

**ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION  
ADOPTING RULES**

1 The state of Wisconsin department of agriculture, trade and consumer protection adopts the  
2 following order to repeal ch. ATCP 98, ch. ATCP 100 (note), ch. ATCP 100 subchs. IV and V,  
3 and ATCP 101.08; to renumber ch. ATCP 100 subch. VI (title), ATCP 100.98(5) to (9), and ch.  
4 ATCP 101; to renumber and amend ATCP 100.98(4); to amend ATCP 1.01(26), 1.03(1)(a)2.,  
5 97.04(2)(b), 100.982(4)(f), 101 subch. I (note), 101.01(intro.), 161.31(8)(a) and (b),  
6 161.32(3)(intro.) and 162.02(2); to repeal and recreate ch. ATCP 99, ch. ATCP 100 (title), and  
7 ch. ATCP 100 subchs. I to III; and to create ch. ATCP 100 subch. IV (note), ATCP 100.98(4),  
8 ch. ATCP 101 (title), and ch. ATCP 101 subch. II; relating to agricultural producer security.

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**Analysis Prepared by the Department of Agriculture,  
Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 97.20(4), 100.20(2), 126.49, 126.51 and  
126.81, Stats.  
Statutes Interpreted: ss. 93.15, 97.20, 100.20 and 100.22, Stats., and ch.126,  
Stats.

This rule implements Wisconsin's new agricultural producer security law (ch. 126, Stats., created by 2001 Wis. Act 16). The new law is designed to protect agricultural producers against catastrophic financial defaults by grain dealers, grain warehouse keepers, milk contractors and vegetable contractors. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers the new law. This rule amends and repeals current rules, and creates new rules consistent with the new law.

**Background**

Chapter 126, Stats., regulates “contractors” including grain dealers, grain warehouse keepers, milk contractors and vegetable contractors. Contractors must be licensed by DATCP. In most cases, licensed contractors must contribute to Wisconsin’s agricultural producer security fund (“fund”). In some cases, fund participation is voluntary. If a contributing contractor defaults on payments to producers, the fund may partially compensate those producers. Fund contributions are based, in part, on the contractor’s financial condition.

Some contractors must file security in addition to, or in lieu of, fund contributions. If the contractor defaults, DATCP may use the security to pay a portion of the producer claims. Security requirements are based on the contractor’s financial condition and practices. Contractors who are disqualified from the fund, based on financial condition, must file security with DATCP.

## **Grain Dealers**

### **General**

This rule requires grain dealers to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

### **Financial Statements; Disclosures**

Under ch. 126, Stats., a grain dealer must file annual financial statements with DATCP if the grain dealer does any of the following:

- Annually pays more than \$500,000 for producer grain procured in this state.
- Procures any producer grain in this state under deferred payment contracts.

Grain dealers who are not required to file financial statements with DATCP may choose to file voluntarily. For example, grain dealers with favorable financial ratios may file voluntary financial statements to qualify for lower fund assessments. A grain dealer’s financial ratios, including the grain dealer’s debt to equity ratio, may affect the following:

- The grain dealer’s eligibility to participate in the fund.
- The amount that the grain dealer must contribute to the fund.
- Whether or not the grain dealer must file security with DATCP.

Under this rule, a grain dealer’s financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.

- Any note or account receivable from a parent organization, a subsidiary, or an affiliate other than an employee.
- Any note or account that has been receivable for more than one year, unless the grain dealer has established an offsetting reserve for uncollectible notes and accounts receivable.

### **Debt to Equity Ratio; Liability Adjustments**

This rule allows grain dealers to make certain liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. Grain dealers may deduct the following amounts when calculating their liabilities for this purpose:

- Amounts borrowed from a lending institution and deposited with a commodities broker to hedge grain transactions.
- Amounts borrowed from a lending institution to buy grain that the grain dealer has sold and shipped, if the grain dealer maintains a collectible account receivable on the balance sheet.
- Amounts, borrowed from a lending institution, that are secured by grain that the grain dealer owns, holds in inventory on the balance sheet date, and shows as inventory on the balance sheet.
- Amounts borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain dealer holds in inventory on the balance sheet date.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires grain dealers to make security disclosures to grain producers, so that producers understand the extent to which grain payments are secured by the agricultural producer security program. This rule specifies the form in which grain dealers must make the disclosures. A grain dealer must make the disclosures to a producer at all the following times:

- When the grain dealer first procures grain from the producer.
- The first time the grain dealer procures grain from the producer in each new license year.
- The first time the grain dealer procures grain from the producer after any change in circumstances that requires a different disclosure (for example, after a grain dealer begins contributing to the fund).

## Grain Warehouse Keepers

### **General**

This rule requires grain warehouse keepers to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

### **Grain Warehouse Licensing**

Under ch. 126, Stats., grain warehouse license and fee requirements are based on the grain warehouse capacity. This rule spells out a standard method for calculating grain warehouse capacity, based on the volume of the grain warehouse and a grain “pack factor” specified in this rule.

Under this rule, an applicant for a grain warehouse license must submit a sworn and notarized statement certifying that the information provided in the license application is complete and accurate.

### **Financial Statements; Disclosure Requirements**

Under ch. 126, Stats., a grain warehouse keeper must file a financial statement with DATCP if the grain warehouse keeper has total warehouse capacity of more than 300,000 bushels. Other grain warehouse keepers may file *voluntary* financial statements to qualify for lower fund assessments. A grain warehouse keeper’s financial ratios, including the warehouse keeper’s debt to equity ratio, may affect the following:

- The warehouse keeper’s eligibility to participate in the fund.
- The amount that the warehouse keeper must contribute to the fund.
- Whether or not the warehouse keeper must file security with DATCP.

Under this rule, a grain warehouse keeper’s financial statement must disclose and describe all the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets on the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
  - Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
  - Any note or account that has been receivable for more than one year, unless the grain dealer has established an offsetting reserve for uncollectible notes and accounts receivable.

- The total number of bushels of grain in the warehouse keeper's warehouse.
- The total number of bushels of grain forwarded to another warehouse keeper.
- The total number of bushels of grain the warehouse keeper is obligated to store for depositors.
- The warehouse keeper's net grain position for each type of grain.

### **Debt to Equity Ratio; Liability Adjustments**

This rule allows grain warehouse keepers to make certain liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. Grain warehouse keepers may deduct, from their liabilities, the following amounts:

- Amounts borrowed from a lending institution and deposited with a commodities broker to hedge grain transactions.
- Amounts borrowed from a lending institution to buy grain that the grain warehouse keeper has sold and shipped, if the grain warehouse keeper maintains a collectible account receivable on the balance sheet.
- Amounts, borrowed from a lending institution, that are secured by grain that the grain warehouse keeper owns, holds in inventory on the balance sheet date, and shows as inventory on the balance sheet.
- Amounts borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain dealer holds in inventory on the balance sheet date.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires grain warehouse keepers to make security disclosures to grain producers, so that producers understand the extent to which producer grain in storage is backed by the agricultural producer security program. This rule specifies the form in which grain warehouse keepers must make the disclosures. A grain warehouse keeper must give disclosures to a producer at all the following times:

- When the grain warehouse keeper first receives grain from the producer.

- The first time the grain warehouse keeper receives grain from the producer in each new license year.
- The first time the grain warehouse keeper receives grain from the producer after any change in circumstances that requires a different disclosure (for example, after a grain warehouse keeper begins contributing to the fund).

## **Milk Contractors**

### **General**

This rule requires milk contractors to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply. This rule does *not* change current rules related to milk price discrimination.

### **Financial Statements; Disclosure Requirements**

Under ch. 126, Stats., a milk contractor must file a financial statement with DATCP if the milk contractor has more than \$1.5 million in annual milk payroll obligations to producers. Other milk contractors may file *voluntary* financial statements in order to avoid paying fund assessments or to qualify for lower fund assessments. A milk contractor's financial ratios, including the contractor's debt to equity ratio, may affect the following:

- The milk contractor's eligibility to participate in the fund.
- The amount that the milk contractor must contribute to the fund.
- Whether or not the milk contractor must file security with DATCP.

Under this rule, a milk contractor's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:
  - Any nontrade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
  - Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
  - Any note or account that has been receivable for more than one year, unless the milk contractor has established an offsetting reserve for uncollectible notes and accounts receivable.

### **Debt to Equity Ratio; Liability Adjustments**

This rule allows milk contractors to make certain liability adjustments when calculating their debt to equity ratios, *but only for the purpose of determining fund assessments*. When calculating their liabilities, milk contractors may deduct amounts borrowed from lending institutions in order to carry “aged cheese” in inventory for the period required by the federal standard of identity for that cheese. “Aged cheese” means cheese for which the federal standard of identity prescribes an aging period of at least 4 months.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires milk contractors to make security disclosures to milk producers, so that producers understand the extent to which milk payments are backed by the agricultural producer security program. This rule specifies the form in which the milk contractor must make the disclosures. A milk contractor must give the disclosures to a producer at all the following times:

- When the milk contractor first procures milk from the producer.
- In June of each year.
- Whenever there is a change of circumstances that requires a different disclosure statement.

## Custom Processing for Milk Producers; Exemption

This rule clarifies that ch. 126, Stats., does not apply to a dairy plant operator who takes temporary custody of producer milk for the sole purpose of providing *custom processing* services to milk producers, provided that all the following apply:

- The producers retain title to the milk and to the processed dairy products made from that milk.
- The operator does not market the milk or processed dairy products, but promptly delivers the processed dairy products to the producers or their agent for consumption or marketing.
- The operator does not commingle producer-owned milk or dairy products with other milk or dairy products.
- The operator provides the custom processing services under a written contract with each producer or the producer's agent. The contract must clearly and conspicuously disclose that:
  - The producer retains title to the milk and dairy products.
  - The producer's milk shipments are not secured under ch. 126, Stats.

