

MEETING MINUTES

AGRICULTURAL PRODUCER SECURITY COUNCIL

August 9, 2011

Call to order

The Agricultural Producer Security Council held a meeting on Tuesday, August 9, 2011, at the headquarters of the Wisconsin Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, Madison, Wisconsin.

There was consensus that Jeremy McPherson would run the first part of the meeting – until Agenda Item I-B, Election of new Chair and Vice Chair.

Attendance

Seven council members were present: Doug Cropp, Dave Daniels (via telephone), Nick George, Don Hamm, Louise Hemstead (arrived late), Duane Maatz, and Jim Zimmerman.

Three council members were absent: John Manske, Craig Myhre, and John Umhoefer.

DATCP staff members present were Eric Hanson, Kevin LeRoy, Jeremy McPherson and Darlene Sliwa.

Other members of the public present included Patty Edelburg (who was attending the meeting on behalf of Farmers Union in Craig Myhre's absence), Joan Stanstadt, Tom Bressner, David Cooper and Sara Bredesen.

Agenda Item I-A. Introduction of New Members.

This was the first Producer Security Council meeting for Doug Cropp and Don Hamm, who both started three year terms in July, 2011. The group went around the table and each member provided a brief introduction of themselves.

Agenda Item I-B. Elect New Officers.

The Producer Security Council has customarily elected new officers every three years. Given that cycle, the group is scheduled to hold new elections in 2011. Additionally, the previous Chair (Ron Statz) and Vice-Chair (John Petty) no longer serve on the council.

However, the group consensus was to postpone elections until the full council was present. They agreed that Jeremy should continue his substitute-chair duty through the end of this meeting.

Motion to delay election until next meeting by Jim Zimmerman, seconded by Dave Daniels. Motion was approved unanimously.

Agenda Item II. Approve Minutes from November 8, 2010 Meeting.

Motion to Approve Minutes from the November 8, 2010 meeting. Motion was approved unanimously.

Agenda Item III Proposed Emergency Rule Scope Statement

Eric Hanson led this discussion. DATCP has proposed a scope statement for an emergency administrative rule that would limit maximum assessments for grain dealers and grain warehouse keepers. Pursuant to the newly enacted Act 21, DATCP submitted the scope statement to the governor for approval. The next step is the DATCP Board to approve the scope statement on August 12, 2011. Staff did not share many specifics about circumstances that prompted the proposal because, obviously, discussing details of the proposal would involve disclosing confidential financial information about specific licensees.

Motion: The council supports creating a method that protects against excess fees and promotes competition in the industry. Motion by Nick George, seconded by Duane Maatz. Motion was approved unanimously.

Agenda Item IV-A Financial Results, Third Quarter, March 31, 2011

Eric Hanson led a discussion on the Producer Security Fund's financial results for the nine months ended March 31, 2011.

The first item of note was that grain dealer and grain warehouse keeper assessments were up considerably from the previous year. Grain dealer went from \$357,325 to \$570,493 and grain warehouse went from \$47,995 to \$115,279. Eric said that he believed that this was due to higher grain prices and higher deferred payment assessments. Milk contractor assessments went down, from \$518,126 to \$394,367. Eric said that he believed there were two explanations for this: more large milk contractors reached the 6th year of contributing (thereby reducing rates), and the slightly lower assessment rates that were enacted as part of DATCP's 2009 rulemaking.

Eric noted that grain dealer license fees dropped from \$297,328 for the nine months ended March 31, 2010 to \$165,493 for the nine months ended March 31, 2011. Eric said that this was because – for the first time -- the grain dealer portion of the fund had a high enough balance that grain dealers could take advantage of license fee credits.

Eric also noted that vegetable contractor license fees for the nine month periods in 2010 and 2011 were considerably higher than 2009: \$49,062 for 2011, \$63,705 for 2010 and \$11,507 for 2009. Eric said he believed this was due primarily to commodity prices.

