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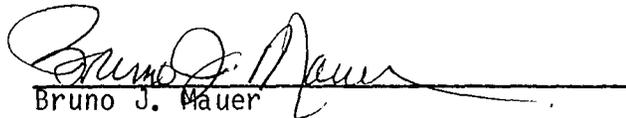
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STATE OF WISCONSIN        )  
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DEPARTMENT OF DEVELOPMENT)

I, Bruno J. Mauer, Secretary of the Department of Development and custodian of the official records, certify that the annexed rules, relating to the administration of the Wisconsin Development Zone Program were duly approved and adopted by this Department on January 10, 1989.

I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary of the Department of Development at 123 West Washington Avenue in the City of Madison, this 10th day of January, 1989.

  
Bruno J. Mauer

BJM:saj  
1017e

3-1-89

ORDER OF THE DEPARTMENT OF DEVELOPMENT CREATING CHAPTER DOD 12  
WISCONSIN ADMINISTRATIVE CODE

Relating to the implementation of the Wisconsin Development Zone Program.

An analysis has been prepared by the Department of Development.

The Department of Development proposes to create rules under Chapter DOD 12, Wisconsin Administrative Code, which implement the Wisconsin Development Zone Program. 1987 Wisconsin Act 328 created the program which is provided for under Subchapter V of Chapter 560, Stats. Sections 560.745 (1) (b) and (2) (a), 560.765 (3) (a) 10, and 560.768 (1) (b) 2, Stats., require the Department of Development to adopt administrative rules providing for the administration of the Wisconsin Development Zone Program. Chapter DOD 12, Wisconsin Administrative Code, provides for the administration of the program.

Chapter DOD 12, Wisconsin Administrative Code, defines key terms for the Wisconsin Development Zone Program (the Program); specifies who is eligible to apply to the Program; specifies the boundary and size requirements for development zones; outlines the application content and procedure for the program; describes the development zone plan and the development zone designation process, including evaluative criteria (a point system) by which applications to the Program will be judged; describes the procedure for making modifications in designated zones; specifies development zone duration, renewal, and expiration; outlines the duties of applicants and advisory boards; describes the procedure for allocating development zones tax benefits among development zones; specifies the procedure for the certification of persons for tax benefits; establishes limits on development zones tax benefits for certified persons; makes provisions for the revocation of certification to receive development zones tax benefits; and describes the procedure certified persons must use to receive development zones tax benefits.

Pursuant to the authority vested in the Department of Development by s. 560.02 (4), 560.745 (1) (b) and (2) (a), 560.765 (3) (a) 10, and 560.768 (1) (b) 2, Stats., the Department of Development hereby proposes to create Chapter DOD 12, Wisconsin Administrative Code, interpreting Subchapter V of Chapter 560, Stats., as follows:

CHAPTER DOD 12  
WISCONSIN ADMINISTRATIVE CODE

Chapter DOD 12 is created to read:

DOD 12.01 PURPOSE. The purpose of this chapter is to establish a procedure for the administration of the Wisconsin development zone program.

DOD 12.02 DEFINITIONS. In this chapter:

- (1) "Applicant" means an eligible applicant under s. DOD 12.03.
- (2) "Business incubator" means a person who operates a facility designed to encourage the growth of new businesses, if at least two of the following apply:
  - (a) Space in the facility is rented at a rate lower than the market rate in the community.
  - (b) Shared business services are provided in the facility.
  - (c) Management and technical assistance are available at the facility.
  - (d) Businesses using the facility may obtain financial capital through a direct relationship with at least one financial institution.
- (3) "Department" means the department of development.
- (4) "Development zone program" means the program administered under this chapter.
- (5) "Indian reservation" has the meaning given in s. 139.30 (9), stats.
- (6) "Local governing body" means the governing body of one or more cities, villages, or towns or the elected governing body of a federally recognized American Indian tribe or band in Wisconsin.
- (7) "Metropolitan statistical area" means a federal standard metropolitan statistical area, but does not include areas located within Indian reservations.

(8) "Person" means a natural person, estate, trust, partnership, corporation, tax-option corporation, insurance company, nonprofit organization, and trade and business entity of Native Americans or tribes on reservation property or on property held in tribal trust.

(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), 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), stats.

