

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 ⁶~~127~~.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. ⁶~~127~~.26 (1), if the warehouse keeper operates warehouses
13 with a combined capacity of more than 300,000 bushels.

14 (b) A grain warehouse keeper licensed under s. ⁶~~127~~.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. 12~~7~~⁶.30.

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. 12~~7~~⁶.26 (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
4 ^{an} 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 ⁶ **127.29 Contributing grain warehouse keepers; disqualification. (1)**

15 CONTRIBUTION REQUIRED. A grain warehouse keeper licensed under s. ⁶127.26 (1) shall
16 pay fund assessments under s. ⁶127.30 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. ⁶127.31 (1) is disqualified from the fund until the
20 department releases that security under s. ⁶127.31 (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. ~~The department~~
23 ~~may suspend a grain warehouse keeper's license if the grain warehouse keeper does~~
24 ~~any of the following:~~

25 ~~1. Fails to pay fund assessments under s. 127.30 when due.~~

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2. Fails to file a financial statement under s. 127.28 when due.

(f) ~~the contractor~~ ^{The contractor} Fails to reimburse the department, within 60 days after the department issues a reimbursement demand under s. 127.73 (1), for the full amount that the department pays to claimants under s. 127.72 (1) because of the ~~grain warehouse~~ ^{contractor's} keeper's default.

(g) ~~the contractor~~ ^{The contractor} Fails to reimburse a bond surety, within 60 days after the bond surety issues a reimbursement demand under s. 127.73 (2), for the full amount that the surety pays to the department under s. 127.72 (2) or (3) for the benefit of claimants affected by the ~~warehouse keeper's~~ ^{contractor's} default.

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

(b) A disqualified grain warehouse keeper remains liable for any unpaid fund installment under s. 127.30 that became due while the grain warehouse keeper was a contributing grain warehouse keeper. A disqualified grain warehouse keeper is not liable for any fund installment that becomes due after the grain warehouse keeper is disqualified under sub. (2).

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

(a) The grain warehouse keeper's current ratio assessment. The current ratio assessment for a license year is the amount, expressed as dollars, equal to the grain warehouse keeper's current ratio assessment rate under sub. (2) multiplied by the number of bushels that the grain warehouse keeper reports under s. 127.26 (2) (e).

or (10)

1 (b) The warehouse keeper's debt to equity ratio assessment. The debt to equity
 2 ratio assessment for each license year is the amount, expressed as dollars, equal to
 3 the grain warehouse keeper's debt to equity ratio assessment rate under sub. (4)
 4 multiplied by the number of bushels that the warehouse keeper reports under s.

5 ⁶12~~7~~.26 (2) (e) ^{or (10)}

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

8 (a) If the grain warehouse keeper has filed an annual financial statement
 9 under s. ⁶12~~7~~.28 and that financial statement shows a current ratio of at least 1.25
 10 to 1.0, the grain warehouse keeper's current ratio assessment rate equals the greater
 11 of zero or the current ratio assessment factor in sub. (3) (a) multiplied by the

12 following ^{an} amount: *determined as follows*

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14 (b) If the grain warehouse keeper has filed an annual financial statement
 15 under s. ⁶12~~7~~.28 and that financial statement shows a current ratio of less than 1.25
 16 to 1.0, but greater than 1.0 to 1.0, the grain warehouse keeper's current ratio
 17 assessment rate equals the current ratio assessment factor in sub. (3) (b) multiplied
 18 by the following amount:

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19 (c) If the grain warehouse keeper has filed an annual financial statement under
 20 s. ⁶12~~7~~.28 and that financial statement shows a current ratio of less than or equal to
 21 1.0 to 1.0, the warehouse keeper's current ratio assessment rate equals the current
 22 ratio assessment factor in sub. (3) (b) multiplied by 120.81376.
 23

1 (d) If the grain warehouse keeper has not filed an annual financial statement
2 under s. 12⁶~~7~~.28, the warehouse keeper's current ratio assessment rate equals the
3 current ratio assessment factor in sub. (3) (b) multiplied by 5.71235.

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

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

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

16 (a) If the grain warehouse keeper has filed an annual financial statement
17 under s. 12⁶~~7~~.28 and that financial statement shows a debt to equity ratio of not more
18 than 4.0 to 1.0, the grain warehouse keeper's debt to equity ratio assessment rate
19 equals the greater of zero or the debt to equity ratio assessment factor in sub. (5) (a)
20 multiplied by the following amount:

21 *Insert* ~~*Insert Graphic Here*~~

22 (b) If the grain warehouse keeper has filed an annual financial statement
23 under s. 12⁶~~7~~.28 and that financial statement shows a debt to equity ratio of greater
24 than 4.0 to 1.0 but less than 5.0 to 1.0, the grain warehouse keeper's debt to equity

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

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4 (c) If the grain warehouse keeper has filed an annual financial statement under
5 s. 127.28 and that financial statement shows a debt to equity ratio of at least 5.0 to
6 1.0, the grain warehouse keeper's debt to equity ratio assessment rate equals the
7 debt to equity ratio assessment factor in sub. (5) (b) multiplied by 86.8244.

8 (d) If the grain warehouse keeper has not filed an annual financial statement
9 under s. 127.28, the grain warehouse keeper's debt to equity ratio assessment rate
10 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by 8.77374.

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

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

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

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

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

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

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

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

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

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

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

(21) ~~12~~⁶.31 **Grain warehouse keepers; security.** (1) SECURITY REQUIRED. A
22 grain warehouse keeper shall file security with the department, and maintain that
23 security until the department releases it under sub. (8), if all of the following apply
(24) when the department first licenses the grain warehouse keeper under s. 12~~7~~⁶.26 (1):

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

3 (b) The grain warehouse keeper's annual financial statement under s. 127.28
4 (1) (a) shows negative equity.

