

**Wisconsin Department of Agriculture, Trade and Consumer Protection**

**Final Regulatory Flexibility Analysis**

***Rule Subject:*** Grain Dealers and Grain Warehouse Keepers;  
Milk Contractors  
***Adm. Code Reference:*** ATCP 99 and 100 (Permanent)  
***Rules Clearinghouse #:*** CR 18-061  
***DATCP Docket #:*** 18-R-03

***Rule Summary***

This rule does the following:

- Reduces Agricultural Producer Security Fund (Fund) assessments paid by all grain warehouse keepers to the minimum amounts of either \$100 or \$250 when the grain warehouse keeper portion of the Fund exceeds \$1 million.
- Corrects the drafting error that triggered an assessment exemption from \$3 million to \$500,000.
- Establishes the milk contractor deferred payment assessment rate required by statute at 0.0035.
- Implements requirements of 2017 Wisconsin Act 155.

***Small Business Affected***

**ATCP 99**

The rule change combines the grain dealers with the grain warehouse keepers' portion of the Fund and does not increase costs for the state or its businesses. The Legislature required this change in 2017 Wisconsin Act 155.

**ATCP 100**

This rule will establish a deferred payment assessment rate that will cover the additional risk posed to milk producers and the Fund associated with milk contractors deferring payments to milk producers for up to 120 days. Milk contractors entering into deferred payment contracts with producers will pay higher assessments; however, statute permits these assessments to be passed on to the producers whose payments are being deferred.

Act 155 permits, but does not require, milk contractors to offer deferred payment contracts. Therefore, any effects will be the result of the decision of the contractor.

Milk, grain, and vegetable producers are all protected against financial defaults by contractors who contribute to the overall Fund. The additional milk contractor deferred

payment assessment could potentially benefit all producers by preserving the integrity of the Fund.

***Reporting, Bookkeeping, and Other Procedures***

The proposed permanent rule does not create new reporting, bookkeeping, or other procedures for small businesses in either the grain or dairy industries.

***Professional Skills Required***

The proposed rule does not require any additional professional skills by small businesses.

***Accommodation for Small Business***

No accommodations are required for the grain industry as it merely merges the two portions of the Fund.

The program accommodates for small business by giving them options in payment that did not previously exist among milk contractors. The rule that implements the Act provides additional accommodations rather than restricts them.

***Conclusion***

This rule may have an impact on affected businesses, including small businesses. However, the impact is voluntary, dependent on a desire to offer deferred payment contracts to milk producers. There continues to be risk of a default in payments to dairy, grain, or vegetable producers. This rule should neither increase nor decrease the likelihood of such a default. This rule will not have a significant adverse effect on “small business,” and is not subject to the delayed “small business” effective date provided in Wis. Stat. § 227.22 (2) (e). In fact, Wisconsin Act 155 requires the rule to be promulgated with minimal delay, and an emergency rule change to ch. ATCP 100 implements the deferred payment requirement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_

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