

1 125.31 (1) (a) 4. Notwithstanding ss. 125.29 (2) and 125.33 (1), in addition to
 2 places authorized under subd. 2., a brewer may possess or hold an indirect interest
 3 in a Class "B" license for not more than 20 restaurants in each of which the sale of
 4 alcohol beverages accounts for less than 60% of the restaurant's gross receipts if no
 5 fermented malt beverages manufactured by the brewer are offered for sale in any of
 6 these restaurants. No brewer may possess Class "B" licenses under both this
 7 subdivision and subd. 3."

8 **1239.** Page 936, line 2: delete "not withstanding" and substitute
 9 "notwithstanding".

10 **1240.** Page 937, line 23: delete the material beginning with that line and
 11 ending with page 939, line 16.

12 **1241.** Page 939, line 16: after that line insert:

13 "**SECTION 2812se.** 125.51 (4) (br) 1. e. of the statutes is amended to read:

14 125.51 (4) (br) 1. e. Add one license per each increase of 500 population or
 15 fraction thereof to the population recorded under par. (bm).

16 **SECTION 2812sf.** 125.51 (4) (br) 1. f. of the statutes is created to read:

17 125.51 (4) (br) 1. f. Add one license if the municipality had issued a license
 18 under s. 125.51 (4) (br) 1. e., 1999 stats., based on a fraction of 500 population, but
 19 a municipality's quota is only increased under this subd. 1. f. as long as the total
 20 number of licenses issued by the municipality equals the maximum number of
 21 licenses authorized, including under this subd. 1. f.

22 **SECTION 2812sg.** 125.51 (4) (br) 2. of the statutes is amended to read:

23 125.51 (4) (br) 2. Notwithstanding subd. 1., if the difference between the
 24 number of licenses determined under par. (b) 1g. and under par. (bm) 1. is 3 or fewer,

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1 the number of reserve “Class B” licenses authorized to be issued by that municipality
2 is the difference between the number of licenses determined under par. (b) 1g. and
3 under par. (bm) 1., plus one per each increase of 500 population ~~or fraction thereof~~
4 to the population recorded under par. (bm), plus one if the municipality had issued
5 a license under s. 125.51 (4) (br) 2., 1999 stats., based on a fraction of 500 population
6 but only as long as the total number of licenses issued by the municipality equals the
7 maximum number of licenses authorized.”

8 **1242.** Page 939, line 16: after that line insert:

9 “SECTION 2813. Chapter 126 of the statutes is created to read:

10 **CHAPTER 126**

11 **AGRICULTURAL PRODUCER SECURITY**

12 **SUBCHAPTER I**

13 **GENERAL**

14 **126.01 General definitions.** In this chapter:

15 (1) “Affiliate” means any of the following persons:

16 (a) An owner, major stockholder, partner, officer, director, member, employee,
17 or agent of a contractor.

18 (b) A person owned, controlled, or operated by a person under par. (a).

19 (2) “Asset” means anything of value owned by a person.

20 (3) “Audited financial statement” means a financial statement on which an
21 independent certified public accountant licensed or certified under ch. 442 has done
22 all of the following:

1 (a) Stated that the financial statement presents fairly, in all material respects,
2 the financial position of a contractor as of a specific date or for a specific period,
3 according to one of the following:

4 1. Generally accepted accounting principles.

5 2. The historical cost basis method of accounting, if the financial statement is
6 a sole proprietor's personal financial statement and the financial statement is
7 prepared on a historical cost basis.

8 (b) Conducted an audit according to generally accepted auditing standards.

9 (4) "Balance sheet" means a statement of assets, liabilities, and equity on a
10 specific date.

11 (5) "Contractor," unless otherwise qualified, means any of the following:

12 (a) A grain dealer, as defined in s. 126.10 (9).

13 (b) A grain warehouse keeper, as defined in s. 126.25 (9).

14 (c) A milk contractor, as defined in s. 126.40 (8).

15 (d) A vegetable contractor, as defined in s. 126.55 (14).

16 (6) "Current assets" means cash and other assets, including trade or
17 investment items, that may be readily converted into cash in the ordinary course of
18 business within one year after the date as of which the value of those assets is
19 determined.

20 (7) "Current liabilities" means those liabilities that are due within one year
21 after the date as of which the value of those liabilities is determined.

22 (8) "Department" means the department of agriculture, trade and consumer
23 protection.

24 (9) "Equity" means the value of assets less the value of liabilities.

1 **(10)** “Equity statement” means a report of the change in equity from the
2 beginning to the end of the accounting period covered by the report.

3 **(11)** “Fund” means the agricultural producer security fund established under
4 s. 25.463.

5 **(12)** “Generally accepted accounting principles” means the accounting
6 standards adopted by the Financial Accounting Standards Board, except that for a
7 business entity organized and operating outside the United States “generally
8 accepted accounting principles” includes generally accepted foreign accounting
9 standards that are substantially equivalent to standards adopted by the Financial
10 Accounting Standards Board.

11 **(13)** “Grain” means corn, wheat, soybeans, oats, barley, rye, buckwheat,
12 sorghum, flax seed, milo, sunflower seed, and mixed grain, as defined in 7 CFR
13 810.801, except that “grain” does not include any of the following:

14 (a) Sweet corn or other canning crops for processing.

15 (b) Seed corn, wheat, soybeans, oats, barley, rye, buckwheat, sorghum, flax
16 seed, milo, sunflower seed, or mixed grain used or intended for use solely for planting
17 purposes.

18 (c) Corn, wheat, soybeans, oats, barley, rye, buckwheat, sorghum, flax seed,
19 milo, sunflower seed, or mixed grain that has been rolled, cracked, roasted, or
20 otherwise processed.

21 **(14)** “Income statement” means a report of the financial results of business
22 operations for a specific period.

23 **(15)** “Individual” means a natural person.

24 **(16)** “Interim financial statement” means a statement of financial condition
25 prepared for a period shorter than a fiscal year.

1 **(17)** “Milk” has the meaning given in s. 97.22 (1) (e).

2 **(18)** “Person,” notwithstanding s. 990.01 (26), means an individual,
3 corporation, cooperative, partnership, limited liability company, trust, state agency,
4 as defined in s. 20.001 (1), local governmental unit, as defined in s. 66.0131 (1) (a),
5 or other legal entity.

6 **(19)** “Producer,” unless otherwise qualified, means a grain producer, as defined
7 in s. 126.10 (10), milk producer, as defined in s. 126.40 (10), or vegetable producer,
8 as defined in s. 126.55 (16).

9 **(20)** “Reviewed financial statement” means a contractor’s financial statement,
10 other than an audited financial statement, if all of the following apply:

11 (a) The contractor attests in writing, under oath, that the financial statement
12 is complete and accurate.

13 (b) The financial statement is reviewed by an independent certified public
14 accountant licensed or certified under ch. 442.

15 **(21)** “Security” means security filed or maintained under s. 126.16, 126.31,
16 126.47, or 126.61.

17 **(22)** “Sole proprietor” means a contractor who is an individual.

18 **(23)** “Statement of cash flows” means a report of cash receipts and cash
19 disbursements from operating, investing, and financing activities, including an
20 explanation of changes in cash and cash equivalents for the accounting period
21 covered by the report.

22 **(24)** “Vegetable” means any vegetable that is grown or sold for use in food
23 processing, whether or not the vegetable is actually processed as food. “Vegetable”
24 includes green beans, kidney beans, lima beans, romano beans, wax beans, bccts,

1 cabbage, carrots, celery, cucumbers, onions, peas, potatoes, spinach, squash, and
2 sweet corn, but does not include grain.

3 SUBCHAPTER II

4 AGRICULTURAL PRODUCER

5 SECURITY FUND

6 **126.05 Agricultural producer security fund.** (1) The fund is a public trust
7 and shall be administered to secure payments to producers. Moneys deposited into
8 the fund may be used only for the purposes of this chapter.

9 (2) The department shall deposit into the fund all fees, surcharges,
10 assessments, reimbursements, and proceeds of surety bonds that the department
11 collects under this chapter. The department shall keep a record by contractor and
12 industry, of all deposits.

