the total cheese inventory value on the current annual balance  
15 sheet date.

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

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

21           (b) The certified public accountant who reviewed or audited the financial  
22 statement shall certify, in the attachment, whether the certified public accountant has  
23 reviewed or audited the attachment.

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