



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Sheila E. Harsdorf, Secretary

DATE: December 1, 2017

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Sheila Harsdorf, Secretary *Sheila Harsdorf*
Jeremy McPherson, Interim Administrator - Division of Trade and Consumer Protection *Jeremy McPherson*

SUBJECT: **Grain dealers and grain warehouse keepers, milk contractors, and vegetable contractors; Emergency Rule Scope Statement, Wis. Admin. Code chs. ATCP 99, 100 and 101**

TO BE PRESENTED BY: Jeremy McPherson

REQUESTED ACTION:

At the December 21, 2017 Board meeting, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to approve a Statement of Scope for proposed emergency amendments to current rules related to grain dealers and grain warehouse keepers, milk contractors, and vegetable contractors.

This rule is necessary to modify the Agricultural Producer Security fund assessment amounts. Wis. Stat. § 126.88 requires the department to modify fund assessments as necessary to maintain fund balances within certain minimums and maximums. Currently, the balance attributable to vegetable contractors is well below its statutory minimum of \$800,000, and the balance attributable to grain dealers is above its statutory maximum of \$6,000,000. Additionally, assessments paid by milk contractors are disproportionately higher than those paid by grain warehouse keepers, grain dealers and vegetable contractors.

The DATCP Board approved a permanent rule addressing these issues at its September 21, 2017 meeting. However, the permanent rule will not be in effect before the vegetable contractor license renewal date of February 1. This scope statement will permit planning for a proposed emergency rule to address DATCP's statutory obligation until the permanent rule is fully in effect.

A scope statement spells out the general purpose and scope of a proposed rule. DATCP may not begin drafting a proposed rule (including a proposal to amend or repeal an existing rule) until both the Governor and the DATCP Board approves a scope statement. In accordance with 2011 Wisconsin Act 21 (Wis. Stat. § 227.135 (2)), the Governor approved this scope statement for an emergency rule change on November 29, 2017.

DATCP is required to publish a scope statement in the *Wisconsin Administrative Register* and file a copy with the Department of Administration (DOA) and the clerks of both houses of the legislature at least 10 days before being presented to the Board for approval. Copies of the attached scope statement were filed with DOA and the legislature, and it appeared in the December 4, 2017 issue of the *Wisconsin Administrative Register*.

If the Board approves the scope statement, the Department will draft emergency rules for Wis. Admin. Code ch. ATCP 99, 100, and 101.

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STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection (DATCP)

Rule No.: Wis. Admin. Code ATCP Chapters 99, 100, and 101 (Existing)

Relating to: Grain Dealers, Milk Contractors, and Vegetable Contractors

Rule Type: Emergency

1. Finding/nature of emergency:

Wis. Stat. § 126.88 (2) (b) obviates the need for an “emergency” finding, as would normally be required under § 227.24 (1) (a) and (3), Stats. Nonetheless, in this instance, this emergency rule is required for several reasons:

- **Corrective Rule Mandated by Statute.** Wis. Stat. § 126.88 (2) (a) mandates the department to promulgate a corrective rule when a portion of the Fund falls below the minimum balance required by statute.
- **Vegetable Contractors.** The permanent rule changes, already approved by the DATCP Board, are unlikely to be in effect by February 1, 2018, the annual licensing assessment date for vegetable contractors. Time is of the essence.
- **Grain Dealers.** DATCP is required to take action to ensure the grain dealer portion of the Fund balance stays within statutory thresholds. Without this emergency rule, the grain dealer balance will continue to grow beyond its \$6 million statutory maximum. An emergency rule effective date of August 31, 2018 is necessary since the next license year (assessment period) for grain dealers begins September 1, 2018. While Wis. Stat. § 126.88 (2) (b) lifts the department’s obligation to affirmatively evidence an “emergency” finding, here, an emergency rule is necessary to limit the growth of the Agriculture Producer Security Fund (Fund) balance attributable to grain dealers. Current law requires DATCP to modify fund assessments through rulemaking if fund balances are below or above certain thresholds. For grain dealers, the maximum balance threshold is \$6 million. The balance attributed to grain dealers currently exceeds this maximum.
- **Milk Contractors.** Without this emergency rule, licensed milk contractors will continue to pay more than their equitable share into the Fund. An emergency rule which implements the provisions of the permanent rule with an effective date of April 30, 2018 is necessary since the next license year (assessment period) begins May 1, 2018. This emergency rule is necessary to provide assessment relief to milk contractors contributing to the Agricultural Producer Security Fund (Fund).