13 **126.06 Industry bonds.** (1) DEPARTMENT TO ACQUIRE BONDS. Using moneys
14 appropriated under s. 20.115 (1) (v), the department shall acquire and maintain all
15 of the following surety bonds:

16 (a) A surety bond that takes effect on May 1, 2002, to secure payment under
17 s. 126.72 (2) of claims against contributing milk contractors, as defined in s. 126.40
18 (1).

19 (b) A surety bond that takes effect on September 1, 2002, to secure payment
20 under s. 126.72 (2) of claims against contributing grain dealers, as defined in s.
21 126.10 (3), and contributing grain warehouse keepers, as defined in s. 126.25 (2).

22 (c) A surety bond that takes effect on February 1, 2002, to secure payment
23 under s. 126.72 (2) of claims against contributing vegetable contractors, as defined
24 in s. 126.55 (4).

25 (2) BOND TERMS. The department shall ensure all of the following:

1 (a) That the amount of each bond under sub. (1) is at least \$5,000,000 but not
2 more than \$20,000,000.

3 (b) That the amount of each bond under sub. (1) renews annually.

4 (c) That each bond under sub. (1) is payable to the department for the benefit
5 of the appropriate claimants under sub. (1).

6 (d) That each bond under sub. (1) is issued by a person who is authorized to
7 operate a surety business in this state.

8 (dm) That no surety issues more than one of the 3 bonds under sub. (1).

9 (e) That no bond issued under sub. (1) may be canceled or modified unless one
10 of the following applies:

11 1. The department agrees to the cancellation or modification.

12 2. The department receives written notice from the issuer in person or by
13 certified mail at least one year before the proposed cancellation or modification.

14 (f) That the issuer of each bond under sub. (1) issues the bond in a form, and
15 subject to any terms and conditions, that the department considers appropriate.

16 **(3) BOND PROCUREMENT.** The department shall procure the surety bonds under
17 sub. (1) according to the procedures provided in subch. IV of ch. 16.

18 **126.07 Blanket bond. (1) DEPARTMENT TO ACQUIRE BOND.** Using moneys
19 appropriated under s. 20.115 (1) (v), the department shall acquire and maintain a
20 surety bond, that takes effect on February 1, 2002, to secure payment under s. 126.72
21 (3) of claims against contributing contractors, as defined in s. 126.68 (1).

22 **(2) BOND TERMS.** The department shall ensure all of the following:

23 (a) That the amount of the bond under sub. (1) is at least \$20,000,000 but not
24 more than \$40,000,000.

25 (b) That the amount of the bond under sub. (1) renews annually.

1 (c) That the bond under sub. (1) is payable to the department for the benefit of
2 claimants described in sub. (1).

3 (d) That the bond under sub. (1) is jointly issued by at least 3 persons acting
4 as cosureties on the bond and that each of the persons is authorized to operate a
5 surety business in this state.

6 (e) That no issuer of the bond under sub. (1) may cancel or modify the bond, or
7 withdraw as a cosurety, unless one of the following applies:

8 1. The department agrees to the cancellation, modification, or withdrawal.

9 2. The department receives written notice from the issuer that is delivered in
10 person or by certified mail and is received at least one year before the proposed
11 cancellation, modification, or withdrawal.

12 (f) That the issuers of the bond under sub. (1) issue the bond in a form, and
13 subject to any terms and conditions, that the department considers appropriate.

14 (3) BOND PROCUREMENT. The department shall procure the surety bond under
15 sub. (1) according to the procedures provided in subch. IV of ch. 16.

16 **126.08 Start-up loan to fund; repayment.** On January 1, 2002, \$2,000,000
17 is transferred as a loan from the agrichemical management fund, to the agricultural
18 producer security fund. The department shall repay this loan principal, plus interest
19 compounded at 5% annually, from the agricultural producer security fund by July 1,
20 2006. The department shall transfer at least \$250,000 from the agricultural
21 producer security fund to the agrichemical management fund on July 1 of each year,
22 beginning on July 1, 2003. The department may accelerate the loan repayment, at
23 its discretion.

24 SUBCHAPTER III

25 GRAIN DEALERS

1 **126.10 Definitions.** In this subchapter:

2 (1) “Cash on delivery” means full cash payment for grain when the grain dealer
3 takes custody or control of the grain.

4 (2) “Cash payment” means payment in any of the following forms:

5 (a) Currency.

6 (b) A cashier’s check or a check that a bank issues and certifies.

7 (c) A wire transfer.

8 (d) Simultaneous barter.

9 (3) “Contributing grain dealer” means a grain dealer who is licensed under s.
10 126.11, who either has paid one or more quarterly installments under s. 126.15 (7)
11 or is required to contribute to the fund, but the first quarterly installment under s.
12 126.15 (7) is not yet due, and who is not disqualified from the fund under s. 126.14
13 (2).

14 (4) “Current ratio” means the ratio of the value of current assets to the value
15 of current liabilities, calculated according to s. 126.13 (6) (c) 1.

16 (5) “Debt to equity ratio” means the ratio of the value of liabilities to equity,
17 calculated according to s. 126.13 (6) (c) 2.

18 (6) “Deferred payment contract” means a contract for the procurement of grain
19 under which a grain dealer takes custody or control of producer grain more than 7
20 days before paying for the grain in full. “Deferred payment contract” includes a
21 deferred price contract.

22 (7) “Deferred price contract” means a contract for the procurement of grain
23 under which a grain dealer takes custody or control of producer grain more than 7
24 days before the price of that grain must be determined under the contract.

1 **(8)** “Disqualified grain dealer” means a grain dealer who is disqualified from
2 the fund under s. 126.14 (2).

3 **(9)** “Grain dealer” means a person who buys producer grain or who markets
4 producer grain as a producer agent. “Grain dealer” does not include any of the
5 following:

6 (a) A person who merely brokers a contract between a grain producer and a
7 grain dealer without becoming a party to the contract, taking control of grain, or
8 accepting payment on behalf of the grain producer.

9 (b) A person who merely buys or sells grain on a board of trade or commodity
10 exchange.

11 **(10)** “Grain producer” means a person who grows grain.

12 **(10m)** “License year” means the period beginning on September 1 and ending
13 on the following August 31.

14 **(11)** “Procure grain” means to buy grain or acquire the right to market grain.

15 **(12)** “Procure producer grain in this state” means any of the following:

16 (a) To buy producer grain for receipt in this state.

17 (b) To acquire the right to market producer grain grown in this state.

18 **(13)** “Producer agent” means a person who acts on behalf of a grain producer
19 to market or accept payment for the grain producer’s grain without taking title to
20 that grain, including a person who uses a producer trust fund to market or accept
21 payment for producer grain. “Producer agent” does not include any of the following:

22 (a) A person who merely brokers a contract between a grain producer and a
23 grain dealer, without becoming a party to the contract, taking control of grain, or
24 accepting payment on behalf of the grain producer.

1 (b) A person who merely holds or transports grain for a grain producer without
2 marketing the grain or accepting payment on behalf of the grain producer.

3 (14) “Producer grain” means grain that is owned by or held in trust for one or
4 more grain producers. “Producer grain” includes grain that a producer agent
5 markets for a grain producer, without taking title to the grain.

6 **126.11 Grain dealers; licensing.** (1) LICENSE REQUIRED. Except as provided
7 in sub. (2), no grain dealer may procure producer grain in this state without a current
8 annual license from the department.

9 (2) EXEMPT GRAIN DEALERS. The following grain dealers are not required to hold
10 a license under this section, but may volunteer to be licensed:

11 (a) A grain dealer who pays cash on delivery for all producer grain.

12 (b) A grain dealer who buys producer grain solely for the grain dealer’s own use
13 as feed or seed and who spends less than \$400,000 per license year for that grain.

14 (2m) LICENSE TERMS. A license under this section expires on the August 31
15 following its issuance. No person may transfer or assign a license issued under this
16 section.

17 (3) LICENSE APPLICATION. A grain dealer shall apply for an annual license under
18 this section in writing, on a form provided by the department. An applicant shall
19 provide all of the following:

20 (a) The applicant’s legal name and any trade name under which the applicant
21 proposes to operate as a grain dealer.

