

1 assessment shall equal the total amount owed under the contract before the
2 assessment is deducted, multiplied by the deferred payment assessment rate that
3 applies under s. 126.15 (6) when the contract is made. The grain dealer shall disclose
4 the assessment amount or, if the contract is a deferred price contract, the method by
5 which the assessment amount will be determined, in the written contract under sub.
6 (1).

7 **126.20 Grain dealers; business practices. (1) GRAIN WEIGHT, GRADE, AND**
8 **QUALITY.** A grain dealer shall do all of the following when determining the weight,
9 grade, or quality of grain:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER IV

GRAIN WAREHOUSE KEEPERS

126.25 Definitions. In this subchapter:

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

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

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

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

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

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

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

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

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

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

10 (9m) “License year” means the period beginning on September 1 and ending
11 on the following August 31.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (a) A nonrefundable license processing fee of \$25 plus \$25 for each grain
25 warehouse identified under sub. (2) (d). If a grain warehouse keeper operates 2 or

1 more grain warehouses located within 0.5 mile of each other, the grain warehouse
2 keeper may treat those grain warehouses as a single grain warehouse for purposes
3 of this paragraph and par. (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 or the formula for determining them. The department shall specify any fee credit for
2 which the applicant may qualify under sub. (5).

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

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

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

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

22 **126.27 Grain warehouse keepers; insurance.** (1) FIRE AND EXTENDED
23 COVERAGE INSURANCE. A grain warehouse keeper licensed under s. 126.26 (1) shall
24 maintain fire and extended coverage insurance, issued by an insurance company
25 authorized to do business in this state, that covers all grain in the custody of the grain

1 warehouse keeper, whether owned by the grain warehouse keeper or held for others,
2 at the full local market value of the grain.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) Currency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 1. Issue an appropriate summary order under s. 126.85 (2).

4 2. Suspend or revoke the grain warehouse keeper's license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (d) The kind of grain received.

1 (e) The net weight of grain received.

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

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

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

10 1. A warehouse receipt.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (c) A grain warehouse keeper may not provide grain or payments under par.

25 (b) whose value exceeds the current value of the grain that was deposited.

1 (5) PROHIBITED PRACTICES. No grain warehouse keeper may do any of the
2 following:

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

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

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

8 (d) If the grain warehouse keeper is licensed under s. 126.26 (1), engage in any
9 activity that is inconsistent with representations made in the grain warehouse
10 keeper’s annual license application.

11 (e) Make any false or misleading representation to a depositor related to
12 matters regulated under this chapter.

13 (f) Fail to file the full amount of security required under s. 126.31 (6) by the date
14 that the department specifies.

15 SUBCHAPTER V

16 MILK CONTRACTORS

17 **126.40 Definitions.** In this subchapter:

18 (1) “Contributing milk contractor” means a milk contractor who is licensed
19 under s. 126.41 (1), who either has paid one or more quarterly installments under
20 s. 126.46 or is required to contribute to the fund, but the first quarterly installment
21 under s. 126.46 (6) is not yet due, and who is not disqualified from the fund under
22 s. 126.45 (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **126.41 Milk contractors; licensing.** (1) ANNUAL LICENSE. (a) No milk
22 contractor may do any of the following without a current annual license from the
23 department:

24 1. Receive producer milk in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **(7) ACTION GRANTING OR DENYING APPLICATION.** The department shall grant or
25 deny a license application under sub. (2) within 30 days after the department

1 receives a complete application. If the department denies a license application, the
2 department shall give the applicant written notice stating the reasons for the denial.

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

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

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

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

20 (3) FEE CREDITS. If the balance in the fund contributed by milk contractors
21 exceeds \$4,000,000 on February 28 of any license year, the department shall credit
22 50% of the excess amount against fees charged under sub. (1) to contributing milk
23 contractors who file timely renewal applications for the next license year. The
24 department shall credit each contributing milk contractor on a prorated basis, in
25 proportion to the total fees that the milk contractor has paid under sub. (1) for the

1 4 preceding license years. Each month that a contributing contractor who qualifies
2 for a credit under this subsection pays fees under sub. (1), the department shall credit
3 to the contributing milk contractor one-twelfth of the total annual credit determined
4 under this subsection.

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

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

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

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

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

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

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

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

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

4 (3) INSURANCE COVERAGE; MISREPRESENTATION. No milk contractor may
5 misrepresent any of the following to the department or to any milk producer or
6 producer agent:

7 (a) That the milk contractor is insured.

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

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

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

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

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

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

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

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

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

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

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

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

23 (6) ACCOUNTING PERIOD. A milk contractor filing an annual financial statement
24 under sub. (1) or (2) shall file a financial statement that covers the milk contractor's

1 last completed fiscal year unless the milk contractor has been in business for less
2 than one year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (3) DISQUALIFIED CONTRACTORS. (a) A milk contractor who is required to file
17 security under s. 126.47 (1) is disqualified from the fund until the department
18 releases that security under s. 126.47 (7) (a). This paragraph does not apply, during
19 the period beginning on May 1, 2002, and ending on April 30, 2007, to a qualified
20 producer agent who files security under s. 126.47 (3) (c).

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

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

25 1. Failure to pay fund assessments under s. 126.46 when due.

1 2. Failure to file a financial statement under s. 126.44 when due.

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

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

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

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

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

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

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

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

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

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

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

1 (b) If the milk contractor has filed an annual financial statement under s.
2 126.44 and that financial statement shows a current ratio of less than 1.25 to 1.0, but
3 greater than 1.05 to 1.0, the milk contractor's current ratio assessment rate equals
4 the current ratio assessment factor in sub. (3) (b) multiplied by the following amount:

5 1. Subtract 3 from the current ratio.

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

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

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

9 5. Divide 0.55 by the current ratio.

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

11 7. Add the amount determined under subd. 4. to the amount determined under
12 subd. 6.

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

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

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

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

1 participation in the fund, the milk contractor's current ratio assessment rate is
2 0.000175.

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

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

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

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

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

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

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

23 1. Subtract 2 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 9th power.

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

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

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

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

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

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

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

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

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

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

16 6. Add the amount determined under subd. 3. to the amount determined under
17 subd. 5.

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

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

23 (d) Except as provided in par. (e), if the milk contractor has not filed an annual
24 financial statement under s. 126.44, the milk contractor's debt to equity ratio

1 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)
2 multiplied by 0.11325375.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) SECURITY CONTINUED. A milk contractor who filed security under s. 100.06,
12 1999 stats., before May 1, 2002, shall maintain that security until the department
13 releases it under sub. (7).

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

17 (a) Except as provided in par. (b) or (c), security equal to at least 75% of the
18 amount last reported under s. 126.41 (6) (b) or (9).

19 (b) Except as provided in par. (c), for a milk contractor who procures milk in this
20 state solely as a qualified producer agent, security equal to at least the following
21 amounts:

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

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

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

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

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

7 (c) For a contributing milk contractor who procures milk in this state solely as
8 a qualified producer agent, for the period beginning on May 1, 2002, and ending on
9 April 30, 2007, security equal to at least 7.5% of the amount last reported under s.
10 126.41 (6) (b) or (9), but not more than \$500,000.

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

14 (a) Currency.

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

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

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

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

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