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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 07-063

#### 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 January 2005.]**

#### 1. Statutory Authority

a. The criteria listed in ss. Comm 133.30 and 133.70 (1) (a) 5. to 7. are not criteria that are included in the statutes governing the film production tax credits. Although the Department of Commerce has the authority to implement a program to accredit film productions for purposes of the tax credits, it is not clear that the department has the authority to impose additional criteria for eligibility that may limit the number of persons who are eligible for the credit.

If these criteria are included in the final rule, they should be more specific so that a claimant is able to demonstrate that its film production meets the criteria. How will the department determine that a production would enhance economic development or enhance the potential for increasing the film, video, or electronic game industry in Wisconsin? In addition, how will the department determine that a production does not conflict with a desired brand image in Wisconsin?

b. Section Comm 133.34 (2) provides that a production will become accredited upon the issuance of a written approval from the department reflecting that the submitted application complies with the rule and “any other factors which the department deems relevant.” Any other factor that the department uses to make a determination and that meets the definition of the term “rule” in s. 227.01 (13), Stats., must be promulgated as an administrative rule.

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

a. In s. Comm 133.36 (1) (d), because s. Comm 133.20 (1) simply cross-references the statutory definitions, it would be better to cite the statute defining “accredited production” rather than s. Comm 133.20 (1). This comment also applies to the reference to the definition of “production expenditures” in sub. (2) (a).

b. In s. Comm 133.70 (4), the notation “s.” should be replaced by the notation “ss.”

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

a. In the note to s. Comm 133.20 (1) relating to the definition of “production expenditures,” it may be clearer to state that salary and wages are treated separately from production expenses.

b. In s. Comm 133.30 (1), “that are enabled” is awkward and could be replaced by the word “provided.”

c. Section Comm s. 133.90 (3) is somewhat unclear. It appears it would be better to state, “No person may file for the tax benefits under this chapter without the written approval under s. Comm 133.34 (2).” If the drafter wishes to include the definition of “person,” the specific cross-reference to that definition should be included instead of “as defined in subch. II.” Also, if this is a requirement for any claimant for a tax credit under ch. Comm 133, should sub. (3) be renumbered to be included in sub. (2)?