**MEETING MINUTES**

**AGRICULTURAL PRODUCER SECURITY COUNCIL**

November 13, 2015

**Call to order**

The Agricultural Producer Security (APS) Council held a meeting on Friday, November 13, 2015, at the headquarters of the Wisconsin Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, Madison, Wisconsin.

**Attendance**

Nine council members were present: John Manske, John Umhoefer, Dave Daniels, Nick George, Doug Cropp, Don Hamm, Jim Zimmerman, Louise Hemstead, and Craig Myhre (arrived late).

One council member, Jeremie Pavelski, was absent.

DATCP staff members present were Eric Hanson, Jeremy McPherson, Lori Ronnerud, Frank Frassetto and Kelly Smithback. Guests attending were George Kowieski, Ron Statz, Dave Cooper, and reporter Jim Massey (Country Today). Also in attendance for a portion of the meeting were Carl Ashenbrenner and William Wakefield from Milliman.

**Agenda Item I Call to Order**

Chairman John Manske called the meeting to order at 1:30 pm.

**Agenda Item II Approve Minutes**

Dave Daniels moved to approve the minutes from the April 10, 2015 meeting. The motion was seconded by Nick George. The motion passed without discussion.

**Agenda Item III Membership Update**

Jeremy McPherson mentioned that Craig Myhre was the only member whose term expired June 30, 2015 and he was reappointed for another 3 year term. Jeremy stated that there are three members whose terms will expire June 30, 2016: Nick George, Louise Hemstead and John Umhoefer. A letter will be sent late next spring for nominations.

**Agenda Item IV Actuarial Study – Report by Milliman**

Carl Ashenbrenner and William Wakefield presented the Council with an actuarial analysis of the APS Trust Fund. The presentation included an overview of the program and Fund; a discussion and summary of their baseline actuarial model; a summary of various other scenarios; and a conclusion with issues to consider. The finalized report will follow after today's meeting.

Carl noted that the APS fund covers about three fourths of all agricultural products produced in Wisconsin and that milk contract obligations make up almost three fourths of the total obligations covered by the Fund. Carl also pointed out the competing interests within the program. First, producers desire to maximize coverage when they fail to get paid. The second competing interest is contractors wanting to minimize fees paid into the program. Finally, DATCP's fiduciary responsibility to protect the fund and minimize the chance it drops below minimum levels. . Carl also indicated that there are built in mechanisms to minimize the "moral hazard" of producers selling to more risky buyers.

Carl summarized the actuarial model they prepared and used for the study. Carl discussed the factors and assumptions they made in preparing the model. While they took into account historical data, they discounted milk defaults from the 1980s due to the amount of time that has passed and the relatively few defaults that have occurred recently. The study shows a 10 year forecast based on simulations run through their model 10,000 times.

Carl noted that the industries covered by the Fund have a very low default rate compared to other industries. Carl said that their baseline analysis shows that, when they considered expected annual revenue, expenses, and default payouts, each industry's portion of the Fund balance grows. In other words, each industry is covering their own expected costs. However, the milk contractor balance is growing at a higher rate, indicating that milk contractors are contributing proportionately more than other industries.

Overall, Carl said that current funding levels are adequate to cover all expected losses in the program 90-95% of the time. There remains a 5-10% chance that defaults would significantly exceed the Fund payout over ten years; however, the Fund balance that would be required to cover the remaining 5% would not justify the cost.

The baseline model shows the Fund on average will return to Assessment Holidays in about 10 years. However, variables that could change this projection include grain deferred payment assessments continuing at present levels and actual default payouts being more or less severe than average.

Carl then discussed various alternative scenarios that were run through their model, most specifically separating the Fund by industry. The result of splitting the Fund was significantly less coverage for producers in every industry except milk. With current funding levels, defaults significantly exceed Fund payout more than 50% of the time. Another issue raised with separating the Fund is what to do with Funds that have negative balances. Carl addressed this issue by prorating available money in the Fund. All industries were given their statutory minimum balance. The remaining Funds were prorated to those industries that have positive balances. The result was that contributions into the Fund remained about the same for all industries, except milk resulted in a decrease. In other words, separating the Fund resulted in about the same assessment contributions but a significant decrease in coverage for producers, again milk being the exception.

