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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Agriculture...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

Assembly

Record of Committee Proceedings

Committee on Agriculture

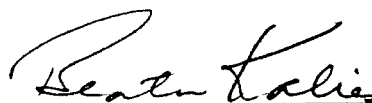
Clearinghouse Rule 02-113

Relating to agricultural producer security.

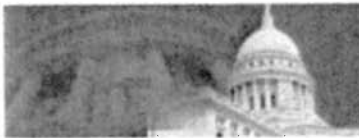
Department of Agriculture, Trade and Consumer Protection

February 05, 2003 Referred to Committee on Agriculture.

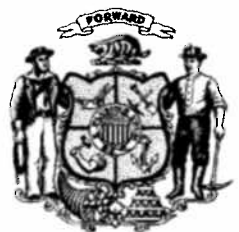
March 7, 2003 No action taken.



Beata Kalies
Committee Clerk



WISCONSIN STATE LEGISLATURE



DATE: February 5, 2003

TO: Beata Kalies

Committee on Agriculture

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

CLEARINGHOUSE RULE 02-113

AN ORDER to repeal chapter ATCP 98, chapter ATCP 100 (note), subchapters IV and V of chapter ATCP 100 and ATCP 101.08; to renumber subchapter VI (title) of chapter ATCP 100, ATCP 100.98 (5) to (9) and chapter ATCP 101; to renumber and amend ATCP 100.98 (4); to amend ATCP 100.982 (4) (f), subchapter I (note) of chapter ATCP 101 and ATCP 101.01 (intro.); to repeal and recreate chapter ATCP 99, chapter ATCP 100 (title) and subchapters I to III of chapter ATCP 100; and to create subchapter IV (note) of chapter ATCP 100, ATCP 100.98 (4), chapter ATCP 101 (title) and subchapter II of chapter ACTP 101, relating to agricultural producer security.

Submitted by **Department of Agriculture, Trade and Consumer Protection.**

Report received from Agency on **January 31, 2003.**

To committee on **Agriculture.**

Referred on **Wednesday, February 5, 2003.**

Last day for action - **Friday, March 7, 2003.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Ken Stigler (6-2406) or your Legislative Council attorney. If you wish to learn more on this subject, read section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.

2/5 - 2/6/03
still
elect. copy
not
arrived

2/6/03 Call Ken: → ask for email from Agency.
as of 2/12/03 still not avail. on Folio.



Kalies, Beata

From: Kalies, Beata
Sent: Thursday, February 06, 2003 10:23 AM
To: Alvin Ott; Amy Sue Vruwink; Anne Emerson; Barbara Gronemus; Carol Redell; Carolyn Hughes; Casey Langan; David Matzen; David Zehren; Debi Towns; Erin Napralla; Gabe Loeffelholz; Jake Hines; Jerry Petrowski; Jessica Kelly; Joe Plouff; John Ainsworth; John Anderson; Jon Mielke; Julie Lassa; Kathryn Scott; Larry Balow; Linda Junck; Linda Narveson; Mary Williams; Mollie Hertel; Scott Suder; Steve Kestell; Tom Hebl; William Cross
Cc: Mueller, Virginia (Legislature); Schubert, Heather; OBrien, John
Subject: Clearinghouse Rule 02-113 ag producer security

**Assembly Committee on Agriculture
MEMO**

TO: Members of the Assembly Committee on Agriculture
FROM: Representative Al Ott, Chair
DATE: February 6, 2003
RE: Clearinghouse Rule 02-113

The following clearinghouse rule has been referred to the Assembly Committee on Agriculture for a thirty-day review period:
Clearinghouse Rule 02-113 - relating to agricultural producer security



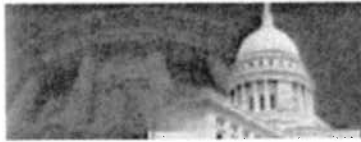
FINAL DRAFT
EAN COPY(1-29-03)

Please contact Beata Kalies in my office (6-5831) with any questions, concerns or to schedule a committee meeting. The deadline for action on this rule is **Friday, March 7, 2003**.

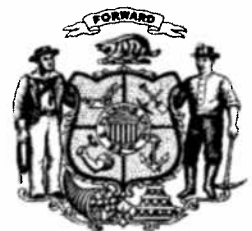
You may request a hard copy of the entire rule by contacting my office and Beata will be happy to get you a copy. The text is also available online in the FOLIO Clearinghouse Rules infobase.