DOD 12.03 ELIGIBLE APPLICANTS. (1) Any local governing body is an eligible applicant, and may nominate an area for designation as a development zone, if the local governing body does all of the following:

(a) Holds at least one public hearing on the issue of designating the area as development zone. In a first-class city, at least one public hearing must be held in each separate area nominated for designation as a development zone. A class two notice is required for each public hearing.

(b) Adopts a resolution or ordinance authorizing it to nominate the area under this chapter and to develop a development zone plan under s. DOD 12.06.

(2) Two or more local governing bodies may submit a joint application nominating a single area as a development zone, subject to s. DOD 12.05 (2).

(3) The governing body of a county may submit an application jointly with a local governing body of a city, village, town, or Indian reservation located in the county. The county shall comply with sub. (1).

(4) The elected governing body of a federally recognized American Indian tribe is an eligible applicant, and may nominate an area located within the boundaries of its Indian reservation for designation as a development zone, subject to sub. (1) (a) and (b).

DOD 12.04 BOUNDARIES AND SIZE OF DEVELOPMENT ZONES. (1) An area that is located within a metropolitan statistical area may not be nominated or designated as a development zone unless all of the following apply:

(a) The area contains less than 5 percent of the valuation of the property of the city, village, or town, as determined under s. 70.57, stats., in which the area is located.

(b) If the area is located within a first class city, the population of the area is not less than 4,000 and not more than 5 percent of the city's population, as estimated under s. 16.96, stats.

(c) If the area is located within a village, town, or city other than a first class city, the population of the area is not less than 4,000, as estimated under s. 16.96, stats.

(2) If the area is located within the boundaries of two or more cities, villages, or towns, the property value of the cities, villages, or towns under sub. (1) (a) shall be combined for the purposes of sub. (1).

(3) Except as provided in sub. (4), an area that is not part of a metropolitan statistical area may not be nominated or designated as a development zone unless the population of the area, as estimated under s. 16.96, stats., is at least 1,000 and not more than 5,000.

(4) An area that is located within the boundaries of an Indian reservation may not be nominated or designated as a development zone unless the population of the area, as estimated under s. 16.96, stats., is less than or equals 5,000.

(5) (a) Except as provided in sub. (6), an area may not be nominated or designated as a development zone unless all of the following apply:

1. The area has a continuous border following natural or man-made boundaries such as streets, highways, rivers, municipal limits, or the limits of an Indian reservation.

2. The area consists of contiguous blocks, census blocks, or similar units.

(b) Lands within an Indian reservation will be considered contiguous under this chapter.

(6) (a) Except in a first class city, 2 separate areas may be nominated or designated as one development zone if all of the following apply:

1. Each of the areas has a continuous border following natural or man-made boundaries and consists of contiguous blocks, census blocks, or similar units.

2. Each area meets at least two of the criteria listed in s. DOD 12.05 (2) (c).

3. Considered together, the areas meet the requirements of subs. (1) and (3).

(b) In a first class city, not more than 4 separate areas may be nominated or designated as one development zone if par. (a) 1 to 3 applies.

(7) (a) An applicant may request a waiver of the valuation and population requirements of this section. An applicant requesting a waiver shall do all of the following:

1. Describe the type of waiver being requested.
2. Describe the reasons for requesting the waiver.
3. Provide information supporting the waiver request.
4. Describe the efforts made to identify areas which specifically meet the requirements of this section and the efforts to select an area which most closely conforms to the requirements of this section.

(b) The department may waive the valuation and population requirements of this section after the review of the waiver request under par. (a) and other information the department believes to be relevant, if the department determines that application of the requirements are impractical with respect to a particular development zone as follows:

1. An applicant is unable to identify an area that would meet the requirements of both sub. (1) (a) and (c).

2. An applicant is unable to meet the population requirements under sub. (3).

3. An applicant is unable to identify an area that would meet the valuation and population requirements under this section and the requirements in sub. (5), sub. (6), or both.

DOD 12.05 APPLICATION CONTENT AND PROCEDURE. (1) An applicant may nominate an area as a development zone by submitting an application to the department that includes all of the following:

- (a) A copy of the ordinance or resolution authorizing the applicant to nominate the area as a development zone under s. DOD 12.03 (1) (b).

- (b) Transcripts of the public hearing under s. DOD 12.03 (1) (a). A recording, a list of speakers, and a written summary will be accepted by the department in lieu of a formal transcript.

