

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



- 1           4. Raise the amount determined under subd. 3. to the 3rd power.
- 2           5. Subtract 0.75 from the current ratio.
- 3           6. Divide 0.65 by the amount determined under subd. 5.
- 4           7. Raise the amount determined under subd. 6. to the 5th power.
- 5           8. Add the amount determined under subd. 4. to the amount determined under
- 6           subd. 7.
- 7           9. Add 2 to the amount determined under subd. 8.
- 8           (c) If the grain warehouse keeper has filed an annual financial statement under
- 9           s. 126.28 and that financial statement shows a current ratio of less than or equal to
- 10          1.0 to 1.0, the warehouse keeper's current ratio assessment rate equals the current
- 11          ratio assessment factor in sub. (3) (b) multiplied by 120.81376.
- 12          (d) If the grain warehouse keeper has not filed an annual financial statement
- 13          under s. 126.28, the warehouse keeper's current ratio assessment rate equals the
- 14          current ratio assessment factor in sub. (3) (b) multiplied by 5.71235.
- 15          **(3) CURRENT RATIO ASSESSMENT FACTOR.** (a) A grain warehouse keeper's current
- 16          ratio assessment factor under sub. (2) (a) is 0.00003 except that, for the grain
- 17          warehouse keeper's 5th or higher consecutive full license year as a contributing grain
- 18          warehouse keeper, the grain warehouse keeper's current ratio assessment factor is
- 19          zero.
- 20          (b) A grain warehouse keeper's current ratio assessment factor under sub. (2)
- 21          (b) to (d) is 0.000045 except that, for the grain warehouse keeper's 5th or higher
- 22          consecutive full license year as a contributing grain warehouse keeper, the grain
- 23          warehouse keeper's current ratio assessment factor is 0.000036.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19           (a) Currency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (d) The kind of grain received.

8 (e) The net weight of grain received.

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

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

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

17 1. A warehouse receipt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14           (d) If the grain warehouse keeper is licensed under s. 126.26 (1), engage in any  
15 activity that is inconsistent with representations made in the grain warehouse  
16 keeper's annual license application.

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

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

## 21 SUBCHAPTER V

## 22 MILK CONTRACTORS

23           **126.40 Definitions.** In this subchapter:

24           (1) "Contributing milk contractor" means a milk contractor who is licensed  
25 under s. 126.41 (1), who either has paid one or more quarterly installments under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

✓ Insert →  
74-24



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

4           1. Receive producer milk in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 department shall credit each contributing milk contractor on a prorated basis, in  
2 proportion to the total fees that the milk contractor has paid under sub. (1) for the  
3 4 preceding license years. Each month that a contributing contractor who qualifies  
4 for a credit under this subsection pays fees under sub. (1), the department shall credit  
5 to the contributing milk contractor one-twelfth of the total annual credit determined  
6 under this subsection.

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

- 11 (a) The method for computing the monthly fee.
- 12 (b) The date by which the milk contractor must pay the fee each month.
- 13 (c) The late payment surcharge that may apply under sub. (2).
- 14 (d) The fee credit, if any, that applies under sub. (3).

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

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

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

1 maintain insurance issued by an insurance company authorized to do business in  
2 this state.

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

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

9 (a) That the milk contractor is insured.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24           (b) If a milk contractor has been in business for less than one year, the milk  
25 contractor may file an annual financial statement under sub. (1) or (2) consisting of



1 a balance sheet and notes. A milk contractor may file a quarterly financial statement  
2 under sub. (3) consisting of a balance sheet and income statement.

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

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

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

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

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

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

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

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

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

4 **126.45 Contributing milk contractors; disqualification. (1) REQUIRED**  
5 **CONTRIBUTORS.** (a) Except as provided in sub. (3), a licensed milk contractor shall pay  
6 fund assessments under s. 126.46 if the milk contractor does not file annual and  
7 quarterly financial statements under s. 126.44. *Insert 84-9*

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

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

19 (3) DISQUALIFIED CONTRACTORS. (a) A milk contractor who is required to file  
20 security under s. 126.47 (1) is disqualified from the fund until the department  
21 releases that security under s. 126.47 (7) (a). *Insert 84-21 ✓*

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

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

- 1           1. Failure to pay fund assessments under s. 126.46 when due.
- 2           2. Failure to file a financial statement under s. 126.44 when due.
- 3           3. Failure to reimburse the department, within 60 days after the department
- 4 issues a reimbursement demand under s. 126.73 (1), for the full amount that the
- 5 department pays to claimants under s. 126.72 (1) because of that milk contractor's
- 6 default.
- 7           4. Failure to reimburse a bond surety, within 60 days after the bond surety
- 8 issues a reimbursement demand under s. 126.73 (2), for the full amount that the
- 9 surety pays to the department under s. 126.72 (2) or (3) for the benefit of claimants
- 10 affected by that milk contractor's default.

