

RULES CERTIFICATE

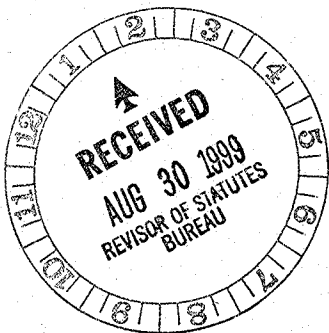
Department of Commerce

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Brenda J. Blanchard, Secretary of the Department of Commerce,
and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to
Comm 112 Wisconsin Development Zone Program
(Subject)

were duly approved and adopted by this department.

I further certify that said copy has been compared by me with the original on file in the department and
that the same is a true copy thereof, and of the whole of such original.



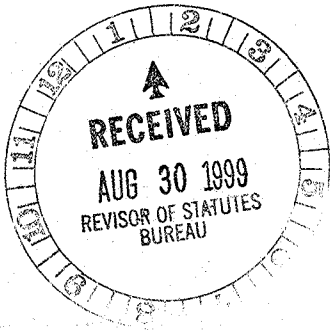
IN TESTIMONY WHEREOF, I have hereunto set
my hand at 201 West Washington Avenue
in the city of Madison, this 17th
day of August A.D. 1999

Brenda J. Blanchard
Secretary



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM



Rule No.: Comm 112

Relating to: Wisconsin Development Zone Program

Clearinghouse Rule No.: 99-075

DEPARTMENT OF COMMERCE

**RULES RELATING RELATING TO THE
WISCONSIN DEVELOPMENT ZONE PROGRAM**

Analysis of Rules

Statutory Authority: ss 560.70 through 560.797, Stats.

Statutes Interpreted: ss 560.70 through 560.797, Stats.

Pursuant to ss. 560.70 through 560.797, Stats., the Department of Commerce is responsible for administering the Wisconsin Development Zone Program. These rules are being adopted to incorporate in the administrative code the recent amendments contained in 1997 Wisconsin Act 27 that entirely changed the eligibility and the criteria for certified development zone businesses and the process for the verification and the claiming of tax credits. Section 560.785, Stats., directs the Department of Commerce to develop rules and exceptions to those rules concerning the eligibility for tax benefits. After a review and evaluation of all the certified businesses and their projects a number of exceptions have been identified in order to meet the needs of different areas of the state and to fulfill our commitments to businesses that were made prior to this legislation. In order to process claims for tax years beginning on or after January, 1, 1998, these rules must be made available immediately.

Contact Person

William Wheeler, Director

608-267-2045

ORDER

The Department of Commerce hereby repeals Comm 112.06 (2)(c) and (2)(b); renumbers and amends Comm 112.06 (2) (e); amends ss. Comm 112.02 (5), (9), and (10); 112.03(1); 112.03 (1)(d); 112.03 (3), (4) and (5); 112.04(2)(a)1. and 2.; 112.04 (2)(c); 112.05; 112.06 (2) (a); and 112.08; and creates ss. Comm 112.02 (3m), and (4m); and 112.045, relating to the Wisconsin Development Zone Program.

Chapter Comm 112

WISCONSIN DEVELOPMENT ZONE PROGRAM

Section 1. Comm 112.02 (3m) and (4m) are created to read:

Comm 112.02 (3m) "Development zone" means the community development zone program administered under ss. 560.70 to 560.78 and the enterprise development zone program administered under s. 560.797, stats.

Comm 112.02 (4m) "Full-time job" means a regular, nonseasonal, full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and benefits that are not required by federal or state law. "Full-time job" does not include initial training before an employment position begins.

Section 2. Comm 112.02 (5), (9), and (10) are amended to read:

Comm 112.02 (5) "Local governing body" means the governing body of one or more cities, villages, towns, or counties or the elected governing body of a federally recognized American Indian tribe or band in Wisconsin.

Comm 112.02 (9) "Target population" means ~~the residents of a development zone and~~ persons who are members of targeted groups for the purposes of the credit under ss. ~~71.07 (2dj), 71.28 (1dj), and 71.47 (1dj),~~ 71.07 (2dx), 71.28 (1dx), and 71.47 (1dx), Stats.

