

Chapter Ag 8

DAIRY PLANT SECURITY

Ag 8.01	Definitions	Ag 8.06	Standards of liquidity; security requirements
Ag 8.02	Financial statements; time for filing	Ag 8.07	Semi-annual statements to producers
Ag 8.03	Form and accuracy of statements	Ag 8.08	Interest rate; producer claims
Ag 8.04	Fiscal years; producer payout dates		
Ag 8.05	Preparation and analysis of financial statements		

Prefatory note: This chapter is adopted by the department under authority of ss. 93.07 (1) and 227.11 (2) (a), Stats., to interpret s. 100.06, Stats. Violations of this chapter are subject to the penalties prescribed in s. 100.26 (5), Stats.

Ag 8.01 Definitions. (1) "Asset" is anything of value owned.

(2) "Liability" is an obligation to pay money or other assets or to render a service to another person, either now or in the future.

(3) "Net worth" is the excess of total assets over total liabilities. It represents the ownership interest of one or more persons who have invested in the enterprise.

(4) "Current assets" are cash and assets, including trade or investment items, which may be readily converted into cash in the ordinary course of business within one year, except as provided under s. Ag 8.05 (1), (2) (c), (d) and (e), (4) and (5).

(5) "Fixed assets" are those assets representing investments of a more permanent nature, such as land, buildings, machinery and equipment.

(6) "Other assets" are noncurrent assets other than fixed assets.

(7) "Current liabilities" are those liabilities which are due and payable within a one-year period.

(8) "Fixed or long-term liabilities" are those debts which, under the terms of their creation, are not due or payable within a period of one year.

(9) "Contingent liabilities" are liabilities which will have to be paid only under certain conditions.

(10) "Balance sheet" is a statement of the assets, liabilities, and net worth at a specific date.

(11) "Income statement" is a report of the financial results of business operations for a specified period.

(12) "Net worth statement" is a report of the change of net worth from the beginning to the end of an accounting period.

(13) "Financial statement" is a balance sheet and includes income and net worth statements.

(14) "Certified financial statement" means a financial statement prepared by an independent certified public accountant or a public accountant holding a certificate of authority under ch. 442, Stats., and certified by the accountant as fairly and accurately representing business opera-

tions and financial condition of the dairy plant business for which the statement is rendered.

(15) "Accountant's statement" means a financial statement signed and prepared by an independent accountant, other than an accountant licensed under ch. 442, Stats., and verified by the dairy plant operator employing the accountant as a truthful and accurate representation of the business operations and financial condition of the dairy plant business for which the statement is rendered.

(16) "Verified financial statement" is a financial statement prepared by the applicant or holder of a dairy plant license, or under his direction or supervision, and sworn to by him.

(17) "Interim statement" is a financial statement prepared as of a date other than the end of the fiscal year.

(18) "Dairy plant" means a dairy plant as defined in s. 97.20 (1) (a), Stats.

(19) "Producer" means any person who produces and sells milk or cream, directly or through a marketing agent under a written agency contract, to a dairy plant from one or more cows or goats under the person's ownership or control.

(20) "Maximum due and accrued producer liability" is the largest gross amount of money due and owing to producers at any one time during the license year by a dairy plant operator for milk or cream purchased by him and for which payment has not been made.

History: Cr. Register, June, 1967, No. 138, eff. 7-1-67; r. (6), renum. (7) to (15) to be (6) to (14), cr. (15), Register, August, 1968, No. 152, eff. 9-1-68; am. (14), (15), (18) and (19), Register, July, 1986, No. 367, eff. 8-1-86.

Ag 8.02 Financial statements; time for filing. (1) Financial statements, prepared as of the close of the dairy plant's most recent fiscal year, shall be filed with the department annually by every dairy plant operator purchasing milk or cream directly from producers on or before the 15th day of the 4th month following the close of such fiscal year. Interim statements may be required at any time during the license year as deemed necessary by the department.

(2) Applicants for an original license shall submit a balance sheet and such other financial information as the department may require as of the beginning of the proposed operations for which a license is requested. No milk or cream may be purchased from producers and no permit to operate a dairy plant will be granted until the applicant has filed acceptable security or satisfied the department that the filing of security is not required under standards and criteria prescribed by this chapter.