Other scenarios that were run included:

- Increasing possible Fund payouts to 200%;
- Doubling the expected default rate;

- Separating the Fund and increasing Fund payouts to 200%;
- Separating the Fund and doubling the expected default rate.

These additional scenarios were run to see how the changes compared to the baseline scenario.

John Umhoefer asked for the definition of aggregate contract obligations and how many contractors that reflected. Eric explained that it was total annual purchase obligations and all licensees were included, though some of the milk and vegetable contractors were eligible to opt out of contributing to the fund. John Manske asked how contractors fall into the various groups. Carl explained that due to DATCP's confidentiality requirements they couldn't get actual data from individual licensees. Instead they were provided summarized data that had been broken into groups based on size. Jeremy agreed to provide the council with the summary data.

John Manske asked about the recovery rate for grain warehouse of 68%, considering producers can receive up to 100%? Eric responded that producer receive 100% of their loss, but only up to $100,000 per claim.

John Umhoefer asked the actuary to clarify the definition of annual indemnity used in the charts. Carl replied that it was the estimate of default payouts per year. John Manske asked if the actual default history was used in the model. Carl said that it was, but they gave more weight to the more recent defaults by discounting the milk defaults of the 1980's. John Manske noted that vegetable program went along with no payouts for many years and then they experienced the big Allens default. Jeremy pointed to where the Allens default would fall on the graph and noted that defaults of that level are only expected to occur less than 1% of the time.

John Umhoefer asked if the model was indicating a 10% chance of a $3 million payout over 10 years. Carl said yes, and clarified that it was a cumulative number. There could be 1 or more defaults that collectively total that number.

John Umhoefer noticed that milk assessments were projected to be lower if the Fund was separated. Carl agreed that this was mainly because the $11 million assessment holiday threshold would go away with separate limits.

John Manske asked with whom Milliman consulted for their study. Carl responded that much of their data came from DATCP but they spoke with individuals from each industry group. They also looked at other states with similar programs and noted that Wisconsin's was unique in that it combined industries into one program. They also noted that defaults tended to be higher elsewhere.

John Umhoefer asked if there would be a report in addition to this presentation. Carl said there would. Jeremy added that the plan was not to finalize the report until the Council saw the presentation.

John Umhoefer asked if Milliman was going to make any suggestions on what should be done. Carl stated that their job is to provide information that can be used to make policy decisions.

John Manske noted that there was a limitation on distributing the presentation. He said he would like the ability to share some of this information with his members. Carl said that, to be fully understood, the slides themselves need the explanation and presentation that goes with it. Carl understood that the Council members will need to share some information to get feedback from members regarding policy recommendations. We agreed that Carl would give the issue some consideration and Jeremy or Eric would let the Council know what information Milliman was comfortable having shared.

John Manske asked Carl if there was anything else he could say about this program. Carl stated that his background is in crop insurance and other agriculture work. He said he thought this program was well run. As to the fairness perspective, each industry segment has aspects that make them unique. For example, it is harder for vegetable producers to find alternative markets when a buyer fails, but they can split their farms in order to sell to different buyers; milk producers can't diversify and sell to more than one processing plant, etc.

John Manske asked about the second bullet point on Pg. 37 of the presentation (Conclusions) indicating that under separate funds scenarios, the Fund pays out significantly less to producers compared to combined funds scenarios. Carl indicated that there is benefit to keeping the pool large. Under separate fund scenarios, coverage for all industries goes down, but milk coverage would only go down slightly because they have higher assessment holiday and fund maximum thresholds.

Craig said that as farms grow larger, so do the checks. He asked if the actuary had considered that. Carl stated that it was discussed quite a bit. Jeremy pointed out that the model shows total payouts regardless of the number of individual defaults or producers. However, larger individual defaults increases the possibility of exceeding 60% of the fund balance.

Chairman Manske asked the council members if their expectations had been met or if they had anticipated some things that weren't covered. John Umhoefer thought the Study would tell us how much money to have in the Fund. Carl said that information was there but could be presented more clearly. He said the model shows that about 90% of the time the Fund pays producers the full amount after coinsurance when considering expected balances under the current framework. To get a higher percentage, limits would need to increase and contributors would have to pay significantly higher assessments. Therefore, it makes sense to target Fund levels at 90 to 95% of the projected default payouts over the next 10 years. Under the current structure of the program the Fund is projected to meet those targets over the next 10 years.

