

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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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 99-075

AN ORDER to amend Comm 112.02 (5), (9) and (10), 112.03, 112.04, 112.05, 112.06 and 112.08; and to create Comm 112.02 (2m), (3m) and (4m) and 112.045, relating to the Wisconsin development zone program.

Submitted by **DEPARTMENT OF COMMERCE**

04-19-99 RECEIVED BY LEGISLATIVE COUNCIL.

05-13-99 REPORT SENT TO AGENCY.

RS:RJC;jal;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

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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 99-075

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.]

1. Statutory Authority

Section Comm 112.045 provides that the department may allow a person to claim a certain amount of tax benefits. Section 560.785 (1), Stats., on the other hand, provides that the rules promulgated by the department shall allow a person to claim a certain amount of tax benefits. There appears to be a conflict between the statutory requirement that the rules "shall" allow a person to make a claim and the rule providing that the department "may" allow a claim. This apparent conflict should be reviewed.

2. Form, Style and Placement in Administrative Code

a. The material in SECTION 1 of the rule may be deleted because it is not necessary to amend the table of contents. Also, unless it is being amended, the title of the chapter being amended need not be shown and should, therefore, be deleted from the rule.

b. The word "definitions" in the treatment clause of SECTION 2 of the rule should be deleted.

c. In SECTION 2 of the rule, the section number of the rule should be listed in the amendatory provision. Thus, after the treatment clause, "Comm 112.02" should be inserted before (2m). The entire rule should be reviewed in light of this comment.

d. SECTIONS 4, 5, 8 and 9 of the rule amend various provisions of existing rule sections. However, because each provision of those sections are not being amended, it is not necessary to recreate in this rule all of the provisions that are not being amended. Thus, the treatment clauses of those SECTIONS should be revised to identify only those provisions which are being amended and then only those amended provisions should be shown in the rule.

e. Rather than striking throughout the entirety of s. Comm 112.06 (2) (c) and (d), those paragraphs can simply be repealed.

4. Adequacy of References to Related Statutes, Rules and Forms

Section Comm 112.045 (6) should end with the phrase "under this chapter."

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

a. In the first sentence of the analysis, the word "the" should be inserted before the word "Wisconsin."

b. The amendment to s. Comm 112.02 (3m) creates a definition of "Development zone" which refers to two development zone programs. However, s. Comm 112.02 (4) of the current rule defines "Development zone program" as the program administered under ch. Comm 112. At a minimum, these two definitions are confusing to readers of the rule. They may also be conflicting to some extent. Can these definitions be clarified?

c. In s. Comm 112.045 (1) (b), it appears that the sentence should conclude with the phrase "and who is not a member of the target population," in order to fully comply with the provisions of s. 560.785 (1) (c) 2., Stats.

d. In s. Comm 112.045 (3), the connection between distributing tax benefits over a period of tax years and the job creation phases of the project is not readily apparent. The rule should be clarified to better identify the connection and the criteria that will be used to distribute the tax benefits over a number of years.

e. In s. Comm 112.045 (4), it is not clear which person the phrase "the person's environmental remediation activities" applies to. Does it apply to the person applying for the tax benefit or to "another person"? The rule should be clarified.

f. In s. Comm 112.045 (5) (intro.), the phrase "this rule" should be replaced by the phrase "the requirement in this subsection." In addition, the phrase "for any of the following reasons" should be inserted immediately before the colon. Further, the term "it" in pars. (a) and (b) should be better identified. For example, in par. (a), "it" appears to refer to the department. In par. (b), "it" appears to mean "granting an exception." The rule should be clarified. Finally, in par. (b), the phrase "the changes taking effect as a result of 1997 Wisconsin Act 27" should be replaced by the specific effective date of the changes.

g. In s. Comm 112.045 (7) (a), what is meant by the phrase "well below the state average"? What criteria will be used to determine if a wage is "well below" the state average as opposed to just "below" the state average? Also, what will be used to determine what an area is? Is area confined to a municipality, county or region? The process for making these determinations should be identified in the rule.

h. In s. Comm 112.045 (7) (b), must the applicant for the tax benefit commit to the "outline" of the "pay progression"? In other words, if an applicant submits some sort of pay progression outline which will reach 150% of the minimum wage within two years, but does not follow the outline, and then pays his or her employees a qualifying wage at the end of the two-year period, will the applicant be eligible for the tax benefit? The rule should be clarified. Also, the phrase "this requirement" should be replaced by the phrase "the requirement in par. (a)."