(c) Evidence that the area meets at least two of the criteria under sub. (2) (c), including data on the requirements the area does not meet.

(d) Evidence that the area meets the applicable requirements under s. DOD 12.04, including as precise an estimate of the population in the development zone as possible.

(e) A description of the land use patterns in the area, including:

1. A detailed map of the area.

2. Information about vacant buildings or land available for development.

(f) A description of past and present economic development activities in the area under local, state, or federal programs.

(g) A description of the local governing body's goals for the economic development of the area.

(h) An assessment of the effect of making the area a development zone on the jobs available to the target population. The assessment should include a discussion of how and why designation as a development zone increases development and job creation potential in the area.

(i) Any other information required by the department.

(j) Any other information the applicant considers relevant.

(2) An area may be considered as a development zone if all of the following apply:

(a) An applicant nominates the area under sub. (1).

(b) The area meets the applicable requirements under s. DOD 12.04.

(c) The area fulfills 2 of the following requirements:

1. The unemployment rate in the area is at least 150 percent of the state average for the 18 months immediately preceding the application.

2. At least 40 percent of the people residing in the area are members of households that have household income levels at or below 80 percent of the statewide median household income.

3. The assessed value of real property in the area in the most recent assessment is less than the assessed value of that property in the assessment two years before the most recent assessment.

4. The area is in a location that qualifies for federal urban development action grants.

5. The percentage of households receiving aid to families with dependent children under s. 49.19, stats., in the area is at least 150 percent of the percentage of households receiving aid to families with dependent children in the state.

6. In the 18 months immediately preceding the application, at least 5 percent of the members of the workforce in the city, village, or town governed by the governing body submitting the application were permanently laid off by their employer.

(3) The department may permit an applicant to revise an application that the department determines is inadequate or incomplete. Upon notification from the department, the applicant shall submit a revised application within 15 calendar days.

(4) Subject to s. DOD 12.04 (5), the department may reduce the size of an area nominated as a development zone if the department determines the boundaries as proposed by the applicant are inconsistent with the purpose of the development zone program. Any nominated area which is reduced under this subsection need not comply with s. DOD 12.04 (1), (3), and (4).

(5) The applications for development zone designation that meet the requirements under sub. (2) shall be forwarded to the joint committee on finance. The department may designate the proposed boundary if, within 14 calendar days after the notification, the joint committee on finance does not schedule a meeting for the purpose of reviewing the proposed boundary. Any meeting under this section shall be scheduled by the joint committee on finance within 30 calendar days after receiving the initial notification from the department. If the joint committee on finance schedules a meeting for the purpose of reviewing the boundary of the area, the department may not approve the boundary without the approval of the joint committee on finance.

(6) Upon the completion of the review of an application by the department and of the proposed boundary by the joint committee on finance, and upon the determination by the department that the requirements of subchapter v of chapter 560, stats., and the applicable requirements of this chapter have been met, the department shall notify the applicant and shall request the applicant to submit a development zone plan under s. DOD 12.06.

DOD 12.06 DEVELOPMENT ZONE PLAN AND DESIGNATION. (1) Applicants receiving notice from the department under s. DOD 12.05 (6) shall submit the development zone plan to the department within 90 calendar days of the receipt of the notice. Failure by the applicant to submit the development zone plan to the department within 90 calendar days will result in the areas's removal from consideration for designation as a development zone.

(2) The development zone plan shall include information on all of the following:

(a) Information, including the requirements under s. DOD 12.05 (2) (c), that identify economic conditions for the area within the proposed development zone and for the municipality or Indian reservation as a whole.

(b) The economic development strategy within the development zone, including descriptions of all of the following:

1. The economic strengths and weaknesses of the area, including how the applicant will work to eliminate the weaknesses of the area.

2. A description of the applicant's plans to do all of the following:

a. Improve services in the area.

b. Eliminate obstacles to economic development.

c. Expedite regulatory proceedings and the procedure for issuing permits or licenses.

d. Provide technical assistance to businesses.

e. Improve the level of cooperation between the private sector and local or tribal government.

3. A description of specific and realistic goals for the area.

4. A description of the activities which the applicant has or will undertake to support economic development in the area.

