



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### 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 01-147

AN ORDER to create chapter Comm 107, relating to the Wisconsin development zone program.

Submitted by **DEPARTMENT OF COMMERCE**

12-11-01 RECEIVED BY LEGISLATIVE COUNCIL.

01-09-02 REPORT SENT TO AGENCY.

RS:RJC:tlujal

**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



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Laura D. Rose  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 01-147

#### 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.]**

#### I. Statutory Authority

a. Section Comm 107.20 (2) indicates that a person who is planning to be located in a technology zone may apply to be certified to claim a tax credit under the technology zone program. It is noted that s. 560.96 (3) (a) 1., Stats., as created by 2001 Wisconsin Act 16, provides that a business must be located in a technology zone to be certified for the credit. It is assumed that a person planning to be located in a technology zone under the rule will need to be actually located in the technology zone in order to receive certification. However, the rule should be clarified to be consistent with the statute.

b. Generally, s. 560.96 (3) (d), Stats., as created by 2001 Wisconsin Act 16, requires the department to enter into an agreement with a business that is certified to receive a technology zone tax credit. The agreement must specify various facts and business projections. It does not appear that the rule contemplates or requires the entry into such an agreement. It appears that the rule should cover such a situation to comply with the statutes.

c. Section Comm 107.40 provides that certain information contained in various documents must be deleted before being made public. However, it would appear that some of the information, such as Social Security numbers or private financial information, contained in a public record would need to be the subject of a balancing test by the record custodian to determine whether particular information should be disclosed or kept confidential under the Open Records Law. Under what authority is such information automatically exempt from disclosure? In addition, the provision should be clarified as to who is required to delete the

information prior to disclosure. Is the department required to do this? It is also suggested that s. 19.36 (6), Stats., might provide a more concise recitation of the separation of information requirements.

## **2. Form, Style and Placement in Administrative Code**

a. Section Comm 107.01 (2) appears to add nothing substantive to the rule. It is suggested that the provision be redrafted in substantially the following form: "This chapter is promulgated pursuant to ss. 560.02 (4) and 560.96, Stats."

b. In s. Comm 107.02 (5) (intro.), the phrase "of the following" should be inserted immediately preceding the colon.

c. It would appear that s. Comm 107.10 (6) is misplaced. While the section generally deals with the technology zone application and the evaluation and the designation of technology zones, it appears that sub. (6) would be more appropriately placed in subch. III of the rule, relating to tax benefits.

d. In s. Comm 107.21 (1) (intro.), the phrase "all of" should be inserted after the phrase "at least."

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

a. Section Comm 107.31 (1) (a) requires the department to comply with s. 560.96 (2) (b), Stats., when making a determination to increase tax benefits available to the technology zone. However, it is not clear what requirement in that statutory provision is relevant to the increase in tax benefits. Is it referring to the \$5 million tax credit limit? If possible, the requirement that the rule cross-references should be clarified.

b. Section Comm 107.31 (2) (a) 1. refers to "criteria listed under s. Comm 107.30." It is not readily apparent that any criteria are listed under s. Comm 107.30. Should the cross-reference be instead to a requirement in subch. II? In the alternative, is the cross-reference perhaps referring to a provision of s. Comm 107.30 that does not appear in the rule? It is noted that s. Comm 107.30 contains a sub. (1) but no further subsections. If there are no further subsections, the "(1)" can be deleted. The rule needs to be clarified.

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

a. Section Comm 107.02 (5) (a) in part defines the term "high-technology business" to mean "a person primarily engaged in the activities of research, development or manufacture of advanced products or materials used in . . . energy, environmental . . . medical . . ." How are these products or materials used in "energy," "environmental," or "medical"? The phrasing of this definition should be clarified.

b. In s. Comm 107.02 (5) (b), what is a "knowledge-based business"? Is that term defined elsewhere in the rule? How is such a business differentiated from any other business? The rule should be clarified.

c. In s. Comm 107.02 (6), a "new business" is defined as a person that has been in operation for less than one year. Given that the term "person" is defined to include a natural person, what does it mean for a natural person to be in operation for less than one year in the context of the rule? The rule should be clarified.

d. In s. Comm 107.02 (7), it would seem that the definition of "person" refers only to tribal enterprises. Is it possible that the word "and" after the term "insurance company" should be changed to the word "or"? In any event, the provision should be clarified.

e. In s. Comm 107.10 (2), the phrase "for designation as a technology zone" should be inserted after the word "applications."