22 (b) A statement of whether the applicant is an individual, corporation,
23 partnership, cooperative, limited liability company, trust, or other legal entity. If the
24 applicant is a corporation or cooperative, the applicant shall identify each officer of

1 the corporation or cooperative. If the applicant is a partnership, the applicant shall
2 identify each partner.

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

5 (d) The street address of each business location from which the applicant
6 operates in this state as a grain dealer and the name of a responsible individual who
7 may be contacted at each location that is staffed.

8 (e) All license fees and surcharges required under sub. (4).

9 (f) The sworn and notarized statement required under sub. (9).

10 (g) A financial statement if required under s. 126.13 (1) and not yet filed.

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

12 (4) LICENSE FEES AND SURCHARGES. A grain dealer applying for an annual license
13 under this section shall pay the following fees and surcharges, unless the
14 department specifies a different fee or surcharge amount by rule:

15 (a) A nonrefundable license processing fee of \$25.

16 (b) The following license fees based on the grain dealer's reported grain
17 payments under sub. (9) (a), less any credit provided under sub. (6):

18 1. A fee of \$500, plus \$225 per business location in excess of one business
19 location, if the amount under sub. (9) (a) is at least \$500,000.

20 2. A fee of \$200 if the amount under sub. (9) (a) is at least \$50,000 but less than
21 \$500,000.

22 3. A fee of \$50 if the amount under sub. (9) (a) is less than \$50,000.

23 (c) A license fee of \$45 for each truck, in excess of one truck, that the grain dealer
24 uses to haul grain in this state.

1 (d) A license surcharge of \$425 if the grain dealer files a financial statement
2 under s. 126.13 (1) that is not an audited financial statement.

3 (e) A license surcharge of \$500 if the department determines that, within 365
4 days before submitting the license application, the applicant operated as a grain
5 dealer without a license in violation of sub. (1). The applicant shall also pay any
6 license fees, license surcharges, and fund assessments that are still due for any
7 license year in which the applicant violated sub. (1).

8 (f) A license surcharge of \$100 if during the preceding 12 months the applicant
9 failed to file an annual financial statement required under s. 126.13 (1) (b) by the
10 deadline specified in s. 126.13 (1) (c).

11 (g) A license surcharge of \$100 if a renewal applicant fails to renew a license
12 by the license expiration date of August 31. This paragraph does not apply to a grain
13 dealer who is exempt under sub. (2) and is voluntarily licensed.

14 **(4m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (4) (e) does not
15 relieve the applicant of any other civil or criminal liability that results from the
16 violation of sub. (1), but does not constitute evidence of any law violation.

17 **(5) LICENSE FOR PART OF YEAR; FEES.** A person who applies for an annual grain
18 dealer license after the beginning of a license year shall pay the full annual fee
19 amounts required under sub. (4).

20 **(6) FEE CREDITS.** If the balance in the fund contributed by grain dealers exceeds
21 \$2,000,000 on June 30 of any license year, the department shall credit 50% of the
22 excess amount against fees charged under sub. (4) (b) to contributing grain dealers
23 who file timely license renewal applications for the next license year. The
24 department shall credit each contributing grain dealer on a prorated basis, in

1 proportion to the total fees that the grain dealer paid under sub. (4) (b) for the 4
2 preceding license years.

3 (7) FEE STATEMENT. The department shall provide, with each license application
4 form, a written statement of all license fees and surcharges required under sub. (4)
5 or the formula for determining them. The department shall specify any fee credit for
6 which the applicant may qualify under sub. (6).

7 (8) NO LICENSE WITHOUT FULL PAYMENT. The department may not issue an
8 annual license under sub. (1) until the applicant pays all license fees and surcharges
9 identified in the department's statement under sub. (7). The department shall
10 refund a fee or surcharge paid under protest if upon review the department
11 determines that the fee or surcharge is not applicable.

12 (9) SWORN AND NOTARIZED STATEMENT. As part of a license application under sub.
13 (3), an applicant shall provide a sworn and notarized statement, signed by the
14 applicant or an officer of the applicant, that reports all of the following:

15 (a) The total amount that the applicant paid, during the applicant's last
16 completed fiscal year, for producer grain procured in this state. If the applicant has
17 not yet operated as a grain dealer in this state, the applicant shall estimate the
18 amount that the applicant will pay during the applicant's first complete fiscal year
19 for producer grain procured in this state.

20 (b) The amount of the payments under par. (a) made under deferred payment
21 contracts.

22 (c) Whether the applicant has had any obligations under deferred payment
23 contracts, for grain procured in this state, at any time since the beginning of the
24 applicant's last completed fiscal year.

1 **(10) ACTION GRANTING OR DENYING APPLICATION.** The department shall grant or
2 deny an application under sub. (3) within 30 days after the department receives a
3 complete application. If the department denies a license application, the department
4 shall give the applicant a written notice stating the reason for the denial.

5 **(11) LICENSE DISPLAYED.** A grain dealer licensed under sub. (1) shall
6 prominently display a copy of that license at the following locations:

7 (a) On each truck that the grain dealer uses to haul grain in this state.

8 (b) At each business location from which the grain dealer operates in this state.

9 **126.12 Grain dealers; insurance. (1) FIRE AND EXTENDED COVERAGE**
10 **INSURANCE.** A grain dealer licensed, or required to be licensed, under s. 126.11 shall
11 maintain fire and extended coverage insurance, issued by an insurance company
12 authorized to do business in this state, that covers all grain in the custody of the grain
13 dealer, whether owned by the grain dealer or held for others, at the full local market
14 value of the grain.

15 **(2) INSURANCE CANCELLATION; REPLACEMENT.** Whenever an insurance policy
16 under sub. (1) is canceled, the grain dealer shall replace the policy so that there is
17 no lapse in coverage.

18 **(3) INSURANCE COVERAGE; MISREPRESENTATION.** No grain dealer may
19 misrepresent any of the following to the department or to any grain producer or
20 producer agent:

21 (a) That the grain dealer is insured.

22 (b) The nature, coverage, or material terms of the grain dealer's insurance
23 policy.

24 **126.13 Grain dealers; financial statements. (1) REQUIRED ANNUAL**
25 **FINANCIAL STATEMENT.** (a) A grain dealer shall file an annual financial statement with

1 the department, before the department first licenses the grain dealer under s. 126.11,
2 if the grain dealer's license application reports any of the following:

3 1. More than \$500,000 in grain payments under s. 126.11 (9) (a).

4 2. Any deferred payment contract obligations under s. 126.11 (9) (c).

5 (b) A grain dealer licensed under s. 126.11 shall file an annual financial
6 statement with the department during each license year if the grain dealer's license
7 application for that year reports any of the following:

8 1. More than \$500,000 in grain payments under s. 126.11 (9) (a) unless the
9 grain dealer is a contributing grain dealer who procures producer grain in this state
10 solely as a producer agent.

11 2. Any deferred payment contract obligations under s. 126.11 (9) (c).

12 (c) A grain dealer shall file an annual financial statement under par. (b) by the
13 15th day of the 4th month following the close of the grain dealer's fiscal year, except
14 that the department may extend the filing deadline for up to 30 days if the grain
15 dealer, or the accountant reviewing or auditing the financial statement, files a
16 written extension request at least 10 days before the filing deadline.

17 (d) A grain dealer licensed under s. 126.11 may not incur any obligations under
18 deferred payment contracts for grain procured in this state unless the contractor first
19 notifies the department and files an annual financial statement with the
20 department.

21 **(2) VOLUNTARY ANNUAL FINANCIAL STATEMENT.** A contributing grain dealer who
22 is not required to file a financial statement under sub. (1) may file an annual
23 financial statement with the department to qualify for a lower fund assessment
24 under s. 126.15.

1 **(3) REVIEWED OR AUDITED FINANCIAL STATEMENT.** (a) A grain dealer filing an
2 annual financial statement under sub. (1) or (2) shall file an audited financial
3 statement if any of the following applies:

4 1. The grain dealer's license application reports more than \$3,000,000 in
5 payments under s. 126.11 (9) (a).

6 2. The grain dealer's last 2 license applications report more than \$2,000,000
7 in payments under s. 126.11 (9) (a).