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

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

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

15 (a) Currency.

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

17 1. The surety bond is made payable to the department for the benefit of
18 depositors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (d) If a grain warehouse keeper fails to comply with the department's demand
22 for security under this subsection, the grain warehouse keeper shall give written
23 notice of that fact to all depositors. If the grain warehouse keeper fails to give
24 accurate notice under this paragraph within 5 days after the deadline for filing
25 security under par. (b) has passed, the department shall promptly notify depositors

1 by publishing a class 3 notice under ch. 985. The department may also give
2 individual notice to depositors of whom the department is aware.

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

- 5 1. Issue an appropriate summary order under s. ~~127~~⁶.85 (2).
6 2. Suspend or revoke the grain warehouse keeper's license.

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

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

16 1. The grain warehouse keeper reports grain warehouse capacity under s.
17 ~~127~~⁶.26 (2) (e) of less than 300,000 bushels for at least 2 consecutive ^{license} years and the ✓
18 grain warehouse keeper pays the quarterly fund assessment that would have been
19 required of the grain warehouse keeper if the grain warehouse keeper had been a
20 contributing grain warehouse keeper on the most recent quarterly installment date
21 under s. ~~127~~⁶.30 (6).

22 2. The grain warehouse keeper's annual financial statement under s. ~~127~~⁶.28
23 shows positive equity for at least 2 consecutive years and the grain warehouse keeper
24 pays the quarterly fund assessment that would have been required of the grain

1 warehouse keeper if the grain warehouse keeper had been a contributing grain
2 warehouse keeper on the most recent quarterly installment date under s. 12⁶.30 (6).

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

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

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

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

12 ⁶~~12~~.32 **Grain warehouse keepers; records.** (1) RECORDS AND ACCOUNTS;
13 GENERAL. A grain warehouse keeper shall maintain current, complete, and accurate
14 records and accounts of all grain received into and withdrawn from each grain
15 warehouse, including records required under subs. (2) and (3).

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

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

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

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

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

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

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

5 (b) The kinds and amounts of grain that the grain warehouse keeper received
6 from the depositor, the receipt dates, and the terms under which the grain warehouse
7 keeper received the grain.

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

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

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

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

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

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

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

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

1 1. Records required under this section and s. ~~127~~⁶.33 (3).

2 2. Records that the grain warehouse keeper was required to keep under ch. 127,
3 1999 stats., and department rules, before January 1, 2002.

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

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

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

14 (b) The department shall review a grain warehouse keeper's records at least
15 once every 2 years if the grain warehouse keeper files an annual financial statement
16 under s. ~~127~~⁶.28 and that annual financial statement shows a current ratio of at least
17 2.0 to 1.0 and a debt to equity ratio of not more than 2.0 to 1.0.

18 ~~127~~⁶.33 Receipts for grain. (1) REQUIREMENT. Immediately after a grain
19 warehouse keeper receives grain from a depositor, the grain warehouse keeper shall
20 give the depositor a ~~scale ticket~~ warehouse receipt, or other storage receipt that
21 includes all of the following:

22 (a) The name and permanent address of the grain warehouse keeper, the
23 location of the grain warehouse, and a statement indicating whether the grain
24 warehouse keeper is a corporation.

1 (b) A statement identifying the document as a ~~scale ticket~~ warehouse receipt^w
2 or other storage receipt.

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

4 (d) The kind of grain received.

5 (e) The net weight of grain received, ~~including dockage if determined.~~

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

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

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

14 1. A warehouse receipt.

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

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

18 (2) GRAIN OWNERSHIP. If a person delivers grain to a recipient who is both a
19 grain warehouse keeper and a grain dealer, as defined in s. 12⁶.10 (9), the delivery
20 is considered a deposit for storage unless it is clearly documented as a delivery of
21 purchased grain. A ~~scale ticket or other~~ receipt^{issued by such a recipient} is considered a storage receipt unless
22 it is clearly designated as a receipt for the delivery of purchased grain.

23 (3) WAREHOUSE KEEPER'S COPY. A grain warehouse keeper shall keep a copy of
24 every ~~scale ticket~~ grain warehouse receipt^w and other document that the grain
25 warehouse keeper issues under sub. (1). The grain warehouse keeper shall retain

1 a copy of each document for at least 6 years after the grain warehouse keeper issues
2 the document and shall make copies available to the department for inspection and
3 copying upon request.

4 ~~127~~¹²⁶.34 **Grain warehouse keepers; business practices.** (1) GRAIN WEIGHT,
5 GRADE, AND QUALITY. A grain warehouse keeper shall do all of the following when
6 determining the weight, grade, or quality of grain:

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

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

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

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

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

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

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

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

3 (c) A grain warehouse keeper may not provide grain or payments under par.
4 (b) whose value exceeds the current value of the grain that was deposited.

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

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

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

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

12 (d) If the grain warehouse keeper is licensed under s. ~~127~~⁶.26 (1), engage in any
13 activity that is inconsistent with representations made in the grain warehouse
14 keeper's annual license application.

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

17 (f) Fail to file the full amount of security required under s. ~~127~~⁶.31 (6) by the date
18 that the department specifies.