Comm 112.02 (10) "Tax benefits" means the development zones ~~investment credit under ss. 71.07 (2di), 71.28 (1di), and 71.47 (1di), Stats., the development zones jobs credit under ss. 71.07 (2dj), 71.28 (1dj), and 71.47 (1dj), Stats., the development zones location credit under ss. 71.07 (2dL), 71.28 (1dL), and 71.47 (1dL), Stats., the development zones sales tax credit under ss. 71.07 (2ds), 71.28 (1ds) and 71.47 (1ds), Stats., and the research credit under ss. 71.28 (4) (a) and 71.47 (3) (a),~~ credit under ss. 71.07 (2dx), 71.28 (1dx), and 71.47 (1dx), Stats.

Section 3. Comm 112.03 (1) is amended to read:

Comm 112.03 Allocation of tax benefits among zones. (1) The department may reduce the amount of the tax benefits allocated to a community development zone if any of the following conditions occur:

Section 4. Comm 112.03 (1) (d) is amended to read:

Comm 112.03 (1) (d) A determination by the department that inaccurate information was provided in the community development zone application, or under the development zone plan, which would have affected the decision to designate the area as a development zone.

Section 5. Comm 112.03 (3), (4), and (5) are amended to read:

Comm 112.03 (3) Upon receiving notice from the department of a reduction in the allocation to the community development zone under sub. (1), or the removal of community development zone designation under sub. (2), an applicant may appeal to the department secretary within 60 days.

Comm 112.03 (4) Tax benefits allocated to a community development zone in 1989, 1991 or 1995 that are reduced under sub. (1) or removed under sub. (2) shall be placed into reserve by the department and reallocated to other existing community development zones in accordance with sub. (5).

Comm 112.03 (5) In determining whether a community development zone should be allocated additional tax benefits, the department shall consider the following:

(a) Whether the local governing body has complied with the terms and conditions of its development zone plan.

(b) Whether the tax benefits allocated to the community development zone have been exhausted.

(c) Whether the additional tax benefits will be utilized prior to the expiration date of the community development zone.

Section 6. Comm 112.04 (2) (a) 1. and 2. are amended to read:

Comm 112.04 (2) (a)1. The person fails to hire the number of target group members and non-target group members as proposed by the person, and the person is unable to demonstrate that the proposed number of target group members and non-target group members will be hired while the community development zone designation under s. Comm 112.08 (1) is in effect.

2. The person fails to make ~~investments and other~~ environmental remediation expenditures equal to or exceeding the amount proposed by the person, and the person is unable to demonstrate that the proposed ~~investments and other~~ expenditures will be made while the community development zone designation under s. Comm 112.08 (1) is in effect.

Section 7. Comm 112.04 (2) (c) is amended to read:

Comm 112.04 (2) (c) Any reduction in tax benefits from a business under this subsection shall remain with the community development zone of which the business was a part, subject to s. Comm 112.03 (1).

Section 8. Comm 112.045 is created to read:

Comm 112.045 Eligibility for tax benefits. (1) The department shall: (a) Allow a person to claim up to \$6,500 in tax benefits during the time that an area is designated as a development zone for creating a full-time job that is filled by a member of the target population or retaining a full-time job that is filled by a member of the target population.

(b) Allow a person to claim up to \$4,000 in tax benefits during the time that an area is designated as a development zone for creating a full-time job that is filled by a Wisconsin resident that is not a member of the target population or retaining a full-time job that is filled by an individual that is a Wisconsin resident and who is not a member of the target population.

(2) The actual amount of tax benefit specified in sub. (1) that a person may claim will be determined by the department which will base the amount of tax benefits upon the wages and benefits being made available to the new or retained jobs.

(3) The department may distribute the tax benefits that a person may claim over multiple tax years based upon the job creation phases of the project.

Note: For example, 25 % of the tax benefits may be distributed in the first year, 25% of the tax benefits may be distributed in the second year, and 50% of the tax benefits may be distributed in the third year to ensure that the job creation is attained.

(4) At least 25% of the tax benefits claimed by a person shall be based on creating or retaining full-time jobs. If the department determines that another person has created full-time jobs that pay at least 150% of the federal minimum wage because of the person's environmental remediation activities, the department may waive this requirement. The tax benefits may be eligible to the person's environmental remediation activities or another person's job creation activities, or both, as determined by the department.

(5) At least one-third of the tax benefits claimed by a person that are based on creating or retaining jobs shall be based on creating or retaining jobs that are filled by members of the target population. The department may grant exceptions to the requirements in this subsection for any of the following reasons:

(a) If the department determines that a person has made a good-faith effort to identify and to recruit members of the target population, but has been unable to hire sufficient numbers of members of the target population to reach the one-third standard; or

(b) If it becomes necessary in order to meet contractual obligations made with certified persons prior to the effective date of these rules.