2. Description of the objective of the rule:

The Department of Agriculture, Trade and Consumer Protection (DATCP) proposes this emergency rule to amend Agricultural Producer Security Fund (Fund) assessment amounts required for contributing grain, milk, and vegetable contractors.

In the case of vegetable contractors, time is of the essence. The emergency rule must be in effect by February 1, 2018, which coincides with the start of the annual licensing period for that industry. As a result of a 2014 default by a contributing vegetable contractor, the Fund balance attributable to vegetable contractors is at a deficit and well below its statutorily required minimum balance of \$800,000. Wis. Stat. § 126.88 directs DATCP to promulgate a rule modifying assessments when the fund balance, or a portion of the fund balance, falls below the minimum amounts required under § 126.88 (1) (a) through (e), Stats. On September 21, 2017, the DATCP Board approved a proposed permanent rule to rectify this situation; however, that permanent rule will not be in effect for the February 1, 2018, license year. Any emergency rule change will align with the provisions of the proposed permanent rule, currently in final draft form, which has been submitted for the Governor's approval.

In the case of grain dealers and milk contractors, the emergency rule will reduce the assessment payment requirements. Gubernatorial approval would permit the permanent rule, already approved by both the Agricultural Producer Security Council and the DATCP Board, to be implemented as an emergency rule by the April 30, 2018 date for milk contractors and August 31, 2018 date for grain dealers. This assessment reduction will begin to bring the grain dealer portion of the Fund balance back below the \$6 million statutory maximum and alleviate an unnecessary financial burden otherwise placed on this industry. Additionally, the reductions would provide equity to milk contractors whose assessments are currently disproportionately higher than those paid by the grain and vegetable industries. In the absence of this emergency rule, milk contractors would be ineligible for reduced fund assessments until the permanent changes are implemented. The emergency rule guarantees immediate relief to these industries, regardless of the consequences to the promulgation of the permanent rule.

3. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

History and Background

The Fund 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, or vegetables from producers, and most contractors are required to contribute to the Fund annually. Monies collected from each industry are accounted for separately, deposited into the Fund, and used to settle claims by producers in the event of a contractor default on payment. Wis. Stat. ch. 126 establishes detailed fund assessment requirements, except that ch. 126 requires DATCP to establish each contractor's fund assessments by rule.

The Fund incurred payouts to producers, totaling more than \$7 million, due to defaults by a large vegetable contractor in 2014 and a milk contractor in 2015. Subsequently, DATCP and the Agricultural Producer Security Council identified the need to evaluate the entire agricultural producer security program to determine whether changes were necessary to mitigate the impact of large defaults in the future. In December 2015, DATCP received the results from an actuarial study and began developing recommendations for changes to the agricultural producer security program. The recommendations led to permanent rulemaking to adjust assessments paid into the fund by the milk, grain, and vegetable industries.

Justification

Wis. Stats. § 126.88 (1) establishes minimum and maximum balance thresholds for each of the four licenses administered under the Agricultural Producer Security Program and directs the department to modify assessments to maintain these thresholds. In the case of the vegetable industry, fund assessments for contributing contractors must be modified, according to statute, to maintain the fund balances attributable to each industry.

As described, in 2014, the Fund paid claims to 18 vegetable producers due to a payment default by one large, out-of-state contractor that filed for bankruptcy. The default payment totaled \$6.1 million, causing the overall fund balance to drop by almost half. Then, in 2015, another large default by a milk contractor depleted the Fund by an additional \$1 million. Of the four industries, the current vegetable contractor balance is in a critical position, with a deficit well below the vegetable contractors’ statutorily required minimum of \$800,000. The following table depicts the fund balances attributable to each industry in the immediate aftermath of the actuarial study, as well as the minimum and maximum statutory balances for each industry.