Thank you for your attention to this matter.

Beata Kalies
Office of State Representative Al Ott



WISCONSIN STATE LEGISLATURE





State of Wisconsin
James E. Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

PUBLIC NOTICE

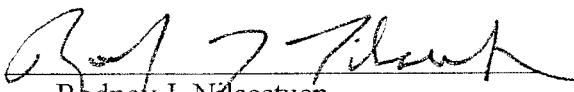
FINAL DRAFT RULE TO LEGISLATURE

The Department of Agriculture, Trade and Consumer Protection announces that it is submitting the following rule for legislative committee review, pursuant to s. 227.19, Stats.:

CLEARINGHOUSE RULE #: 02-113
SUBJECT: Agricultural Producer Security
ADM. CODE REFERENCE: ATCP 98, 99, 100 and 101
DATCP DOCKET #: 02-R-03

Dated this 30 day of January, 2003.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION

By 
Rodney J. Nilsestuen
Secretary

Wisconsin Food and Agricultural Products - \$40 Billion for Wisconsin's Economy




State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

DATE: January 31, 2003

TO: The Honorable Alan Lasee
President, Wisconsin State Senate
Room 109 South, State Capitol
P.O. Box 7882
Madison 53707-7882

The Honorable John Gard
Speaker, Wisconsin State Assembly
Room 308 East, State Capitol
P.O. Box 8952
Madison 53708-8952

FROM:  Rodney J. Nilsestuen, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **Agricultural Producer Security Rule**
(Clearinghouse Rule #02-113)

The Department of Agriculture, Trade and Consumer Protection is transmitting the above rule for legislative committee review, as provided in s. 227.19(2) and (3), Stats. The department will publish a notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19(2), 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. 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. The Department of Agriculture, Trade and Consumer Protection (DATCP) licenses contractors. 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.

Wisconsin Food and Agricultural Products - \$40 Billion for Wisconsin's Economy

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • 608-224-5012 • Wisconsin.gov

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

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.

This rule requires certain disclosures in a financial statement, so that the financial statement accurately represents the grain dealer's true financial condition. In some cases, disclosures may be included in an attachment to the financial statement. Attachments to reviewed or audited financial statements must be on the letterhead of the certified public accountant who reviewed or audited the financial statement. The accountant must certify whether the attachment is reviewed or audited.

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. These adjustments compensate for the large seasonal variations that occur in the grain industry. 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 and holds in inventory on the balance sheet date.
- Amounts borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain dealer owns and holds in inventory on the balance sheet date.

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

Grain Warehouse Capacity

Under ch. 126, Stats., grain warehouse license and fee requirements are based on 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.

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.

This rule requires certain disclosures in a financial statement, so that the financial statement accurately represents the grain warehouse keeper's true financial condition and grain storage obligations. In some cases, disclosures may be included in an attachment to the financial statement. Attachments to reviewed or audited financial statements must be on the letterhead of

the certified public accountant who reviewed or audited the financial statement. The accountant must certify whether the attachment is reviewed or audited.

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. These adjustments compensate for the large seasonal variations that occur in the grain industry. 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 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 and holds in inventory on the balance sheet date.
- Amounts borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain warehouse keeper owns and holds in inventory on the balance sheet date.

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

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.

This rule requires certain disclosures in a financial statement, so that the financial statement accurately represents the milk contractor's true financial condition. In some cases, disclosures may be included in an attachment to the financial statement. Attachments to reviewed or audited financial statements must be on the letterhead of the certified public accountant who reviewed or audited the financial statement. The accountant must certify whether the attachment is reviewed or audited.

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.

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 a milk contractor (for 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. However, 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 25th 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 any of the following:

- 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*.
- A person who is solely engaged in collecting producer-owned milk for delivery to an exempt custom processor (see above), and in marketing the custom-processed producer-owned dairy products for the producer. This is a very limited exemption. To qualify for this limited exemption, the person must meet special conditions spelled out in this rule.

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. The current price discrimination rules apply only to dairy plant operators, not other milk contractors. The current rules are contained in ch. ATCP 100, Wis. Adm. Code, the same chapter that contains milk producer security rules.

As part of the overall reorganization of ATCP 100, this rule updates some cross-references in the current milk price discrimination rules. *But this rule does not change the scope or substance of the current price discrimination rules.* This rule does *not* expand the current price discrimination rules to apply to milk contractors other than dairy plant operators.