## Producer Agents

Chapter 126, Stats., regulates milk contractors who buy producer milk, or who market producer milk as producer agents. A *producer agent* is a person who markets producer milk for producers without taking title to that milk. Under ch. 126, certain *producer agents* may have lower security and fund participation requirements than other milk contractors. This rule clarifies that a *producer agent* does not qualify for this special treatment, and may not file a default claim against another milk contractor (seeking reimbursement from the fund), unless all the following apply:

- The producer agent procures producer milk in this state solely as the agent of the milk producers. A milk contractor who buys some milk and procures other milk as a producer agent may file default claims related to milk that the contractor procures according to this rule as a producer agent.
- The producer agent does not take title to the producer milk, or to any dairy products made from the producer milk.
- The producer agent markets the producer milk under a written contract with each milk producer. The contract must clearly and conspicuously disclose all the following:
  - That the producer agent does not take title to the producer's milk, or any dairy products made from that milk.
  - That the producer agent receives payments on behalf of the producer, and holds them in trust for the producer.



- The terms and conditions of payment to the producer.
  - The procedure by which the producer agent will receive payment on behalf of the producer and make payments to the producer, including any trust fund arrangement.
  - The producer agent's compensation for serving as the producer's agent, and the method by which the producer agent will receive that compensation from the milk producer.
  - A security disclosure statement (see below).
- The producer agent does not process, as a producer agent, more than 5 million pounds of producer milk in any month.
  - The producer agent gives, to each recipient of producer milk marketed by the producer agent, a written invoice stating that the milk is producer milk not owned by the producer agent.
  - The producer agent files a monthly report with DATCP. The producer agent must file the report on or before the 25<sup>th</sup> day of the month. The report must include all the following:
    - The name and address of each person to whom the producer agent marketed, in the preceding month, producer milk procured in this state.
    - The total pounds of producer milk that the producer agent marketed to each person in the preceding month.
    - The producer agent's total milk payment obligation to milk producers for producer milk that the producer agent marketed in the preceding month.

### **Marketing Processed Dairy Products for Milk Producers**

This rule clarifies that ch. 126, Stats., does not apply to a person who markets only *processed dairy products* for milk producers, provided that the person does not procure, market or process any *raw producer milk*.

This rule also clarifies that ch. 126, Stats., does not apply to a person who collects a producer's milk for delivery to an exempt custom processor (see above), and who receives and markets the custom-processed dairy products for the producer, provided that all the following apply:

- The person does not handle more than 5 million pounds of producer milk in any month, does not process milk or dairy products, and does not otherwise operate as a milk contractor.
- The producer retains title to the milk and processed dairy products.
- The person has a written contract with the producer. The contract must disclose that the producer retains title to the milk and dairy products, and is not secured under ch. 126.
- The person submits an annual affidavit to DATCP, certifying that the person meets the requirements for exemption.

### **Milk Payroll Report; Clarification**

Under ch. 126, Stats., an applicant for an annual milk contractor license must report (1) the applicant's total annual payment obligation to milk producers, and (2) the largest obligation incurred at any time during the applicant's last fiscal year. The reported amounts are used to

determine fund assessments and security requirements, if any. This rule clarifies that the applicant must report (1) the total amount paid for milk procured during the applicant's last fiscal year, and (2) the largest amount paid for milk procured in any single month during the last fiscal year.

### **Pay Statements to Milk Producers**

Under current rules, dairy plant operators must provide pay statements to milk producers. A pay statement identifies the producer and pay period, the amount of milk received, the grade of the milk, milk test results, the milk price and price adjustments, the gross amount due, the average gross pay per hundredweight less hauling charges, deductions from the gross amount due, and the net amount due.

This rule re-codifies, but does not change, current pay statement requirements for dairy plant operators. This rule requires all milk contractors, not just dairy plant operators, to provide pay statements to milk producers.

### **Milk Contractor Records**

Under current rules, dairy plant operators must keep certain records, including records of milk receipts and payments. This rule re-codifies, but does not change, current record keeping requirements for dairy plant operators. This rule requires all milk contractors, not just dairy plant operators, to keep records.

### **Milk Price Discrimination**

Current rules prohibit milk price discrimination by dairy plant operators. This rule does *not* extend the current rules to apply to other milk contractors. This rule updates some cross-references in the current rules, but does not change the current rules.

## **Vegetable Contractors**

### **General**

This rule requires vegetable contractors to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

### **Financial Statement; Disclosures**

Under ch. 126, Stats., a vegetable contractor must file annual financial statements with DATCP if the vegetable contractor incurs more than \$500,000 per year in contract obligations to producers. Other vegetable contractors may file *voluntary* financial statements in order to avoid

paying fund assessments or to qualify for lower fund assessments. A vegetable contractor's financial ratios may affect the following:

- The vegetable contractor's eligibility to participate in the fund.
- The amount that the vegetable contractor must contribute to the fund.
- Whether or not the vegetable contractor must file security with DATCP.

Under this rule, a vegetable contractor's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
  - Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
  - Any note or account that has been receivable for more than one year, unless the vegetable contractor has established an offsetting reserve for uncollectible notes and accounts receivable.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires vegetable contractors to make security disclosures to producers, so that producers understand the extent to which payments are backed by the agricultural security program. This rule specifies the form in which a vegetable contractor must make the disclosures. A vegetable contractor must make the disclosures, in writing, in the proposed vegetable procurement contract with each producer.

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1            **SECTION 1.** ATCP 1.01(26) is amended to read:

1 ATCP 1.01(26) “Special order” means an enforceable or purportedly enforceable  
2 administrative order ~~which~~that the department issues against a named or identified person under  
3 chs. ~~94~~88 to 100, Stats., or ch. ~~127~~126, Stats., or other laws administered by the department.

4 “Special order” includes special orders identified under s. ATCP 1.03(1)(a). “Special order”  
5 does not include any of the actions listed under s. ATCP 1.03(1)(b).

6 **SECTION 2.** ATCP 1.03(1)(a)2. is amended to read:

7 ATCP 1.03(1)(a)2. An administrative injunction, including any order issued under s.  
8 88.11(7), 94.645(4), 94.71(3)(c), 97.12(3)(a), ~~100.03(18)~~, 100.19(3), 100.20(3), 100.201(9)(b),  
9 100.21(4), 100.22(4)(a), 100.30(5)(a); or ~~127.17(1)~~ 126.85, Stats.

10 **SECTION 3.** ATCP 97.04(2)(b) is amended to read:

11 ATCP 97.04(2)(b) A person operating a warehouse storing only grain, as defined under  
12 s. ~~127.01(18)~~ 126.01(13), Stats.

13 **SECTION 4.** Chapter ATCP 98 is repealed.

14 **SECTION 5.** Chapter ATCP 99 is repealed and recreated to read:

15 **CHAPTER ATCP 99**  
16 **GRAIN DEALERS AND GRAIN**  
17 **WAREHOUSE KEEPERS**

18  
19 *NOTE:* This chapter is adopted under authority of ss. 93.07(1), 126.49, 126.51  
20 and 126.81, Stats., and interprets ch. 126, Stats. The Wisconsin  
21 department of agriculture, trade and consumer protection may enforce this  
22 chapter under subch. VIII of ch. 126, Stats.

23  
24 **SUBCHAPTER I**  
25 **GENERAL PROVISIONS**

26  
27 **ATCP 99.01 Definitions.** In this chapter:

28  
29 (1) “Affiliate” has the meaning given in s. 126.01(1), Stats.

30  
31 (2) “Audited financial statement” has the meaning given in s. 126.01(3), Stats.

- 1 (3) “Balance sheet” has the meaning given in s. 126.01(4), Stats.
- 2 (4) “Capacity” has the meaning given in s. 126.25(1), Stats.
- 3
- 4 (5) “Contributing grain dealer” has the meaning given in s. 126.10(3), Stats.
- 5
- 6 (6) “Contributing grain warehouse keeper” has the meaning given in s. 126.25(2), Stats.
- 7 (7) “Deferred payment contract” has the meaning given in s. 126.10(6), Stats.
- 8
- 9 (8) “Depositor” has the meaning given in s. 126.25(5), Stats.
- 10
- 11 (9) “Fund” has the meaning given in s. 126.01(11), Stats.
- 12
- 13 (10) “Grain” has the meaning given in s. 126.01(13), Stats.
- 14
- 15 (11) “Grain dealer” has the meaning given in s. 126.10(9), Stats.
- 16
- 17 (12) “Grain producer” has the meaning given in s. 126.10(10), Stats.
- 18
- 19 (13) “Grain warehouse” has the meaning given in s. 126.25(8), Stats.
- 20
- 21 (14) “Grain warehouse keeper” has the meaning given in s. 126.25(9), Stats.
- 22
- 23 (15) “Producer agent” has the meaning given in s. 126.10(13), Stats.
- 24
- 25 (16) “Procure grain” has the meaning given in s. 126.10(11), Stats.
- 26 (17) “Procure producer grain in this state” has the meaning given in s. 126.10(12), Stats.
- 27 (18) “Producer grain” has the meaning given in s. 126.10(14), Stats. “Producer grain”  
28 does not include grain that a producer has purchased from another person, or represents as grain  
29 purchased from another person.
- 30 (19) “Reviewed financial statement” has the meaning given in s. 126.01(20), Stats.
- 31 (20) “Warehouse receipt” has the meaning given in s. 126.25(11), Stats.