	Minimum Statutory Balance	Actual Balance as of June 30, 2016	Maximum Statutory Balance
Grain Dealers	\$ 1,000,000	\$ 5,546,281.97	\$ 6,000,000
Grain Warehouse Keepers	\$ 200,000	\$ 46,432.94	\$ 1,000,000
Milk Contractors	\$ 3,000,000	\$ 6,132,665.50	\$ 12,000,000
Vegetable Contractors	\$ 800,000	(\$ 4,707,617.97)	\$ 3,000,000
Entire Fund	\$ 5,000,000	\$ 7,017,762.44	\$ 22,000,000

In December 2016, the Governor signed a scope statement that permitted the department to consider permanent rule changes related to fund assessments, in part based upon the December 2015 actuarial study. The department wrote a draft permanent rule and then held two public hearings in July 2017. The DATCP Board approved the final permanent rule at its September 21, 2017 Board meeting; however, it is unlikely that the permanent rule will be implemented before the afore-mentioned 2018 licensing deadlines.

This proposed emergency rule would alleviate a financial burden otherwise placed upon the licensed grain dealers and milk contractors during this transitional period while enabling the vegetable contractors to fulfill their statutory obligations to restore their apportioned balance of the Fund, as approved by the Agricultural Producer Security Council and DATCP Board.

Policy Alternatives

Do nothing. If DATCP fails to adopt this emergency rule, the department will fail to meet its statutory obligations as proscribed by the Wisconsin legislature in Wis. Stat. Chap. 126. The rule will not be in place in time for the February 1, 2018 assessment date which will delay the restoration of the fund balance attributable to the vegetable contractors and render grain dealers and milk contractors ineligible for the reduced assessments during the next license year.

4. Statutory authority for the rule (including the statutory citation and language):

Wis. Stat. § 25.463 creates the Wisconsin Agricultural Producer Security Fund.

Wis. Stat. § 93.07 (1) directs DATCP to make such regulations as are necessary for the discharge of all the powers and duties of the department.

Wis. Stat. § 126.15 directs DATCP to establish by rule annual fund assessments for grain dealers. Wis. Stat. § 126.30 directs DATCP to establish by rule annual fund assessments for grain warehouse keepers. Wis. Stat. § 126.46 (1) directs DATCP to establish by rule annual fund assessments for milk contractors. Wis. Stat. § 126.60 directs DATCP to establish by rule annual fund assessments for vegetable contractors.

Wis. Stat. § 126.81 (1) (a) allows DATCP to promulgate rules to interpret and implement Wis. Stat. ch. 126.

Wis. Stat. § 126.88 (2) (a) directs DATCP to promulgate a rule modifying assessments when the fund balance or a portion of the fund balance falls below the minimum amounts required under § 126.88 (1) (a) through (e), Stats.

Wis. Stat. § 126.88 (2) (b) allows DATCP to promulgate an emergency rule without demonstrating that the emergency rule is necessary for the preservation of the public peace, health, safety, or welfare under ch. 227.24, Stats.

Wis. Stat. § 126.88 (2) (b) also allows a rule promulgated under this paragraph to remain in effect for not more than 24 months.

5. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

DATCP anticipates that this emergency rule will closely track the requisite sections of the proposed permanent rule which is already in final draft form. DATCP estimates that it will use approximately 0.10 FTE staff to develop this emergency rule. This includes time required for the investigation and analysis, development of financial assistance criteria, drafting of the rule, preparation of related documents, and communication with affected persons and groups. DATCP will use existing staff to develop this rule.

6. Description of all entities that may be impacted by the rule:

Milk, grain, and vegetable producers are all protected against financial defaults by contractors who contribute to the Fund. The proposed rule will enable milk contractors and grain dealers to pay reduced fund assessments at more equitable rates beginning May 1, 2018 and September 1, 2018, respectively. While 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, pursuant to Wis. Stat. 126.595, will not be affected.

7. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

There is no existing or proposed federal regulation that is intended to address the activities regulated by this rule.

8. Anticipated economic impact

The proposed rule will reduce the milk contractor and grain dealer portions of the Fund balance because both industries will begin paying less in assessments annually. Annual assessments for milk contractors and grain dealers would be substantially reduced under this emergency rule. The proposed emergency rule will increase fund assessments to contributing vegetable contractors in order to meet the statutory requirement to maintain a minimum fund balance. The impact to milk, grain, and vegetable producers will be minimal if there are no large defaults.

