

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Ch. ATCP 100 Milk Contractors

Subject

Milk Contractors; Agricultural Producer Security Fund Assessment Exemption

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20 , Stats. Appropriations Affected

20.115 (1)(q)

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

The Agricultural Producer Security Fund (APSF) is a public trust administered by DATCP. Milk contractors, grain dealers, grain warehouse keepers and vegetable contractors (collectively known as contractors) must purchase a license to obtain milk, grain and vegetables, respectively, from producers, and most contractors are required to contribute to the APSF annually. Funds are used to settle claims by producers in the event that a contractor defaults on payment or fails to return grain held in storage. Funds from each industry are accounted for separately and deposited into the overall fund. Ch. 126, Stats., establishes detailed fund assessment requirements, except that it requires DATCP to establish milk contractor fund assessments by rule. Ch. 126, Stats., sets minimum fund balances for each industry, as well as a minimum balance requirement for the overall fund.

ATCP 100.135 (10), Admin. Code., establishes a fund assessment exemption for milk contractors. To be eligible, a licensee must have been a contributing milk contractor in each of the preceding 5 license years. The exemption does not apply if the fund balance attributable to milk contractors was less than \$6 million on February 28 of the preceding license year. The exemption also does not apply if the overall fund balance (which includes contributions from milk, grain and vegetable contractors) was less than \$11 million on February 28 of the preceding license year. Section 126.88, Stats., sets the overall fund minimum balance at \$5 million.

In 2014, the APSF paid out claims to 19 vegetable producers due to payment default by one large vegetable contractor that went bankrupt. The default payment totaled \$6.1 million, causing the overall fund balance to drop by almost half. With the overall fund balance well below the \$11 million minimum currently set in administrative code, the milk contractor industry will not be eligible for fund assessment exemptions for an estimated 6-7 years.

DATCP and the Agricultural Producer Security Council have identified the need to evaluate the entire

agricultural producer security program, so that changes can be made to mitigate the impact of large defaults in the future. This entire process, including the performance of an actuarial study, will take more than a year.

The proposed emergency rule would alleviate a financial burden otherwise placed upon licensed milk contractors. Without this change, milk contractors would not be eligible for fund assessment exemption for many years, and would ultimately repay a large portion of the fund balance lost in the default to vegetable producers.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule will slow the growth of the overall fund balance, as the milk contractor industry would otherwise be required to pay an additional \$420,000 - \$800,000 annually, over the course of an estimated 6-7 years. This will result in fewer funds available to producers in milk, grain and vegetable industries in the event of future large defaults.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Benefits

This rule benefits milk contractors by ensuring the continuation of the fund assessment exemption for milk contractors while an actuarial study is conducted to determine what programmatic and statutory changes should be made. Without this emergency rule, licensed milk contractors will take on the burden of repaying a large portion of the agricultural producer security overall fund balance lost in the default to vegetable producers. An emergency rule effective date of May 1 is necessary, as the next license year for milk contractors begins May 1, 2015.

Alternatives

Do nothing. If DATCP fails to adopt this emergency rule the milk contractor industry will not be eligible for fund assessment exemption until the producer security overall fund balance exceeds \$11 million, which is estimated to take 6-7 years. License years for milk contractors begin May 1. If DATCP fails to adopt this emergency rule before May 1, 2015, no milk contractors will be eligible for exemption during the next license year.

Long Range Implications of Implementing the Rule

There are no long-term implications of implementing this rule.

Compare With Approaches Being Used by Federal Government

No federal programs currently exist offering milk producer security from contractor payment defaults.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Minnesota requires any wholesale dealer or food processor who contracts with other Minnesota dealers or farmers of milk, cream, or products made from milk or cream, to be licensed as a Wholesale Produce Dealer. Dealers are required to obtain a surety bond and required to maintain trust assets so that assets are freely available to satisfy outstanding obligations. There is no exemption to this requirement.

Michigan requires producer security for all manufacturing and Grade A dairy plants that are a first receiving point for raw milk that will be processed at that facility. Security can be in one or more of several forms including bond, letter of credit, certificate of deposit or pre-payment. There is no exemption to this requirement.

Illinois, Indiana and Iowa do not require dairy producer security.

Name and Phone Number of Contact Person

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