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

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

15 **(4m) INTERIM FINANCIAL STATEMENT.** The department may, at any time, require
16 a grain dealer licensed under s. 126.11 to file an interim financial statement with the
17 department. The grain dealer shall provide, with the interim financial statement,
18 the grain dealer's sworn and notarized statement that the financial statement is
19 correct. An interim financial statement need not be a reviewed financial statement
20 or an audited financial statement.

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

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

4 (6) FINANCIAL STATEMENT CONTENTS. (a) Except as provided in par. (b), a grain
5 dealer filing a financial statement under this section shall file a financial statement
6 that consists of a balance sheet, income statement, equity statement, statement of
7 cash flows, notes to those statements, and any other information required by the
8 department. If the grain dealer is a sole proprietor, the grain dealer shall file his or
9 her business and personal financial statements. A grain dealer shall disclose on the
10 grain dealer's financial statement, separately and clearly, the grain dealer's unpaid
11 obligations to grain producers and producer agents.

12 (b) If a grain dealer has been in business for less than one year, the grain dealer
13 may file an annual financial statement under sub. (1) or (2) consisting of a balance
14 sheet and notes.

15 (c) A grain dealer filing a financial statement under this section shall include
16 in the financial statement, or in an attachment to the financial statement,
17 calculations of all of the following:

18 1. The grain dealer's current ratio, excluding any assets required to be excluded
19 under sub. (7).

20 2. The grain dealer's debt to equity ratio, excluding any assets required to be
21 excluded under sub. (7).

22 (7) ASSETS EXCLUDED. A grain dealer may not include any of the following assets
23 in the calculations under sub. (6) (c) unless the department specifically approves
24 their inclusion:

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

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

7 (c) A note or account that has been receivable for more than one year, unless
8 the grain dealer has established an offsetting reserve for uncollectible notes and
9 accounts receivable.

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

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

16 **126.14 Contributing grain dealers; disqualification.** (1) CONTRIBUTION
17 REQUIRED. A grain dealer who is required to be licensed under s. 126.11 (1) shall pay
18 fund assessments under s. 126.15 unless the grain dealer is disqualified under sub.
19 (2). A grain dealer who is voluntarily licensed under s. 126.11 may pay voluntary
20 assessments under s. 126.15, unless the grain dealer is disqualified under sub. (2).

21 (2) DISQUALIFIED GRAIN DEALER. (a) A grain dealer who is required to file
22 security under s. 126.16 (1) (a) is disqualified from the fund until the department
23 determines that one of the conditions in s. 126.16 (8) (a) 1. and 2. is satisfied.

24 (b) A grain dealer is disqualified from the fund, and required to pay cash on
25 delivery for producer grain, if any of the following occurs:

1 1. The department denies, suspends, or revokes the grain dealer's license.

2 2. The department issues a written notice disqualifying the grain dealer for
3 cause, including failure to pay fund assessments under s. 126.15 when due or failure
4 to file a financial statement under s. 126.13 when due.

5 3. The grain dealer fails to reimburse the department, within 60 days after the
6 department issues a reimbursement demand under s. 126.73 (1), for the full amount
7 that the department pays to claimants under s. 126.72 (1) because of that grain
8 dealer's default.

9 4. The grain dealer fails to reimburse a bond surety, within 60 days after the
10 bond surety issues a reimbursement demand under s. 126.73 (2), for the full amount
11 that the surety pays to the department under s. 126.72 (2) or (3) for the benefit of
12 claimants affected by that grain dealer's default.

13 **(3) PAYMENTS BY DISQUALIFIED GRAIN DEALER.** (a) The department may not return
14 to a disqualified grain dealer any fund assessments that the grain dealer paid as a
15 contributing grain dealer.

16 (b) A disqualified grain dealer remains liable for any unpaid fund installment
17 under s. 126.15 that became due while the grain dealer was a contributing grain
18 dealer. A disqualified grain dealer is not liable for any fund installment that becomes
19 due after the grain dealer is disqualified under sub. (2).

20 **126.15 Contributing grain dealers; fund assessments. (1) GENERAL.** A
21 contributing grain dealer shall pay an annual fund assessment for each license year.
22 The assessment equals \$20 or the sum of the following, whichever is greater, unless
23 the department by rule specifies a different assessment:

24 (a) The grain dealer's current ratio assessment. The current ratio assessment
25 for a license year equals the grain dealer's current ratio assessment rate under sub.

1 (2) multiplied by the amount reported under s. 126.11 (9) (a) in the grain dealer's
2 license application for that license year.

3 (b) The grain dealer's debt to equity ratio assessment. The debt to equity ratio
4 assessment for a license year equals the grain dealer's debt to equity ratio
5 assessment rate under sub. (4) multiplied by the amount reported under s. 126.11
6 (9) (a) in the grain dealer's license application for that license year.

7 (c) The grain dealer's deferred payment assessment. The deferred payment
8 assessment for a license year equals the grain dealer's deferred payment assessment
9 rate under sub. (6) multiplied by the payment amount, if any, that the grain dealer
10 reports under s. 126.11 (9) (b) in the grain dealer's license application for that license
11 year.

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

14 (a) If the grain dealer has filed an annual financial statement under s. 126.13
15 and that financial statement shows a current ratio of at least 1.25 to 1.0, the grain
16 dealer's current ratio assessment rate equals the greater of zero or the current ratio
17 assessment factor in sub. (3) (a) multiplied by the following amount:

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

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

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

4 (b) If the grain dealer has filed an annual financial statement under s. 126.13
5 and that financial statement shows a current ratio of less than 1.25 to 1.0, but greater
6 than 1.0 to 1.0, the grain dealer's current ratio assessment rate equals the current
7 ratio assessment factor in sub. (3) (b) multiplied by the following amount:

8 1. Subtract one from the current ratio.

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

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

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

12 5. Subtract 0.75 from the current ratio.

13 6. Divide 0.65 by the amount determined under subd. 5.

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

15 8. Add the amount determined under subd. 4. to the amount determined under
16 subd. 7.

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

18 (c) If the grain dealer has filed an annual financial statement under s. 126.13
19 and that financial statement shows a current ratio of less than or equal to 1.0 to 1.0,
20 the grain dealer's current ratio assessment rate equals the current ratio assessment
21 factor in sub. (3) (b) multiplied by 120.81376.

22 (d) Except as provided in par. (e), if the grain dealer has not filed an annual
23 financial statement under s. 126.13, the grain dealer's current ratio assessment rate
24 equals the current ratio assessment factor in sub. (3) (b) multiplied by 5.71235.

1 (e) If the grain dealer has not filed an annual financial statement under s.
2 126.13 and the grain dealer procures grain in this state solely as a producer agent,
3 the grain dealer's current ratio assessment rate is 0.00025, except that, for the grain
4 dealer's 5th or higher consecutive full license year of participation in the fund, the
5 grain dealer's current ratio assessment rate is 0.000175.

6 (3) CURRENT RATIO ASSESSMENT FACTOR. (a) A grain dealer's current ratio
7 assessment factor under sub. (2) (a) is 0.00003 except that, for the grain dealer's 5th
8 or higher consecutive full license year as a contributing grain dealer, the grain
9 dealer's current ratio assessment factor is zero.

10 (b) A grain dealer's current ratio assessment factor under sub. (2) (b) to (d) is
11 0.000045 except that, for the grain dealer's 5th or higher consecutive full license year
12 as a contributing grain dealer, the grain dealer's current ratio assessment factor is
13 0.000036.

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

16 (a) If the grain dealer has filed an annual financial statement under s. 126.13
17 and that financial statement shows positive equity and a debt to equity ratio of not
18 more than 4.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals
19 the greater of zero or the debt to equity ratio assessment factor in sub. (5) (a)
20 multiplied by the following amount:

- 21 1. Subtract 4 from the debt to equity ratio.
- 22 2. Divide the amount determined under subd. 1. by 3.
- 23 3. Raise the amount determined under subd. 2. to the 3rd power.
- 24 4. Subtract 1.7 from the debt to equity ratio.
- 25 5. Divide the amount determined under subd. 4. by 1.75.

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

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

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

5 (b) If the grain dealer has filed an annual financial statement under s. 126.13
6 and that financial statement shows a debt to equity ratio of greater than 4.0 to 1.0,
7 but less than 5.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals
8 the debt to equity ratio assessment factor in sub. (5) (b) multiplied by the following
9 amount:

10 1. Subtract 4 from the debt to equity ratio.