Chairman Manske asked for any other questions.

Dave Daniels asked if the program was better now than it was back in the 1980's. Jeremy said that although the creation of the Fund also created a fiduciary responsibility to take care of money paid into the Fund, it also improved the process. In the past, exercising security to pay producers took years. Now we can normally pay within a few months. Eric said that it has always been a goal to avoid defaults, but the introduction of the Fund created an added responsibility.

John Umhoefer asked about how to move forward. John Manske indicated future steps may include both rule changes and statutory changes that need to be considered.

John Umhoefer asked if it was possible to get a bill to the legislature and passed by March. John Manske commented that consideration may need to be given to continuing the emergency rule for milk contractors regarding assessment holidays.

Jeremy asked for a short break to let Carl and William leave. Louise Hemstead was excused for a prior engagement.

**Agenda Item V Emergency Rule – Vegetable Contractors**

Jeremy McPherson reported that the DATCP Board approved a scope statement for an emergency rule relating to Chapter ATCP 101, Wis. Adm. Code. Although the rule hasn't been drafted as of yet, the plan is for vegetable contractors to go back to year 1 assessment rates. This will result in an increase of assessment revenue by $95,000 per year. There are 23 vegetable contractors contributing into the assessment fund. Ten contractors would pay less than $1,000 per year, 7 would pay between $1,000 and $5,000 per year, and 6 would pay between $5,000 and $50,000 per year. Assessments are based on a combination of financial ratios and purchases. John Umhoefer asked if the increase would be effective for 1 or 2 years. Jeremy replied that the emergency rule is planned to be effective for 2 years, which means vegetable contractors would pay year 1 rates for two consecutive years.

John Manske stated that the emergency rule has to be in effect at the start of the new license year, which is February 1 for vegetable contractors. He said DATCP staff are doing what is required by the statute while being considerate of the industry. John Umhoefer calculated that it would take 36 years for vegetable contractors to recover from the Allens default at these rates. Jeremy said that the emergency rule starts the process while a more permanent solution is considered.

Jim Zimmerman wondered if there is anything in the rule to address the length of payment terms for vegetable producers. Jim suggested requiring vegetable contractors to make monthly payments. Jeremy said that DATCP doesn't have authority to modify payment terms by rule. Those types of changes require legislation. Jeremy described a meeting in Stevens Point with vegetable growers in which 30 day payment terms were discussed in the context of gaining protection under federal Perishable Agricultural Commodities Act (PACA). He said that some growers would like 30 day payment terms, but that's not currently the standard in the vegetable processing industry. This type of change in the industry could affect financing for vegetable processors. Jeremy said that banks are becoming more aware of PACA Trust provisions, and processors that have PACA compliant contracts may find it harder to secure financing.

Nick George wondered whether shorter payment terms would have changed the outcome of the Allens default. Jim commented that if Allens had been making a monthly payment, the default probably would have happened sooner. Doug Cropp thought the outcome would probably have been the same. Nick mentioned that the contracts were entered into the year before. Jim asked what happened to growers in other states where Allens operated. Jeremy said that most growers were not paid, unless they had PACA coverage which very few did.

John Manske mentioned that the USDA representative who attended the Stevens Point meeting said that other states should copy Wisconsin's program.

Chairman Manske then asked the guests if they had any comments or questions. Ron Statz said that his company had to change their notice to producers due to the lower Fund balance that resulted after the Allens payout.

Jeremy said the next steps were to finalize the draft and obtain approval from the Governor. Once the emergency rule goes into effect, DATCP will hold a public hearing. John Manske asked DATCP to make sure the Council knows the date of the hearings.

**Agenda Item VI Other Business**

Chairman Manske asked to schedule the next meeting. All present agreed on 12/16/15 at 9:30 am. He requested council members ask their association members for input regarding policy changes.

**Agenda Item VII Adjourn**

Motion to adjourn the meeting was made by Nick George and seconded by John Umhoefer. Motion unanimously approved at 3:48 pm.