Vegetable Contractors

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.

This rule requires certain disclosures in a financial statement, so that the financial statement accurately represents the vegetable contractor's true financial condition. In some cases, disclosures may be included in an attachment to the financial statement. Attachments to reviewed or audited financial statements must be on the letterhead of the certified public accountant who reviewed or audited the financial statement. The accountant must certify 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 on the proposed vegetable procurement contract with each producer.

Rule Changes After Public Hearing

DATCP held 3 public hearings on this rule. DATCP held the hearings in Green Bay (October 15), Eau Claire (October 17) and Madison (October 22). DATCP also accepted written comments for the hearing record. A summary of the hearings is included as an attachment to this report. In response to hearing testimony, DATCP made the following changes in the final draft rule:

- Clarifies that “producer grain” does not include grain that a producer has purchased from another person, or represents as grain purchased from another person.
- Clarifies an accounting adjustment available to processors of “aged cheese.” The final draft corrects a drafting error that would have restricted the adjustment in an unintended way, but does not change the definition of “aged cheese.”
- Clarifies certain requirements for milk contractor disclosures to producers.
- Clarifies provisions related to qualified producer agents. Chapter 126, Stats., applies to all producer agents, but certain producer agents may qualify for lower security and fund participation requirements than other milk contractors. This rule spells out what producer agents must do to qualify for this special treatment.
- Exempts, from ch. 126, Stats., a person who is solely engaged in delivering producer-owned milk to an exempt custom-processor, and in marketing the custom-processed producer-owned dairy products for the producers. This is a very narrow exemption to address a concern of some small Amish cooperatives.
- Corrects erroneous cross-references in existing rules (identified by the Revisor of Statutes).
- Makes other minor editorial and drafting changes in response to comments from the Legislative Council Rules Clearinghouse.

Response to Rules Clearinghouse Comments

The Wisconsin Legislative Council Rules Clearinghouse made several comments on the proposed rule. DATCP has incorporated all of those comments, except the following, in the final draft rule:

Comment 2.c. DATCP has not specified a subchapter of ch. 126, Stats., because subch. II of ch. ATCP 100 interprets more than one subchapter.

Comment 2.e. DATCP prefers the current format.

Fiscal Estimate

This rule will allow some contractors to pay smaller assessments to the Agricultural Producer Security Fund. This will cause a slight loss of revenue to the fund.

Chapter 126, Stats., establishes fund assessment rates. A contractor's assessment is generally based on the contractor's financial ratios (including debt to equity ratio) and the amount of grain, milk or vegetables that the contractor procures or stores in this state. DATCP estimates that grain, milk and vegetable contractors will pay a total of approximately \$2 million in assessments each year.

This rule will allow some grain dealers, grain warehouse keepers and milk contractors to reduce their annual assessments by making certain adjustments to their debt to equity ratios. The rule allows these contractors to adjust their debt to equity ratios by deducting certain liabilities that are specifically identified in the rule. Contractors may use their adjusted debt to equity ratios to calculate their fund assessments. The department estimates that the adjustments will reduce total fund contributions by \$50,000 to \$70,000 per year. A complete fiscal estimate is attached.

Small Business Analysis

This rule will affect the following small businesses:

- *Agricultural producers.* This rule will benefit agricultural producers by improving and clarifying the producer security program.
- *Grain dealers.* This rule will benefit grain dealers, by allowing them to make liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. But this rule will also impose some additional requirements on grain dealers (including financial statement disclosures, as well as security disclosures to producers) that may involve some added costs. These requirements are needed for the effective implementation of the agricultural producer security law.

- *Grain warehouse keepers.* This rule will benefit grain warehouse keepers, by allowing them to make liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. This rule will also impose some additional requirements on grain warehouse keepers (including financial statement disclosures, as well as security disclosures to depositors) that may involve some added costs. These requirements are needed for the effective implementation of the agricultural producer security law.
- *Milk contractors.* This rule will benefit some cheesemakers by providing a custom processing exemption, and by allowing cheesemakers to make certain liability adjustments when calculating their debt to equity ratio for the purpose of making security fund assessments. But this rule will also impose some additional requirements on milk contractors (including financial statement disclosures, as well as security disclosures to milk producers) that may involve some added costs. The rule spells out minimum standards for milk contractors who wish to qualify as *producer agents*. These requirements are needed for the effective implementation of the agricultural producer security law.
- *Vegetable contractors.* This rule will impose some additional requirements on vegetable contractors (including financial statement disclosures, as well as security disclosures to depositors) that may involve some added costs. These requirements are needed for the effective implementation of the agricultural producer security law.