19 SUBCHAPTER V

20 MILK CONTRACTORS

21 ~~127~~⁶.40 **Definitions.** In this subchapter:

22 (1) "Contributing milk contractor" means a milk contractor who is licensed
23 under s. ~~127~~⁶.41 (1), who either has paid one or more quarterly installments under
24 s. ~~127~~⁶.46 or is required to contribute to the fund, but the first quarterly installment

1 under s. 127.46 (6) is not yet due, and who is not disqualified from the fund under
2 s. 127.45 (3).

3 (2) "Current ratio" means the ratio of the value of current assets to the value
4 of current liabilities, calculated according to s. 127.44 (8) (c) 1.

5 (3) "Dairy farm" has the meaning given in s. 97.22 (1) (a).

6 (4) "Dairy plant" has the meaning given in s. 97.20 (1) (a).

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

9 (6) "Debt to equity ratio" means the ratio of the value of liabilities to equity,
10 calculated according to s. 127.44 (8) (c) 2.

11 (7) "Disqualified milk contractor" means a milk contractor who is disqualified
12 from the fund under s. 127.45 (3).

13 (7m) "License year" means the period beginning on May 1 and ending on the
14 following April 30.

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

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

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

23 (9) "Milk payroll obligation" means a milk contractor's gross obligation to a
24 milk producer or producer agent, whether paid or unpaid, for producer milk that the
25 milk contractor procures in this state.

- 1 (10) "Milk producer" means a person who produces milk on a dairy farm.
- 2 (11) "Procure^{producer} milk" means to buy^{producer} milk or acquire the right to market^{producer} milk.
- 3 (12) "Procure^{producer} milk in this state" means any of the following:
- 4 (a) To buy^{producer} milk for receipt in this state.
- 5 (b) To receive^{producer} milk directly from a dairy farm in this state.
- 6 (c) To collect^{producer} milk from a dairy farm in another state, for direct shipment to a
- 7 dairy plant that the milk contractor operates in this state.
- 8 (d) To acquire the right to market^{producer} milk that is produced in this state.

9 (13) "Producer agent" means a person who acts on behalf of a milk producer

10 to market or accept payment for producer milk without taking title to that milk,

11 including a person who uses a producer trust fund to market or accept payment for

12 producer milk. "Producer agent" does not include any of the 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 holds or transports milk for a milk producer without

17 marketing or accepting payment for milk on behalf of the milk producer.

18 (14) "Producer milk" means milk that is owned by or held in trust for one or

19 more milk producers. "Producer milk" includes milk that a producer agent markets

20 for a producer, without taking title to the milk.

21 ~~127.41~~ ⁶ **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 name of a
24 responsible individual who may be contacted at that location.

1 (d) The ^{street} address of each business location from which the applicant will operate
2 under the license and the name of a responsible person who may be contacted at each
3 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. 127⁶.44 (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 application
is made after the beginning
of a license year*

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

18 (c) A license surcharge of \$100 if during the preceding 12 months the applicant
19 failed to file an annual financial statement required under s. 127⁶.44 (1) (b) by the
20 applicable deadline.

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

23 (3m) EFFECT OF PAYMENT OF SURCHARGE. Payment under sub. (3) (b) does not
24 relieve the applicant of any other civil or criminal liability that results from the
25 violation of sub. (1), but does not constitute evidence of any law violation.

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

3 (5) NO LICENSE WITHOUT FULL PAYMENT. The department may not issue a license
4 under sub. (1) until the applicant pays all license fees and surcharges identified in
5 the department's statement under sub. (4). 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 (6) SWORN AND NOTARIZED STATEMENT. As part of a license application under sub.
9 (2), an applicant shall provide a sworn and notarized statement, signed by the
10 applicant or an authorized officer of the applicant, that reports all of the following
11 information:

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

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

18 (c) The identity of any producer agents from whom the milk contractor procures

19 ^{producer}
^ milk.

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

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

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

4 (9) NOTIFICATION REQUIRED. A milk contractor who files security under s. ~~127.47~~⁶
5 shall immediately notify the department if, at any time, the milk contractor's unpaid
6 milk payroll obligations exceed the amount last reported under sub. (6) (b).

7 ~~127.42~~⁶ **Milk contractors; monthly license fee.** (1) MONTHLY LICENSE FEE
8 PAYMENT. Except as provided under sub. (5) or (6), a milk contractor licensed under
9 s. ~~127.41~~⁶ (1) shall pay to the department, by the 25th day of each month, a monthly
10 license fee of 0.15 cent for each 100 pounds of producer milk that the milk contractor
11 procured in this state during the preceding month. The milk contractor shall submit,
12 with the fee payment, a report stating the number of pounds of producer milk that
13 the milk contractor procured in this state during the preceding month.

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

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

24 4 preceding license years. *(Each month) the department shall credit to
the contributing milk contractor one-twelfth of the total annual credit
determined under this subsection.*

*that a contributing contractor who qualifies for a credit under this subsection pays fees under
sub. (1)*

1 (4) FEE STATEMENT. Whenever the department issues an annual license to a
2 milk contractor under s. ~~127~~⁶.41 (1), the department shall give the milk contractor
3 notice of the monthly fees required under this section. The department shall specify
4 all of the following:

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

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

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

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

9 (5) PRODUCER AGENTS; EXEMPTION. A producer agent is not required to pay the
10 monthly fee under sub. (1) for producer milk that the producer agent markets to a
11 milk contractor who is licensed under s. ~~127~~⁶.41 (1) and who pays the monthly fee on
12 the same milk.

13 (6) FEE CHANGES. The department may modify the license fees under sub. (1)
14 by rule, as provided under s. ~~127~~⁶.81 (2).

