

Wisconsin Department of Agriculture, Trade and Consumer Protection

Initial Regulatory Flexibility Analysis

Rule Subject: Grain Dealers and Grain Warehouse Keepers; Milk Contractors

Adm. Code Reference: ATCP 99 and 100 (Permanent)

Rules Clearinghouse #:

DATCP Docket #: 18-R-03

Rule Summary

This rule does the following:

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

Small Business Affected

ATCP 99

This rule will not have an immediate impact on grain warehouse keepers. Prior to the passage of Act 155, warehouse keepers were not projected to receive an assessment exemption for about five years or an assessment reduction for about 15 years. This proposed rule does not change those projections. Nonetheless, these changes are necessary to harmonize ATCP 99 with statute.

ATCP 100

This rule will establish a deferred payment assessment rate that will cover the additional risk posed to milk producers and the Fund associated with milk contractors deferring payments to milk producers for up to 120 days, as permitted by Act 155. Milk contractors entering into deferred payment contracts with producers will pay higher assessments; however, statute allows these assessments to be passed on to the producers who requested their payments be deferred. Therefore, there will be no effect to milk contractors.

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

Milk, grain, and vegetable producers are all protected against financial defaults by contractors who contribute to the overall Fund. All producers could potentially benefit from a higher Fund balance.

Reporting, Bookkeeping, and Other Procedures

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

Professional Skills Required

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

Accommodation for Small Business

No accommodations are required for the grain industry as it merely aligns the rule with current statute.

Act 155 accommodated for small business by giving milk producers and contractors additional flexibility in payment terms that did not previously exist. This rule implements the requirement of Act 155 to create a deferred payment assessment rate.

Conclusion

This rule may have a minimal impact on affected businesses, including small businesses. For grain warehouse keepers, this rule does not change current assessment amounts, but it will ensure that assessments are equitable and proportionate over the long term. For milk contractors, the impact is voluntary and dependent on whether they enter into deferred payment contracts with milk producers. This rule will not have a significant adverse effect on “small business,” and is not subject to the delayed “small business” effective date provided in Wis. Stat. § 227.22 (2) (e). In fact, Wisconsin Act 155 requires the rule to be promulgated with minimal delay, and an emergency rule change to Wis. Admin. Code ch. ATCP 100 implements the deferred payment requirement.