

Clearinghouse Rule 10-008

**PROPOSED ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to amend Comm 132.10 (intro.) and (2); 132.30 (1) (a), (2) and Note and (4); 132.40 (2); 132.50 and 132.60 (1);

and to repeal and recreate Comm 132.60 (2) relating to dairy manufacturing facility investment credits for dairy cooperatives, and affecting small businesses.

Analysis of Proposed Rules

1. Statutes Interpreted.

Sections 71.07 (3p), 71.28 (3p) and 71.47 (3p), as amended by 2009 Wisconsin Act 2.

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.207 (4).

3. Explanation of Agency Authority.

Section 560.207 (4) of the Statutes requires the Department to promulgate rules for administering a program to certify applicants and allocate tax credits for the dairy manufacturing investments addressed in sections 71.07 (3p), 71.28 (3p) and 71.47 (3p) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

4. Related Statute or Rule.

The Department has rules for several other programs associated with tax credits, but those programs are not targeted specifically to investments by dairy cooperatives in dairy manufacturing facilities.

5. Summary of Rule.

The proposed rules in this order would expand chapter Comm 132 to enable members of dairy cooperatives to claim tax credits for the cooperatives' investments in dairy manufacturing facilities, as authorized by 2009 Wisconsin Act 2.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

Neither the Department nor the Department of Revenue is aware of any existing or proposed federal regulations that address these tax credits.

7. Comparison With Rules in Adjacent States.

Michigan

Michigan provides tax abatement to agricultural processing facilities that qualify for the Agricultural Processing Renaissance Zones (APRZ) program. There are no administrative rules for the program, but guidelines are available through the Michigan Economic Development Corporation's Web site at <http://www.themedc.org>.

Minnesota

Minnesota offers various tax credit programs, but none that are similar to the dairy manufacturing facility investment credit in Wisconsin.

Iowa

In Iowa, the High Quality Job Creation Program offers tax credits, exemptions and refunds to qualifying businesses to offset the cost incurred to locate, expand, or modernize an Iowa facility. Qualifying businesses must meet several eligibility requirements, including producing value-added goods or being in one of 11 targeted industries. Administrative rules for this program are available in the Iowa Administrative Code, 261-Chapter 68. Further information is available through the Iowa Department of Economic Development Web site at www.iowalifechanging.com.

Illinois

Illinois offers various tax credit programs, but none that are similar to the dairy manufacturing facility investment credit in Wisconsin.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these proposed rules were derived from and consisted of (1) incorporating the applicable criteria from 2009 Wisconsin Act 2, (2) incorporating applicable best practices the Department has developed in administering the current tax credit program for dairy manufacturing facility investments, (3) soliciting and utilizing input from the Department of Revenue, and (4) reviewing Internet-based sources of related federal and state information.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary document that was used to determine the effect of the proposed rules on small businesses was 2009 Wisconsin Act 2. The proposed rules apply their private-sector requirements only to dairy cooperatives that choose to pursue tax credits for investing in dairy manufacturing facilities.

10. Effect on Small Business.

The proposed rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by dairy cooperatives that choose to pursue tax credits for dairy manufacturing modernization or expansion activities.

11. Agency Contact Person.

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12. Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to srockweiler@commerce.state.wi.us, no later than March 5, 2010. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

File reference: Comm 132-Dairy09/rules, analysis PH
