

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 99-052

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. The treatment clause to SECTION 1 should state: "SECTION 1. Chapter Comm 113 (title) is amended to read:".
- b. In s. Comm 113.041, each occurrence of "will," except in the second line, should be changed to "shall." The second sentence should be written in the active voice: "The department shall review and evaluate"
- c. In SECTION 4, the treatment clause should state "SECTION 4. Comm 113.05 (1) (c) is amended to read:". Only sub. (1) (c) should be shown since that is the only subunit that is affected.
- d. In SECTIONS 5 to 9, the full prefix of the rule subunit should be shown in the text. For example, in SECTION 5, "Comm 113.06" should be inserted before "(1)".
- e. In s. Comm 113.06 (7) (b) 3., "department" should follow "to".
- f. Sections Comm 113.06 (7) (b) 3. and 113.07 (1) (b) should end with periods.
- g. The treatment clause to SECTION 8 states that s. Comm 113.07 (1) (a) is amended. However, no amendments are shown in the text.

h. The treatment clause to SECTION 9 states that s. Comm 113.07 (3) (c) is repealed and recreated. However, the text is numbered par. (b). This difference should be reconciled.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The analysis of the rule states that the volume cap allocation council is being increased from three to five members. Actually, the increase is from five to seven members.

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-052

AN ORDER to amend chapter Comm 113 (title) and Comm 133.01, 133.05, 113.06 (1), (2) and (7) (b) 3. and 113.07 (1) (a); to repeal and recreate Comm 113.07 (3) (c); and to create Comm 113.041, relating to the annual allocation of volume on tax exempt private activity bonds.

Submitted by **DEPARTMENT OF COMMERCE**

03-15-99 RECEIVED BY LEGISLATIVE COUNCIL.

04-09-99 REPORT SENT TO AGENCY.

RNS:GAA:kjf;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

May 21, 1999

TO: Members of the Senate Labor Committee
Senator Russell Decker Senator David Zien
Senator Roger Breske Senator Margaret Farrow

FROM: Senator Jim Baumgart, Chair

Re: Administrative Rule

On May 5, 1999, the following administrative rule was referred to the committee for review:

CLEARINGHOUSE RULE 99-052
Relating to the annual allocation of volume on tax exempt private activity bonds.

Submitted by the Department of Commerce

Enclosed is a copy of the rule. If you have any concerns or questions about the rule, please advise.

cc: Dan Fernbach, Legislative Council Attorney

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 99-052

RULE NO.: Comm 113

RELATING TO: Allocation of Volume Cap on Tax-Exempt Private Activity Bonds

Agency contact person for substantive questions.

Name: Richard Meyer

Title: Code Consultant

Telephone No. 266-3080

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority (s.227.15(2)(a))

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

2. Review of rules for form, style and placement in administrative code (s.227.15(2)(c))

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules (s.227.15(2)(d))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
4. Review rules for adequate references to related statutes, rules and forms (s.227.15(2)(e))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness (s.227.15(2)(f))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations (s.227.15(2)(g))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline (s.227.15(2)(h))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

RULE REPORT

Department of Commerce

Rule No.: Comm 113

Relating to: Allocation of Volume Cap on Tax-Exempt Private Activity Bonds

Agency contact person for substantive questions:

Name William Wheeler

Title Director

Telephone Number 267-2045

Agency contact person for internal processing:

Name Richard Meyer

Title Code Consultant

Telephone Number 266-3080

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
ss. 560.02 and 560.032, Stats.

2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
None

3. Citation of court decisions which are applicable to the proposed rule(s).
None

4. Description of the proposed rule(s).

NOTE: Please refer to the detailed analysis preceding the rule text.

5. Reason for the proposed rule(s).

NOTE: Please refer to the detailed analysis preceding the rule text.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 99-052

RULE NO.: Comm 113

RELATING TO: Allocation of Volume Cap on Tax-Exempt Private Activity Bonds

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

Section Comm 113.06 requires applications to be submitted with a fee for economic development bonds. The fees are based on a sliding scale and recognize smaller economic bonds from larger ones.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

No issues were raised by small business at hearings, nor were any comments received during the open comment period.