State of Wisconsin \ Department of Commerce

HEARING DRAFT of PROPOSED RULES

Rule No.: Comm 112

Relating to: Wisconsin Development Zone Program

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. ^{the} 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 amends the table of contents; ss. Comm 112.02 (5), (9), and (10); 112.03; 112.04; 112.05; 112.06 and 112.08; and creates ss. Comm 112.02 (2m), (3m), and (4m); and 112.045, relating to the Wisconsin Development Zone Program.

Chapter Comm 112

WISCONSIN DEVELOPMENT ZONE PROGRAM

Section 1. The table of contents are amended to read:

Comm 112.01 Purpose.

Comm 112.02 Definitions.

Comm 112.03 Allocation of tax benefits among zones.

Comm 112.04 Limits of tax benefits and eligibility for tax benefits to certified persons.

Comm 112.045 Eligibility for tax benefits

Comm 112.05 Remaining tax benefits.

Comm 112.06 Tax benefit claims.

Comm 112.08 Zone duration, renewal, and expiration.

Not Necessary

Section 2. Comm 112.02 (2m), (3m) and (4m) definitions are created to read:

Comm 112.02 (2m) "Community development zone" means the program administered under ss. 560.70 to 560.78, stats.

(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.

must include the program

(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 3. 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.

(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.

(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 4. Comm 112.03 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:

(a) No persons are certified within 12 months beginning from the date the zone was designated.

(b) The rate of economic activity is below projections and the community cannot demonstrate that the economic activity will increase.

(c) The failure of the applicant to carry out the activities specified in the development zone plan.

(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.

(2) The department may remove a zone designation if any of the following conditions occur:

(a) No persons are certified within 12 months beginning from the date the zone was designated, and the applicant is not carrying out the activities specified in the development zone plan.

(b) No persons are certified within 24 months beginning from the date the zone was designated.

(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.

(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).

(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 5. Comm 112.04 is amended to read:

Comm 112.04 Limits of tax benefits to certified persons. (1) Persons operating business incubators that are certified under s. 560.765, Stats., shall only be eligible to claim tax benefits for eligible expenses incurred by those persons. Persons operating businesses located in a business incubator that are certified under s. 560.765, Stats., shall only be eligible to receive tax benefits for eligible expenses incurred by those persons.

(2) (a) The department may reduce the maximum amount of tax benefits a certified person may receive if any of the following apply:

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.

3. The person does not comply with the plan for hiring members of the target population as proposed.

4. The person is found to have submitted inaccurate, false, or misleading information which would have affected the decision to certify the person as eligible for tax benefits.

(b) Upon receiving notice from the department of a reduction in tax benefits under par. (a), a person may appeal the reduction to the department secretary within 30 calendar days.

(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 11 2.03 (1).

(3) The department may upon the request of a certified person and upon the recommendation of the local governing body, or the designee of the local governing body, increase the limit on tax benefits established for the certified person, if the department does all of the following:

(a) Complies with s. 560.768, Stats., with respect to the proposed increase.

(b) Revises the certification and provides a copy of the revised form to the department of revenue and to the person whose limit is increased under this subsection.

Section 6. Comm 112.045 is created to read:

Comm 112.045 Eligibility for tax benefits. (1) The department may: (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.

(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.

(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.

(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 this rule:

(a) If it 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 changes taking effect as a result of 1997 Wisconsin Act 27.

(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.

(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 an area of the state that has an average wage well 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. The 150% wage level must be attained within a two-year period.

Section 7. 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 8. Comm 112.06 is amended to read:

Comm 112.06 Tax benefit claims. (1) A person certified may file, using forms prescribed by the department of revenue, for tax benefits. Development zone tax benefit claims shall include all of the following:

- (a) A copy of the certification.
- (b) A copy of a statement from the department verifying the tax benefit claim under sub. (3).
- (c) The state employer tax identification number.
- (d) The employer's standard industrial classification code.

(2) Prior to filing for tax benefits under par. (a), a certified person shall provide documentation supporting the tax benefit claim to the department or its designee on a form prescribed by the department. The documentation shall include all of the following:

(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.

(b) Information regarding any other public wage and income subsidies or credits received by the certified person.

~~(c) For certified persons, filing for the research credit under s. 71.28 (4) (a) or 71.47 (3) (a), Stats., the research expenses of the certified person for the previous 3 tax years in addition to the tax year for which the claim is being filed.~~

~~(d) A copy of the person's Wisconsin form DC, prepared and certified as to accuracy by a certified public accountant in accordance with generally accepted accounting principles, consistently applied.~~

(e) 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.

(f) Any other information required by the department.

(3) The department shall verify the tax benefit claim, and may request additional information from the certified person to support the claim. No person may file for tax benefits under this chapter without the written approval of the department.

