

# **PROPOSED ORDER OF THE DEPARTMENT OF COMMERCE**

## **CREATING RULES**

The Wisconsin Department of Commerce proposes an order to repeal Comm 132.20 (6);

to renumber Comm 132.20 (1) to (5);

to amend Comm 132.10; 132.30 (1), (2) and Note and (4); 132.40 (title), (1), (2) and Note; 132.50 and 132.60 (1);

to repeal and recreate Comm 132.60 (2);

and to create Comm 132.20 (1) relating to dairy manufacturing facility investment credits for dairy cooperatives, and affecting small businesses.

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### **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 taxpayers 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 primarily 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. The rule changes would also

delete a reference to including a Department of Revenue tax schedule when applying for the certification and allocation; and would change the annual deadline for applying, from March 31<sup>st</sup> to February 15<sup>th</sup>.

## **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](http://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.**

Steven Sabatke, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 267-0762; e-mail [Steven.Sabatke@Wisconsin.gov](mailto:Steven.Sabatke@Wisconsin.gov).

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