11           (4) EFFECT OF DISQUALIFICATION. (a) A milk contractor disqualified under sub.

12 (3) (c) may not engage in any activities for which a license is required under s. 126.41

13 (1) (a) if the milk contractor files an annual, quarterly, or interim financial statement

14 under s. 126.44 that shows a current ratio of less than 1.25 to 1.0, a debt to equity

15 ratio of more than 2.0 to 1.0, or negative equity.

16           (b) The department may not return, to a disqualified milk contractor, any fund

17 assessments that the milk contractor paid as a contributing milk contractor.

18           (c) A disqualified milk contractor remains liable for any unpaid fund

19 installment under s. 126.46 that became due while the milk contractor was a

20 contributing milk contractor. A disqualified milk contractor is not liable for any fund

21 installment that becomes due after the milk contractor is disqualified under sub. (3).

22           **126.46 Contributing milk contractors; fund assessments. (1) GENERAL.**

23 A contributing milk contractor shall pay an annual fund assessment for each license

24 year. The assessment equals \$20 or the sum of the following, whichever is greater,

25 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 ~~security equal to~~ the following

16 amount: *of security as provided in par. (b) or (c)*

17 (a) ~~Except for a milk contractor who procures producer milk in this state solely~~  
18 ~~as a producer agent,~~ *(security equal to)* at least 75% of the amount last reported under s. 126.41 (6) (b)

19 or (9). *Except as provided in par. (c),*

20 (b) ~~For a milk contractor who procures milk in this state solely as a producer~~ *qualified*  
21 ~~agent,~~ *security equal to* at least the following 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).

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93-6 →

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

10           (a) Currency.

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

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

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

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

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

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

23           1. The certificate is issued or endorsed to the department for the benefit of milk  
24 producers and producer agents.

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

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

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

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

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

9           1. The letter of credit is payable to the department for the benefit of milk  
10 producers or producer agents.

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

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

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

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

18           (e) Security filed with the department under s. 100.06, 1999 stats., before May  
19 1, 2002, except that on January 1, 2003, the department shall withdraw its approval  
20 of any security that is not approvable under pars. (a) to (d).

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

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

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

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

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

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

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

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

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

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

4 2. Suspend or revoke the milk contractor's license.

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

7 1. The milk contractor reports not more than \$1,500,000 in milk payroll  
8 obligations under s. 126.41 (6) (a) for at least 2 consecutive years and the milk  
9 contractor pays the quarterly fund assessment that would have been required of the  
10 milk contractor if the milk contractor had been a contributing milk contractor on the  
11 most recent quarterly installment date under s. 126.46 (6).

12 2. The milk contractor's annual financial statement under s. 126.44 shows  
13 positive equity for at least 2 consecutive years and the milk contractor pays the  
14 quarterly fund assessment that would have been required of the milk contractor if  
15 the milk contractor had been a contributing milk contractor on the most recent  
16 quarterly installment date under s. 126.46 (6).

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

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

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

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

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**126.48 Milk contractors; payments to producers. (1) FIRST MONTHLY**

**PAYMENT.** By the 4th day of each month, a milk contractor shall pay for producer milk received during the first 15 days of the preceding month. The milk contractor shall base the payment on an estimated price that is at least 80% of the class III price published by the regional federal milk market administrator for the month preceding the month in which the milk is received, or 80% of the contract price, whichever is greater. *Insert 97-7*

**(2) SECOND MONTHLY PAYMENT.** By the 19th day of each month, a milk contractor

shall pay the balance due for producer milk received during the preceding month. *Insert 97-9*

**(3) PAYMENT EXPLANATION.** The department may, by rule, require a milk

contractor to provide a milk producer or producer agent with a written explanation of each payment under this section. The department may specify the content of the explanation, including information related to any of the following:

- (a) Milk contractor identification.
- (b) Milk producer or producer agent identification.
- (c) Pay period.
- (d) Volume of milk received.
- (e) Grade of milk.
- (f) Milk test results.
- (g) Milk price and adjustments.
- (h) Gross amount due.
- (i) Average gross pay per hundredweight less hauling charges.
- (j) Net amount due.
- (k) Deductions and assignments.