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Sheila Harsdorf, Secretary
Department of Agriculture, Trade and Consumer Protection

Date Submitted



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Sheila E. Harsdorf, Secretary

Cover Sheet
Rules Checklist for Governor's Office

Scope Statement for Emergency Rule
regarding
Agricultural Producer Security Fund

ATCP 99 Grain Dealers
ATCP 100 Milk Contractors
ATCP 101 Vegetable Contractors

1. Plain Language Summary

General Overview

The Agricultural Producer Security Fund ("Fund") is a public trust administered by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Milk contractors, grain dealers, grain warehouse keepers, and vegetable contractors (hereinafter "contractors") must purchase a license to obtain milk, grain, and vegetables, respectively, from producers. Most contractors are required to contribute to the Fund annually. Funds are used to settle claims by producers should a contractor default on payment or fail to return grain held in storage. Funds from each industry are accounted for separately, with mandated minimums and maximums, but deposited into one overall fund. Wis. Stat. § 126.88 (1) (a) establishes that the overall fund balance must be at least \$5 million, but not more than \$22 million.

	Minimum Statutory Balance	Actual Balance as of June 30, 2016	Maximum Statutory Balance
Grain Dealers	\$ 1,000,000	\$ 5,546,281.97	\$ 6,000,000
Grain Warehouse Keepers	\$ 200,000	\$ 46,432.94	\$ 1,000,000
Milk Contractors	\$ 3,000,000	\$ 6,132,665.50	\$ 12,000,000
Vegetable Contractors	\$ 800,000	(\$ 4,707,617.97)	\$ 3,000,000
Entire Fund	\$ 5,000,000	\$ 7,017,762.44	\$ 22,000,000

Problem: In 2014, the Fund 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 resulted in a fund balance deficit attributable to the vegetable program of over \$4.8 million at the time. The following year, in 2015, a \$1 million default in the milk industry further drew down the Fund.

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Future largescale defaults could create a perilous situation for grain, milk, and vegetable producers in the state of Wisconsin, if the Fund is not adequately able to cover losses.

Time is of the essence. On February 1, 2018, vegetable contractors will begin paying their annual assessments to the Agricultural Producer Security Fund, followed by milk contractors on May 1, 2018 and grain dealers on September 1, 2018. DATCP has written a permanent rule that, among other things, reduces Agricultural Producer Security Fund (Fund) assessments for milk contractors and grain dealers while aligning the assessments of vegetable contractors with the statutory mandates to rebuild the Fund for that portion attributable to the vegetable industry. The proposed assessment reductions would provide parity across all of the industries (grain dealer, grain warehouse, milk contractor, and vegetable contractor) paying into the fund. For instance, currently, the grain dealer portion of the Fund exceeds \$6 million, which is the statutory limit under Wis. Stat. § 126.88, while the vegetable contractor portion of the Fund is below the statutory minimum. If either the permanent rule or this emergency rule is not implemented, grain dealers and milk contractors will continue to pay disproportionately higher assessments into the Fund, and vegetable contractors will be unable to replenish their portion of the Fund.

Although the permanent rule has been approved by the Agricultural Producer Security Council (Council) and the DATCP Board, it is unlikely that the permanent rule will take effect prior to the start of the license year for each industry. As mentioned, the primary concern is the approaching February 1, 2018 license date for the vegetable industry.

Solution: DATCP and the Agricultural Producer Security Council (Council), a statutory council created to advise the department, recognized the need to evaluate the entire agricultural producer security program, so that changes could be made to mitigate the impact of large defaults in the future. In December of 2015, DATCP received an actuarial study of the Fund and began working with the Council to develop recommendations for permanent changes to the agricultural producer security program. While the rule would elevate the levels of contributions from vegetable contractors, approval of this scope statement would also enable DATCP to implement an emergency rule to reduce milk contractor and grain dealer fund assessments should the permanent rule not be in effect by the license dates in 2018.

While the emergency rule has yet to be drafted, it is anticipated that the emergency rule will closely adhere to the language and principles proposed in the final draft of the permanent rule which does all of the following:

- Ensures that the restored and strengthened Fund protects milk, grain, and vegetable producers in Wisconsin from future contractor defaults and resultant producer losses.
- Creates an automatic reduction in the Fund assessments paid by grain dealers when the grain dealer portion of the Fund exceeds the statutory maximum of \$6 million.
- Reduces milk contractor assessments by 20 percent by using a multiplier.
- Increases vegetable contractor fund assessments to account for the negative balance of that portion of the fund, by adding an assessment of 0.2% multiplied by contract obligations, net of waiver, with a \$50,000 cap.
- Restores the Fund to meet its statutorily mandated obligations.