## SUBCHAPTER II GRAIN DEALERS

1           **ATCP 99.10 General requirements.** A grain dealer shall comply with applicable  
2 requirements in ch. 126, Stats.

3           **ATCP 99.12 Grain dealer; financial statement. (1) GENERAL.** A grain dealer's  
4 financial statement filed under s. 126.13, Stats., shall comply with this section and s. 126.13,  
5 Stats.

6           **(2) LIABILITY DISCLOSURES.** A financial statement filed under s. 126.13, Stats., shall  
7 include a detailed description of all notes, mortgages and other long-term liabilities not due or  
8 payable within one year. The description shall be included in the financial statement notes, or as  
9 an attachment to the financial statement. The description shall indicate the nature of the  
10 liabilities, the due dates and the payment terms.

11           **(3) LIABILITY CLASSIFICATION.** A financial statement filed under s. 126.13, Stats., shall  
12 classify, as current liabilities, notes payable that do not have specific due dates.

13           **(4) ASSET DISCLOSURES. (a)** A financial statement filed under s. 126.13, Stats., shall  
14 specifically identify and explain, in the financial statement notes or as an attachment to the  
15 financial statement, the following assets:

16           1. Every non-trade note or account receivable from an officer, director, employee,  
17 partner, or stockholder, or from a member of the family of any of those individuals.

18           2. Every note or account receivable from a parent organization, a subsidiary, or an  
19 affiliate, other than an employee.

20           3. Every note or account that has been receivable for more than one year, unless the  
21 grain dealer has established an offsetting reserve for uncollectible notes and accounts receivable.

22           **(b)** A financial statement filed under s. 126.13, Stats., shall include at least one of the  
23 following:

1           1. An allowance for doubtful or uncollectible receivables. The notes to the financial  
2 statement shall describe the method used to account for doubtful or uncollectible receivables.

3           2. A summary classifying the age of all notes and accounts receivable.

4           **(5) GRAIN PAYMENT INFORMATION.** A grain dealer shall provide the following  
5 information in an attachment to every financial statement filed under s. 126.13, Stats.:

6           (a) The total amount that the grain dealer paid during the grain dealer's last completed  
7 fiscal year, and during each month of that fiscal year, for producer grain procured in this state.

8           (b) The total amount that the grain dealer paid during the grain dealer's last completed  
9 fiscal year, and during each month of that fiscal year, for producer grain procured in this state  
10 using deferred payment contracts.

11           **(6) DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS.** (a) Solely for the purpose of  
12 calculating the debt to equity ratio under s. 126.13(6)(c)2., Stats., a grain dealer may deduct  
13 liabilities identified in par. (b) from liabilities reported in the grain dealer's financial statement  
14 filed under s. 126.13, Stats., if all the following apply:

15           1. The individual liability adjustments and offsetting assets are disclosed in the financial  
16 statement notes or in an attachment to the financial statement.

17           2. No individual liability adjustment exceeds the corresponding asset, identified in a note  
18 or attachment to the financial statement, that justifies that liability adjustment.

19           3. Liability adjustments and offsetting assets are determined as of the date of the balance  
20 sheet.

21           (b) A grain dealer may deduct the following liabilities under par. (a):

22           1. An amount that the grain dealer has borrowed from a lending institution and deposited  
23 with a commodities broker to maintain an account to hedge grain transactions. The amount

1 deducted may not exceed the amount owed to the lending institution or the amount deposited in  
2 the hedge account with the commodities broker, whichever is less.

3         2. An amount that the grain dealer has borrowed from a lending institution to buy grain  
4 that the grain dealer has sold and shipped, provided that the grain dealer has a collectible account  
5 receivable for that grain on the date of the balance sheet. The amount of the deduction may not  
6 exceed the amount receivable by the grain dealer or the amount owed to the lending institution,  
7 whichever is less.

8         3. An amount, borrowed from a lending institution, that is secured by grain that the grain  
9 dealer owns, holds in inventory on the balance sheet date, and shows as inventory on the balance  
10 sheet. The amount deducted may not exceed the amount owed to the lending institution or the  
11 value of the grain dealer's grain given as security and held in inventory, whichever is less.

12         4. An amount, borrowed from a lending institution, that the grain dealer has used to pay  
13 for fertilizer, pesticides, herbicides or seed that the grain dealer owns, holds in inventory on the  
14 balance sheet date, and shows as inventory on the balance sheet. The amount deducted may not  
15 exceed the amount owed to the lending institution or the cost of the fertilizer, pesticides,  
16 herbicides and seed purchased with the borrowed funds, whichever is less.

17         **(7) ATTACHMENTS.** If information required under this section is contained in an  
18 attachment to a reviewed or audited financial statement filed under s. 126.13, Stats., the  
19 following requirements apply:

20         (a) The attachment shall be on the letterhead of the certified public accountant who  
21 reviewed or audited the financial statement.



1 (b) The certified public accountant who reviewed or audited the financial statement shall  
2 certify, in the attachment, whether the certified public accountant has reviewed or audited the  
3 attachment.

4 **ATCP 99.14 Grain dealer; disclosure to producers. (1) DISCLOSURE REQUIRED.** A  
5 grain dealer shall make a disclosure under sub. (2) to every grain producer and producer agent  
6 from whom the grain dealer procures producer grain in this state. The grain dealer shall make  
7 the disclosure, in the form prescribed under sub. (2), in a written document given to the producer  
8 or producer agent. The disclosure shall be clear and conspicuous, and shall be set apart from  
9 every other writing. The grain dealer shall make the disclosure to a producer or producer agent  
10 at all of the following times:

11 (a) The first time the grain dealer procures producer grain from that producer or producer  
12 agent.

13 (b) The first time the grain dealer procures producer grain from that producer or  
14 producer agent during each license year.

15 (c) The first time the grain dealer procures producer grain from that producer or producer  
16 agent following a change in circumstances that requires a different disclosure statement under  
17 sub. (2).

18 (2) FORM OF DISCLOSURE. A disclosure under sub. (1) shall consist of one of the  
19 following verbatim statements, as applicable:

20 (a) The following statement if the grain dealer is a contributing grain dealer who is not  
21 required to file security under s. 126.16(1), Stats.:

22 **IMPORTANT NOTICE**

23 ***[Name of grain dealer]* contributes to Wisconsin's Agricultural Producer Security**  
24 **Fund. This fund helps ensure that grain producers will be paid for the grain they**

1 **ship to contributing grain dealers. If a contributing grain dealer fails to pay a**  
2 **producer or producer agent, the fund may pay up to 80% of the first \$60,000 of the**  
3 **producer’s unpaid claim, and up to 75% of any additional unpaid claim.**  
4

5 (b) The following statement if the grain dealer is a contributing grain dealer and is  
6 required to file security under s. 126.16(1)(b), Stats., but is not required to file security under  
7 126.16(1)(a), Stats:

8 **IMPORTANT NOTICE**

9 ***[Name of grain dealer]* contributes to Wisconsin’s Agricultural Producer Security**  
10 **Fund. This fund helps ensure that grain producers will be paid for the grain they**  
11 **ship to contributing grain dealers. If a contributing grain dealer fails to pay a**  
12 **producer or producer agent, the fund may pay up to 80% of the first \$60,000 of the**  
13 **producer’s unpaid claim, and up to 75% of any additional unpaid claim. We have**  
14 **also filed security with the State of Wisconsin to help secure grain payments to**  
15 **producers. The security is at least equal to the highest total unpaid obligations that**  
16 **we have had, at any time during the past 12 months, under deferred payment**  
17 **contracts. The security is in the following form(s): *[Specify forms of security]*.**  
18

19 (c) The following statement if the grain dealer is not a contributing grain dealer and is  
20 required to file security under s. 126.16(1)(a), Stats.:

21 **IMPORTANT NOTICE**

22 ***[Name of grain dealer]* does not contribute to Wisconsin’s Agricultural Producer**  
23 **Security Fund. We have filed security with the State of Wisconsin to cover part,**  
24 **but not all, of our grain payment obligations to grain producers and producer**  
25 **agents. The security is at least equal to the sum of the following:**  
26

- 27 • **35% of our average monthly payments for the 3 months during the past 12**
- 28 **months in which we had the largest monthly payments for producer grain.**
- 29 • **Our highest total unpaid obligations, at any time during the past 12 months,**
- 30 **under deferred payment contracts.**

31 **The security is in the following form(s): *[specify form(s) of security]*.**  
32  
33  
34

35 **SUBCHAPTER III**  
36 **GRAIN WAREHOUSE KEEPERS**  
37

1           **ATCP 99.20 General requirements.** A grain warehouse keeper shall comply with  
 2 applicable requirements in ch. 126, Stats.

3           **ATCP 99.22 Grain warehouse keeper licensing. (1) GRAIN WAREHOUSE CAPACITY.**

4 (a) The capacity of a grain warehouse, for purposes of ch. 126, Stats., is the sum of the  
 5 capacities of the grain bins comprising that grain warehouse. To calculate the capacity of each  
 6 grain bin, divide the number of cubic feet in that bin by 1.244 cubic feet per bushel and then  
 7 multiply the result by the appropriate pack factor under par. (b). If not all walls of the grain bin  
 8 are vertical, calculate the capacity of each vertical foot of the bin and add those capacities to  
 9 obtain the total capacity of the bin.

10           (b) The pack factor under par. (a) is shown in the following table, based on the shape of  
 11 the grain bin as viewed from above and the bushels per foot calculated according to par. (c). If  
 12 not all walls of the grain bin are vertical, determine the pack factor for each vertical foot of the  
 13 grain bin based on the bushels per foot for that vertical foot and the horizontal cross-sectional  
 14 shape of the grain bin at that level.