(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.

(5) A person may only claim tax benefits for eligible expenses incurred after the person is certified except as provided in ss. 71.07 (2di) (ag), 71.28 (1dl) (ag) and 71.47 (1dl) (ag), Stats.

Section 9. 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.

X



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Brenda J. Blanchard, Secretary

June 14, 1999

Senate Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 99-075

RULE NO.: Comm 112

RELATING TO: Wisconsin Development Zone Program

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brenda J. Blanchard', written over a horizontal line.

Brenda J. Blanchard
Secretary



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Brenda J. Blanchard, Secretary

June 14, 1999

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 99-075

RULE NO.: Comm 112

RELATING TO: Wisconsin Development Zone Program

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brenda J. Blanchard', written over a horizontal line.

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); rennumbers 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.

RULE REPORT

Department of Commerce

Rule No.: Comm 112

Relating to: Wisconsin Development Zone Program

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).
s. 560.875, 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.: 99-075

RULE NO.: Comm 112

RELATING TO: Wisconsin Development Zone Program

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.

No issues or recommendations concerning the rules were raised at public hearings or during the open comment period.

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 or recommendations concerning the rules were raised at public hearings or during the open comment period.

(Continued on reverse side)

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

No information was presented at public hearings concerning costs associated with the preparation of any reports.

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

No information was presented at public hearings concerning investments required of small business related to the 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.

Not applicable

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

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

Comm 112

Amendment No. if Applicable

Subject

Wisconsin Development Zone Program

Fiscal Effect

State: No State Fiscal Effect

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

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> 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
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Pursuant to ss. 560.70 through 560.797, Stats., the Department of Commerce is responsible for administering 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.

Long-Range Fiscal Implications

None

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

Authorized Signature/Telephone No.

Bob J. Bauer

Date

2/18/99

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

1997 Session

LRB or Bill No./Adm. Rule No. Amendment No.
 Comm 112

Subject
 Wisconsin Development Zone Program

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

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category	\$	\$ -
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	\$	\$ -
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.)	\$	\$ -
GPR Taxes		
GPR Earned		-
FED		-
PRO/PRS	\$0	-
SEG/SEG-S		-
TOTAL State Revenues	\$0	\$ -

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$
NET CHANGE IN REVENUES	\$ 0	\$

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

Authorized Signature/Telephone No.

Bill Bauer

Date

2/18/99

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 99-075

RULE NO.: Comm 112

RELATING TO: Wisconsin Development Zone Program

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

DEPARTMENT OF COMMERCE

EMERGENCY RULE RELATING RELATING TO THE
WISCONSIN DEVELOPMENT ZONE PROGRAM

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that the adoption of the rule included in this order is necessary for the immediate preservation of public health, safety and welfare.

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 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

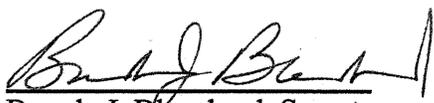
William Wheeler, Director

608-267-2045

ORDER

The Department of Commerce hereby amends the table of contents; ss. Comm 112.02 (5), (9), and (10); 112.03; 112.04; 112.05; 112.06 and 112.08; and creates ss. Comm 112.02 (2m), (3m), and (4m); and 112.045, relating to the Wisconsin Development Zone Program.

Dated at Madison, Wisconsin, this 17th
day of February, A.D. 1999,
By the Department of Commerce


Brenda J. Blanchard, Secretary

Chapter Comm 112

WISCONSIN DEVELOPMENT ZONE PROGRAM

Section 1. The table of contents are amended to read:

Comm 112.01 Purpose.

Comm 112.02 Definitions.

Comm 112.03 Allocation of tax benefits among zones.

Comm 112.04 Limits of tax benefits and eligibility for tax benefits to certified persons.

Comm 112.045 Eligibility for tax benefits

Comm 112.05 Remaining tax benefits.

Comm 112.06 Tax benefit claims.

Comm 112.08 Zone duration, renewal, and expiration.

Section 2. Comm 112.02 (2m), (3m) and (4m) definitions are created to read:

(2m) "Community development zone" means the program administered under ss. 560.70 to 560.78, stats.

(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.

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

(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.

(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.

(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 4. Comm 112.03 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:

(a) No persons are certified within 12 months beginning from the date the zone was designated.

(b) The rate of economic activity is below projections and the community cannot demonstrate that the economic activity will increase.

(c) The failure of the applicant to carry out the activities specified in the development zone plan.

(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.

(2) The department may remove a zone designation if any of the following conditions occur:

(a) No persons are certified within 12 months beginning from the date the zone was designated, and the applicant is not carrying out the activities specified in the development zone plan.