2. Stakeholder Outreach

The Agricultural Producer Security Council includes a balance of representative producers and processors for the grain, milk, and vegetable industries. DATCP engages in regular outreach to all of the represented segments of the industry through these Council meetings. DATCP continuously welcomes and actively seeks their input.

Before DATCP conducted public hearings regarding the permanent rule hearing draft, all Council members received notice of the dates, times, and locations of the two July 2017 public hearings in Stevens Point and Madison. During public hearings and the comment period, DATCP received written testimony from the Wisconsin Potato and Vegetable Growers Association, Seneca Foods, the Cooperative Network, Birdseye Foods, the Wisconsin Cheese Makers Association, and the Midwest Food Products Association. Comments about ATCP 99 (grain) and ATCP 100 (milk) were positive, although some organizations advocated for legislative changes to the program that were outside the scope of this rule change. Recommended changes to ATCP 101 (vegetable) faced some opposition due to the fee increase requested for that portion of the Fund. However, no specific alternative was proposed that fell within the scope of DATCP's rulemaking authority.

DATCP shared the final draft rule with the Council at its August 25, 2017 meeting. Previous drafts of the rule were discussed at the Council's April and May 2017 meetings. The Council had also approved the original scope statement in December of 2016. The Council approved the final draft of the proposed permanent rule on August 25, 2017. Furthermore, the DATCP Board, in open session, also did review and approve the final draft of the proposed permanent rule on September 21, 2017.

All industry stakeholders understand the full contents and implications of the proposed permanent rule. As mentioned, it is expected that the contents of the anticipated emergency rule will track the contents of the proposed permanent rule. While the Council has not reviewed the exact language of this emergency scope statement pertaining to grain and milk, both the Council and DATCP Board, after two public hearings, have approved a similar permanent rule. Of course, because the emergency rule will have the effect of reducing the amount of assessments which grain dealers and milk contractors would pay, both industries will undoubtedly be pleased with the approval of this emergency rule scope statement. DATCP anticipates complete support from grain dealers and milk contractors with no opposition.

3. How/Why was the Rule Initiated

Due to defaults by a large vegetable contractor in 2014 and a milk contractor in 2015, the Fund incurred payouts to producers totaling more than \$7 million. Subsequently, DATCP and the Agricultural Producer Security Council identified the need to evaluate the entire agricultural producer security program to determine whether changes were necessary to mitigate the impact of large defaults in the future. In December 2015, DATCP received the results from an actuarial study and began developing recommendations for changes to the agricultural producer security program.

The recommended changes led to permanent rulemaking to adjust assessments paid into the Fund by the milk, grain, and vegetable industries. The Council and the DATCP Board approved the final draft of the permanent rule in August and September of 2017, respectively. Modifications to fund assessments must be in place prior to the start of a license year: February 1, 2018 for vegetable contractors, May 1, 2018 for milk contractors, and September 1, 2018 for grain dealers. As previously stated, this emergency rule is necessitated due to the uncertainty of the effective date of the permanent rule.

Wis. Stat. § 126.88 requires the department to modify assessments when the Fund or the fund balance for any industry is outside the respective minimum or maximum required balance. This emergency rule proposes to revise current language to meet the statutory obligation of the Fund balance attributable to vegetable contractors (below the statutory minimum) and grain dealers (above the statutory maximum). Without this emergency rule, the Fund will fail to meet its statutory obligations as dictated by Wis. Stat. Chapter 126.

Revisions to ATCP 99 - Grain

A proposed emergency rule will, like the proposed permanent rule, implement a reduction in assessments from approximately \$974,000 to \$256,000 whenever the grain dealer portion exceeds the \$6 million statutory maximum. At present, the grain dealer balance does exceed the statutory maximum. So, in adopting the automatic assessment reduction provision of the rule, the grain dealer portion of the Fund will begin to decline whenever it exceeds its statutory maximum of \$6 million. In terms of revenues, DATCP expects the Fund to receive \$718,000 less from grain dealers once the proposed emergency rule is approved.