5. A description of the resources which will be committed to support economic development activities in the area.

6. A plan for the use of existing economic development programs, including information on all of the following:

a. Other economic development programs, involving both the public and private sectors, and their potential to assist development and employment in the development zone.

b. The commitments obtained by the applicant from the economic development programs identified in subpar. a.

c. How the applicant intends to coordinate the utilization of the economic development programs identified in subpar. a and other resources.

7. The applicant's marketing and business recruitment plan, including information on all of the following:

a. A description of how the plan was developed and why it is appropriate.

b. The resources, both human and financial, committed to implement the plan.

c. The efforts to be taken to assure that pirating of existing jobs and businesses from other areas of the state will not occur.

8. The extent to which the development zone plan under this section has been incorporated into the applicant's strategic economic development plan for the municipality or Indian reservation as a whole.

9. A description of current land use patterns and the effect of anticipated economic development on land use patterns in the area.

10. A description of how the local governing body intends to assess the effectiveness of its development zone plan submitted under this section.

(c) The expanded employment opportunities for the target population, including information on all of the following:

1. An evaluation of the job skills of the target population.

2. The extent to which the applicant will undertake activities to attract jobs which persons from the target population can fill.

3. The extent to which the applicant will assist the target population in identifying, preparing for, and applying for the jobs created in the proposed development zone.

4. The efforts which will be undertaken to notify the target population of employment opportunities.

5. The efforts which will be made to assist businesses in identifying and hiring the target population.

(d) A plan for coordinating with other publicly funded employment and training and wage subsidy programs, including information on all of the following:

1. a. Whether a grant diversion project under s. 49.50 (7g), stats., has been established in the county in which the area is located; and if a grant diversion project has not been established, how the applicant intends to work with the county and the department of health and social services to establish a grant diversion project.

b. How the applicant will work with the county and the department of health and social services to promote and encourage participation in the grant diversion project by employers in the development zone.

2. How the applicant will utilize and coordinate with other employment and training and wage subsidy programs available in the county, such as the wisjobs program under s. 101.35, stats., the job training partnership act programs under 29 USC 1502, the job service public labor exchange function under s. 101.23, stats., the federal targeted jobs tax credit under section 51 of the internal revenue code, and the pilot job center site program under section 3030 of 1987 Wisconsin Act 27.

(e) The organizational capacity of the applicant, including information on all of the following:

1. A description of the applicant's ability to administer the local development zone program, including a plan of operation.

2. The commitment of the applicant to establish an advisory board and to provide staff resources to the advisory board.

3. The applicant's commitment of staff and financial resources needed to administer the program.

4. The applicant's past program management experience.

(f) The additional local criteria for the certification of persons as provided for under s. DOD 12.09 (2), including all of the following:

1. A description of the additional local criteria.
2. An explanation of why the additional local criteria was established.
3. A discussion of the potential impact of the additional local criteria on development in the development zone.

(g) Other significant economic impacts, including information on all of the following:

1. The extent to which the applicant can demonstrate that the development zone plan is likely to generate new economic activity after the development zone designation has expired.
2. The extent to which the applicant can demonstrate that the development zone plan will have a significant local, regional, or statewide economic impact.

(h) Other information that the applicant considers relevant and wants to present to the department.

(3) If two or more local governing bodies submit a joint application under s. DOD 12.03 (2), the local governing bodies shall submit a joint development zone plan under this section.

(4) (a) The department shall evaluate the development zone plan based on the information provided under sub. (2) (a) to (h). The development zone plan shall be evaluated on a 200 point scale. Points shall be awarded as follows:

1. Up to 60 points shall be awarded based on the degree of distress in the proposed development zone and in the municipality or Indian reservation as a whole.

2. Up to 60 points shall be awarded based on the economic development strategy described in the development zone plan.

3. Up to 35 points shall be awarded based on the expanded employment opportunities for the target population as described in the development zone plan.

4. Up to 15 points shall be awarded based on the plans for coordinating with other publicly funded employment and training and wage subsidy programs.

5. Up to 15 points shall be awarded based on the organizational capability of the applicant.

6. Up to 15 points shall be awarded based on other significant economic impacts.

(b) Subject to sub. (5), the department shall approve the development zone plans receiving the highest scores on the 200 point scale under par. (a), shall designate the area nominated by the applicant as a development zone, and shall notify the applicant.

