



State of Wisconsin \ Department of Commerce

# RULES in FINAL DRAFT FORM

**Rule No.:** Chapter Comm 113

**Relating to:** Volume Cap Allocation Council

**Clearinghouse Rule No.:** 04-130

The Department of Commerce proposes an order to repeal ss. Comm 113.02 (5) and Comm 113.05; and to amend ss. Comm 113.06 (1) (d) (intro.) and Comm 113.07 (3) (intro.), (4) (intro.) and (i), (5), and (6) (intro.) and (c), relating to the volume cap allocation council.

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**Analysis of Proposed Rules**

Statutory Authority: Section 15.04 (1) (c), Stats.  
Statutes Interpreted: Section 15.04 (1) (c), Stats.

**General Summary**

Section 15.04 (1) (c), Stats., authorizes department heads to create and appoint any council or committee as the operation of the department requires. The Volume Cap Allocation Council was created by the department to assist in evaluating volume cap applications and to make recommendations to the department secretary on volume cap allocation. The council is advisory only in that the department secretary makes the final decisions on cap allocation.

The proposed rules eliminate the Volume Cap Allocation Council as part of the review and evaluation process for volume cap allocation for Industrial Revenue Bond financing. Elimination of the council will result in a more efficient approval process and will not eliminate any final decision-making entity.

**Federal Comparison**

There is no existing or proposed federal regulation that addresses the elimination of the Volume Cap Allocation Council.

**State Comparison**

An Internet search of adjacent states' rules found the following information relating to the volume cap allocation process.

- The Illinois Finance Authority administers the volume cap allocation program and uses a Project Review Committee to review applications and make recommendations to the Authority's Board.
- The Iowa Finance Authority administers the volume cap allocation program and does not use a review council/committee.
- The Michigan Department of Treasury, Local Audit and Finance Division administers the volume cap allocation program; there is no information regarding a review council/committee.
- The Minnesota Rural Finance Authority administers the volume cap allocation program and does not use a review council/committee.

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SECTION 1. Comm 113.02 (5) is repealed.

SECTION 2. Comm 113.05 is repealed.

SECTION 3. Comm 113.06 (1) (d) (intro.) is amended to read:

**Comm 113.06 (1) (d) (intro.)** In making a determination, the ~~council and the~~ department shall consider all of the following:

SECTION 4. Comm 113.07 (3) (intro.), (4) (intro.) and (i), (5), and (6) (intro.) and (c) are amended to read:

**Comm 113.07 (3) (intro.)** The ~~council and the~~ department may approve an allocation of the unified volume cap if ~~they determine~~ it determines all of the following:

**(4) (intro.)** In making a determination under sub. (3), the ~~council and the~~ department shall consider all of the following:

(i) Any other factors that the department ~~and the council consider~~ considers relevant.

**(5)** If the ~~council and the~~ department ~~approve~~ approves an application under this section, the department shall promptly certify a portion of its allocation of the unified volume cap that has not been allocated to an issuer and shall allocate the approved portion of the amount requested to the issuer. The allocation shall be valid for a period equal to the lesser of 90 calendar days or the remainder of the calendar year. The amount of the allocation shall not exceed the maximum amount authorized for issuance under the official action taken by the issuer with respect to the obligation. Certain allocations are subject to earlier termination pursuant to s. Comm 113.06 (6) and (7). Any issue under this section shall be valid only with respect to bonds issued in the same calendar year.

**(6) (intro.)** The ~~council and the~~ department may not approve an allocation in excess of \$5 million for any project unless ~~they determine~~ it determines that the utilization is in the best interests of the people of the state of Wisconsin. In making a determination under this subsection, the ~~council and the~~ department shall consider all of the following:

(c) Any other factors that the department ~~and the council consider~~ considers relevant.

**END**

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EFFECTIVE DATE

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

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