(b) No persons are certified within 24 months beginning from the date the zone was designated.

(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.

(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).

(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 5. Comm 112.04 is amended to read:

Comm 112.04 Limits of tax benefits to certified persons. (1) Persons operating business incubators that are certified under s. 560.765, Stats., shall only be eligible to claim tax benefits for eligible expenses incurred by those persons. Persons operating businesses located in a business incubator that are certified under s. 560.765, Stats., shall only be eligible to receive tax benefits for eligible expenses incurred by those persons.

(2) (a) The department may reduce the maximum amount of tax benefits a certified person may receive if any of the following apply:

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.

3. The person does not comply with the plan for hiring members of the target population as proposed.

4. The person is found to have submitted inaccurate, false, or misleading information which would have affected the decision to certify the person as eligible for tax benefits.

(b) Upon receiving notice from the department of a reduction in tax benefits under par. (a), a person may appeal the reduction to the department secretary within 30 calendar days.

(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 11 2.03 (1).

(3) The department may upon the request of a certified person and upon the recommendation of the local governing body, or the designee of the local governing body, increase the limit on tax benefits established for the certified person, if the department does all of the following:

(a) Complies with s. 560.768, Stats., with respect to the proposed increase.

(b) Revises the certification and provides a copy of the revised form to the department of revenue and to the person whose limit is increased under this subsection.

Section 6. Comm 112.045 is created to read:

Comm 112.045 Eligibility for tax benefits. (1) The department may: (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.

(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.

(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.

(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 this rule:

(a) If it 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 changes taking effect as a result of 1997 Wisconsin Act 27.

(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.

(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 an area of the state that has an average wage well 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. The 150% wage level must be attained within a two-year period.

Section 7. 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 8. Comm 112.06 is amended to read:

Comm 112.06 Tax benefit claims. (1) A person certified may file, using forms prescribed by the department of revenue, for tax benefits. Development zone tax benefit claims shall include all of the following:

- (a) A copy of the certification.
- (b) A copy of a statement from the department verifying the tax benefit claim under sub. (3).
- (c) The state employer tax identification number.
- (d) The employer's standard industrial classification code.

(2) Prior to filing for tax benefits under par. (a), a certified person shall provide documentation supporting the tax benefit claim to the department or its designee on a form prescribed by the department. The documentation shall include all of the following:

(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.

(b) Information regarding any other public wage and income subsidies or credits received by the certified person.

~~(c) For certified persons filing for the research credit under s. 71.28 (4) (a) or 71.47 (3) (a), Stats., the research expenses of the certified person for the previous 3 tax years in addition to the tax year for which the claim is being filed.~~

~~(d) A copy of the person's Wisconsin form DC, prepared and certified as to accuracy by a certified public accountant in accordance with generally accepted accounting principles, consistently applied.~~

(e) 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.

(f) Any other information required by the department.

(3) The department shall verify the tax benefit claim, and may request additional information from the certified person to support the claim. No person may file for tax benefits under this chapter without the written approval of the department.

(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.

(5) A person may only claim tax benefits for eligible expenses incurred after the person is certified except as provided in ss. 71.07 (2di) (ag), 71.28 (1dl) (ag) and 71.47 (1dl) (ag), Stats.

Section 9. 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)

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

Comm 112

Amendment No. if Applicable

Subject

Wisconsin Development Zone Program

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

- 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

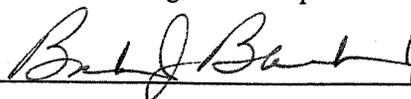
Pursuant to ss. 560.70 through 560.797, Stats., the Department of Commerce is responsible for administering Wisconsin Development Zone Program. These rules are being adopted to incorporate in the administrative code the recent amendments contained in 1997 Wisconsin Act 27 that entirely changed the eligibility 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.

Long-Range Fiscal Implications

None

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

Authorized Signature/Telephone No.



Date

2/18/99

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 112

Amendment No.

Subject
Wisconsin Development Zone Program

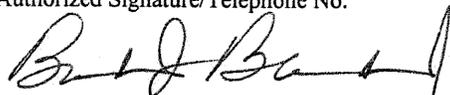
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category	\$	\$ -
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	\$	\$ -
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.)	\$	\$ -
GPR Taxes		
GPR Earned		-
FED		-
PRO/PRS	\$0	-
SEG/SEG-S		-
TOTAL State Revenues	\$0	\$ -

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$
NET CHANGE IN REVENUES	\$ 0	\$

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

Authorized Signature/Telephone No.


Date
2/18/99