

# ☞ 07hr\_CRule\_07-073\_AC-Ag\_pt02



Details:

(FORM UPDATED: 07/12/2010)

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

### 2007-08

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Agriculture (AC-Ag)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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

## Ruby, Erin

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**From:** Rep.Ott  
**Sent:** Tuesday, August 26, 2008 12:11 PM  
**To:** Rep.Garthwaite; Rep.Gronemus; Rep.Jorgensen; Rep.Molepske; Rep.Mursau; Rep.Murtha; Rep.Nerison; Rep.Tauchen; Rep.Vruwink; Rep.WilliamsM  
**Cc:** Arrowood, Craig; Cross, William; Gillis, George; Halbach, Nathan; Hochhausen, Natolie; Hoelter, Jon; Junck, Linda; Kraak, Maureen; McKinny, Chris; Nelson, Elise; 'Palese Tony'; Patronsny, Mark; Peterson2, Ilsa; Plata, Christian; Potts, Andrew; Rausch, Scott; Smith-Loomans, Sandra; Sweeney, Rebekah; Wolkomir, Jon; Moll, Keeley A - DATCP  
**Subject:** Clearinghouse Rules Referred to Assembly Committee on Agriculture  
**Attachments:** 20080826114424077.pdf; 20080826114545451.pdf

The following Clearinghouse Rules from the Department of Agriculture, Trade and Consumer Protection have been referred to the Assembly Committee on Agriculture for a 30 day review period:

**Clearinghouse Rule 07-073:** Producer Security Fees and Assessments (69 pages)



2008082611442407  
7.pdf (4 MB)

**Clearinghouse Rule 07-093:** Local Regulation of Retail Food Establishments (28 pages)



2008082611454545  
1.pdf (1 MB)

Please contact my office if you have any questions, need hard copies of these documents, or would like to request a hearing on any of the rules.

The initial 30 day deadline for committee review is **Thursday, September 25, 2008**.

DATE: August 26, 2008

TO: Erin Ruby

Committee on Agriculture

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

### **CLEARINGHOUSE RULE 07-073**

AN ORDER to amend ATCP 99.135 (2) (intro.), (c), and (d); and to create ATCP 99.11, 99.12 (5) (c), 99.125, 99.126, 99.23, 99.235, 100.125, 101.23, and 101.245, relating to the agricultural producer security program.

Submitted by **Department of Agriculture, Trade and Consumer Protection.**

Report received from Agency on **August 13, 2008.**

To committee on **Agriculture.**

Referred on **Tuesday, August 26, 2008.**

Last day for action - **Thursday, September 25, 2008.**

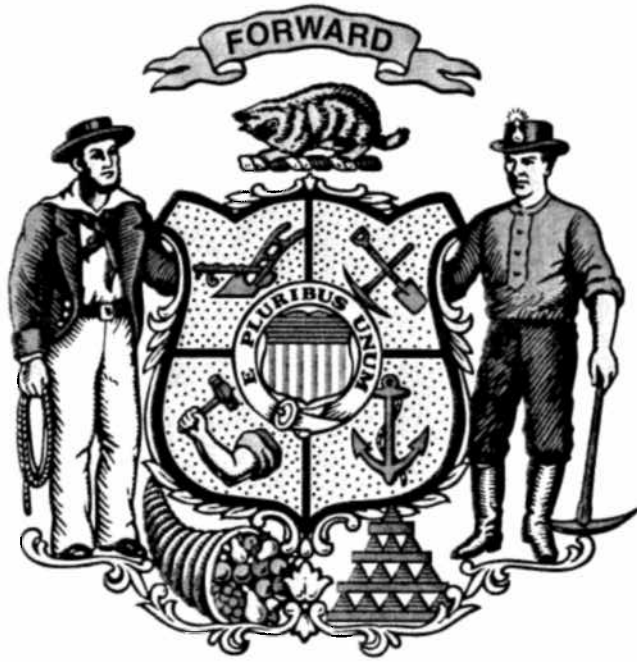
Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.