15 ~~127~~⁶.43 Milk contractors; insurance. (1) FIRE AND EXTENDED COVERAGE
16 INSURANCE. A milk contractor licensed under s. ~~127~~⁶.41 (1) shall maintain fire and
17 extended coverage insurance that covers, at their full value, all milk and milk
18 products in the possession, custody, or control of the milk contractor. If the milk
19 contractor is required to be licensed under s. ~~127~~⁶.41 (1) (a), the milk contractor shall
20 maintain insurance issued by an insurance company authorized to do business in
21 this state.

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

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

4 (a) That the milk contractor is insured.

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

7 **127.44 Milk contractors; financial statements.** (1) REQUIRED ANNUAL

8 FINANCIAL STATEMENT. (a) ~~Except as provided in par. (c),~~ a milk contractor shall file
9 an annual financial statement with the department before the department first
10 licenses the milk contractor under s. ⁶127.41 (1), unless the milk contractor reports,

11 (b) Except as provided in par. (c), a milk contractor licensed under s. ⁶127.41 (1)
12 shall file an annual financial statement with the department during each license
13 year. The milk contractor shall file the annual financial statement by the 15th day
14 of the 4th month following the close of the milk contractor's fiscal year. The
15 department may extend the filing deadline for up to 30 days if the milk contractor,
16 or the accountant preparing the financial statement, files a written extension
17 request at least 10 days before the filing deadline.

18 (c) Paragraph ~~(a)~~ and (b) ^{does} not apply to any of the following:

19 1. A contributing milk contractor who reports no more than \$1,500,000 in
20 annual milk payroll obligations under s. ⁶127.41 (6) (a).

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

23 (2) VOLUNTARY ANNUAL FINANCIAL STATEMENT. A milk contractor licensed under
24 s. ⁶127.41 (1) who is not required to file a financial statement under sub. (1) may file
25 an annual financial statement with the department for any of the following reasons:

no more than \$1,500,000 in annual milk payroll obligations under
s. 126.41(6)(a) ✓

① (a) To avoid being required to contribute to the fund under s. ~~127~~⁶.45 (1) (a).

② (b) To qualify for a lower fund assessment under s. ~~127~~⁶.46.

3 (3) QUARTERLY FINANCIAL STATEMENTS. A milk contractor licensed under s.
④ ~~127~~⁶.41 (1) who is not a contributing milk contractor shall file quarterly financial
5 statements with the department for the first 3 quarters in each of the milk
6 contractor's fiscal years. The milk contractor shall file each quarterly financial
7 statement no later than 60 days after the end of the fiscal quarter to which the
8 financial statement pertains. With each quarterly financial statement, the milk
9 contractor shall include the milk contractor's sworn and notarized statement that
10 the financial statement is correct.

11 (5) REVIEWED OR AUDITED FINANCIAL STATEMENT. (a) A milk contractor filing an
12 annual financial statement under sub. (1) or (2) shall file an audited financial
13 statement if the milk contractor reports more than \$6,000,000 in annual milk payroll
⑭ obligations under s. ~~127~~⁶.41 (6) (a).

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

18 (6) ACCOUNTING PERIOD. A milk contractor filing an annual financial statement
19 under sub. (1) or (2) shall file a financial statement that covers the milk contractor's
20 last completed fiscal year unless the milk contractor has been in business for less
21 than one year.

22 (6m) INTERIM FINANCIAL STATEMENT. The department may, at any time, require
⑮ a milk contractor licensed under s. ~~127~~⁶.41 (1) to file an interim financial statement
24 with the department. With the interim financial statement, the milk contractor shall
25 provide the milk contractor's sworn and notarized statement that the financial

1 statement is correct. An interim financial statement need not be a reviewed financial
2 statement or an audited financial statement.

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

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

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

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

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

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

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

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

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

10 (b) A note or account receivable from a parent organization,^a subsidiary, or

11 ^{an} affiliate^{other than an employee}

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

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

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

21 ~~127.45~~ ⁶ **Contributing milk contractors; disqualification.** (1) REQUIRED
22 CONTRIBUTORS. (a) Except as provided in sub. (3), a licensed milk contractor shall pay

23 fund assessments under s. ~~127.46~~ ⁶ if the milk contractor does not file annual and

24 quarterly financial statements under s. ~~127.44~~ ⁶.

1 (b) Except as provided in sub. (3), a licensed milk contractor shall pay fund
2 assessments under s. ~~127~~⁶.46 if the milk contractor files an annual, quarterly, or
3 interim financial statement under s. ~~127~~⁶.44 that shows a current ratio of less than
4 1.25 to 1.0 or a debt to equity ratio of more than 2.0 to 1.0. The milk contractor shall
5 continue to pay fund assessments until the milk contractor files 2 consecutive annual
6 financial statements under s. ~~127~~⁶.44 that show a current ratio of at least 1.25 to 1.0
7 and a debt to equity ratio of not more than 2.0 to 1.0.

8 (2) VOLUNTARY CONTRIBUTORS. Except as provided in sub. (3), a licensed milk
9 contractor who is not required to pay fund assessments under s. ~~127~~⁶.46 may elect to
10 do so.

11 (3) DISQUALIFIED CONTRACTORS. (a) A milk contractor who is required to file
12 security under s. ~~127~~⁶.47 (1) is disqualified from the fund until the department
13 releases that security under s. ~~127~~⁶.47 (7) (a).