<b>Square or Rectangular Bin</b>		<b>Round or Oval Shaped Bin</b>	
<b>Bushels per Foot</b>	<b>Pack Factor</b>	<b>Bushels per Foot</b>	<b>Pack Factor</b>
0 to 24.0	1.020	0 to 15.0	1.040
> 24.0 to 34.0	1.025	> 15.0 to 30.0	1.042
> 34.0 to 41.0	1.030	> 30.0 to 45.0	1.045
> 41.0 to 45.0	1.035	> 45.0 to 75.0	1.048
> 45.0 to 48.0	1.040	> 75.0 to 103.5	1.050
> 48.0 to 50.0	1.042	>103.5 to 123.5	1.052
> 50.0 to 55.0	1.045	>123.5 to 157.5	1.055
> 55.0 to 62.0	1.048	>157.5 to 189.0	1.058
> 62.0 to 67.0	1.050	>189.0 to 211.5	1.060
> 67.0 to 73.0	1.052	>211.5 to 228.0	1.062
> 73.0 to 83.0	1.055	>228.0 to 252.5	1.065
> 83.0 to 94.0	1.058	>252.5 to 278.5	1.068
> 94.0 to 105.0	1.060	>278.5 to 289.0	1.070
>105.0 to 120.0	1.062	>289.0 to 317.0	1.072
>120.0 to 139.0	1.065	>317.0 to 351.5	1.075
>139.0 to 157.0	1.068	>351.5 to 382.0	1.078

>157.0 to 289.0	1.070		>382.0 to 410.5	1.080
>289.0 to 317.0	1.072		>410.5 to 453.5	1.082
>317.0 to 351.5	1.075		>453.5 to 505.5	1.085
>351.5 to 382.0	1.078		>505.5 to 547.5	1.088
>382.0 to 410.5	1.080		>547.5 to 587.5	1.090
>410.5 to 453.5	1.082		>587.5 to 638.5	1.092
>453.5 to 505.5	1.085		>638.5 to 700.0	1.095
>505.5 to 547.5	1.088		>700.0 to 751.5	1.098
>547.5 to 587.5	1.090		>751.5	1.100
>587.5 to 638.5	1.092			
>638.5 to 700.0	1.095			
>700.0 to 751.5	1.098			
>751.5	1.100			

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(c) To calculate bushels per foot, for purposes of par. (b), divide the number of square feet in the floor of the grain bin by 1.244 cubic feet per bushel. If not all walls of the grain bin are vertical, calculate bushels per foot for each vertical foot of the grain bin based on the number of square feet in a horizontal cross-section of the grain bin at that level.

(2) SWORN AND NOTARIZED STATEMENT. An applicant for a grain warehouse keeper license under ch. 126, Stats., shall include, with the license application, a sworn and notarized statement stating that the information provided on the application is complete and accurate.

**ATCP 99.24 Grain warehouse keeper; financial statement.** (1) GENERAL. A grain warehouse keeper's financial statement, filed under s. 126.28, Stats., shall comply with this section and s. 126.28, Stats.

(2) LIABILITY DISCLOSURES. A financial statement shall include a detailed description of all notes, mortgages and other long-term liabilities not due or payable within one year. The description shall be included in the financial statement notes, or as an attachment to the financial statement. The description shall indicate the nature of the liabilities, the due dates and the payment terms.

1           **(3) LIABILITY CLASSIFICATION.** A financial statement shall classify, as current liabilities,  
2 notes payable that do not have specific due dates.

3           **(4) ASSET DISCLOSURES.** (a) A financial statement shall specifically identify and  
4 explain, in the financial statement notes or as an attachment to the financial statement, the  
5 following assets:

6           1. Every non-trade note or account receivable from an officer, director, employee,  
7 partner, or stockholder, or from a member of the family of any of those individuals.

8           2. Every note or account receivable from a parent organization, a subsidiary, or an  
9 affiliate, other than an employee.

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

13          (b) A financial statement shall include at least one of the following:

14          1. An allowance for doubtful or uncollectible receivables. The notes to the financial  
15 statement shall describe the method used to account for doubtful or uncollectible receivables.

16          2. A summary classifying the age of all notes and accounts receivable.

17          **(5) ADDITIONAL INFORMATION.** A financial statement shall separately and clearly  
18 disclose, in the financial statement notes or as an attachment to the financial statement, all of the  
19 following information for each kind of grain as of the date of the balance sheet:

20          (a) The total number of bushels of grain in the warehouse keeper's warehouse.

21          (b) The total number of bushels of grain forwarded to another warehouse keeper, for  
22 which the warehouse keeper filing the financial statement holds a warehouse receipt.

23          (c) The combined total bushels of grain under pars. (a) and (b).

1 (d) The total number of bushels of grain that the warehouse keeper is obligated to store  
2 for depositors who hold original negotiable warehouse receipts issued by the warehouse keeper.

3 (e) The total number of bushels of grain that the warehouse keeper is obligated to store  
4 for depositors who hold original nonnegotiable warehouse receipts issued by the warehouse  
5 keeper.

6 (f) The total number of bushels of grain that the warehouse keeper is obligated to store  
7 for depositors who hold scale tickets or other types of receipts, except for negotiable and  
8 nonnegotiable warehouse receipts, issued by the warehouse keeper.

9 (g) The combined total bushels of grain, under pars. (d) to (f), that the warehouse keeper  
10 is obligated to store for depositors.

11 (h) The total number of bushels of grain to which the warehouse keeper claims title.

12 (i) The total number of bushels of grain for which the warehouse keeper has issued  
13 outstanding negotiable warehouse receipts that are held as collateral by creditors.

14 (j) The warehouse keeper's net grain position.

15 **(6)** DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS. (a) Solely for the purpose of  
16 calculating the debt to equity ratio under s. 126.28(6)(c)2., Stats., a grain warehouse keeper may  
17 deduct liabilities identified under par. (b) from liabilities reported in the grain warehouse  
18 keeper's financial statement if all the following apply:

19 1. The individual liability adjustments and offsetting assets are disclosed in the financial  
20 statement notes or in an attachment to the financial statement.

21 2. No individual liability adjustment exceeds the corresponding asset, identified in a note  
22 or attachment to the financial statement, that justifies the liability adjustment.

1           3. Liability adjustments and offsetting assets are determined as of the date of the balance  
2 sheet.

3           (b) A grain warehouse keeper may deduct the following amounts under par. (a):

4           1. An amount that the grain warehouse keeper has borrowed from a lending institution  
5 and deposited with a commodities broker to maintain an account to hedge grain transactions.

6 The amount deducted may not exceed the amount owed to the lending institution or the amount  
7 deposited in the hedge account with the commodities broker, whichever is less.

8           2. An amount that the grain warehouse keeper has borrowed from a lending institution to  
9 buy grain that the warehouse keeper has sold and shipped, provided that the grain warehouse  
10 keeper has a collectible account receivable for that grain on the date of the balance sheet. The  
11 amount of the deduction may not exceed the amount receivable by the grain warehouse keeper or  
12 the amount owed to the lending institution, whichever is less.

13           3. An amount, borrowed from a lending institution, that is secured by grain that the grain  
14 warehouse keeper owns, holds in inventory on the date of the balance sheet, and shows as  
15 inventory on the balance sheet. The amount deducted may not exceed the amount owed to the  
16 lending institution or the value of the warehouse keeper's grain given as security and held in  
17 inventory, whichever is less.

18           4. An amount, borrowed from a lending institution, that the grain warehouse keeper has  
19 used to pay for fertilizer, pesticides, herbicides or seed that the grain warehouse keeper owns,  
20 holds in inventory on the date of the balance sheet, and shows as inventory on the balance sheet.  
21 The amount deducted may not exceed the amount owed to the lending institution or the cost of  
22 the fertilizer, pesticides, herbicides and seed purchased with the borrowed funds, whichever is  
23 less.

1           **(7) ATTACHMENTS.** If information required under this section is provided in an  
2 attachment to a reviewed or audited financial statement, the following requirements apply:

3           (a) The attachment shall be prepared on the letterhead of the certified public accountant  
4 who reviewed or audited the financial statement.

5           (b) The certified public accountant who reviewed or audited the financial statement shall  
6 certify, in the attachment, whether the certified public accountant has reviewed or audited the  
7 attachment.

8           **ATCP 99.26 Grain warehouse keeper; disclosure to depositors. (1) DISCLOSURE**  
9 **REQUIRED.** A grain warehouse keeper shall make a disclosure under sub. (2) to every grain  
10 producer or producer agent who is a depositor for whom the grain warehouse keeper stores grain  
11 in this state. The grain warehouse keeper shall make the disclosure, in the form prescribed under  
12 sub. (2), in a written document given to the depositor. The disclosure shall be clear and  
13 conspicuous, and shall be set apart from every other writing. The grain warehouse keeper shall  
14 make the disclosure at all of the following times:

15           (a) The first time the grain warehouse keeper accepts a grain deposit from that depositor.

16           (b) The first time the grain warehouse keeper accepts a grain deposit from that depositor  
17 in each license year.

18           (c) The first time the grain warehouse keeper accepts a grain deposit from that depositor  
19 following a change in circumstances that requires a different disclosure statement under sub. (2).