(6) Full-time jobs that are created or retained shall be maintained for a minimum of 6 months before a person is able to claim any tax benefits under this chapter.

(7) (a) An individual's pay shall equal at least 150% of the federal minimum wage, unless an exception may be made if the department determines that the person is located in a region of the state that has an average wage below the state average.

(b) The department may make an exception to this requirement if a person outlines for the department the wage progression that will enable an individual to reach the 150% level after training or probation and follows the wage progression outline. The 150% wage level must be attained within a two-year period.

Section 9. Comm 112.05 is amended to read:

Comm 112.05 Remaining tax benefits. The tax benefits allocated to a business that loses its certification for tax benefits shall remain with the community development zone of which the business was a part.

Section 10. Comm 112.06 (2) (a) is amended to read:

• **Comm 112.06 (2) (a)** The information required under ss. ~~71.07 (2di), (2dj), (2dl), and (2ds); 71.28 (1di), (1dj), (1dl), (1ds), and (4) (a); and 71.47 (1di), (1dj), (1dl), (1ds), and (3) (a), 71.07 (2dx), 71.28 (1dx), and 71.47 (1dx), Stats.~~

Section 11. Comm 112.06 (2) (c) is repealed.

Section 12. Comm 112.06 (2) (d) is repealed.

Section 13. Comm 112.06 (2) (e) is renumbered (c) and amended to read.

Comm 112.06 (2)(c) A project report describing the status of the person's project including, without limitation, the number of targeted employees and non-targeted employees hired, the total amount invested and other information relating to the tax credits claimed by the person.

Section 14. Comm 112.06 (4) is amended to read.

Comm 112.06(4) (a) The department shall inform a person certified of the designated local agency under ss. 71.07 (2dj) (am) 2, 71.28 (1dj) (am) 2 and 71.47 (1dj) (am) 2, Stats., responsible for certifying the eligibility of workers for the development zones jobs credit. A person may not receive a development zones jobs credit for a target group member unless the employe for whom the development zones jobs credit is claimed is certified by the appropriate local agency prior to the date of employment or not more than 90 calendar days after the date of employment.

(b) The designated local agency may charge a fee not to exceed \$50 for each certification of eligibility under par. (a) for development zones ~~job~~ credits to employers who request certification services and who have been found eligible by the designated local agency. The fee shall be based on the actual cost of providing the certification. The fee shall be collected by invoice during the completion of the certification or thereafter. The designated local agency shall charge interest on late payments. A person who fails to make payment as billed by the designated local agency shall no longer be eligible for the receipt of certification services.

Section 15. Comm 112.08 is amended to read:

Comm 112.08 Zone duration, renewal, and expiration. (1) (a) The designation of an area as a community development zone shall be effective for 84 months, beginning on the day the department notifies the applicant of the designation.

(b) The applicant may apply to the department for up to ~~3~~ 5 12-month extensions of the designation. The application shall include all of the following:

1. A description of the activities that have been undertaken by the applicant to market and support the development of the zone.

2. Documentation that the remaining unallocated tax credits will likely be utilized if an extension is granted, including clear documentation of interest on the part of business.

3. Documentation that the area continues to meet 2 of the criteria set forth in s. 560.71 (1) (e), Stats.

(c) After evaluating an application submitted under par. (b), the department may approve up to ~~3~~ 5 12-month extensions of the zone designation.

(2) Annually the department shall estimate the amount of forgone state revenue because of tax benefits claimed by persons in each community development zone. Notwithstanding sub. (1), the designation of an area as a community development zone shall expire 90 days after the day on which the department determines that the foregone tax revenues will equal or exceed the limit for the community development zone established under s. 560.745 (1) (a), Stats.. The department shall immediately notify the applicant of a change in the expiration date of the community development zone under this subsection.

(3) The department may remove a zone designation under s. Comm 112.03 (2).

(END)

Pursuant to s. 227.22 (2), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

August 17, 1999

Gary Poulson
Assistant Revisor of Statutes
Suite 800
131 West Wilson Street
Madison, Wisconsin 53703-3233

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 99-075

RULE NO.: Comm 112

RELATING TO: Wisconsin Development Zone Program

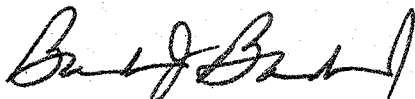
Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,



Brenda J. Blanchard
Secretary