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

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

- 18 1. Failure to pay fund assessments under s. ~~127~~⁶.46 when due.
- 19 2. Failure to file a financial statement under s. ~~127~~⁶.44 when due.
- 20 3. Failure to reimburse the department, within 60 days after the department
21 issues a reimbursement demand under s. ~~127~~⁶.73 (1), for the full amount that the
22 department pays to claimants under s. ~~127~~⁶.72 (1) because of that milk contractor's
23 default.
- 24 4. Failure to reimburse a bond surety, within 60 days after the bond surety
25 issues a reimbursement demand under s. ~~127~~⁶.73 (2), for the full amount that the

(1) surety pays to the department under s. ~~127~~⁶.72 (2) or (3) for the benefit of claimants
2 affected by that milk contractor's default.

3 (4) EFFECT OF DISQUALIFICATION. (a) A milk contractor disqualified under sub.
(4) (3) (c) may not engage in any activities for which a license is required under s. ~~127~~⁶.41

5 (1) (a) if ~~as a result of the disqualification~~ the milk contractor ~~no longer complies~~

6 ~~with sub. (1)~~ files an annual, quarterly, or interim financial statement under
7 s. 126.44 that shows a current ratio of less than 1.25 to 1.0 or a

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

9 (c) A disqualified milk contractor remains liable for any unpaid fund
(10) installment under s. ~~127~~⁶.46 that became due while the milk contractor was a
11 contributing milk contractor. A disqualified milk contractor is not liable for any fund
12 installment that becomes due after the milk contractor is disqualified under sub. (3).

(13) **~~127~~⁶.46 Contributing milk contractors; fund assessments. (1) GENERAL.**

14 A contributing milk contractor shall pay an annual fund assessment for each license
15 year. The assessment equals \$20 or the sum of the following, whichever is greater,
16 unless the department by rule specifies a different assessment:

17 (a) The milk contractor's current ratio assessment. The current ratio
18 assessment for a license year equals the milk contractor's current ratio assessment
19 rate under sub. (2) multiplied by the annual milk payroll obligations reported under
(20) s. ~~127~~⁶.41 (6) (a) in the milk contractor's license application for that license year.

21 (b) The milk contractor's debt to equity ratio assessment. The debt to equity
22 ratio assessment for a license year equals the milk contractor's debt to equity ratio
23 assessment rate under sub. (4) multiplied by the annual milk payroll obligations
(24) reported under s. ~~127~~⁶.41 (6) (a) in the milk contractor's license application for that
25 license year.

debt to equity ratio of more than 2.0 to 1.0

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

3 (a) If the milk contractor has filed an annual financial statement under s.
4 ~~127~~⁶.44 and that financial statement shows a current ratio of at least 1.25 to 1.0, the
5 milk contractor's current ratio assessment rate equals the greater of zero or the
6 current ratio assessment factor in sub. (3) (a) multiplied by the following amount:

Insert 83-7 → ~~*Insert Graphic Here*~~

8 (b) If the milk contractor has filed an annual financial statement under s.
9 ~~127~~⁶.44 and that financial statement shows a current ratio of less than 1.25 to 1.0, but
10 greater than 1.05 to 1.0, the milk contractor's current ratio assessment rate equals
11 the current ratio assessment factor in sub. (3) (b) multiplied by the following amount:

Insert 83-12 → ~~*Insert Graphic Here*~~

13 (c) If the milk contractor has filed an annual financial statement under s.
14 ~~127~~⁶.44 and that financial statement shows a current ratio of less than or equal to 1.05
15 to 1.0, the milk contractor's current ratio assessment rate equals the current ratio
16 assessment factor in sub. (3) (b) multiplied by 0.1201478.

17 (d) Except as provided in par. (e), if the milk contractor has not filed an annual
18 financial statement under s. ~~127~~⁶.44, the milk contractor's current ratio assessment
19 rate equals the current ratio assessment factor in sub. (3) (b) multiplied by 0.103005.

20 (e) If the milk contractor has not filed an annual financial statement under s.
21 ~~127~~⁶.44 and the milk contractor procures ^{producer} milk in this state solely as a producer agent,
22 the milk contractor's current ratio assessment rate is 0.⁰0025, except that, for the
23 milk contractor's 5th or higher consecutive full license year of participation in the
24 fund, the milk contractor's current ratio assessment rate is 0.⁰00175.

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

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

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

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

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

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

16 (a) If the milk contractor has filed an annual financial statement under s.
17 ~~127~~⁶.44 and that financial statement shows a debt to equity ratio of not more than 2.0
18 to 1.0, the milk contractor's debt to equity ratio assessment rate equals the greater
19 of zero or the debt to equity ratio assessment factor in sub. (5) (a) multiplied by the
20 following amount:

✓
Insert
84-21
~~21~~ *Insert Graphic Here*

21 (b) If the milk contractor files an annual financial statement under s. ~~127~~⁶.44
22 and that financial statement shows a debt to equity ratio of greater than 2.0 to 1.0
23 but less than 3.1 to 1.0, the milk contractor's debt to equity ratio assessment rate
24

1 equals the debt to equity ratio assessment factor in sub. (5) (b) multiplied by the
2 following amount:

3 ~~*Insert Graphic Here*~~

4 (c) If the milk contractor has filed an annual financial statement under s.
5 ⁶127.44 and that financial statement shows a debt to equity ratio of at least 3.1 to 1.0,
6 the milk contractor's debt to equity ratio assessment rate equals the debt to equity
7 ratio assessment factor in sub. (5) (b) multiplied by 0.8146917.

8 (d) Except as provided in par. (e), if the milk contractor has not filed an annual
9 financial statement under s. ⁶127.44, the milk contractor's debt to equity ratio
10 assessment rate equals the debt to equity ratio assessment factor in sub. (5) (b)
11 multiplied by 0.11325375.