A complete small business analysis is attached.

AGRICULTURAL PRODUCER SECURITY

SUMMARY OF PUBLIC COMMENTS ON PROPOSED RULE

Green Bay, Tuesday, October 15, 2002.

The following table summarizes the attendees at the Green Bay public hearing.

Name	Representing	Position registered	Provided Oral Testimony?	Provided Written Testimony?
Dan Zastoupil	The Antigo Cheese Company	"I favor part and oppose part of the proposal"		
Paul Bauer	The Antigo Cheese Company	"I favor part and oppose part of the proposal"	Yes	
John Petty	WASA	"Speaking for clarification & minor changes"	Yes	
Senator Dave Hansen	State of Wisconsin			
Brad Legreid	WDPA			

Mr. Bauer's comments related to the milk contractors' liability adjustments portion of the rule. Specifically, Mr. Bauer pointed out that s. ATCP 100.12(5) uses the undefined term "financial institution" and s. ATCP 100.12(5)(b) uses the term "lending institution" – apparently interchangeably. Mr. Bauer suggested the term "financial service provider" replace both terms. Also, Mr. Bauer suggested the department remove s. ATCP 100.12(5)(e).

Mr. Petty suggested that DATCP clarify that the rule only applies to in-state title transfers of grain and that DATCP should not attempt to collect assessments on grain that is sold out of state. Mr. Petty also noted that the new statute created a problem for some producers when it eliminated the "Class C" grain dealer license. Mr. Petty urged DATCP to find a way to help those producers who wished to obtain a dealer license for marketing purposes. Finally, Mr. Petty addressed a perceived inequity towards smaller warehouses and feed mills. For those licensees who are small enough that they are exempt from filing financial statements and yet choose to submit financial statements voluntarily, Mr. Petty suggested DATCP waive the \$425 surcharge for filing a reviewed statement.

Eau Claire, Thursday, October 17, 2002.

Only one person, Bob Denman, representing Wisconsin Farmers Union, attended the Eau Claire hearing. He did not present any oral or written testimony.

Madison, Tuesday, October 22, 2002.

The following table summarizes the attendees at the Madison public hearing.

Name	Representing	Position registered	Provided Oral Testimony?	Provided Written Testimony?
Don Boelens.	Swiss Valley Farms	"I favor part and oppose part of the proposal"	Yes	
Gordy Toyne	Swiss Valley Farms			
Dennis Ringler	Grande Cheese Company	"Written comments to follow hearing date"		
Bruce Blackburn	Grande Cheese Company	"I take no position on the proposal"		
Dick Groves	Cheese Reporter			
Ron Statz	NFO	"I support the proposal"		
Brian Elliott	Whyte Hirschboeck Dudeck			
Don Desjarluis	Alto Dairy			
John Umhoefer	WCMA		Yes	Yes

Don Boelens addressed several issues in his testimony. He said that the liability adjustment for aged cheese should incorporate shorter aging periods. He said that cheese makers must hold many types of cheese for sixty or ninety days. He suggested that it would be fair and appropriate to allow inventory adjustments for this cheese as well. He also noted that grain dealers and grain warehouse keepers are granted an adjustment for hedging activities under this proposed rule. He says it was only reasonable that milk contractors should be allowed the same adjustment, as they now follow similar hedging practices. Finally, Mr. Boelens asked why the assessments seemed to be so much lower for producer agents.

John Umhoefer offered several comments on the rule. Mr. Umhoefer also submitted his comments in writing; so they are not summarized here. Please see the written comments.

Written Comments

The Following table summarizes written comments submitted to the hearing record.

Name and Title	Organization
Jerome D. Krings, Attorney	Chernov, Stern & Krings, S.C. (representing Dairy Farmers of America)
Board of Directors	Old Country Farms Co-op
Board of Directors	Salemville Cheese Co-op / Country Blue Cheese
John T. Umhoefer, Executive Director	Wisconsin Cheese Makers Association
John T. Manske, Director of Government Relations	Wisconsin Federation of Cooperatives