(c) The department shall provide each applicant receiving notice under s. DOD 12.05 (6) with a detailed description of the point scale used to evaluate proposals under par. (a).

(5) The department shall designate eight development zones. The zones shall be designated as follows:

(a) One development zone shall be entirely within a first class city.

(b) One development zone shall be located on an Indian reservation.

(c) The remaining six zones shall be divided as evenly as possible between metropolitan statistical areas and areas that are not metropolitan statistical areas, and shall be distributed as evenly as possible throughout the state.

(d) No municipality shall have more than one development zone designated within its jurisdiction.

DOD 12.07 MODIFICATIONS IN DESIGNATED ZONES. (1) At any time after a development zone is designated by the department under s. 12.06 (4) (b), an applicant may submit an application to change the boundaries of the development zone. The applicant shall submit a revised development zone plan, described in s. DOD 12.06, with its application for a boundary change. If the boundary change reduces the size of a development zone, the applicant shall explain why the area excluded should no longer be in the development zone. The department may require the applicant to submit additional information.

(2) (a) Prior to submitting an application under sub. (1), the applicant shall hold a public hearing on the proposed boundary modification if any of the following apply:

1. The boundary modification would result in an increase or a decrease of 10 percent or more in the size of the population of the zone.

2. The boundary modification would result in an increase or a decrease of 10 percent or more in the physical size of the zone.

(b) A class two notice is required for the public hearing under par. (a).

(3) The department may approve an application for a boundary change if the development zone, as affected by the boundary changes, meets the applicable requirements of s. DOD 12.04 and 2 of the criteria under s. DOD 12.05 (2) (c).

(4) If the department approves an application for a boundary change under sub. (3), it shall do all of the following:

(a) Redetermine the limit on the tax benefits for the development zone established under s. DOD 12.10 (1).

(b) Notify the applicant which submitted the application of the change in the boundary or tax benefits limit of the development zone.

(5) The change in the boundaries or the tax benefit limit of a development zone shall be effective on the day the department notifies the applicant under sub. (4).

(6) No change in the boundaries of a development zone may affect the duration of an area as a development zone under s. DOD 12.08 (1) (a). The department may consider a change in the boundary of a development zone when evaluating an application for an extension of a designation of an area as a development zone under s. DOD 12.08 (1) (b).

DOD 12.08 ZONE DURATION, RENEWAL, AND EXPIRATION. (1) (a) The designation of an area as a development zone shall be effective for 84 months, beginning on the day the department notifies the applicant under s. DOD 12.06 (4) (b) of the designation.

(b) The applicant may apply to the department for up to 3 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 two of the criteria under s. DOD 12.05 (2) (c).

(c) After evaluating an application submitted under par. (b), the department may approve up to 3 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 development zone. Notwithstanding sub. (1), the designation of an area as a development zone shall expire after December 31 of the calendar year which includes the day on which the department determines that the foregone tax revenues will equal or exceed the limit for the development zone established under s. DOD 12.10 (1). The department shall immediately notify the applicant of a change in the expiration date of the development zone under this subsection.

(3) The department may remove a zone designation under s. DOD 12.10 (4).

DOD 12.09 DUTIES OF APPLICANTS AND ADVISORY BOARDS. (1) If an area is designated as a development zone under s. DOD 12.06 (4) (b), the applicant shall do all of the following:

(a) Appoint a five-member advisory board described in sub. (4).

(b) Promote economic development within the development zone.

(c) Assist the department in the administration of the development zone program.

(d) Carry out the activities as stated in the development zone plan under s. DOD 12.06.

(e) Recommend to the department the amount of tax benefits that a person should be allocated and the basis for the allocation, and indicate whether the proposed economic activity is consistent with the development zone plan.

(2) Subject to the approval of the department, the applicant may establish local criteria for the certification of persons in addition to the criteria specified under s. DOD 12.11.

(3) The applicant may provide staff for the advisory board described in sub. (4), or may appoint a private nonprofit organization with expertise in economic development to provide staff for the advisory board.

(4) (a) An advisory board appointed under sub. (1) (a) shall assist and advise the applicant with respect to all of the following:

1. The implementation of the development zone plan prepared under s. DOD 12.06.

2. The applicant's duties under sub. (1) (b) and (c).

3. The establishment of local criteria for the certification of persons for tax benefits under sub. (2), to be used in addition to the criteria specified under s. DOD 12.11.