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

12 3. Raise the amount determined under subd. 2. to the 3rd power.

13 4. Subtract 1.7 from the debt to equity ratio.

14 5. Divide the amount determined under subd. 4. by 1.75.

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

16 7. Add the amount determined under subd. 3. to the amount determined under
17 subd. 6.

18 8. Add 2 to the amount determined under subd. 7.

19 (c) If the grain dealer has filed an annual financial statement under s. 126.13
20 and that financial statement shows negative equity or a debt to equity ratio of at least
21 5.0 to 1.0, the grain dealer's debt to equity ratio assessment rate equals the debt to
22 equity ratio assessment factor in sub. (5) (b) multiplied by 86.8244.

23 (d) Except as provided in par. (e), if the grain dealer has not filed an annual
24 financial statement under s. 126.13, the grain dealer's debt to equity ratio

1 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)
2 multiplied by 8.77374.

3 (e) If the grain dealer has not filed an annual financial statement under s.
4 126.13 and the grain dealer procures grain in this state solely as a producer agent,
5 the grain dealer's debt to equity ratio assessment rate is 0.00025, except that it is
6 0.000175 for the grain dealer's 5th or higher consecutive full license year of
7 participation in the fund.

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

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

15 (6) DEFERRED PAYMENT ASSESSMENT RATE. A grain dealer's deferred payment
16 assessment rate is 0.0035, except that it is 0.002 for the grain dealer's 5th or higher
17 consecutive full license year as a contributing grain dealer.

18 (7) QUARTERLY INSTALLMENTS. (a) A contributing grain dealer shall pay the
19 grain dealer's annual fund assessment in equal quarterly installments that are due
20 as follows:

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

1 (b) A contributing grain dealer may prepay any of the quarterly installments
2 under par. (a).

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

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

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

14 (a) The amount of the grain dealer's annual fund assessment under this
15 section.

16 (b) The amount of each required quarterly installment under sub. (7) and the
17 date by which the grain dealer must pay each installment.

18 (c) The penalty that applies under sub. (7) (d) if the grain dealer fails to pay any
19 quarterly installment when due.

20 **126.16 Grain dealers; security. (1) SECURITY REQUIRED.** (a) A grain dealer
21 shall file security with the department, and maintain that security until the
22 department releases it under sub. (8) (a), if all of the following apply when the
23 department first licenses the grain dealer under s. 126.11:

24 1. The grain dealer reports more than \$500,000 in grain payments under s.
25 126.11 (9) (a).

1 2. The grain dealer files an annual financial statement under s. 126.13 (1) (a)
2 and that financial statement shows negative equity.

3 (b) A grain dealer who reports any deferred payment contract obligations under
4 s. 126.11 (9) (c) or 126.13 (1) (d) shall file security with the department, and maintain
5 that security until the department releases it under sub. (8) (b), unless the grain
6 dealer has positive equity and one of the following applies:

7 1. The grain dealer's annual financial statement under s. 126.13 covers a fiscal
8 year ending on or before January 1, 2006, and shows a debt to equity ratio of not more
9 than 5.0 to 1.0.

10 2. The grain dealer's annual financial statement under s. 126.13 covers a fiscal
11 year ending after January 1, 2006, and shows a debt to equity ratio of not more than
12 4.0 to 1.0.

13 **(2) SECURITY CONTINUED.** A grain dealer who filed security under ch. 127, 1999
14 stats., before September 1, 2002, shall maintain that security until the department
15 releases it under sub. (8) (c).

16 **(3) AMOUNT OF SECURITY.** A grain dealer who is required to file or maintain
17 security under this section shall at all times maintain security that is at least equal
18 to the sum of the following:

19 (a) An amount equal to 35% of the grain dealer's average monthly payment for
20 the 3 months, during the preceding 12 months, in which the grain dealer made the
21 largest monthly payments for producer grain procured in this state, except that this
22 amount is not required of a contributing grain dealer after December 1, 2002.

23 (b) The grain dealer's highest total, at any time during the preceding 12
24 months, of unpaid obligations for producer grain procured in this state under
25 deferred payment contracts.

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

4 (a) Currency.

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

6 1. The surety bond is made payable to the department for the benefit of grain
7 producers and producer agents.

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

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

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

15 (c) A certificate of deposit or money market certificate if all of the following
16 apply:

17 1. The certificate is issued or endorsed to the department for the benefit of grain
18 producers and producer agents who deliver grain to the grain dealer.

19 2. The certificate may not be canceled or redeemed without the department's
20 written authorization.

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

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

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

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

2 1. The letter of credit is payable to the department for the benefit of grain
3 producers and producer agents.

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

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

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

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

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

14 (5) DEPARTMENT CUSTODY OF SECURITY. The department shall hold, in its custody,
15 all security filed and maintained under this section. The department shall hold the
16 security for the benefit of grain producers and producer agents who deliver grain to
17 a grain dealer.

18 (6) MONTHLY REPORTS. A grain dealer who is required to file or maintain
19 security under this section shall file monthly reports with the department. The grain
20 dealer shall file a report on or before the 10th day of each month, in a form specified
21 by the department. In a monthly report, a grain dealer shall provide information
22 reasonably required by the department, including all of the following:

23 (a) The grain dealer's average monthly payment for the 3 months, during the
24 preceding 12 months, in which the grain dealer made the largest monthly payments
25 for producer grain procured in this state.

1 (b) The grain dealer's highest total unpaid obligations, at any time during the
2 preceding 12 months, for producer grain procured in this state under deferred
3 payment contracts. If the amount owed on deferred price contracts has not yet been
4 determined, the grain dealer shall estimate the amount based on contract terms and
5 prevailing market prices on the last day of the previous month.

6 (7) ADDITIONAL SECURITY. (a) The department may, at any time, demand
7 additional security from a grain dealer if any of the following applies:

8 1. The grain dealer's existing security falls below the amount required under
9 sub. (3) for any reason, including depreciation in the value of the security filed with
10 the department, an increase in grain payments or grain prices, or the cancellation
11 of any security filed with the department.

12 2. The grain dealer fails to provide required information that is relevant to a
13 determination of security requirements.

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

19 (c) A grain dealer may request a hearing, under ch. 227, on a demand for
20 security under par. (b). A request for hearing does not automatically stay a security
21 demand.

22 (d) If a grain dealer fails to comply with the department's demand for security
23 under this subsection, the grain dealer shall give written notice of that fact to all
24 grain producers and producer agents from whom the grain dealer procures producer
25 grain in this state. If the grain dealer fails to give accurate notice under this

1 paragraph within 5 days after the deadline for filing security under par. (b) has
2 passed, the department shall promptly notify those grain producers and producer
3 agents by publishing a class 3 notice under ch. 985. The department may also give
4 individual notice to those grain producers or producer agents of whom the
5 department is aware.

6 (e) If a grain dealer fails to comply with the department's demand for security
7 under this subsection, the department may do any of the following:

8 1. Issue a summary order under s. 126.55 (2) that prohibits the grain dealer
9 from procuring producer grain or requires the grain dealer to pay cash on delivery
10 for all producer grain.

11 2. Suspend or revoke the grain dealer's license.

12 (8) RELEASING SECURITY. (a) The department may release security filed under
13 sub. (1) (a), except for any amount of security that the grain dealer is required to file
14 because sub. (1) (b) applies to the grain dealer, if any of the following applies:

15 1. The grain dealer reports, for at least 2 consecutive years, no more than
16 \$500,000 in annual grain payments under s. 126.11 (9) (a) and the grain dealer pays
17 the quarterly fund assessment that would have been required of the grain dealer if
18 the grain dealer had been a contributing grain dealer on the most recent quarterly
19 installment date under s. 126.15 (7).

20 2. The grain dealer's annual financial statement under s. 126.13 shows positive
21 equity for at least 2 consecutive years and the grain dealer pays the quarterly fund
22 assessment that would have been required of the grain dealer if the grain dealer had
23 been a contributing grain dealer on the most recent quarterly installment date under
24 s. 126.15 (7).

