

**ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to create chapter Comm 132 relating to certifying applicants and allocating dairy manufacturing facility investment tax credits, and affecting small businesses.

Analysis of Proposed Rules

1. Statutes Interpreted.

Sections 71.07 (3p), 71.28 (3p), 71.47 (3p), and 560.207 – as created in 2007 Wisconsin Act 20.

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.207 (4).

3. Explanation of Agency Authority.

Section 560.207 (4) of the Statutes requires the Department to promulgate rules for implementing and administering a program to certify applicants and allocate tax credits for the dairy manufacturing investments addressed in sections 71.07 (3p), 71.28 (3p), and 71.47 (3p) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

4. Related Statute or Rule.

The Department has rules for several other programs associated with tax credits, but none of those programs relate specifically to investments in dairy manufacturing facilities. For example, section 560.798 of the Statutes and chapter Comm 118 both refer to the Department's Agricultural Development Zone Program, which provides tax credits to agricultural businesses for job creation, capital investment, and environmental remediation. Those businesses must be located in specific geographic agricultural development zones in the State in order to qualify.

5. Summary of Rule.

The proposed rules in this order specify (1) the eligibility requirements for applicants; (2) the documentation that must be submitted by applicants to become certified as eligible for the dairy manufacturing facility investment credit, and to receive acceptance of incurred expenses for dairy manufacturing modernization or expansion; (3) the Department's response to the submitted documentation; and (4) use of the Department's response when filing a claim with the Department of Revenue for the corresponding tax credit.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

Neither the Department nor the Department of Revenue is aware of any existing or proposed federal regulations that address these tax credits.

7. Comparison With Rules in Adjacent States.

Michigan

Michigan provides tax abatement to agricultural processing facilities that qualify for the Agricultural Processing Renaissance Zones (APRZ) program. There are no administrative rules for the program, but guidelines are available through the Michigan Economic Development Corporation's Web site at <http://www.themedc.org>.

Minnesota

Minnesota offers various tax credit programs, but none that are similar to the dairy manufacturing facility investment credit in Wisconsin.

Iowa

In Iowa, the High Quality Job Creation Program offers tax credits, exemptions and refunds to qualifying businesses to offset the cost incurred to locate, expand, or modernize an Iowa facility. Qualifying businesses must meet several eligibility requirements, including producing value-added goods or being in one of 11 targeted industries. Administrative rules for this program are available in the Iowa Administrative Code, 261-Chapter 68. Further information is available through the Iowa Department of Economic Development Web site at www.iowalifechanging.com.

Illinois

Illinois offers various tax credit programs, but none that are similar to the dairy manufacturing facility investment credit in Wisconsin.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these proposed rules were derived from and consisted of (1) incorporating the criteria in 2007 Wisconsin Act 20; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development, business development, and tax-credit verification; (3) soliciting and utilizing input from the Department of Revenue and the Department of Agriculture, Trade and Consumer Protection, and from representatives of the stakeholders who are expected to participate in this program; and (4) reviewing Internet-based sources of related federal, state, and private-sector information.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary document that was used to determine the effect of the proposed rules on small business was 2007 Wisconsin Act 20. This Act requires the Department to implement a program to certify taxpayers as eligible for the dairy manufacturing facility investment credit under sections 71.07 (3p), 71.28 (3p), and 71.47 (3p) of the Statutes, and requires the

Department to promulgate rules for administering the program. The proposed rules apply their private-sector requirements only to dairy manufacturing facilities for which a corresponding tax credit is desired.

10. Effect on Small Business.

The proposed rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants who choose to pursue tax credits for dairy manufacturing modernization or expansion activities.

11. Agency Contact Person.

Steven Sabatke, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 267-0762; e-mail Steven.Sabatke@Wisconsin.gov.

12. Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to srockweiler@commerce.state.wi.us, no later than May 19, 2008. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

File reference: Comm 132/rules, analysis PH