12 (e) If the milk contractor has not filed an annual financial statement under s.
13 ⁶127.44 and the milk contractor procures ^{producer} milk in this state solely as a producer agent,
14 the milk contractor's debt to equity ratio assessment rate is 0.⁰0025, except that, for
15 the milk contractor's 5th or higher consecutive full license year of participation in the
16 fund, the milk contractor's debt to equity ratio assessment rate is 0.⁰00175.

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

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

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

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

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

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

- 8 1. The first installment is due on June 1 of the license year.
- 9 2. The 2nd installment is due on September 1 of the license year.
- 10 3. The 3rd installment is due on December 1 of the license year.
- 11 4. The 4th installment is due on March 1 of the license year.

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

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

19 (d) If s. ⁶127.45 (1) (b) requires a licensed milk contractor to become a
20 contributing milk contractor during the license year, the milk contractor shall pay
21 only those quarterly installments that become due after the requirement takes
22 effect.

23 (e) A contributing milk contractor who fails to pay the full amount of any
24 quarterly installment when due shall pay, in addition to that installment, a late

1 payment penalty of \$50 or 10% of the overdue installment amount, whichever is
2 greater.

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

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

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

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

12 ⁶~~127~~.47 Milk contractors; security. (1) SECURITY REQUIRED. A milk
13 contractor shall file security with the department, and maintain that security until
14 the department releases it under sub. (7), if all of the following apply when the
15 department first licenses the milk contractor under s. ⁶~~127~~.41 (1):

16 (a) The milk contractor reports more than \$1,500,000 in annual milk payroll
17 obligations under s. ⁶~~127~~.41 (6) (a).

18 (b) The milk contractor files an annual financial statement under s. ⁶~~127~~.44 (1)
19 and that financial statement shows negative equity.

20 (2) SECURITY CONTINUED. A milk contractor who filed security under s. 100.06,
21 1999 stats., before May 1, 2002, shall maintain that security until the department
22 releases it under sub. (7).

23 (3) AMOUNT OF SECURITY. A milk contractor who is required to file or maintain
24 security under this section shall at all times maintain security equal to ⁶at least 75%¹
of the amount last reported under s. ⁶~~127~~.41 (6) (b) or (9).

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— a milk contractor who procures producer milk in
this state solely as a producer agent,

1 (4) FORM OF SECURITY. The department shall review, and determine whether
2 to approve, security filed under this section. The department may approve only the
3 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 milk
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 milk
18 producers and producer agents.

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

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 milk
3 producers or 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 with the department under s. 100.06, 1999 stats., before May
12 1, 2002, except that on January 1, 2003, the department shall withdraw its approval
13 of any security that is not approvable under pars. (a) to (d).

14 (f) A dairy plant trusteeship created before May 1, 2002, under s. 100.06, 1999
15 stats. This paragraph does not apply after January 1, 2003.

16 (5) DEPARTMENT CUSTODY OF SECURITY. The department shall hold, in its custody,
17 all security filed and maintained under this section. The department shall hold the
18 security for the benefit of milk producers and producer agents.

19 (6) ADDITIONAL SECURITY. (a) The department may, at any time, demand
20 additional security from a milk contractor if any of the following applies:

21 1. The milk contractor's existing security falls below the amount required
22 under sub. (3) for any reason, including depreciation in the value of the security,
23 increased obligations to milk producers or producer agents, or the cancellation of any
24 security filed with the department.

1 2. The milk contractor fails to provide required information that is relevant to
2 a determination of security requirements.

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

8 (c) A milk contractor may request a hearing, under ch. 227, on a demand for
9 security under par. (b). A request for hearing does not automatically stay a security
10 demand.

11 (d) If a milk contractor fails to comply with the department's demand for
12 security under this subsection, the milk contractor shall give written notice of that
13 fact to all milk producers and producer agents from whom the contractor procures
14 producer milk in this state. If the milk contractor fails to give accurate notice under
15 this paragraph within 5 days after the deadline for filing security under par. (b) has
16 passed, the department shall promptly notify milk producers and producer agents
17 by publishing a class 3 notice under ch. 985. The department may also give
18 individual notice to those milk producers or producer agents of whom the department
19 is aware.

20 (e) If a milk contractor fails to comply with the department's demand for
21 security under this subsection, the department may do any of the following:

- 22 1. Issue a summary order under s. ⁶127.85 (2).
23 2. Suspend or revoke the milk contractor's license.

24 (7) **RELEASING SECURITY.** (a) The department may release security filed under
25 sub. (1) if any of the following applies:

1 1. The milk contractor reports not more than \$1,500,000 in milk payroll
2 obligations under s. ~~127~~⁶.41 (6) (a) for at least 2 consecutive years and the milk
3 contractor pays the quarterly fund assessment that would have been required of the
4 milk contractor if the milk contractor had been a contributing milk contractor on the
5 most recent quarterly installment date under s. ~~127~~⁶.46 (6).

6 2. The milk contractor's annual financial statement under s. ~~127~~⁶.44 shows
7 positive equity for at least 2 consecutive years and the milk contractor pays the
8 quarterly fund assessment that would have been required of the milk contractor if
9 the milk contractor had been a contributing milk contractor on the most recent
10 quarterly installment date under s. ~~127~~⁶.46 (6).

11 (b) On August 1, 2002, the department may release security maintained under
12 sub. (2), unless the milk contractor is required to file security under sub. (1).

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

15 (d) The department may release security if the milk contractor files alternative
16 security, of equivalent value, that the department approves.

17 (e) The department shall release security if the milk contractor has gone out of
18 business and paid all milk payroll obligations in full.