1 (b) The department may release security filed under sub. (1) (b), except for any
2 amount of security that the grain dealer is required to file because sub. (1) (a) applies
3 to the grain dealer, if any of the following applies:

4 1. The grain dealer has not had any deferred payment contract obligations
5 since the beginning of the grain dealer's last completed fiscal year.

6 2. The grain dealer files 2 consecutive annual financial statements under s.
7 126.13 showing that the grain dealer meets the applicable equity requirement and
8 debt to equity ratio under sub. (1) (b).

9 (c) On December 1, 2002, the department may release security maintained
10 under sub. (2), unless the grain dealer is required to file security under sub. (1).

11 (d) The department may release security to the extent that the security exceeds
12 the amount required under sub. (3).

13 (e) The department may release security if the grain dealer files alternative
14 security, of equivalent value, that the department approves.

15 (f) The department shall release security if the grain dealer is no longer in
16 business and has paid all grain obligations in full.

17 **126.17 Grain dealers; records. (1) RECORDS AND ACCOUNTS; GENERAL.** A grain
18 dealer shall keep records and accounts of all grain procured and all grain sold or
19 marketed by the grain dealer. A grain dealer shall keep records that are complete,
20 accurate, current, well-organized, and accessible, so that the grain dealer and the
21 department can readily determine all of the following:

22 (a) The kinds and amounts of grain procured, the procurement dates, the
23 procurement terms, and the persons from whom the grain dealer procured the grain.

1 (b) The kinds and amounts of grain sold or marketed, the sale or marketing
2 dates, the sale or marketing terms, and the persons to whom the grain dealer sold
3 or marketed the grain.

4 (c) The kinds and amounts of grain, received from others, that the grain dealer
5 has used for feed, seed, milling, manufacturing, processing, or other purposes.

6 (d) The kinds and amounts of grain, received from others, that the grain dealer
7 has on hand, including the kinds and amounts of grain owned by the grain dealer,
8 and the kinds and amounts of grain held for others.

9 (e) The nature and amount of the grain dealer's obligations to grain producers
10 and producer agents, including obligations under deferred payment contracts. The
11 grain dealer shall keep a daily record of obligations under priced contracts and a
12 separate daily record of obligations under deferred price contracts that have not yet
13 been priced.

14 (f) The nature and amount of the grain dealer's obligations to depositors, as
15 defined in s. 126.25 (5), under agreements for the storage of grain, if any.

16 (g) The grain dealer's accounts receivable from the sale or marketing of grain,
17 including the names of the account debtors, the amount receivable from each account
18 debtor, and the dates on which payment is due.

19 **(2) RECORDS OF GRAIN PROCURED.** A grain dealer shall keep records all of the
20 following related to each shipment of grain procured by the grain dealer:

21 (a) The kind and weight of grain procured.

22 (b) The grade and quality of the grain if determined.

23 (c) The date on which the grain dealer procured the grain.

24 (d) The name and address of the person from whom the grain dealer procured
25 the grain.

1 (e) Whether the grain dealer purchased the grain, holds it under an agreement
2 for storage, or is marketing the grain as a producer agent.

3 (f) The terms of purchase, storage, or marketing.

4 (g) If the grain dealer procured the grain under a deferred payment contract,
5 the terms of that contract.

6 **(3) RECORDS RETENTION; INSPECTION.** (a) A grain dealer shall keep copies of all
7 of the following records for at least 6 years after the records are created:

8 1. Records required under this section and s. 126.18 (2).

9 2. Records that the grain dealer was required to keep, under ch. 127, 1999
10 stats., and department rules, before September 1, 2002.

11 (b) A grain dealer shall make records required under this section available to
12 the department for inspection and copying upon request.

13 **126.18 Grain dealers; receipts for grain. (1) REQUIREMENT.** Whenever a
14 grain dealer receives grain from any person, the grain dealer shall immediately give
15 that person a written receipt for the grain that includes all of the following:

16 (a) The name of the grain dealer and a statement indicating whether the grain
17 dealer is a corporation.

18 (b) A permanent business address at which the holder of the receipt can readily
19 contact the grain dealer.

20 (c) A statement identifying the document as a receipt for grain.

21 (d) The date on which the grain dealer received the grain.

22 (e) The kind of grain received.

23 (f) The net weight of grain received or, if the grain dealer receives the grain at
24 the grain producer's farm, the approximate net weight of the grain.

25 (g) The grade and quality of the grain, if determined.

1 (h) A statement identifying the receipt as a purchase receipt, storage receipt,
2 or receipt for grain marketed by the grain dealer as a producer agent.

3 (i) The grain dealer's promise to pay the total amount due for grain, less any
4 discounts that may apply, within 7 calendar days after the date of receipt of the grain.
5 This requirement does not apply if any of the following applies:

6 1. The grain dealer pays cash on delivery.

7 2. The grain dealer receives the grain under a deferred payment contract that
8 complies with s. 126.19.

9 3. The receipt is clearly identified as a storage receipt.

10 **(1m) EFFECT OF FAILURE TO IDENTIFY RECEIPT.** A receipt not clearly identified
11 under sub. (1) (h) is considered a purchase receipt except that, if the grain dealer also
12 operates as a grain warehouse keeper, as defined in s. 126.25 (9), under the same
13 name, a receipt not clearly identified is considered a storage receipt.

14 **(2) GRAIN DEALER'S COPIES.** A grain dealer shall keep copies of all receipts issued
15 under sub. (1).

16 **126.19 Grain dealers; deferred payment contracts. (1) CONTRACT IN**
17 **WRITING.** A grain dealer may not procure grain from any grain producer or producer
18 agent under a deferred payment contract before the contract is reduced to writing
19 and signed by the parties. The grain dealer shall provide a copy of the signed contract
20 to the other party.

21 **(2) CONTENTS OF CONTRACT.** A grain dealer may not enter into a deferred
22 payment contract unless the deferred payment contract includes all of the following:

23 (a) A unique contract identification number.

1 (b) The type, weight, grade, and quality of grain procured and a statement that
2 price adjustments may apply if delivered grain varies in grade or quality from that
3 identified in the contract.

4 (c) The price for the grain or, in a deferred price contract, the method and
5 deadline by which the price will be determined.

6 (d) The date by which the grain dealer agrees to make full payment for the
7 grain, which may not be more than 180 days after the date on which the contract price
8 is established or more than 180 days after the date on which the grain dealer takes
9 custody or control of the grain, whichever is later.

10 (dm) If the contract is a deferred price contract, a pricing deadline that is not
11 more than one year after the date on which the grain dealer takes custody or control
12 of the grain.

13 (e) The grain dealer's permanent business location.

14 (f) Other information required under this section.

15 **(3) PAYMENT AND PRICING DEADLINES.** (a) A grain dealer shall make full payment
16 under a deferred payment contract by the deadline date specified in the contract.

17 (b) The parties may not extend a payment or pricing deadline under sub. (2)
18 (d) or (dm), except that they may sign a new contract that extends either deadline
19 or both deadlines for up to 180 days if the new contract refers to the contract number
20 of the original contract.

21 **(4) REQUIRED NOTICE.** A grain dealer may not enter into a deferred payment
22 contract unless the deferred payment contract clearly discloses that it is not a storage
23 contract. Whenever a grain dealer buys grain from a grain producer under a deferred
24 payment contract, the grain dealer shall include the following statement in
25 capitalized, boldface print immediately above the contract signature line: "This is

1 not a storage contract. The grain dealer (buyer) becomes the owner of any grain that
2 the producer (seller) delivers to the grain dealer under this contract. The producer
3 relinquishes ownership and control of the grain, and becomes an unsecured creditor
4 pending payment.”

5 (5) DEFERRED PAYMENT CONTRACT ASSESSMENT. From the amount that a grain
6 dealer pays to a grain producer or producer agent under a deferred payment contract,
7 the grain dealer shall deduct a deferred payment contract assessment. The
8 assessment shall equal the total amount owed under the contract before the
9 assessment is deducted, multiplied by the deferred payment assessment rate that
10 applies under s. 126.15 (6) when the contract is made. The grain dealer shall disclose
11 the assessment amount or, if the contract is a deferred price contract, the method by
12 which the assessment amount will be determined, in the written contract under sub.
13 (1).