20           **(2) FORM OF DISCLOSURE.** A disclosure under sub. (1) shall consist of one of the  
21 following verbatim statements, as applicable:

22           (a) The following statement if the grain warehouse keeper is a contributing grain  
23 warehouse keeper who is not required to file security under s. 126.31(1), Stats:



1 **IMPORTANT NOTICE**

2 *[Name of grain warehouse keeper]* contributes to Wisconsin’s Agricultural Producer  
3 **Security Fund. This fund helps secure producer grain stored in warehouses**  
4 **operated by contributing grain warehouse keepers. If a contributing grain**  
5 **warehouse keeper fails to return producer grain on demand, the fund may**  
6 **reimburse the producer (or producer agent) for up to \$100,000 worth of grain.**

7  
8 (b) The following statement if the grain warehouse keeper is not a contributing grain  
9 warehouse keeper and is required to file security under s. 126.31(1), Stats.:

10 **IMPORTANT NOTICE**

11 *[Name of grain warehouse keeper]* does not contribute to Wisconsin’s Agricultural  
12 **Producer Security Fund. We have filed security with the State of Wisconsin to**  
13 **cover part, but not all, of our grain storage obligations. The security is at least**  
14 **equal to 20% of the current local market value of grain stored in our Wisconsin**  
15 **warehouse(s). The security is in the following form(s): *[specify forms of security].***

16  
17  
18 **SECTION 6.** Chapter ATPC 100(title) is repealed and recreated to read:

19 **CHAPTER ATPC 100**  
20 **MILK CONTRACTORS**

21  
22 **SECTION 7.** Chapter ATPC 100(note) is repealed.

23  
24 **SECTION 8.** Chapter ATPC 100 subchapters I to III are repealed and recreated to read:

25 **SUBCHAPTER I**  
26 **GENERAL PROVISIONS**

27  
28 **ATPC 100.01 Definitions.** In this chapter:

29  
30 (1) “Aged cheese” means cheese for which the standard of identity under 21 CFR 133  
31 requires aging for at least 4 months.

32 (2) “Audited financial statement” has the meaning given in s. 126.01(3), Stats.

33 (3) “Contributing milk contractor” has the meaning given in s. 126.40(1), Stats.

34 (4) “Dairy plant operator” has the meaning given in s. 126.40(5), Stats., except as  
35 provided in s. ATPC 100.98(4).

1 (5) “Milk contractor” has the meaning given in s. 126.40(8), Stats.

2 (6) “Milk producer” has the meaning given in s. 126.40(10), Stats.

3 (7) “Procure producer milk in this state” has the meaning given in s. 126.40(12), Stats.

4 (8) “Producer agent” has the meaning given in s. 126.40(13), Stats.

5 (9) “Producer milk” has the meaning given in s. 126.40(14), Stats. “Producer milk”  
6 includes producer-owned dairy products that a producer agent manufactures from raw producer  
7 milk.

8 (10) “Reviewed financial statement” has the meaning given in s. 126.01(20), Stats.

9  
10 **SUBCHAPTER II**  
11 **FINANCIAL STANDARDS AND SECURITY**

12  
13 *NOTE:* This subchapter is adopted under authority of ss. 93.07(1), 126.49, 126.51 and  
14 126.81, Stats., and interprets ch. 126, Stats. The Wisconsin department of  
15 agriculture, trade and consumer protection may enforce this subchapter under  
16 subch. VIII of ch. 126, Stats.

17  
18  
19 **ATCP 100.10 Financial standards and security; general.** A milk contractor shall  
20 comply with applicable requirements under ch. 126, Stats.

21 **ATCP 100.12 Financial statement. (1) GENERAL.** A milk contractor’s financial  
22 statement, filed under s. 126.44, Stats., shall comply with this section and s. 126.44, Stats.

23 **(2) LIABILITY DISCLOSURES.** A financial statement shall include a detailed description of  
24 all notes, mortgages and other long-term liabilities not due or payable within one year. The  
25 description shall be included in the financial statement notes or as an attachment to the financial  
26 statement. The description shall indicate the nature of the liabilities, the due dates, and the  
27 payment terms.

1           **(3) LIABILITY CLASSIFICATION.** A financial statement shall classify, as current liabilities,  
2 notes payable that do not have a specific due date.

3           **(4) ASSET DISCLOSURES.** (a) A financial statement shall specifically identify and  
4 explain, either in the financial statement notes or as an attachment to the financial statement, the  
5 following assets:

- 6           1. Every non-trade note or account receivable from an officer, director, employee,  
7 partner, or stockholder, or from a member of the family of any of those individuals.
- 8           2. Every note or account receivable from a parent organization, a subsidiary, or an  
9 affiliate, other than an employee.
- 10          3. Every note or account that has been receivable for more than one year, unless the milk  
11 contractor has established an offsetting reserve for uncollectible notes and accounts receivable.

12           (b) A financial statement shall include at least one of the following:

- 13          1. An allowance for doubtful or uncollectible receivables. The notes to the financial  
14 statement shall describe the method used to account for doubtful or uncollectible receivables.
- 15          2. A summary classifying the age of all notes and accounts receivable.

16           **(5) DEBT TO EQUITY RATIO; LIABILITY ADJUSTMENTS.** (a) Solely for the purpose of  
17 calculating a milk contractor's fund assessment under s. 126.46, Stats., a milk contractor may  
18 adjust the milk contractor's debt to equity ratio under s. 126.44(8)(c)2., Stats., by deducting,  
19 from liabilities reported in the milk contractor's financial statement, an amount borrowed from a  
20 lending institution in order to hold aged cheese in inventory for the aging period required for that  
21 cheese under 21 CFR 133. A milk contractor may not make this adjustment unless all the  
22 following apply:

1           1. The milk contractor holds the aged cheese in inventory on the date of the balance  
2 sheet.

3           2. The lending institution holds a security interest in the aged cheese, to secure  
4 repayment of the amount borrowed.

5           3. The amount of the liability deduction does not exceed the amount owed to the lending  
6 institution on the date of the balance sheet, or the value of the aged cheese on the date of the  
7 balance sheet, whichever is less.

8           4. The liability deduction and offsetting cheese inventory asset are identified in the  
9 financial statement notes or as an attachment to the financial statement.

10           **NOTE:** The liability adjustment under this section does not apply to the milk  
11 contractor's debt to equity ratio when used for any purpose under ch. 126, Stats.,  
12 other than the calculation of fund assessments under s. 126.46, Stats.  
13

14           (b) If aged cheese inventory value as a percentage of total cheese inventory value is  
15 greater on the current annual balance sheet date than on the last preceding annual balance sheet  
16 date, the liability deduction under par. (a) may not exceed that prior year's percentage multiplied  
17 by the total cheese inventory value on the current annual balance sheet date.

18           **(6) ATTACHMENTS.** If information required under this section is provided in an  
19 attachment to a reviewed or audited financial statement, the following requirements apply:

20           (a) The attachment shall be prepared on the letterhead of the certified public accountant  
21 who reviewed or audited the financial statement.

22           (b) The certified public accountant who reviewed or audited the financial statement shall  
23 certify, in the attachment, whether the certified public accountant has reviewed or audited the  
24 attachment.

1           **ATCP 100.14** Custom processing services to milk producers. Chapter 126, Stats.,

2 does not apply to a dairy plant operator who takes temporary custody of producer milk solely to  
3 process it for the milk producer, provided that all the following apply:

4           (1) The producer retains title to all of the milk and all of the processed dairy products  
5 made from that milk.

6           (2) The operator does not market the milk or processed dairy products, but promptly  
7 returns the processed dairy products to the producer or the producer's agent for consumption or  
8 marketing.

9           (3) The operator does not commingle producer-owned milk or dairy products with other  
10 milk or dairy products.

11           (4) The operator provides the processing services under a written contract with the  
12 producer or the producer's agent. The contract shall clearly and conspicuously disclose all the  
13 following:

14           (a) That the producer retains title to all the milk shipped to the operator for processing,  
15 and all the processed dairy products made from that milk.

16           (b) That the producer's milk shipments to the operator are not secured under ch. 126,  
17 Stats.

18           (5) The operator keeps a copy of the contract under sub. (4) for at least 3 years after the  
19 contract ends, and makes it available to the department for inspection and copying upon request.

20           (6) The operator submits to the department, by May 1 of each year, an affidavit  
21 certifying that the operator qualifies for the custom processing exemption under this section.

22           **ATCP 100.16** Producer agents. (1) QUALIFIED PRODUCER AGENT. A producer agent is  
23 not a qualified producer agent under s. 126.45(3) or 126.47(3)(b) or (c), Stats., nor may a

1 producer agent file a default claim under s. ATCP 126.70(1)(c), Stats., unless all the following  
2 apply:

3 (a) The producer agent procures producer milk in this state solely as the agent of milk  
4 producers. Notwithstanding this paragraph, a milk contractor who buys some milk and markets  
5 other milk as a producer agent may file a default claim under s. 126.70(1)(c), Stats., for producer  
6 milk that the milk contractor markets as a producer agent if the contractor complies with pars. (b)  
7 to (f) with respect to all of the milk that the contractor procures in this state as a producer agent.

8 (b) The producer agent does not take title to the producer milk, or to any processed dairy  
9 products made from the producer milk.

10 (c) The producer agent markets the producer milk under a written contract with each  
11 milk producer. The contract shall comply with sub. (2).

12 (d) The producer agent does not process, as a producer agent, more than 5 million  
13 pounds of producer milk in any month.

14 (e) The producer agent gives, to each recipient of producer milk marketed by the  
15 producer agent, a written invoice stating that the milk is producer milk not owned by the  
16 producer agent.

17 (f) The producer agent files a monthly producer agent report with the department, as  
18 provided under sub. (3).