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97-24 ✓*

1           **126.49 Milk contractors; records and reports.** (1) REQUIRED RECORDS. A  
 2 milk contractor shall keep accurate records and accounts of milk receipts, payments  
 3 for milk received, and amounts owed to milk producers. The department may, by  
 4 rule, specify records that a milk contractor must keep.

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

8           (3) RECORDS RETENTION; INSPECTION. A milk contractor shall retain records  
 9 required under sub. (1) for at least 6 years after the records are created. A milk  
 10 contractor shall make the records available to the department for inspection and  
 11 copying upon request.

12           **126.50 Milk contractors; prohibited practices.** No milk contractor may  
 13 do any of the following:

14           (1) Falsify any record or account, or conspire with any other person to falsify  
 15 a record or account.

16           (2) Make any false or misleading representation to the department.

17           (3) If the milk contractor is licensed under s. 126.41 (1), engage in any activity  
 18 that is inconsistent with representations made in the milk contractor's annual  
 19 license application.

20           (4) Make any false or misleading representation to a milk producer or producer  
 21 agent related to matters regulated under this chapter.

22           (5) Fail to file the full amount of security required under s. 126.47 (6) by the  
 23 date that the department specifies.

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SUBCHAPTER VI  
 VEGETABLE CONTRACTORS



1           **126.55 Definitions.** In this subchapter:

2           (1) “Cash on delivery” means cash payment of the full agreed price for  
3 processing vegetables at the time of delivery or, if the vegetables are graded, within  
4 72 hours after the time of delivery.

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

6           (a) Currency.

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

8           (c) A wire transfer.

9           (d) Simultaneous barter.

10          (3) “Contract obligation” means the net amount, whether paid or unpaid, that  
11 a vegetable contractor owes a vegetable producer or producer agent under a  
12 vegetable procurement contract. “Contract obligation” includes a net amount owed  
13 for unharvested acreage.

14          (4) “Contributing vegetable contractor” means a vegetable contractor who is  
15 licensed under s. 126.56 (1), who either has paid one or more quarterly installments  
16 under s. 126.60 (6) or is required to contribute to the fund, but the first quarterly  
17 installment under s. 126.60 (6) is not yet due, and who is not disqualified under s.  
18 126.59 (2).

19          (6) “Current ratio” means the ratio of the value of current assets to the value  
20 of current liabilities, calculated according to s. 126.58 (6) (c) 1.

21          (7) “Debt to equity ratio” means the ratio of the value of liabilities to equity,  
22 calculated according to s. 126.58 (6) (c) 2.

23          (8) “Deferred payment contract” means a vegetable procurement contract in  
24 which the vegetable producer or a producer agent agrees to accept payment after  
25 January 31 for processing vegetables harvested during the previous calendar year.

1           **(9)** “Disqualified vegetable contractor” means a vegetable contractor who is  
2 disqualified from the fund under s. 126.59 (2).

3           **(10)** “Food processing” has the meaning given in s. 97.29 (1) (g).

4           **(10m)** “License year” means the period beginning on February 1 and ending  
5 on the following January 31.

6           **(11)** “Processing vegetables” means vegetables grown or sold for use in food  
7 processing, regardless of whether those vegetables are actually harvested or  
8 processed as food. “Processing vegetables” includes sweet corn grown or sold for use  
9 in food processing, but does not include grain.

10           **(12)** “Producer agent” means a person who, without taking title to vegetables,  
11 acts on behalf of a vegetable producer to market or accept payment for processing  
12 vegetables that the vegetable producer grows in this state. “Producer agent” does not  
13 include any of the following:

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

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

20           **(13)** “Time of delivery” under a vegetable procurement contract means the time  
21 at which one of the following occurs:

22           (a) The vegetable contractor harvests the vegetables.

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

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

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

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

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

8 (15) "Vegetable procurement contract" means an oral or written agreement  
9 under which a vegetable contractor does any of the following:

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

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

14 (16) "Vegetable producer" means a person who grows processing vegetables in  
15 this state.

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

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

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

23 **126.56 Vegetable contractors; licensing.** (1) LICENSE REQUIRED. (a) Except  
24 as provided in sub. (2), no person may operate as a vegetable contractor without a  
25 current annual license from the department.