(b) 1. Subject to subds. 2 and 3, members of the advisory board shall serve 5-year terms. At least one member of the advisory board shall live in the development zone.

2. Of the initial members of the advisory board:

a. Two will be appointed for one-year terms.

b. Two will be appointed for 2-year terms.

c. One will be appointed for a 3-year term.

3. The terms of all members of the advisory board shall end when the designation of an area as a development zone expires under s. DOD 12.08.

(5) The local governing body of any municipality or Indian reservation where a development zone is designated under s. DOD 12.06 (4) (b) shall sign an agreement with the department providing that the applicant will meet all of its responsibilities under this chapter, and that the applicant will assist the department in the administration of the development zone program.

DOD 12.10 ALLOCATION OF TAX BENEFITS AMONG ZONES. (1) The department shall allocate tax benefits among development zones as follows:

(a) The department shall hold 10 percent of the total tax benefits specified under s. 560.745 (2) (a), stats., in reserve to be allocated under par. (f).

(b) From the tax benefits not held in reserve under par. (a), the department shall allocate tax benefits among development zones based on the population within each zone.

(c) Should the allocation to any zone be less than the minimum initial zone allocation under par. (e), the department shall allocate the minimum initial zone allocation to the zone.

(d) The department shall allocate tax benefits among the development zones not covered under par. (c) based on the population within each zone as estimated under 16.96, stats.

(e) 1. The initial zone allocation to an area located in a municipality or Indian reservation with a population less than 25,000 shall not be less than \$750,000.

2. The initial zone allocation to an area located in a municipality or Indian reservation with a population of 25,000 to 45,000 shall not be less than \$1,250,000.

3. Except as provided in subd. 4., the initial zone allocation to an area located in a municipality or Indian reservation with a population of more than 45,000 shall not be less than \$1,500,000.

4. The initial zone allocation to an area located in a first class city shall not be less than \$4,000,000.

(f) The department shall allocate tax benefits from the reserve account under par. (a) based on all of the following:

1. The extent to which the applicant has complied with the provisions of the development zone plan under s. DOD 12.06.

2. The extent to which the tax benefits allocated to the development zone have been exhausted.

3. The likelihood that the additional tax benefits will be utilized prior to the expiration date of the zone under s. DOD 12.08.

(g) In the event an area is designated as a development zone prior to the determination of the initial allocation to all eight development zones, the area will be allocated the minimum initial development zone allocation under par. (e). The allocation to an area covered under this paragraph may be adjusted by the department when the initial allocation to all eight development zones is determined.

(2) (a) Except as provided in par. (b), each development zone shall, at all times, use at least 50 percent of the tax benefits in the development zone for development zone job credits. This restriction shall only apply to the allocation of tax benefits to certified persons under s. DOD 12.12.

(b) A development zone located in a first class city shall, at all times, use at least 65 percent of the tax benefits in the development zone for development zone job credits. This restriction shall only apply to the allocation of tax benefits to certified persons under s. DOD 12.12.

(3) The department may reduce the amount of the tax benefits allocated to a development zone if any of the following conditions occur:

(a) No persons are certified under s. DOD 12.11 within 12 months beginning from the date the zone was designated under s. DOD 12.06 (4) (b).

(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 under s. DOD 12.06.

(d) A determination by the department that inaccurate information was provided in the development zone application under s. DOD 12.05, or under the development zone plan under s. DOD 12.06, which would have affected the decision to designate the area as a development zone.

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

(a) No persons are certified under s. DOD 12.11 within 12 months beginning from the date the zone was designated under s. DOD 12.06 (4) (b), and the applicant is not carrying out the activities specified in the development zone plan under s. DOD 12.06.

(b) No persons are certified under s. DOD 12.11 within 24 months beginning from the date the zone was designated under s. DOD 12.06 (4) (b).

(5) Upon receiving notice from the department of a reduction in the allocation to the development zone under sub. (3), or the removal of development zone designation under sub. (4), an applicant may appeal to the department secretary within 60 days.

(6) Tax benefits allocated to a development zone that are reduced under sub. (3) or removed under sub. (4) shall be placed into the reserve under sub. (1) (a).