19 **NOTE:** Producer agents are regulated as milk contractors under ch. 126, Stats.,  
20 regardless of whether they comply with sub. (1). But producer agents do not  
21 qualify for special treatment as “qualified producer agents” under s. 126.45(3) or  
22 126.47(3)(b) or (c), Stats., nor may they file default claims under s. 126.70(1),  
23 Stats., unless they comply with sub. (1).  
24

25 **(2) CONTRACT WITH MILK PRODUCER.** The contract under sub. (1)(c) shall be signed by  
26 the milk producer and the producer agent, and shall clearly specify the terms under which the

1 producer agent receives, markets and accepts payment for milk on behalf of the producer. The  
2 contract shall clearly and conspicuously disclose all the following:

3 (a) That the producer agent does not take title to the producer's milk, or any dairy  
4 products made from that milk.

5 (b) That the producer agent receives payments on behalf of the producer, and holds them  
6 in trust for the producer.

7 (c) The terms and conditions of payment to the producer.

8 (d) The procedure by which the producer agent will receive payment on behalf of the  
9 producer and make payments to the producer, including any trust fund arrangement.

10 (e) The producer agent's compensation for serving as the producer's agent, and the  
11 method by which the producer agent will receive that compensation from the producer.

12 (f) The appropriate milk security disclosure statement under s. ATCP 100.20.

13 **(3) MONTHLY REPORT.** A producer agent who files a monthly report under sub. (1)(f)  
14 shall file the report on or before the 25<sup>th</sup> day of the month. The report shall include all the  
15 following:

16 (a) The name and address of each person to whom the producer agent marketed, in the  
17 preceding month, producer milk that the producer agent procured in this state as a producer  
18 agent.

19 (b) The total pounds of producer milk that the producer agent marketed to each person  
20 under par. (a) in the preceding month.

21 (c) The total dollar value of producer milk that the producer agent marketed to each  
22 person under par. (a) in the preceding month.

1 (d) The producer agent's total gross payments to milk producers for producer milk that  
2 the producer agent marketed under par. (a) in the preceding month.

3 (4) EXEMPT AGENT. Chapter 126, Stats., does not apply to a person who collects a  
4 producer's milk for delivery to a custom processor under s. ATCP 100.14, and who receives and  
5 markets the custom-processed dairy products for the producer, provided that all the following  
6 apply:

7 (a) The person does not handle more than 5 million pounds of producer milk in any  
8 month, does not process milk or dairy products, and does not otherwise operate as a milk  
9 contractor.

10 (b) The producer retains title to the milk and the processed dairy products made from the  
11 milk.

12 (c) The person has a written contract with the producer. The contract shall clearly and  
13 conspicuously disclose all the following:

- 14 1. That the producer retains title to the milk and the dairy products made from the milk.
- 15 2. That the producer's milk shipments are not secured under ch. 126, Stats.

16 (d) The person keeps a copy of the contract under par. (c) for at least 3 years after the  
17 contract ends, and makes it available to the department for inspection and copying upon request.

18 (e) The person submits to the department, by May 1 of each year, an affidavit certifying  
19 that the person qualifies as an exempt agent under this subsection.

20 **ATCP 100.18 Marketing processed dairy products for milk producers.** Chapter 126,  
21 Stats., does not apply to a person who markets only processed dairy products for milk producers,  
22 provided that the person does not procure, market or process raw producer milk.





1  
2 (b) The following statement if the milk contractor is not required to pay fund  
3 assessments, but has voluntarily chosen to do so:

4 **IMPORTANT NOTICE**

5 ***[Name of milk contractor]* contributes to Wisconsin’s Agricultural Producer Security**  
6 **Fund. This fund helps ensure that milk producers and producer agents will be paid**  
7 **for the milk they ship to contributing contractors. If a contributing contractor fails**  
8 **to pay a producer or producer agent, the fund may pay up to 80% of the first**  
9 **\$60,000 of the producer’s unpaid milk payment claim, and up to 75% of any**  
10 **additional unpaid milk payroll claim. We are not required to contribute to this**  
11 **fund because our financial statement shows positive equity, a current ratio of at**  
12 **least 1.25 to 1.0, and a debt-to-equity ratio of no more than 2.0 to 1.0, but we have**  
13 **elected to join the fund as a voluntary contributor.**

14  
15 (c) The following statement if the milk contractor files security under s. 126.47, Stats.,  
16 but is not a producer agent filing security under s. 126.47(3)(b) or (c), Stats.:

17 **IMPORTANT NOTICE**

18 ***[Name of milk contractor]* does not participate in Wisconsin’s Agricultural Producer**  
19 **Security Fund. We have filed security with the State of Wisconsin to cover part, but**  
20 **not all, of our milk payment obligations to milk producers and producer agents.**  
21 **The security equals at least 75% of the largest amount that we owed producers and**  
22 **producer agents at any time during our last completed fiscal year. The security is in**  
23 **the following form(s): *[specify forms of security]*.**

24  
25 (d) The following statement if the milk contractor is not a contributing milk contractor,  
26 and has not filed security, but has filed financial statements that meet the standards under s.  
27 126.45(1)(b), Stats.:

28 **IMPORTANT NOTICE**

29 ***[Name of milk contractor]* does not participate in Wisconsin’s Agricultural Producer**  
30 **Security Fund, and has not filed security with the State of Wisconsin to secure**  
31 **payments to milk producers and producer agents. We are not required to**  
32 **participate because our financial statement shows positive equity, a current ratio of**  
33 **at least 1.25 to 1.0, and a debt-to-equity ratio of no more than 2.0 to 1.0.**  
34

1 (e) One of the following statements if the milk contractor is a producer agent who is  
2 required to file security under s. 126.47, Stats., and does not contribute to the fund:

3 1. The following statement if the milk contractor makes the disclosure before May 1,  
4 2003:

5 **IMPORTANT NOTICE**

6 ***[Name of milk contractor]* does not participate in Wisconsin’s Agricultural Producer**  
7 **Security Fund. We have filed security with the State of Wisconsin to cover part, but**  
8 **not all, of our milk payment obligations to milk producers. The security equals**  
9 **15% of the largest amount that we owed to producers at any time during our last**  
10 **completed fiscal year. The security is in the following form(s): *[specify forms of***  
11 ***security]*.**

12  
13 2. The following statement if the milk contractor makes the disclosure on or after May 1,  
14 2003 but before May 1, 2004:

15 **IMPORTANT NOTICE**

16 ***[Name of milk contractor]* does not participate in Wisconsin’s Agricultural Producer**  
17 **Security Fund. We have filed security with the State of Wisconsin to cover part, but**  
18 **not all, of our milk payment obligations to milk producers. The security equals**  
19 **30% of the largest amount that we owed to producers at any time during our last**  
20 **completed fiscal year. The security is in the following form(s): *[specify forms of***  
21 ***security]*.**

22  
23 3. The following statement if the milk contractor makes the disclosure on or after May 1,  
24 2004 but before May 1, 2005:

25 **IMPORTANT NOTICE**

26 ***[Name of milk contractor]* does not participate in Wisconsin’s Agricultural Producer**  
27 **Security Fund. We have filed security with the State of Wisconsin to cover part, but**  
28 **not all, of our milk payment obligations to milk producers. The security equals**  
29 **45% of the largest amount that we owed to producers at any time during our last**  
30 **completed fiscal year. The security is in the following form(s): *[specify forms of***  
31 ***security]*.**

32  
33 4. The following statement if the milk contractor makes the disclosure on or after May 1,  
34 2005 but before May 1, 2006:

1 **IMPORTANT NOTICE**

2 ***[Name of milk contractor]*** does not participate in Wisconsin’s Agricultural Producer  
3 **Security Fund. We have filed security with the State of Wisconsin to cover part, but**  
4 **not all, of our milk payment obligations to milk producers. The security equals**  
5 **60% of the largest amount that we owed to producers at any time during our last**  
6 **completed fiscal year. The security is in the following form(s): *[specify forms of***  
7 ***security]*.**

8  
9 5. The following statement if the milk contractor makes the disclosure on or after May 1,

10 2006:

11 **IMPORTANT NOTICE**

12 ***[Name of milk contractor]*** does not participate in Wisconsin’s Agricultural Producer  
13 **Security Fund. We have filed security with the State of Wisconsin to cover part, but**  
14 **not all, of our milk payment obligations to milk producers. The security equals**  
15 **75% of the largest amount that we owed to producers at any time during our last**  
16 **completed fiscal year. The security is in the following form(s): *[specify forms of***  
17 ***security]*.**

18  
19 (f) The following statement if the milk contractor contributes to the fund as a producer  
20 agent, and files security according to s. 126.47(3)(c), Stats.:

21 **IMPORTANT NOTICE**

22 ***[Name of milk contractor]*** contributes to Wisconsin’s Agricultural Producer Security  
23 **Fund as a *producer agent*. If we fail to pay a producer between May 1, 2002 and**  
24 **April 30, 2004, the fund may pay up to 15% of the producer’s allowed claim. If we**  
25 **fail to pay a producer between May 1, 2004 and April 30, 2007, the fund may pay up**  
26 **to 20% of the producer’s allowed claim. If we fail to pay a producer at anytime**  
27 **after April 30, 2007, the fund may pay up to 80% of the first \$60,000 claimed and**  
28 **up to 75% of any additional claim above \$60,000.**

29  
30 **ATCP 100.22 Producer payroll report.** (a) An applicant for an annual milk  
31 contractor license shall include, as part of the license application, the sworn and notarized  
32 statement required under s. 126.41(6), Stats.

33 (b) The statement under par. (a) shall report, under s. 126.41(6)(a), Stats., the gross  
34 amount that the applicant paid for producer milk procured in this state during the applicant’s last

1 completed fiscal year. If the applicant has not yet operated as a milk contractor, the applicant  
2 shall report the estimated gross amount that the applicant will pay for milk procured in the  
3 applicant's first completed fiscal year.