19 ~~127~~⁶.48 **Milk contractors; payments to producers.** (1) FIRST MONTHLY
20 PAYMENT. By the 4th day of each month, a milk contractor shall pay for producer milk
21 received during the first 15 days of the preceding month. The milk contractor shall
22 base the payment on an estimated price that is at least 80% of the class III price
23 published by the regional federal milk market administrator for the month
24 preceding the month in which the milk is received, or 80% of the contract price,
25 whichever is greater.

1 **(2) SECOND MONTHLY PAYMENT.** By the 19th day of each month, a milk contractor
2 shall pay the balance due for producer milk received during the preceding month.

3 **(3) PAYMENT EXPLANATION.** The department may, by rule, require a milk
4 contractor to provide a milk producer or producer agent with a written explanation
5 of each payment under this section. The department may specify the content of the
6 explanation, including information related to any of the following:

7 (a) Milk contractor identification.

8 (b) Milk producer or producer agent identification.

9 (c) Pay period.

10 (d) Volume of milk received.

11 (e) Grade of milk.

12 (f) Milk test results.

13 (g) Milk price and adjustments.

14 (h) Gross amount due.

15 (i) Average gross pay per hundredweight less hauling charges.

16 (j) Net amount due.

17 (k) Deductions and assignments.

18 ⁶~~127.49~~ **Milk contractors; records and reports.** **(1) REQUIRED RECORDS.** A
19 milk contractor shall keep accurate records and accounts of milk receipts, payments
20 for milk received, and amounts owed to milk producers. The department may, by
21 rule, specify records that a milk contractor must keep.

22 **(2) REQUIRED REPORTS.** The department may, by rule, require a milk contractor
23 to file with the department periodic reports of information needed for the
24 administration of this chapter.

1 (c) A wire transfer.

2 (d) Simultaneous barter.

3 (3) "Contract obligation" means the net amount, whether paid or unpaid, that
4 a vegetable contractor owes a vegetable producer or producer agent under a
5 vegetable procurement contract. "Contract obligation" includes a net amount owed
6 for unharvested acreage.

7 (4) "Contributing vegetable contractor" means a vegetable contractor who is
8 licensed under s. 12~~7~~⁶.56 (1), who either has paid one or more quarterly installments
9 under s. 12~~7~~⁶.60 (6) or is required to contribute to the fund, but the first quarterly
10 installment under s. 12~~7~~⁶.60 (6) is not yet due, and who is not disqualified under s.
11 12~~7~~⁶.59 (2).

12 (6) "Current ratio" means the ratio of the value of current assets to the value
13 of current liabilities, calculated according to s. 12~~7~~⁶.58 (6) (c) 1.

14 (7) "Debt to equity ratio" means the ratio of the value of liabilities to equity,
15 calculated according to s. 12~~7~~⁶.58 (6) (c) 2.

16 (8) "Deferred payment contract" means a vegetable procurement contract in
17 which the vegetable producer or a producer agent agrees to accept payment after
18 January 31 for processing vegetables harvested during the previous calendar year.

19 (9) "Disqualified vegetable contractor" means a vegetable contractor who is
20 disqualified from the fund under s. 12~~7~~⁶.59 (2).

21 (10) "Food processing" has the meaning given in s. 97.29 (1) (g).

22 (10m) "License year" means the period beginning on February 1 and ending
23 on the following January 31.

24 (11) "Processing vegetables" means vegetables grown or sold for use in food
25 processing, regardless of whether those vegetables are actually harvested or

1 processed as food. "Processing vegetables" includes sweet corn grown or sold for use
2 in food processing, but does not include grain.

3 (12) "Producer agent" means a person who, without taking title to vegetables,
4 acts on behalf of a vegetable producer to market or accept payment for processing
5 vegetables that the vegetable producer grows in this state. "Producer agent" does not
6 include any of the following:

7 (a) A person who merely brokers a contract between a vegetable producer and
8 a vegetable contractor, without becoming a party to the contract or accepting
9 payment on behalf of the vegetable producer.

10 (b) A person who merely holds or transports processing vegetables for a
11 vegetable producer, without marketing the vegetables or accepting payment on
12 behalf of the vegetable producer.

13 (13) "Time of delivery" under a vegetable procurement contract means the time
14 at which one of the following occurs:

15 (a) The vegetable contractor harvests the vegetables.

16 (b) The vegetable producer delivers harvested vegetables to the custody or
17 control of the vegetable contractor.

18 (c) The vegetable contractor notifies the vegetable producer of the vegetable
19 contractor's refusal to harvest or accept delivery of vegetables.

20 (14) "Vegetable contractor" means a person who does any of the following:

21 (a) Contracts with a vegetable producer or a producer agent to procure
22 processing vegetables that a vegetable producer grows in this state.

23 (b) Contracts with a vegetable producer to market, as a producer agent,
24 processing vegetables that the vegetable producer grows in this state.

1 (15) “Vegetable procurement contract” means an oral or written agreement
2 under which a vegetable contractor does any of the following:

3 (a) Contracts with a vegetable producer or a producer agent to procure
4 processing vegetables that a vegetable producer grows in this state.

5 (b) Contracts with a vegetable producer to market, as a producer agent,
6 processing vegetables that the vegetable producer grows in this state.

7 (16) “Vegetable producer” means a person who grows processing vegetables in
8 this state.

9 (17) “Unharvested acreage” means land on which vegetables are grown, under
10 a vegetable procurement contract, that a vegetable contractor leaves unharvested for
11 any reason. “Unharvested acreage” includes all of the following:

12 (a) Land on which the vegetables are suitable for processing, but are not
13 harvested.