Revisions to ATCP 100 - Milk

The proposed emergency rule would add a multiplier of 0.8. Utilizing the projections from the proposed permanent rule shows a reduction of the projected assessments for 2018-19 from \$771,000 to \$621,000. Using the multiplier results in estimated annual assessments of \$560,000, a reduction of \$135,000 annually. This alteration reduces the pace of growth to \$238,000 per year. Effectively, this slows the growth of the milk producers' portion of the Fund while providing some financial relief to contributing milk contractors.

Revisions to ATCP 101 - Vegetable

Contributing vegetable contractors would pay statutorily mandated higher fund assessments. However, these increases will replace money paid out to vegetable producers which occurred as the result of a large vegetable contractor default.

Thus, for vegetable contractors, the proposed emergency rule would amend ATCP 101.245 to implement three essential changes: (1) add an assessment of 0.2% multiplied by contract obligations, net of waiver, with a \$50,000 cap; (2) sunset after the vegetable portion of the Fund reaches the statutory minimum of \$800,000; and (3) reduce the assessment by 50% for any vegetable contractor whose contract with producers contains 30-day payment terms. This results in assessments of about \$327,000 annually if all contracts payment terms extend beyond 30 days. DATCP believes that this slow-growth rebuilding of the Fund over 18 years strikes a reasonable balance while still meeting the statutory obligations.

4. Is the anticipated emergency rule connected to a permanent rule?

Yes. The emergency rule will be congruent to the permanent rule package for ATCP 99, ATCP 100, and ATCP 101 which has not yet been approved and signed.

5. Is there a deadline?

Yes. The vegetable portion of the Fund (ATCP 101) is currently out of compliance with statutory requirements regarding Fund minimum balances. Either the permanent rule or this emergency rule must be in effect by January 31, 2018, the day prior to the start of the vegetable license year. Also, the grain portion of the Fund (ATCP 99) will be out of compliance with the statutory balance maximum when assessments are conducted for that industry on September 1, 2018.

Immediate approval of this scope statement prior to November 30, 2017 will enable DATCP to submit the scope statement for publication so that the matter can be placed upon the agenda for the upcoming December 21, 2017 DATCP Board meeting.

6. What happens if the deadline is not met?

ATCP 99 - Grain Failure to Adopt Emergency Rule.

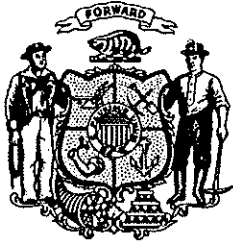
If DATCP fails to adopt this emergency rule, the department anticipates it will continue to exceed its statutory requirement for the grain dealer industry portion of the Fund, and grain dealers will not receive a \$718,000 annual reduction in assessments any time their portion of the fund is over \$6 million. Without reductions in assessments, the grain dealer portion will continue to increase beyond the statutory maximum.

ATCP 100 - Dairy Failure to Adopt Emergency Rule.

If DATCP fails to adopt this emergency rule, milk contractor contributions to the Fund will continue to be disproportionately higher than the other three industries, and milk contractors will not receive a \$135,000 annual reduction in their assessments.

ATCP 101 - Vegetable Failure to Adopt Emergency Rule.

If DATCP fails to adopt this emergency rule, the department will not meet its statutorily mandated obligations. The vegetable contractor portion of the Fund would remain in a significant deficit with vegetable growers continuing to receive the benefits of coverage under the overall Fund. Absent this rule, DATCP estimates that the Fund will not reach its minimum balance for vegetable contractors for 90 years. The statutorily mandated fund balance will also remain underfunded, which may result in the Fund's inability to protect milk, grain, and vegetable producers in Wisconsin should a major contractor default in the future leads to significant producer losses.



SCOTT WALKER
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November 30, 2017

Sheila Harsdorf
Secretary
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Trade, and Consumer Protection
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**RE: Scope Statement for Emergency Rule modifying ATCP 99, 100, and 101 relating to
Grain Dealers, Milk Contractors, and Vegetable Contractors**

Dear Secretary Harsdorf,

I hereby approve the statement of scope submitted on November 20, 2017 to SBO, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule modifying Chapters ATCP 99, 100, and 101 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Scott Walker
Governor