4 (c) The statement under par. (a) shall report, under s. 126.41(6)(b), Stats., the largest  
5 gross amount that the applicant paid for producer milk procured in this state in any single month  
6 during the applicant's last completed fiscal year.

7 **NOTE:** Under s. 126.41(9), Stats., a milk contractor who files security under s. 126.47,  
8 Stats., must immediately notify the department if, at any time, the milk  
9 contractor's unpaid milk payroll obligations exceed the amount last reported  
10 under par. (c). Under s. 126.83, Stats., the department may require the milk  
11 contractor to provide additional information as necessary.  
12

1  
2  
3 **SUBCHAPTER III**  
4 **MILK CONTRACTOR PAYMENTS**  
5 **TO PRODUCERS; RECORDS**

6 **NOTE:** This subchapter is adopted under authority of ss. 93.07(1), 97.20(4), 126.49,  
7 126.51 and 126.81, Stats., and interprets ss. 93.15 and 97.20, Stats., and ch. 126,  
8 Stats. The Wisconsin department of agriculture, trade and consumer protection  
9 may enforce this subchapter under ss. 93.06(7) and (8), Stats., s. 93.21(4), Stats.,  
10 and subch. VIII of ch. 126, Stats., as appropriate.

11  
12 **ATCP 100.30 Pay statements to milk producers.** On each producer pay date under s.  
13 126.48(1) or (2), Stats., a milk contractor who procures producer milk in this state from a milk  
14 producer shall provide that milk producer with a written pay statement that includes all the  
15 following:

16 (1) **MILK CONTRACTOR IDENTIFICATION.** A pay statement shall include the name and  
17 address of the milk contractor.

18 (2) **PRODUCER IDENTIFICATION.** A pay statement shall include the producer's name and  
19 identification number.

20 (3) **PAY PERIOD.** A pay statement shall specify the milk delivery dates for which  
21 payment is being made.

22 (4) **MILK VOLUME.** A pay statement shall specify the total weight of milk, in  
23 hundredweights, which the milk contractor received from the milk producer on the dates  
24 specified in sub. (3).

25 (5) **GRADE OF MILK.** A pay statement shall specify the grade of milk that the milk  
26 contractor received from the milk producer on the dates specified in sub. (3).

27 (6) **MILK TEST RESULTS.** If the price paid to the milk producer is affected by test results  
28 related to milk components, milk quality or other variables, the pay statement shall indicate all

1 the test results used to determine the pay price unless the milk contractor has already furnished  
2 those test results to the milk producer.

3 (7) MILK PRICE AND ADJUSTMENTS. A pay statement shall include the following price  
4 information, as applicable:

5 (a) *Payment based on straight fat.* If the milk contractor is paying the milk producer on  
6 a straight fat basis, the pay statement shall include all the following information:

7 1. The butterfat content of milk received from the milk producer on the dates specified in  
8 sub. (3), expressed as a percentage by weight of milk received.

9 2. The total pounds of butterfat in the milk received from the producer on the dates  
10 specified in sub. (3).

11 3. The pay price per pound of butterfat.

12 4. The gross amount paid for butterfat, obtained by multiplying the total pounds of  
13 butterfat under subd. 2. by the pay price under subd. 3.

14 5. The pay price per hundredweight for butterfat, obtained by dividing the gross amount  
15 paid under subd. 4. by the milk volume in hundredweights under sub. (4).

16 6. Price adjustments per hundredweight for other milk components such as protein or  
17 solids not fat.

18 7. Price adjustments per hundredweight for milk grade or quality, including adjustments  
19 for bacteria or somatic cell counts.

20 8. Price adjustments per hundredweight based on volume or other factors identified in  
21 the pay statement.

1           9. The producer's average gross pay per hundredweight of milk, obtained by applying  
2 the adjustments under subds. 6. to 8. to the pay price per hundredweight for butterfat under subd.  
3 5.

4           (b) *Payment based on 3.5% butterfat differential.* If the milk contractor is paying the  
5 producer on a 3.5% butterfat differential basis, the pay statement shall include all the following  
6 information:

7           1. The base price per hundredweight for milk containing 3.5% butterfat by weight.

8           2. The price differential per hundredweight for each percentage point, plus or minus, by  
9 which the butterfat content of the producer's milk differs from 3.5%.

10          3. Price adjustments per hundredweight for other milk components such as protein or  
11 solids not fat.

12          4. Price adjustments per hundredweight for milk grade or quality, including adjustments  
13 for bacteria or somatic cell counts.

14          5. Price adjustments per hundredweight based on volume or other factors identified in  
15 the pay statement.

16          6. The producer's average gross pay per hundredweight of milk after adjustments under  
17 this section.

18          (c) *Payment based on multiple component pricing.* If the milk contractor is paying the  
19 producer on a multiple component pricing basis, the pay statement shall include all the following  
20 information:

21          1. The milk volume in hundredweights under sub. (4) multiplied by the applicable  
22 producer price differential per hundredweight.

23           **NOTE:** Federal milk marketing orders specify, for each pay period, minimum producer  
24 price differentials for grade A milk covered by those orders.



1  
2           2. The pounds of butterfat contained in the milk received from the producer on the dates  
3 specified in sub. (3), multiplied by the applicable butterfat price per pound.

4           **NOTE:** Federal milk marketing orders specify, for each pay period, minimum butterfat  
5 prices for grade A milk covered by those orders.

6  
7           3. The pounds of protein contained in the milk received from the producer on the dates  
8 specified in sub. (3), multiplied by the applicable protein price per pound.

9           **NOTE:** Federal milk marketing orders specify, for each pay period, minimum protein  
10 prices for grade A milk covered by those orders.

11  
12           4. The pounds of other solids contained in the milk received from the producer on the  
13 dates specified in sub. (3), multiplied by the applicable price per pound for other solids.

14           **NOTE:** Federal milk marketing orders specify, for each pay period, minimum “other  
15 solids” prices for grade A milk covered by those orders.

16  
17           5. For each applicable price adjustment based on milk grade or quality, the milk volume  
18 in hundredweights under sub. (4) multiplied by the price adjustment per hundredweight. The pay  
19 statement shall identify the basis for each price adjustment under this subdivision.

20           **NOTE:** This includes price adjustments for bacteria count, somatic cell count, or other  
21 measures of grade or quality. Federal milk marketing orders specify, for each pay  
22 period, minimum somatic cell adjustments for grade A milk covered by those  
23 orders.

24  
25           6. For each applicable price adjustment based on volume or other factors, the milk  
26 volume in hundredweights under sub. (4) multiplied by the price adjustment per hundredweight.  
27 The pay statement shall identify the basis for each price adjustment under this paragraph.

28           7. The producer’s average gross pay per hundredweight of milk, calculated as the sum of  
29 the value used under subds. 1. to 6., divided by the milk volume in hundredweights under sub  
30 (4).

1           **(8) GROSS AMOUNT DUE.** A pay statement shall specify the gross amount due the  
2 producer for milk delivered on the dates specified under sub. (3), prior to any deductions under  
3 sub. (11).

4           **(9) AVERAGE GROSS PAY PER HUNDREDWEIGHT LESS HAULING CHARGES.** A pay statement  
5 shall specify the producer's average gross pay per hundredweight less hauling charges. This  
6 consists of the gross amount due under sub. (8) less total hauling expenses charged to the  
7 producer for the pay period under sub. (11)(a), divided by the milk volume in hundredweights  
8 under sub. (4).

9           **(10) NET AMOUNT DUE.** A pay statement shall specify the net amount due the producer  
10 for the milk delivered on the dates specified in sub. (3). This consists of the total amount due  
11 under sub. (8) less all deductions under sub. (11).

12           **(11) DEDUCTIONS.** A pay statement shall specify the nature and amount of every  
13 deduction from the gross amount due the producer under sub. (8), including deductions for any  
14 of the following that apply:

- 15           (a) Milk hauling expenses charged to the producer.
- 16           (b) Deductions related to drug residue violations.
- 17           (c) Dairy products that the producer buys from the milk contractor.
- 18           (d) Supplies that the milk contractor provides to the milk producer.
- 19           (e) Wisconsin milk marketing board deductions.
- 20           (f) National dairy promotion deductions.
- 21           (g) Commodity credit corporation deductions.
- 22           (h) Insurance deductions.
- 23           (i) Cooperative fees or capital retained.

1 (j) Creditor assignments.

2 (k) Other deductions.

3 **ATCP 100.32 Pay records. (1) RECORDS REQUIRED.** A milk contractor shall keep  
4 accurate records and accounts of milk receipts, payments for milk received, and amounts owed to  
5 milk producers and producer agents. Records shall include all the following:

6 (a) A copy of every contract between the milk contractor and a milk producer or  
7 producer agent.

8 (b) A record of all milk receipts from producers and producer agents, showing the  
9 amount received from each producer or producer agent and the date of each receipt.

10 (c) A record of every milk producer pay statement required under s. ATCP 100.30.

11 (d) Records showing the nature and amount of any non-price consideration that the milk  
12 contractor furnishes to a producer in return for the producer's sale or consignment of milk to the  
13 milk contractor, but which is not reflected in the producer's pay statement under s. ATCP  
14 100.30. In this subsection, "non-price consideration" has the meaning given in s. ATCP  
15 100.98(6).

16 (e) The result of every test on a producer milk delivery, including any test related to milk  
17 components or milk quality. Records shall specify the delivery to which each test pertains.

18 (f) A payroll summary showing, for each payroll period, the amount of milk received  
19 from producers, the gross amounts owed to producers for milk received, the amount and  
20 disposition of any payroll deductions, the net amounts owed to producers after deductions, and  
21 the amounts paid to producers.