(Continued on reverse side)

3. Nature and estimated cost of preparation of any reports by small businesses.

No issues were raised by small business at hearings as to the preparation of reports, nor were any comments received during the open comment period.

4. Nature and estimated cost of other measures and investments required of small businesses.

No special measures or investments are required by these rules.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

No additional costs have been identified by the agency.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

Not applicable.

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Comm 113

Subject
 Allocation of Volume Cap on Tax-Exempt Private Activity Bonds

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:

A. State Costs By Category	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(0 FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$0	\$ -

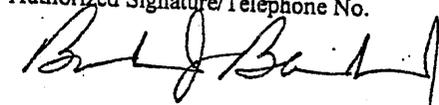
B. State Costs By Source of Funds	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS	0	-
SEG/SEG-S		-

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Annualized Fiscal impact on State funds from:	
	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	0-100,000	-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$
NET CHANGE IN REVENUES	\$ 0-100,000	\$

Agency/Prepared by: (Name & Phone No.)
 William Wheeler 267-2045

Authorized Signature/Telephone No.


Date
 2/9/99

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

Comm 113

Amendment No. if Applicable

Subject

Allocation of Volume Cap on Tax-Exempt Private Activity Bonds

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
- Counties Others _____
- School Districts WTCS Districts

- 2. Decrease Costs
 - Permissive Mandatory

- 4. Decrease Revenues
 - Permissive Mandatory

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rules are being amended in accordance with s. 560.032 (1), Stats., which was recently amended to no longer require the Department of Commerce to promulgate rules for each calendar year. In addition, the rules permit up to 15% of the designated volume cap will be set aside to be allocated for project in area of the state experiencing severe economic distress. Other changes in the rules include increasing the members of the Volume Allocation Council from three to five, and permit the department to retain nonrefundable deposits. The rules are not expected to have any cost impact on local government. It is difficult to determine the amount of nonrefundable deposits that may be returned to the Department, but based on last year's experience, Commerce estimates that nonrefundable deposits could range somewhere between \$0 to \$100,000.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)

William Wheeler 267-2045

Authorized Signature/Telephone No.

Bill Wheeler

Date

2/9/99



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Comm 113

Relating to: Allocation of Volume Cap on tax-Exempt Private
Activity Bonds

Clearinghouse Rule No.: 99-052

DEPARTMENT OF COMMERCE
RULES RELATING TO THE
ANNUAL ALLOCATION OF VOLUME CAP
ON TAX-EXEMPT PRIVATE ACTIVITY BONDS.

Analysis of Rules

Statutory Authority: ss. 560.02(4) and 560.032, Stats.

Statutes Interpreted: s. 560.032, Stats.

Pursuant to s. 560.032, Stats., the Department of Commerce is responsible for administering the allocation of annual volume cap. Several areas in the State of Wisconsin have recently experienced severe economic distress due to large plant closings which have put hundreds of Wisconsin residents out of work. As a result of two large paper mills being shut down a year ago, 1997 Wisconsin Act 237 created s. 560.147, Stats., authorizing the Rapid Response Fund within the Wisconsin Development Fund. The fund is part of the Rapid Response Initiative, which assists areas affected by these and future closings. Commerce is now proposing as part of this initiative a Rapid Response Set Aside within the volume cap allocation process which will enable businesses in these distressed areas to obtain the financing they need to make the necessary capital investments to create and retain jobs. The Department adopted an emergency rule making the provisions of these rules available to persons applying for this year's volume cap and is proposing to adopt these provisions as permanent rules.

These rules are amended to be consistent with s. 560.032, Stats., which no longer requires Commerce to promulgate rules for the following calendar year. Under these rules, the department proposes to set aside 15% of the designated volume cap to be allocated for projects in areas experiencing severe economic distress. These rules propose to increase the number of volume cap allocation council members from five to seven. The proposed rules require a nonrefundable application fee based on the size of the amount of the economic development bond rather than the two categories presently used. The rules also provide that any nonrefundable deposit will be retained by the department.