14 **126.20 Grain dealers; business practices. (1) GRAIN WEIGHT, GRADE, AND**
15 **QUALITY.** A grain dealer shall do all of the following when determining the weight,
16 grade, or quality of grain:

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

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

20 (2) TIMELY PAYMENT TO PRODUCERS. A grain dealer shall pay for grain when
21 payment is due. A grain dealer may not make payment by nonnegotiable check or
22 note or by check drawn on an account containing insufficient funds.

23 (3) PERMANENT BUSINESS LOCATION. A grain dealer licensed under s. 126.11 shall
24 do all of the following:

1 (a) Maintain a permanent business address at which grain producers may
2 readily contact the grain dealer during business hours.

3 (b) On each day that the Chicago Board of Trade is open for trading, keep
4 business hours that start no later than 9 a.m. and end no earlier than 2:30 p.m.

5 (c) Prominently post the grain dealer's business hours at each of the grain
6 dealer's business locations in this state.

7 **(4) PROHIBITED PRACTICES.** No grain dealer may do any of the following:

8 (a) Misrepresent the weight, grade, or quality of grain received from or
9 delivered to any person.

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

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

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

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

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

20 **126.21 Grain producer obligations. (1) DELIVERY PER CONTRACT.** No grain
21 producer or producer agent who contracts to sell and deliver grain to a grain dealer
22 at an agreed price may wrongfully refuse to deliver that grain according to the
23 contract.

24 **(2) DISCLOSURE OF LIENS AND SECURITY INTERESTS.** A grain dealer procuring grain
25 from a grain producer or producer agent may require the grain producer or producer

1 agent to disclose any liens or security interests that apply to the grain. The grain
2 dealer may require the disclosure in writing. The grain dealer may require the grain
3 producer or producer agent to specify the nature and amount of each lien or security
4 interest and the identity of the person holding that lien or security interest. No grain
5 producer may falsify or fraudulently withhold information required under this
6 subsection in order to sell grain.

7 SUBCHAPTER IV

8 GRAIN WAREHOUSE KEEPERS

9 **126.25 Definitions.** In this subchapter:

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

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

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

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

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

1 (a) A person who delivers grain to a grain warehouse keeper for storage,
2 conditioning, shipping, or handling, without transferring ownership to the
3 warehouse keeper.

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

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

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

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

16 (9m) “License year” means the period beginning on September 1 and ending
17 on the following August 31.

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

20 **126.26 Grain warehouse keepers; licensing. (1) LICENSE REQUIRED.** (a)
21 No grain warehouse keeper may hold at any time more than 50,000 bushels of grain
22 for others without a current annual license from the department. A grain warehouse
23 keeper who has grain warehouses with a combined capacity of more than 50,000
24 bushels shall obtain a license unless the grain warehouse keeper proves to the

1 department that the grain warehouse keeper holds no more than 50,000 bushels of
2 grain for others at any time.

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

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

8 (a) The applicant's legal name and any trade name under which the applicant
9 proposes to operate as a grain warehouse keeper.

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

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

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

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

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

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

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

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

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

6 (a) A nonrefundable license processing fee of \$25 plus \$25 for each grain
7 warehouse identified under sub. (2) (d). If a grain warehouse keeper operates 2 or
8 more grain warehouses located within 0.5 mile of each other, the grain warehouse
9 keeper may treat those grain warehouses as a single grain warehouse for purposes
10 of this paragraph and par. (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **(3m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (3) (d) does not
18 relieve the applicant of any other civil or criminal liability that results from the
19 violation of sub. (1), but does not constitute evidence of any law violation.

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

23 **(5) FEE CREDIT.** If the fund balance contributed by grain warehouse keepers
24 exceeds \$300,000 on June 30 of any license year, the department shall credit 12.5%
25 of the excess amount against fees charged under sub. (3) (b) to contributing grain

1 warehouse keepers who file timely license renewal applications for the next license
2 year. The department shall credit each contributing grain warehouse keeper on a
3 prorated basis, in proportion to the total fees that the warehouse keeper has paid
4 under sub. (3) (b) for the 4 preceding license years.

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

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

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

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

22 (10) NOTIFICATION. A licensed warehouse keeper shall notify the department,
23 in writing, before the warehouse keeper adds a grain warehouse or changes the
24 location or capacity of any grain warehouse. In the notice, the grain warehouse
25 keeper shall specify any change in the combined capacity of grain warehouses

1 operated by the grain warehouse keeper resulting from the proposed addition or
2 change.

3 **126.27 Grain warehouse keepers; insurance.** (1) FIRE AND EXTENDED
4 COVERAGE INSURANCE. A grain warehouse keeper licensed under s. 126.26 (1) shall
5 maintain fire and extended coverage insurance, issued by an insurance company
6 authorized to do business in this state, that covers all grain in the custody of the grain
7 warehouse keeper, whether owned by the grain warehouse keeper or held for others,
8 at the full local market value of the grain.

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

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

20 (3) INSURANCE DEDUCTIBLES. An insurance policy does not comply with sub. (1)
21 if it contains any deductible clause that limits the insurer's obligation to pay to each
22 depositor the full value of the depositor's covered losses under the policy. The grain
23 warehouse keeper may agree to indemnify the insurer for a portion of each depositor
24 claim that the insurer pays under the policy if the agreement does not limit the

1 insurer's obligation to pay each depositor the full amount of the depositor's covered
2 losses.

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

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

8 (b) Whether the grain warehouse keeper has liability insurance covering the
9 grain warehouse keeper's grain operations, and the material terms of that liability
10 insurance policy.

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

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

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

16 **126.28 Grain warehouse keepers; financial statements.** (1) REQUIRED
17 ANNUAL FINANCIAL STATEMENT. (a) A grain warehouse keeper shall file an annual
18 financial statement with the department before the department first licenses the
19 warehouse keeper under s. 126.26 (1), if the warehouse keeper operates grain
20 warehouses with a combined capacity of more than 300,000 bushels.

21 (b) A grain warehouse keeper licensed under s. 126.26 (1) shall file an annual
22 financial statement with the department during each license year if the grain
23 warehouse keeper operates warehouses with a combined capacity of more than
24 300,000 bushels. The grain warehouse keeper shall file the annual financial
25 statement by the 15th day of the 4th month following the close of the grain warehouse

1 keeper's fiscal year, except that the department may extend the annual filing
2 deadline for up to 30 days if the grain warehouse keeper, or the accountant reviewing
3 or auditing the financial statement, files a written extension request at least 10 days
4 before the filing deadline.

5 **(2) VOLUNTARY ANNUAL FINANCIAL STATEMENT.** A contributing grain warehouse
6 keeper who is not required to file an annual financial statement under sub. (1) may
7 file an annual financial statement with the department in order to qualify for a lower
8 fund assessment under s. 126.30.

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

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

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

20 **(4m) INTERIM FINANCIAL STATEMENT.** The department may, at any time, require
21 a grain warehouse keeper licensed under s. 126.26 (1) to file an interim financial
22 statement with the department. The grain warehouse keeper shall provide, with the
23 interim financial statement, the warehouse keeper's sworn and notarized statement
24 that the financial statement is correct. An interim financial statement need not be
25 a reviewed financial statement or an audited financial statement.

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

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

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

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

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

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

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

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

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

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

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

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

16 **(10) DEPARTMENT REVIEW.** The department may analyze a financial statement
17 submitted under this section and may reject a financial statement that fails to
18 comply with this section.

19 **126.29 Contributing grain warehouse keepers; disqualification. (1)**
20 **CONTRIBUTION REQUIRED.** A grain warehouse keeper licensed under s. 126.26 (1) shall
21 pay fund assessments under s. 126.30 unless the grain warehouse keeper is
22 disqualified under sub. (2).

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

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

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

6 (b) A disqualified grain warehouse keeper remains liable for any unpaid fund
7 installment under s. 126.30 that became due while the grain warehouse keeper was
8 a contributing grain warehouse keeper. A disqualified grain warehouse keeper is not
9 liable for any fund installment that becomes due after the grain warehouse keeper
10 is disqualified under sub. (2).