14 (b) Land on which the vegetables are abandoned as being unsuitable for
15 processing.

16 ⁶
~~127~~ **56 Vegetable contractors; licensing.** (1) LICENSE REQUIRED. (a) Except
17 as provided in sub. (2), no person may operate as a vegetable contractor without a
18 current annual license from the department.

19 (b) A license under par. (a) expires on the January 31 following its issuance.
20 No person may transfer or assign a license issued under par. (a).

21 (2) EXEMPT CONTRACTORS. The following vegetable contractors are exempt from
22 licensing under sub. (1):

23 (a) A vegetable contractor who procures vegetables primarily for unprocessed,
24 fresh market use and is licensed under the federal Perishable Agricultural
25 Commodities Act, 7 USC 199a to 199t.

1 (b) A restaurant or retail food establishment that procures processing
2 vegetables solely for retail sale at the restaurant or retail food establishment.

3 (3) LICENSE APPLICATION. A vegetable contractor shall apply for a license under
4 sub. (1) in writing, on a form provided by the department. The applicant shall
5 provide all of the following:

6 (a) The applicant's legal name and any trade name under which the applicant
7 proposes to operate as a vegetable contractor.

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

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

15 (d) The ~~mailing~~^{street} address of each business location from which the applicant
16 operates as a vegetable contractor in this state and the name of a responsible
17 individual who may be contacted at each location that is staffed.

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

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

20 (g) A financial statement if required under s. 12⁶.58 (1) and not yet filed.

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

22 (4) LICENSE FEES AND SURCHARGES. A vegetable contractor applying for a license
23 under sub. (1) shall pay the following fees and surcharges, unless the department
24 specifies a different fee or surcharge amount by rule:

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

1 (b) A fee of \$25 plus 5.75 cents for each \$100 in contract obligations reported
2 under sub. (9) (a), less any credit provided under sub. (6).

3 (c) A license surcharge of \$500 if the department determines that, within 365
4 days before submitting the license application, the applicant operated as a vegetable
5 contractor 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 the
7 license year in which the applicant violated sub. (1).

8 (d) 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~~7~~.58 (1) (b) by the
10 applicable deadline.

11 (e) A license surcharge of \$100 if a renewal applicant fails to renew a license
12 by the license expiration date of January 31.

13 **(4m) EFFECT OF PAYMENT OF SURCHARGE.** Payment under sub. (3) (c) does not
14 relieve the applicant of any other civil or criminal liability that results from the
15 violation of sub. (1), but does not constitute evidence of any law violation.

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

19 **(6) FEE CREDITS.** (a) If the balance in the fund contributed by vegetable
20 contractors exceeds \$1,000,000 on November 30 of any license year, the department
21 shall credit 50% of the excess amount against fees charged under sub. (4) (b) to
22 contributing vegetable contractors who file timely license renewal applications for
23 the next license year. The department shall credit each contributing vegetable
24 contractor on a prorated basis, in proportion to the total fees that the vegetable
25 contractor has paid under sub. (4) (b) for the 4 preceding license years.

1 (b) The fee under sub. (4) (b) is reduced by one cent for each \$100 in contract
2 obligations reported under sub. (9) (a) if the department, under a contract with the
3 applicant, grades all of the graded vegetables that the applicant procures from
4 vegetable producers or producer agents.

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

9 (8) NO LICENSE WITHOUT FULL PAYMENT. The department may not issue a license
10 under sub. (1) until the applicant pays all license fees and surcharges identified in
11 the department's statement under sub. (7). 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 (9) SWORN AND NOTARIZED STATEMENT. As part of a license application under sub.
15 (3), an applicant shall provide a sworn and notarized statement, signed by the
16 applicant or an officer of the applicant, that reports all of the following:

17 (a) The total amount of contract obligations that the applicant incurred during
18 the applicant's last completed fiscal year. If the applicant has not yet operated as a
19 vegetable contractor, the applicant shall estimate the amount of contract obligations
20 that the applicant will incur during the applicant's first complete fiscal year.

21 (b) The largest amount of unpaid contract obligations that the vegetable
22 contractor had at any time during the vegetable contractor's last completed fiscal
23 year.

24 (c) The amount of unpaid contract obligations that the vegetable contractor has
25 at the time of application.

1 (d) The amount of unpaid contract obligations under par. (c) that are due for
2 payment before the license year for which the applicant is applying.

3 (e) The amount of unpaid obligations under par. (c) that the contractor has
4 under deferred payment contracts.

5 (f) Whether the applicant and the applicant's affiliates and subsidiaries will
6 collectively grow more than 10% of the total acreage of any vegetable species grown
7 or procured by the applicant during the license year for which the applicant is
8 applying.

9 (g) Whether the applicant will pay cash on delivery under all vegetable
10 procurement contracts during the license year for which the applicant is applying.

11 (h) Whether the applicant is a producer-owned cooperative or organization
12 that procures vegetables solely from its producer owners on the basis of a cooperative
13 marketing method under which the producer-owned cooperative or organization
14 pays its producer owners a prorated share of sales proceeds for the marketing year
15 after a final accounting and the deduction of marketing expenses.

16 **(10) ACTION GRANTING OR DENYING APPLICATION.** (a) The department shall grant
17 or deny a license application under sub. (3) within 30 days after the department
18 receives a complete application. If the department denies a license application, the
19 department shall give the applicant a written notice stating the reasons for the
20 denial.

21 (b) A license becomes invalid after February 5 of the license year for which it
22 is issued unless the license holder has by February 5 paid all producer obligations
23 that were due and payable during the preceding license year.