ADMINISTRATIVE RULES
FISCAL ESTIMATE
AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

Administrative Rule Chapter, Title and Number

Ch. ATCP 101, Vegetable Contractors

Subject

Vegetable Contractor Fund Assessment

Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG SEG-S	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 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 101.245 establishes a vegetable contractor fund assessment. The amount of the assessment varies based on contract obligations under ch. 126, Stats. Per s. 126.88, Stats., the vegetable contractors' portion of the fund should maintain a fund balance attributable to them of at least $800,000, but not more than $3,000,000.

In 2014, the APSF paid out claims to 18 vegetable producers due to a payment default by one large vegetable contractor that went bankrupt. The default payment totaled $6.1 million, causing the overall fund balance for all producers to drop by almost half. This has resulted in a fund balance deficit attributable to the vegetable program of over $4.8 million.

By amending s. 101.245, Stats., the emergency rule sets the participation fee at the level currently paid by first-year participants. By enacting this rule, the Department projects the fund will receive approximately $95,000 in additional revenue each year. Without the change, the fund balance attributable to the vegetable program will remain dramatically underfunded, and the Department will not fulfill its statutory obligation.

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)

Contributing vegetable contractors will be affected by paying higher fund assessments. Vegetable contractors who purchase potatoes for processing and have opted out of contributing to the fund would not be affected. All producers (milk, grain, and vegetable) will be affected by greater fund coverage. Since all participating vegetable contractors would now pay a higher fee, they would see an increase in their fees.

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

Benefits

The proposed rule will increase fund assessments to contributing vegetable contractors in order to meet the statutory requirement to maintain a minimum fund balance. It will also increase the overall fund balance, thereby increasing coverage for all producers (milk, grain, and vegetable) regardless of product.

Alternatives

Do nothing. If DATCP fails to adopt this emergency rule, the Department will not meet its statutory requirement and the vegetable contractor industry will remain in a significant deficit while still receiving the benefits of coverage under the overall fund.

Long Range Implications of Implementing the Rule

There are no long-term implications of implementing the emergency rule. Any long-term implications will derive from any permanent rule changes that could result from the ongoing actuarial study. Those implications, since currently unknown, cannot be determined at this time.

Compare With Approaches Being Used by Federal Government

The Noninsured Crop Disaster Assistance Program provides some coverage for losses when natural disasters affect specialty crops such as vegetables and fruits. The program offers coverage at up to 65 percent of their expected production at 100 percent of the average market price.

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 for fresh fruits or vegetables 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.

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. However, they do not have a similar program for vegetable producers.

The New York Agricultural Producers Security Program provides for the licensing of all dealers who buy or receive farm products from New York producers in excess of $10,000 annually to re-sell at wholesale. Licensed dealers must file security in the form of a bond or letter of credit with the Department. Supplemental financial coverage is provided by the Agricultural Producer Security Fund, which is funded by the licensed dealers. Producers are provided further protection by law, which authorizes a statutory trust in the event a dealer defaults.

Illinois, Iowa, and Indiana lack similar programs.