



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 296
[2009 Senate Bill 527]

**Agricultural Producer Security
Program**

The agricultural producer security program imposes regulations on the contractors who purchase agricultural products to provide financial protection to producers in the event of default by a contractor. Specific requirements vary depending on the size of the contractor, and include requirements that contractors file financial statements with the Department of Agriculture, Trade, and Consumer Protection (DATCP), pledge individual security to DATCP, and make contributions to the agricultural producer security fund, a fund used to indemnify producers in the event of default by a contractor.

2009 Wisconsin Act 296 makes the following modifications to the agricultural producer security program:

1. Revises the manner in which the size of a grain dealer of milk contractor is determined for application of the requirement that producers file financial statements with DATCP, with the result that fewer contractors will be required to file audited statements and fewer contractors will be required to file reviewed statements, and more contractors will be exempt from the filing requirement.
2. Revises the manner in which the amount of security that milk contractors must pledge to DATCP is determined, with the result that commodity price spikes will have a smaller impact on the amount of security required.
3. Revises the manner in which license fees for grain dealers are determined.
4. Directs DATCP to revise agricultural producer security fund assessments on contractors by administrative rule if the fund balance fall outside specified upper or lower limits. (Under prior law, this was a permissive power of DATCP.) In addition, the Act authorizes DATCP to use the emergency rule-making procedure to revise assessments on contractors in a particular industry, but only if there has been a default in that industry.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

5. Specifies that, in the case of a producer that has controlling ownership of, exercises substantial management control over, or is under common ownership with a contractor:
 - a. The producer may not make a claim against the fund in the event of default by the contractor.
 - b. The producer may waive eligibility to receive payments from the fund related to the contractor, thereby reducing the contractor's obligation to contribute to the fund.
6. Authorizes DATCP to disqualify a contractor from participating in the fund pending compliance by the contractor with an order to remedy certain violations of the program.
7. Specifies that DATCP may disqualify a contractor from participating in the fund only by administrative order (as opposed to doing so by written notice, under prior law), affording contractors the protections of administrative procedures by which orders are issued.
8. Specifies that DATCP *may* obtain contingent financial backing for the fund, whereas prior law *required* DATCP to do so.
9. Disallows the following claims against the fund:
 - a. Claims by producers who hold uncashed checks from the contractor for more than 30 days.
 - b. Claims under grain deferred payment contracts where payment terms extend beyond 120 days after delivery.
 - c. Claims under vegetable deferred payment contracts where payment terms for crops delivered in one year extend beyond January 31 of the following year.
10. Prohibits a contractor from assaulting, threatening, intimidating, or otherwise interfering with an officer, employee, or agent of DATCP in the performance of his or her duties.
11. Repeals obsolete provisions.

Effective date: 2009 Wisconsin Act 296 takes effect on May 27, 2010.

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