(3) Annual financial statements shall be certified financial statements and shall be audited by a certified public accountant or a public accountant holding a certificate of authority in this state; except that licensees operating under a dairy plant trusteeship or having satisfied security requirements by filing and maintaining acceptable security with the department equal to at least 75% of maximum due and accrued producer liability may, at their option, file either a certified or verified financial statement, or an accountant's statement. Except as otherwise provided,

Register, January, 1990, No. 409

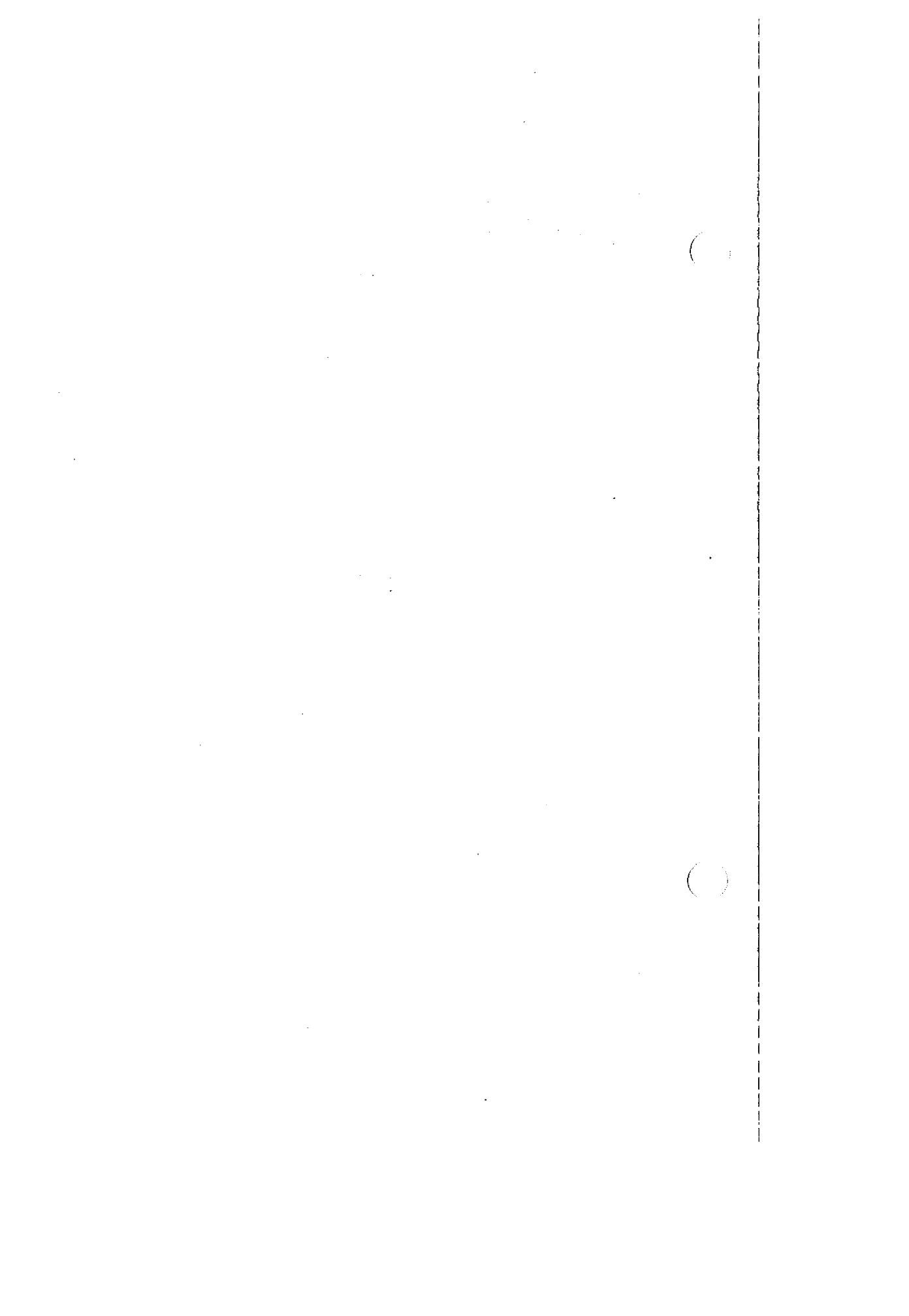
**AGRICULTURE, TRADE & CONSUMER PROTECTION 66-1**

Ag 8

an accountant's statement may be filed in lieu of a certified financial statement until January 1, 1971.