PHONE CALL

FOR John Petty DATE 9/12 TIME 10:45 A.M.  
 M. \_\_\_\_\_  
 OF \_\_\_\_\_  
 PHONE/MOBILE \_\_\_\_\_  
 MESSAGE Request Hwy  
223-1111  
Fee Increases  
Oppose Grain fee increases  
 SIGNED \_\_\_\_\_ 1154

TELEPHONED  
 RETURNED YOUR CALL  
 PLEASE CALL  
 WILL CALL AGAIN  
 CAME TO SEE YOU  
 WANTS TO SEE YOU

PHONE CALL

FOR John Manske DATE 9/12 TIME 10:50 A.M.  
 M. & DAVID WARD  
 OF \_\_\_\_\_  
 PHONE/MOBILE \_\_\_\_\_ FAX \_\_\_\_\_  
 MESSAGE Request Hwy  
Fee Increases  
Oppose Grain fee increases  
 SIGNED \_\_\_\_\_ 1154

TELEPHONED  
 RETURNED YOUR CALL  
 PLEASE CALL  
 WILL CALL AGAIN  
 CAME TO SEE YOU  
 WANTS TO SEE YOU

They agree with John Petty





**Al Ott**

State Representative • 3rd Assembly District

September 19, 2008

Secretary Rod Nilsestuen  
Wisconsin Department of Agriculture, Trade & Consumer Protection  
2811 Agriculture Drive  
Madison, WI 53708

Dear Secretary Nilsestuen,

I would like to take this opportunity to request that the Department of Agriculture, Trade and Consumer Protection meet with the Assembly Committee on Agriculture to review proposed Clearinghouse Rule 07-073. I will be in contact with your office to make arrangements for such a meeting.

This letter effectively extends the Assembly Committee on Agriculture's review period for an additional 30 days. The final day for Committee review of Clearinghouse Rule 07-073 is now Monday, October 27<sup>th</sup>.

I look forward to meeting with the Department regarding this rule. Please do not hesitate to contact me if you have any questions.

Sincerely,

Al Ott  
State Representative  
3<sup>rd</sup> Assembly District  
Chair, Assembly Committee on Agriculture





Rule  
07-073 ?

September 25, 2008

## **Ag Producer Security – Current Status and Developments**

The agriculture producer security law has been quite successful since it was created in 2001; however, there have also been significant challenges. One success is that more than \$100 million in security (bonds, letters of credit, etc.) has been returned to the agriculture industry. One challenge has been that the financial backing to replace that security was more difficult to obtain than originally anticipated. However, DATCP recently was able to obtain financial backing, although different than originally planned, via a trade credit insurance policy with Atradius.

The 2001 law included changes from the “old law” that were mostly intended to create administrative efficiencies or bring the statute up to date with current economic times, but there have been some unintended consequences. DATCP has been, and continues to be, open to making modifications to both the rule and statute to keep the program current and address those unintended consequences.

The remainder of this document discusses the most important issues facing the program and what DATCP is doing (or has already done) to address them. Some of the solutions will require statutory changes.

### **Secretary Nilsestuen’s Special Workgroup on Ag. Producer Security**

In October 2007, Secretary Nilsestuen convened a diverse group of 21 people from the agriculture community to address both industry and DATCP concerns regarding the producer security program. The main issues addressed by the group were:

- The appropriate level of coverage for producers
- The costs to administer the program
- The cost to the agriculture industry of complying with the law
- The appropriate participants in the producer security program
- The availability of contingent financial backing

Secretary Nilsestuen appointed this group for two primary reasons. First, DATCP had proposed a sizable license fee increase for the grain dealer and grain warehouse program. Secondly, DATCP had been approached by some industry representatives who believed that the program needed “restructuring”. The Secretary wanted the input of a broad cross section of the agriculture industry on both issues.