Contact Person

William Wheeler, Director

608-267-2045

ORDER

Pursuant to Section 227.24, Stats., the Department of Commerce (Commerce) hereby proposes to adopt rules to amend the chapter title, ss. Comm 113.01; 113.05; 113.06 (1); 113.06 (2); 113.06(7)(b)3.; 113.07 (1)(a) and 113.08 (1) (d); to repeal and recreate Comm 113.07(3)(c); and to create Comm 113.041, relating to the annual allocation of volume on tax exempt private activity bonds.

Section 1. Chapter Comm 113 (title) is amended to read:

**ALLOCATION OF VOLUME CAP
ON TAX-EXEMPT PRIVATE ACTIVITY BONDS
FOR CALENDAR YEAR 1998**

SECTION 2. Comm 113.01 is amended to read:

Comm 113.01 Purpose. The purpose of this chapter is to establish a procedure ~~for calendar year 1998~~ relating to the annual allocation of volume cap for tax-exempt "private activity bonds" that may be issued by Wisconsin issuers pursuant to the internal revenue code of 1986, 26 USC 146.

SECTION 3 Comm 113.041 is created to read:

Comm 113.041 Commerce rapid response set aside volume cap. The department shall annually set aside 15% of its designated total volume cap to be allocated for projects that shall affect an area that has experienced or is about to experience severe economic distress as determined by the department. The department shall review and evaluate applications for this volume cap. Any application for volume cap for severe economic conditions applied for under this section may be approved solely by the department. The applicant shall indicate why the area should qualify for the rapid response set aside volume cap. Any of the rapid response set aside volume cap remaining as of September 1, shall be made available for the allocation process established under ss. Comm 113.06 and 113.07.

SECTION 4. Comm 113.05 (1) (c) is amended to read:

Comm 113.05 (1) (c) Up to ~~3~~ 5 additional members appointed by the secretary of the department for 2-year terms.

SECTION 5. Comm 113.06 (1) is amended to read

Comm 113.06 (1) There is allocated to the department the remainder of the annual unified volume cap, including any amount that is surrendered, transferred or terminated under s. Comm 113.04, ~~113.06 (5)~~, 113.06 (6), or 113.07 (6), which shall be allocated for issuer-owned project bonds, economic development bonds and other private activity bonds, but not for single family housing bonds or multi-family housing bonds.

SECTION 6. Comm 113.06 (2) is amended to read:

Comm 113.06 (2) Any issuer may submit an application to the department for an allocation of the unified volume cap in connection with a project. An application shall be accompanied by a nonrefundable application fee of \$500 for ~~small~~ economic development bonds up to \$ 2 million, a nonrefundable fee of \$1,000 for economic development bonds between \$2 million up to \$5 million, a nonrefundable fee of \$1,500 for economic development bonds between \$5 million up to \$10 million, and a nonrefundable fee of \$1,000 \$2,000 for all other projects over \$10 million. An application shall include all of the information required under s. Comm 113.07 (1).

SECTION 7. Comm 113.06 (7)(b) 3. is amended to read:

Comm 113.06 (7) (b) 3. Any deposits, or portions of the deposits, which have not become refundable pursuant to subds. 1. and 2. as of the fifth business day of the succeeding year shall ~~vest remain in the state of Wisconsin to~~ department and be used as ~~provided by law as~~ determined by the department.

SECTION 8. Comm 113.07 (1)(a) is amended to read

Comm 113.07 (1) (a) The name and address of the issuer.

SECTION 9. Comm 113.07 (3)(c) is repealed and recreated to read

Comm 113.07 (3) (c) The project will likely positively affect an area's economic distress

SECTION 10 Comm 113. 08 (1) (d) is amended to read:

Comm 113.08 (1) (d) Any deposits or portions of the deposits which have not become refundable pursuant to par(b) as of January 1 of the preceding year shall vest remain in the state of Wisconsin department and ~~to~~ be used as provided by law ~~determined by the department~~

(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.