DOD 12.11 CERTIFICATION OF PERSONS FOR TAX BENEFITS. (1) The department shall be responsible for certifying the eligibility of persons for development zone tax benefits. To be certified as eligible to receive tax benefits, a person shall submit to the department, in a manner prescribed by the department, information demonstrating all of the following:

(a) The person is engaging in economic activity within the development zone.

(b) The short and long-term viability of the economic activity, including the likelihood that the person will conduct economic activity in the area following expiration of the designation of the area as a development zone.

(c) The proposed business activity is consistent with the development zone plan under s. DOD 12.06. The local governing body must concur that the proposed business activity is consistent with the development zone plan.

(d) The person is creating, retaining, or upgrading jobs within the development zone, or is making investments and other expenditures in the development zone, or both. The person must provide information to the department showing the number of jobs to be created, retained, or upgraded, and the amount and type of investments and other expenditures which will be made within the development zone, especially the investments and other expenditures which may qualify for tax benefits, and any additional information the department needs to estimate the amount of tax benefits for which the person may be eligible.

(e) The person shall submit a plan outlining steps to hire members of the target population, and shall specify the number of target group members the person plans to hire.

(f) The proposed economic activity is consistent with any local guidelines and criteria established under s. DOD 12.09 (2).

(g) The likelihood that the person's economic activity will attract other forms of economic activity to the development zone.

(h) The effects of the person's proposed investment on the economic and social well-being of the target population.

(i) The person shall certify that jobs will not be relocated from any other location in Wisconsin to a location within the development zone. The person may seek a waiver from the department by providing, at a hearing conducted by the department, information showing any of the following:

1. That an extraordinary situation exists.
2. The failure to relocate the jobs to a location within the development zone would result in the jobs being terminated in Wisconsin.

(j) The person shall accept a combination of tax benefits that will enable the zone to comply with the requirement under s. DOD 12.10 (2) that 50 percent of all tax benefits in the zone, or 65 percent in a 1st class city, will be development zone jobs credits.

(2) Persons operating business incubators and tenants in the incubator shall be eligible to claim tax benefits if all of the following apply to the business incubator:

(a) At least 50 percent of the small businesses housed in the small business incubator have received or participated in any of the following:

1. Federal targeted jobs tax credits under section 51 of the internal revenue code.
2. A job training partnership program under 29 USC 1502.
3. Any other program established to increase employment opportunities of disadvantaged individuals.

(b) The business incubator has housed businesses described in par. (a) for at least six months before the designation of the development zone under s. DOD 12.06 (4) (b).

(c) The business incubator's facility is located in, or within five miles of, the development zone.

(3) Priority consideration for certification shall be given to those persons based on the following factors:

(a) The number of target population members the person plans to employ.

(b) The job skill development activities the person plans to provide for target population members hired by the person.

(c) The transferrability of skills target population members would acquire by working for the person to other businesses in the municipality.

(d) The wages and fringe benefits the target population members hired by the person would receive.

(e) The extent to which the jobs for which target population members would be hired are in emerging occupations.

(4) The department shall provide each certified person and the department of revenue with a copy of the certification. The certification shall include all of the following:

(a) The name and address of the person's business.

(b) The appropriate Wisconsin tax identification number of the person.

(c) The names and addresses of other locations outside of the development zone where the person conducts business and a description of the business activities conducted at those locations.

(d) The estimated total investment of the person in the development zone.

(e) The estimated number of jobs that will be created, retained, or significantly upgraded in the development zone because of the person's business.

(f) An estimate of the number or percentage of jobs described in par. (e) that are or will likely be held by members of the target population.

(g) The limit under s. DOD 12.12 on tax benefits the person may claim while an area is designated as a development zone.

(h) Other information required by the department or by the department of revenue.

DOD 12.12 LIMITS OF TAX BENEFITS TO CERTIFIED PERSONS. (1) The department shall establish a limit on the maximum amount of tax benefits a person certified under s. DOD 12.11 may claim while an area is designated as a development zone after considering all of the following:

(a) The balance of credits available in the development zone.

(b) The amount of development zones job credits under ss. 71.07 (2dj), 71.28 (1dj), or 71.47 (1dj), stats., that the certified person could obtain based on the types of jobs available, wage levels, recruitment commitments, and any other job credits or wage subsidies from federal and state government.