22 (g) Other computer records, worksheets and accounting records showing how the milk  
23 contractor computed payment obligations to milk producers and producer agents.

1 (h) Records showing the milk contractor's use and disposition of milk and dairy products  
2 received by the milk contractor. Records shall enable the milk contractor to do all the following:

3 1. Account for the sale, use or disposition of all milk and dairy products received by the  
4 milk contractor.

5 2. Account for the source of all milk and dairy products sold, marketed or otherwise  
6 disposed of by the milk contractor.

7 (2) FALSE RECORDS. (a) No milk contractor may falsify any record or account, or  
8 conspire with any other person to falsify a record or account.

9 (b) No milk contractor may provide any milk producer or producer agent with any  
10 statement or accounting that is false or misleading, or that contains any false or misleading  
11 computation or arrangement of figures.

12 (3) RECORDS RETENTION AND INSPECTION. A milk contractor shall retain the records  
13 required under this section for at least 3 years, and shall make the records available to the  
14 department for inspection and copying upon request.

15 **SECTION 9.** Chapter 100 subchapters IV and V are repealed.

16 **SECTION 10.** Chapter 100 subchapter VI (title) is renumbered subchapter IV (title).

17 **SECTION 11.** Chapter 100 subchapter IV (note) is created to read:

18 **NOTE:** This subchapter is adopted under authority of ss. 93.07(1), 97.20(4), and  
19 100.20(2), Stats., and interprets ss. 93.15, 97.20, 100.20 and 100.22, Stats.  
20 Violations are subject to the sanctions provided in ss. 93.21(4), 97.72, 97.73,  
21 100.20, 100.22(4) and (5), 100.24, and 100.26(3), (5) and (6), Stats. Violations of  
22 this subchapter may also result in license sanctions under ss. 93.06(7) and (8) and  
23 97.20, Stats.  
24

25 **SECTION 12.** ATCP 100.98(4) is renumbered (5) and amended to read:

26 100.98(5) "Milk price" means a producer's average gross pay per hundredweight less  
27 hauling charges, calculated for a pay period according to s. ATCP ~~100.75(9)~~ 100.30(9).

1           **SECTION 13.** ATCP 100.98(4) is created to read:

2           ATCP 100.98(4) “Dairy plant operator” means either of the following:

3           (a) A person who holds, or is required to hold, a dairy plant license under s. 97.20, Stats.,  
4 and who buys milk from producers.

5           (b) A person who operates a dairy plant outside this state, and who buys milk from  
6 Wisconsin producers for delivery to that out-of-state dairy plant.

7           **SECTION 14.** ATCP 100.98(5) to (9) are renumbered (7) to (9), (6) and (10).

8           **SECTION 15.** ATCP 100.982(4)(f) is amended to read:

9           ATCP 100.982(4)(f) The dairy plant operator complies with s. 80.26(2) and ~~100.75~~  
10 100.30.

11           **SECTION 16.** Chapter ATCP 101 is renumbered chapter ATCP 101 subchapter I:

12           **SECTION 17.** Chapter ATCP 101 (title) is created to read:

13  
14  
15  
16                                   **CHAPTER ATCP 101**  
17                                   **VEGETABLE CONTRACTORS**

18  
19           **SECTION 18.** Chapter ATCP 101 subchapter I (note) is amended to read.

20  
21           **NOTE:** This ~~chapter subchapter~~ is adopted under authority of s. 100.20(2), Stats., ~~and is~~  
22           ~~administered by the Wisconsin department of agriculture, trade and consumer~~  
23           ~~protection.~~ Violations of this subchapter may be prosecuted under s. 100.20(6), or  
24           100.26(3) or (6), Stats. A person who suffers a monetary loss because of a  
25           violation of this ~~chapter subchapter~~ may sue the violator directly under s.  
26           100.20(5), Stats., and may recover twice the amount of the loss, together with  
27           costs and reasonable attorneys’ fees.

28  
29           **SECTION 19.** ATCP 101.01(intro.) is amended to read:

30  
31           **ATCP 101.01 Definitions.** In this ~~chapter~~ subchapter:

32  
33           **SECTION 20.** ATCP 101.08 is repealed.

34  
35           **SECTION 21.** Chapter ATCP 101 subchapter II is created to read:

1  
2  
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9

**SUBCHAPTER II**  
**FINANCIAL STANDARDS AND SECURITY**

*NOTE:* This subchapter is adopted under authority of ss. 93.07(1), 126.49, 126.51 and 126.81, Stats., and interprets ch. 126, Stats. The Wisconsin department of agriculture, trade and consumer protection may enforce this subchapter under subch. VIII of ch. 126, Stats.

**ATCP 101.20 Definitions.** In this subchapter:

10 (1) “Affiliate” has the meaning given in s. 126.01(1), Stats.

11 (2) “Audited financial statement” has the meaning given in s. 126.01(3), Stats.

12 (3) “Contributing vegetable contractor” has the meaning given in s. 126.55(4), Stats.

13 (4) “Producer agent” has the meaning given in s. 126.55(12), Stats.

14 (5) “Reviewed financial statement” has the meaning given in s. 126.01(20), Stats.

15 (6) “Vegetable contractor” has the meaning given in s. 126.55(14), Stats.

16 (7) “Vegetable procurement contract” has the meaning given in s. 126.55(15), Stats.

17 (8) “Vegetable producer” has the meaning given in s. 126.55(16), Stats.

18 **ATCP 101.22 General requirements.** A vegetable contractor shall comply with  
19 applicable requirements in ch. 126, Stats.

20 **ATCP 101.24 Financial statement. (1) GENERAL.** A vegetable contractor’s financial  
21 statement, filed under s. 126.58, Stats., shall comply with this section and s. 126.58, Stats.

22 (2) **LIABILITY DISCLOSURES.** A financial statement shall include a detailed description of  
23 all notes, mortgages and other long-term liabilities not due or payable within one year. The  
24 description shall be included in the financial statement notes or as an attachment to the financial  
25 statement. The description shall indicate the nature of the liabilities, the due dates and the  
26 payment terms.

1           **(3) LIABILITY CLASSIFICATION.** A financial statement shall classify, as current liabilities,  
2 notes payable that do not have specific due dates.

3           **(4) ASSET DISCLOSURES.** (a) A financial statement shall specifically identify and  
4 explain, in the financial statement notes or as an attachment to the financial statement, the  
5 following assets:

6           1. Every non-trade note or account receivable from an officer, director, employee,  
7 partner, or stockholder, or from a member of the family of any of those individuals.

8           2. Every note or account receivable from a parent organization, a subsidiary, or an  
9 affiliate, other than an employee.

10          3. Every note or account that has been receivable for more than one year, unless the  
11 vegetable contractor has established an offsetting reserve for uncollectible notes and accounts  
12 receivable.

13          (b) A financial statement shall include at least one of the following:

14          1. An allowance for doubtful or uncollectible receivables. The notes to the financial  
15 statement shall describe the method used to account for doubtful or uncollectible receivables.

16          2. A summary classifying the age of all notes and accounts receivable.

17          **(5) ATTACHMENTS.** If information required under this section is provided in an  
18 attachment to a reviewed or audited financial statement, the following requirements apply:

19          (a) The attachment shall be prepared on the letterhead of the certified public accountant  
20 who reviewed or audited the financial statement.

21          (b) The certified public accountant who reviewed or audited the financial statement shall  
22 certify, in the attachment, whether the certified public accountant has reviewed or audited the  
23 attachment.





1 **IMPORTANT NOTICE**

2 ***[Name of vegetable contractor]* does not contribute to Wisconsin’s Agricultural**  
3 **Producer Security Fund, and has filed no security with the State of Wisconsin to**  
4 **secure payment for vegetables grown under vegetable procurement contracts.**

5  
6 **SECTION 22.** ATCP 161.31(8)(a) and (b) are amended to read:

7  
8 ATCP 161.31(8)(a) A warehouse keeper licensed under ~~ch. 127, Stats., s. 126.26, Stats.,~~  
9 or 7 USC 241 to 271.

10 (b) ~~An exempt warehouse keeper, as defined in s. 127.01(14), Stats.~~ A warehouse  
11 keeper who has a total of less than 50,000 bushels of grain obligations to others, for all the  
12 warehouse keeper’s warehouses, at any time.

13 **SECTION 23.** ATCP 161.32(3)(intro.) is amended to read:

14 ATCP 161.32(3)(intro.) The department shall make payment from the ~~appropriation~~  
15 appropriations under s. 20.115(3)(d), Stats., ss. 20.115(1)(d) and (k), Stats., subject to the  
16 availability of funds in the ~~appropriation~~ appropriations.

17 **SECTION 24.** ATCP 162.02(2) is amended to read:

18 ATCP 162.02(2) “Agriculturally related business” means any person, or any business  
19 association or entity, which is engaged in the sale or rental of farm supplies, services or  
20 equipment to farmers, provided that the sale or rental of farm supplies, services or equipment to  
21 farmers comprises at least 50% of the annual gross revenue of the person, association or entity.  
22 “Agriculturally related business” does not include ~~a person, association or entity regulated under~~  
23 ~~s. 100.03, 100.06, or ch. 127, Stats.~~ a grain dealer, grain warehouse keeper, milk contractor or  
24 vegetable contractor regulated under ch. 126, Stats.

1           **EFFECTIVE DATE:** The rules contained in this order shall take effect on the first day of  
2 the month following publication in the Wisconsin administrative register, as provided under s.  
3 227.22(2) (intro.), Stats.

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

**STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND  
CONSUMER PROTECTION**

By \_\_\_\_\_  
Rodney L. Nilsestuen,  
Secretary