Regarding expenditures, Eric noted that the grain warehouse keeper expenditures are down and the dealer expenditures are up. This is because DATCP reallocated the employee expenses for the field auditors and support staff who work in those programs. Up until September 2010, these employees were split 50/50 between the two programs. However, we now have fewer grain warehouse licensees. This means that these staff people are spending more of their time on dealer activities than they did in the past. (DATCP *must* audit grain warehouse licensees every year or every other year, grain facilities who have only a dealer license are visited less frequently and as time allows.) Therefore these same staff people are now split 60/40 between the two programs.

Eric explained how the license fee credits are calculated. During the period, grain dealer license fee credits were \$140,839.

There was some discussion of the improvement in the deficit cash balance of the grain warehouse keeper portion of the fund. The deficit balance had improved by roughly \$100,000 during the period. As of March 31, 2010 the balance was (\$388,763) and as of March 31, 2011 it was (\$281,147). This improvement is due to both the increase in assessments and the reduction in employee expenses (both of which are discussed above).

Duane Maatz and Nick George reported that everybody is expecting fewer vegetable contracts this coming year. The food processing companies have high inventories at this time, so they have less need for new product.

Agenda Item IV-B Financial Projections

Kevin LeRoy presented a one-page document showing projected fund revenues, expenses and ending cash balances through Fiscal Year 2014. Based on these projections, DATCP is predicting that milk contractors will continue to receive an assessment holiday in the license year that begins May 1, 2012 and ends April 30, 2013. If so, this would be the second year in a row that milk contractors would receive the holiday. These projections also predict that the Grain Dealer license group will receive an assessment holiday for the license year that begins Sept. 1, 2012 and ends Aug. 31, 2013. However, it was noted that the confidence in these projections is not especially high. DATCP's ability to predict assessment revenues beyond one year into the future is not very precise, and it is always possible that the fund could experience losses due to a default.

Agenda Item V Measuring Risk

Kevin LeRoy led a discussion of a worksheet titled "Distribution of Aggregate Estimated Default Exposure". DATCP staff prepared this worksheet in response to a request that the Producer Security Council made at its previous meeting. It is an attempt to measure overall risk of default in each of the four areas covered by the producer security fund (grain dealer, grain warehouse keeper, milk, and vegetables for processing). DATCP estimates that the peak outstanding debt to producers is about \$726,453,000. This peak would likely occur in the weeks and months after most crops are harvested.

These estimates are based on "estimated default exposure". This is a formula contained in the producer security law that attempts to estimate likely worst-case scenario for debts to producers left unpaid should a licensed contractor fail. For this worksheet, DATCP simply added up all contractors' "estimated default exposure". Obviously, there are limits to the practicality of using "estimated default exposure" to describe all debts by entire industries. We have to understand that it is a theoretical discussion.

Milk and vegetable contractors are required to report the highest amount outstanding on their annual license renewal application forms. Therefore, for these two groups, preparing this worksheet was a simple matter of adding up the individual amounts. Grain dealer and grain warehouse keeper, however, do not have the same reporting requirement. DATCP calculated the "estimated default exposure" on a limited sample of licensees, compared the calculated estimated default exposure to amounts that all licensees are required to report -- total purchases and storage capacity -- and then projected the estimated default exposure for all licensees based on percentages calculated in the limited samples.

The worksheet also divides potential losses among the fund itself, producers, and providers of individual securities. For a theoretical default involving average dollar amounts (as opposed to an average contractor) roughly 48% of the obligations would fall to the producer security fund. 44% would be losses absorbed by producers and 8% would be reimbursed by issuers of individual security.

Agenda Item VI Recent legal developments

Eric Hanson briefed the group on what has been happening with Bowers Feed and Grain. The company is now in receivership and is no longer operating.

Next Meeting.

The group agreed to schedule a meeting for Tuesday, December 6. Jeremy McPherson noted that that agenda will include a report on the grain warehouse keeper portion of the program, and presentation of the fund's annual financial report.

Motion to adjourn was approved.