(c) The impact of the tax benefits of the certified person on the requirement under s. DOD 12.10 (2) that 50 percent of all tax benefits in the zone, or 65 percent in a first class city, shall be development zones job credits.

(d) The information provided by the person under s. DOD 12.11 (1).

(2) A person may not be certified to receive an amount of development zones jobs credits under ss. 71.07 (2dj), 71.28 (1dj), or 71.47 (1dj), stats., that, when combined with other public wage and income subsidies, equals more than 60 percent of all qualified employee's wages paid by the person in any year.

(3) Persons operating business incubators that are certified under s. DOD 12.11 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. DOD 12.11 shall only be

eligible to receive tax benefits for eligible expenses incurred by those persons.

(4) (a) The department may reduce the maximum amount of tax benefits a certified person may receive under sub. (1) if any of the following apply:

1. The person fails to hire the number of target group members as proposed by the person under s. DOD 12.11 (1) (e), and the person is unable to demonstrate that the proposed number of target group members will be hired while the development zone designation under s. DOD 12.08 (1) is in effect.

2. The person fails to make investments and other expenditures equal to or exceeding the amount proposed by the person under s. DOD 12.11 (1) (d), and the person is unable to demonstrate that the proposed investments and other expenditures will be made while the development zone designation under s. DOD 12.08 (1) is in effect.

3. The person does not comply with the plan for hiring members of the target population as proposed under s. DOD 12.11 (1) (e).

4. The person is found to have submitted inaccurate, false, or misleading information under s. DOD 12.11 (1) 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 development zone of which the business was a part, subject to s. DOD 12.10 (3).

(5) The department may, upon the request of a certified person and upon the recommendation of the local governing body, increase the limit on tax benefits established for the certified person under sub. (1), if the department does all of the following:

(a) Complies with sub. (1) with respect to the proposed increase.

(b) Revises the certification under s. DOD 12.11 and provides a copy of the revised form to the department of revenue and to the person whose limit is increased under this subsection.

DOD 12.13 REVOCATION OF CERTIFICATION. (1) The department shall revoke the certification of a person certified under s. DOD 12.11 if the person does any of the following:

(a) Supplies false or misleading information to obtain certification.

(b) Becomes subject to revocation under s. 560.78 (1), stats.

(c) Leaves the development zone to conduct substantially the same business outside of the development zone.

(d) Ceases operations in the development zone and does not renew operation of the trade or business or a similar trade or business in the development zone within 12 months.

(2) The department shall notify the department of revenue within 30 days of revoking a certification under sub. (1).

(3) The remaining tax benefits allocated to a business that loses its certification for tax benefits under this section shall remain with the development zone of which the business was a part, subject to s. DOD 12.10 (3).

DOD 12.14 TAX BENEFIT CLAIMS. (1) A person certified under s. DOD 12.11 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 under s. DOD 12.11.

(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), (12d1), and (2ds); 71.28 (1di), (1dj), (1d1), (1ds), and (4) (a); and 71.47 (1di), (1dj), (1d1), (1ds), and (3) (a), 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 ss. 71.28 (4) (a) or 71.47 (3) (a), stats., the research expenses of the certified person for the previous three tax years in addition to the tax year for which the claim is being filed.

(d) 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 under s. DOD 12.11 of the designated local agency under s. 71.09 (12dj) (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 unless the employee 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 30 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 under s. DOD 12.11.

This rule shall take effect on March 1, 1989, as provided in s. 227.22 (2) (intro.), Stats.

Dated: January 10, 1989

Agency: Department of Development

  
Bruno J. Mader, Secretary

LP:skh  
2692c



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

Tommy G. Thompson, Governor  
Bruno J. Mauer, Secretary

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JAN 10 1989

Revisor of Statutes  
Bureau

January 10, 1989

Mr. Orlan L. Prestegard  
Revisor of Statutes  
30 West Mifflin Street  
Madison, WI 53702

Dear Mr. Prestegard:

Enclosed you will find a copy of the Department of Development's certified order creating Chapter DOD 12, Wisconsin Administrative Code, relating to the administration of the Wisconsin Development Zone Program (CR 88-138).

If you have any questions, please call Barry Wanner at 267-7200.

Sincerely,

  
Bruno J. Mauer  
SECRETARY

BJM:saj  
1016e