(4) The furnishing of financial information or statements and the filing of security as required in these rules shall be a condition to the issuance or continuation of a dairy plant license. The deposit of full security may be demanded on 10 days' notice if the required information or

**Next page is numbered 67**



and that no funds are released to the dairy plant operator from this account until producers have been paid.

(b) If licensed on financial statements only,

1. The fact that a financial statement prepared by an accountant has been filed with the department,
2. The name of the accountant,
3. The fiscal period covered by the financial statement, and
4. The fact that financial statement showed the licensee qualified for a license without the filing of security.

(c) If licensed on basis of security,

1. The fact that the plant was licensed on basis of security filed with the department,
2. The type and amount of security filed, describing each different type of security in sufficient detail so that the producers will clearly understand the precise nature of the security filed, including the exact amount of each different type of security as well as the total amount of security filed, and
3. The percentage ratio of total security filed to maximum due and accrued producer liability.

(d) If licensed on basis of security and the security is being created on basis of monthly deposits, as provided under s. Ag 8.06 (4), the following information shall be included in addition to that required under par. (c):

1. Date on which security deposits were initiated, and
2. The percentage of the gross monthly producer payroll or gross monthly sales, as applicable, on which monthly deposits are computed.

(3) A copy of the statement furnished producers during the previous license year shall be filed with each license renewal application. If the department finds that the statement does not comply with this section, it may prescribe the exact form and wording of the statement to be used. When prescribed by the department, no other form shall be used.

History: Cr. Register, June, 1967, No. 138, eff. 1-1-68; am. (2) (b), cr. (2) (d), Register, August, 1968, No. 152, eff. 9-1-68.

**Ag. 8.08 Interest rate; producer claims.** (1) **DETERMINATION OF INTEREST RATE.** The department shall determine the interest rate to be paid to producers injured by a dairy plant default as the rate awarded by Wisconsin courts for interest on verdicts, established in s. 814.04 (4), Stats., unless the interest rate is determined in accordance with sub. (2).

(2) **AGREEMENT ON INTEREST RATE.** The department shall apply the interest rate previously agreed upon by a producer and a dairy plant if a producer or a dairy plant provides proof that either:

- (a) A producer and a dairy plant have executed a written contract specifying the interest rate, or
- (b) A producer has delivered a written confirmation of purchase to a dairy plant specifying the interest rate and the dairy plant failed to make

a written objection within 10 days of receipt of the written confirmation of purchase.

(3) **WAIVER OF INTEREST.** A producer may waive payment of interest only if all of the following requirements are satisfied:

- (a) The waiver is in writing,
- (b) The waiver contains a written acknowledgement that the producer is aware of his or her right to payment of interest under s. 100.06 (4), Stats.,
- (c) The waiver is signed and dated by the producer,
- (d) The waiver is submitted to the department by the producer or the dairy plant at, or any time after, the time the producer submits his or her claim.

(4) **COMPUTATION AND PAYMENT OF INTEREST.** The department shall compute the amount of interest due a producer by applying the interest rate determined under either sub. (1) or (2), commencing from the first day of a breach in payment by a dairy plant until full payment of a producer's allowed claim is made. If an allowed claim is not paid in full within the time period specified in the department's final order allowing producer claims, interest shall continue to accrue on the balance of the unpaid claim. Interest payments may be made concurrently with payment of an allowed claim, or within a reasonable period of time subsequent to payment of an allowed claim.

History: Cr. Register, January, 1990, No. 409, eff. 2-1-90.