11 **126.30 Grain warehouse keepers; fund assessments.** (1) GENERAL. A
12 contributing grain warehouse keeper shall pay an annual fund assessment for each
13 license year. The assessment equals \$20 or the sum of the following, whichever is
14 greater, unless the department by rule specifies a different assessment:

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

20 (b) The warehouse keeper's debt to equity ratio assessment. The debt to equity
21 ratio assessment for each license year is the amount, expressed as dollars, equal to
22 the grain warehouse keeper's debt to equity ratio assessment rate under sub. (4)
23 multiplied by the number of bushels that the warehouse keeper reports under s.
24 126.26 (2) (e) or (10).

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

3 (a) If the grain warehouse keeper has filed an annual financial statement
4 under s. 126.28 and that financial statement shows a current ratio of at least 1.25
5 to 1.0, the grain warehouse keeper's current ratio assessment rate equals the greater
6 of zero or the current ratio assessment factor in sub. (3) (a) multiplied by an amount
7 determined as follows:

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

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

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

- 23 1. Subtract one from the current ratio.
- 24 2. Divide the amount determined under subd. 1. by 3.
- 25 3. Multiply the amount determined under subd. 2. by negative one.

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

2 5. Subtract 0.75 from the current ratio.

3 6. Divide 0.65 by the amount determined under subd. 5.

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

5 8. Add the amount determined under subd. 4. to the amount determined under
6 subd. 7.

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

8 (c) If the grain warehouse keeper has filed an annual financial statement under
9 s. 126.28 and that financial statement shows a current ratio of less than or equal to
10 1.0 to 1.0, the warehouse keeper's current ratio assessment rate equals the current
11 ratio assessment factor in sub. (3) (b) multiplied by 120.81376.

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

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

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

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

4 (a) If the grain warehouse keeper has filed an annual financial statement
5 under s. 126.28 and that financial statement shows positive equity and a debt to
6 equity ratio of not more than 4.0 to 1.0, the grain warehouse keeper's debt to equity
7 ratio assessment rate equals the greater of zero or the debt to equity ratio assessment
8 factor in sub. (5) (a) multiplied by the following amount:

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

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

- 23 1. Subtract 4 from the debt to equity ratio.
- 24 2. Divide the amount determined under subd. 1. by 3.
- 25 3. Raise the amount determined under subd. 2. to the 3rd power.

1 4. Subtract 1.7 from the debt to equity ratio.

2 5. Divide the amount determined under subd. 4. by 1.75.

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

4 7. Add the amount determined under subd. 3. to the amount determined under
5 subd. 6.

6 8. Add 2 to the amount determined under subd. 7.

7 (c) If the grain warehouse keeper has filed an annual financial statement under
8 s. 126.28 and that financial statement shows negative equity or a debt to equity ratio
9 of at least 5.0 to 1.0, the grain warehouse keeper's debt to equity ratio assessment
10 rate equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by
11 86.8244.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) Currency.

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

21 1. The surety bond is made payable to the department for the benefit of
22 depositors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) If a grain warehouse keeper fails to comply with the department's demand
25 for security under this subsection, the grain warehouse keeper shall give written

1 notice of that fact to all depositors. If the grain warehouse keeper fails to give
2 accurate notice under this paragraph within 5 days after the deadline for filing
3 security under par. (b) has passed, the department shall promptly notify depositors
4 by publishing a class 3 notice under ch. 985. The department may also give
5 individual notice to depositors of whom the department is aware.

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

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

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

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

- 19 1. The grain warehouse keeper reports grain warehouse capacity under s.
20 126.26 (2) (e) of less than 300,000 bushels for at least 2 consecutive license years and
21 the grain warehouse keeper pays the quarterly fund assessment that would have
22 been required of the grain warehouse keeper if the grain warehouse keeper had been
23 a contributing grain warehouse keeper on the most recent quarterly installment date
24 under s. 126.30 (6).

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

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

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

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

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

15 **126.32 Grain warehouse keepers; records.** (1) RECORDS AND ACCOUNTS;
16 GENERAL. A grain warehouse keeper shall maintain current, complete, and accurate
17 records and accounts of all grain received into and withdrawn from each grain
18 warehouse, including records required under subs. (2) and (3).

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

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

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

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

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

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

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

8 (b) The kinds and amounts of grain that the grain warehouse keeper received
9 from the depositor, the receipt dates, and the terms under which the grain warehouse
10 keeper received the grain.

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

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

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

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

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

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

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

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

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

6 2. Records that the grain warehouse keeper was required to keep under ch. 127,
7 1999 stats., and department rules, before January 1, 2002.

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

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

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

18 (b) The department shall review a grain warehouse keeper's records at least
19 once every 2 years if the grain warehouse keeper files an annual financial statement
20 under s. 126.28 and that annual financial statement shows a current ratio of at least
21 2.0 to 1.0, positive equity, and a debt to equity ratio of not more than 2.0 to 1.0.

22 **126.33 Receipts for grain. (1) REQUIREMENT.** Immediately after a grain
23 warehouse keeper receives grain from a depositor, the grain warehouse keeper shall
24 give the depositor a warehouse receipt or other storage receipt that includes all of the
25 following:

1 (a) The name and permanent address of the grain warehouse keeper, the
2 location of the grain warehouse, and a statement indicating whether the grain
3 warehouse keeper is a corporation.

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

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

7 (d) The kind of grain received.

8 (e) The net weight of grain received.

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

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

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

17 1. A warehouse receipt.

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

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

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

1 **(3) WAREHOUSE KEEPER'S COPY.** A grain warehouse keeper shall keep a copy of
2 every warehouse receipt and other document that the grain warehouse keeper issues
3 under sub. (1). The grain warehouse keeper shall retain a copy of each document for
4 at least 6 years after the grain warehouse keeper issues the document and shall
5 make copies available to the department for inspection and copying upon request.

6 **126.34 Grain warehouse keepers; business practices. (1) GRAIN WEIGHT,**
7 **GRADE, AND QUALITY.** A grain warehouse keeper shall do all of the following when
8 determining the weight, grade, or quality of grain:

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

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

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

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

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

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

1 s. 126.46 or is required to contribute to the fund, but the first quarterly installment
2 under s. 126.46 (6) is not yet due, and who is not disqualified from the fund under
3 s. 126.45 (3).

4 (2) “Current ratio” means the ratio of the value of current assets to the value
5 of current liabilities, calculated according to s. 126.44 (8) (c) 1.

6 (3) “Dairy farm” has the meaning given in s. 97.22 (1) (a).

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

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

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

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

14 (7m) “License year” means the period beginning on May 1 and ending on the
15 following April 30.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (15) “Qualified producer agent” means a milk contractor who does all of the
2 following:

3 (a) Procures milk in this state solely as a producer agent.

4 (b) Complies with the rules promulgated under s. 126.51.

5 **126.41 Milk contractors; licensing. (1) ANNUAL LICENSE.** (a) No milk
6 contractor may do any of the following without a current annual license from the
7 department:

8 1. Receive producer milk in this state.

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

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

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

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

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

22 (a) The applicant’s legal name and any trade name under which the applicant
23 proposes to operate as a milk contractor. If the milk contractor is a dairy plant
24 operator licensed under s. 97.20, the milk contractor shall use the same legal name
25 in both license applications.

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

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

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

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

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

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

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

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

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

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

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

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

6 **(3m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (3) (b) does not
7 relieve the applicant of any other civil or criminal liability that results from the
8 violation of sub. (1), but does not constitute evidence of any law violation.

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

11 **(5) NO LICENSE WITHOUT FULL PAYMENT.** The department may not issue a license
12 under sub. (1) until the applicant pays all license fees and surcharges identified in
13 the department's statement under sub. (4). The department shall refund a fee or
14 surcharge paid under protest if upon review the department determines that the fee
15 or surcharge is not applicable.

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

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

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

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

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

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

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

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

14 **126.42 Milk contractors; monthly license fee.** (1) MONTHLY LICENSE FEE
15 PAYMENT. Except as provided under sub. (5) or (6), a milk contractor licensed under
16 s. 126.41 (1) shall pay to the department, by the 25th day of each month, a monthly
17 license fee of 0.15 cent for each 100 pounds of producer milk that the milk contractor
18 procured in this state during the preceding month. The milk contractor shall submit,
19 with the fee payment, a report stating the number of pounds of producer milk that
20 the milk contractor procured in this state during the preceding month.

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