Secretary Nilsestuen advised the work group that all aspects of the program, except abolition, were on the table for discussion and recommendation. Secretary Nilsestuen also agreed to put DATCP’s fee increase proposal on hold until the workgroup completed its task.

The department has already implemented several of the workgroup recommendations by internal procedural changes. Others were or incorporated into the pending rule change. However, some changes will require modifications to the statute. A discussion of those changes is included in the first several pages of the work group's report.

### **Industry Concerns about Producer Security**

Last summer some industry members, who also sit on the Producer Security Council, presented a paper to the department outlining a number of concerns with the current program. That paper, Rev. June 4, 2007, is attached for reference. The Council, itself, discussed the paper but took no action or suggested possible solutions.

Secretary Nilsestuen's work group also discussed a number of the same issues. The work group dedicated an entire meeting to presentations from industry. It also invited comments from industry throughout the duration of the group's work. Some of these concerns were addressed by work group recommendations while others were discussed and/or disregarded.

### **DATCP's Proposed Rule**

Contractors (buyers of ag. products directly from producers) must generally pay both license fees and assessments fees into the program. DATCP has operated under the philosophy that license fees should cover the administrative costs of the program and assessments should cover default payments to producers and the cost of financial backing. Since there was a deficit in the administrative portion of the fund, DATCP began rulemaking almost two years ago to address these shortfalls.

Administrative costs have exceeded license fee revenue, mostly in the grain portion of the program, since the 2003 elimination of GPR funding for 2.9 FTE. In the first years after the removal of this funding, there was a sufficient cash reserve to cover the deficits so no request for increased fees was necessary. Those reserves are depleted and no revenue source, other than fees, exists to replace the loss of GPR funding.

While the average size of companies has grown and agri-business has become more complex, DATCP's resources to administer this program have been reduced. License fees have not increased since 1994. As a result, the dairy and vegetable industries have had to fund the grain industry's participation in the program. Without this funding, the department would have been unable to meet its statutory responsibilities.

The grain portion of the program has two components, dealer and warehouse. The grain warehouse component does not currently meet its statutorily required minimum fund balance. As a result, DATCP, as required by statute, initiated rulemaking to address the shortfall. This rulemaking was put on hold in order to permit the work group the opportunity to consider the entire program. While the stay of the rule was necessary, the deficit continued to grow.

After the work group completed its recommendations, DATCP substantially modified its proposed rule to include work group and industry recommendations. One major change is the

permanent reduction of 1.67 FTE in the program. This change, alone, resulted in a significant reduction in the amount of fees requested fees from grain dealers. In addition, DATCP included work group recommendations that created additional efficiencies and/or reduced the regulatory burden on the industry. The DATCP Board adopted the final hearing draft rule in August.

### **Conclusion**

The 2001 overhaul of the producer security program resulted in additional, significant responsibility for the department. DATCP not only continues to have the responsibility of protecting Wisconsin's producers, but now also has the fiduciary responsibility to the fund and all the contractors who contribute to it. This means that DATCP's ability to properly administer of the program is even more important.

DATCP is always willing to work with industry groups to make certain that the producer security program remains relevant and efficient. However, DATCP must also be cognizant of the effect that the proposed changes will have on its ability to administer this complicated program and its ability to provide the protection producers expect.





Al Ott

State Representative • 3rd Assembly District

October 28, 2008

Secretary Rod Nilsestuen  
Wisconsin Department of Agriculture, Trade & Consumer Protection  
2811 Agriculture Drive  
Madison, WI 53708

Dear Secretary Nilsestuen,

This letter is to inform you that the following clearinghouse rule has been reported out of the Assembly Committee on Agriculture:

Clearinghouse Rule #07-073  
Relating to: The Agricultural Producer Security Council

A public hearing was not held, and no committee action was taken the rule.

Please feel free to contact my office if you have any questions.

Sincerely,

Al Ott  
State Representative  
Chair, Assembly Committee on Agriculture