f. In s. Comm 107.10 (4), and given the fact that only eight areas in the state may be designated as technology zones, will there only be one round of applications or is the application process an ongoing one? Also, what is the timetable for the evaluation of applications? It would seem that the rule should contain some timetable or time frames for the completion of the application process and the determination of whether an area qualifies as a technology zone. In the alternative, a note to the rule could help explain how the department plans to proceed.

g. In s. Comm 107.11 (1), and other places in the rule, the rule requires additional information or other material to be submitted "by the technology zone." According to the definition of "technology zone" in s. Comm 107.02 (9), a technology zone is an area. Who is supposed to submit the information for the technology zone? The rule should be clarified.

h. In s. Comm 107.21 (1) (intro.), the word "The" at the beginning of the sentence should be replaced by the word "A." In addition, the word "will" should be replaced by the word "shall." Finally, the (intro.) requires that the person's economic activity meet the criteria specified in s. Comm 107.20 (2). However, one of those criteria is that the technology zone recommends the business for certification. That would not appear to be an economic activity. Perhaps the person applying only needs to meet the "criteria under s. Comm 107.20 (2)." In addition, s. Comm 107.20 (2) would be made more clear if the term "person's" is inserted before the word "business" in pars. (a) to (c). Finally, is the department satisfied that it will be able to tell whether the business is "new or expanding" based upon the information required to be provided to it in s. Comm 107.21 (1)?

i. Section Comm 107.22 (intro.) should be renumbered s. Comm 107.22 (1), and the remainder of the section renumbered accordingly. In addition, it is not clear how long a certification lasts. For example, is a person certified each year, or does a certification last for three consecutive years? The rule should be clarified. In addition, the phrase "a person has been certified for three consecutive years" should replace the phrase "three consecutive years of certification."

j. In s. Comm 107.22 (2), the phrase "baseline goals" is used. What are these goals? It is noted that s. 560.96 (2) (d), Stats., as created by 2001 Wisconsin Act 16, requires an agreement between the department and a business that is certified to receive a tax credit under the technology zone program to include provisions relating to the business's baseline against which growth will be measured. Is this the "baseline goals" the rule refers to? Also, see comment 1. b., above.

k. Section Comm 107.23 (1) (intro.) uses the phrase "person certified under s. 560.96, Stats." Section Comm 107.31 (1) (intro.), uses the phrase "certified business." What is the difference between these terms? Do they refer to the same business? The rule should use consistent terminology throughout.



State of Wisconsin \ Department of Commerce

# HEARING DRAFT of PROPOSED RULES

**Rule No.:**

Ch. Comm 107

**Relating to:**

Wisconsin Development Zone Program

SECTION 1. Chapter Comm 107 is created to read:

**Chapter Comm 107**

**WISCONSIN TECHNOLOGY ZONE PROGRAM**

Comm 107.01 Purpose, scope and authority.

Comm 107.02 Definitions.

**Subchapter I—Technology Zones**

Comm 107.10 Application, evaluation and designation.

Comm 107.11 Modification of boundaries.

**Subchapter II—Certified Business**

Comm 107.20 Eligibility.

Comm 107.21 Application and determination.

Comm 107.22 Extension.

Comm 107.23 Revocation.

**Subchapter III—Tax Benefits**

Comm 107.30 Eligibility.

Comm 107.31 Modification.

Comm 107.32 Claims.

**Subchapter IV - Records**

Comm 107.40 Documentation and records.

**Comm 107.01 Purpose, scope and authority.** (1) **PURPOSE AND SCOPE.** The purpose of this chapter is to establish a procedure for the administration of the Wisconsin technology zone program. The provisions of this chapter shall apply to designating technology zones and certifying high-technology businesses eligible for tax credits for the attraction, promotion and expansion of high technology in the state.

(2) **AUTHORITY.** Pursuant to ss. 560.02 (4) and 560.96, Stats., the department shall promulgate rules for the administration of the technology zone program.

**Comm 107.02 Definitions.** In this chapter:

(1) “Certified business” means a person that conducts economic activity in a technology zone and has been certified as eligible for tax benefits by the department under subch. II.

(2) “Department” means the department of commerce.

(3) “Eligible applicant” 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 the state of Wisconsin.

(4) “Expanding business” means a person that is making a capital investment such as expansion of existing facilities, construction of new facilities or purchase of new equipment, or is retaining, creating or significantly upgrading jobs.



(5) "High-technology business" means either:

(a) A person primarily engaged in the activities of research, development or manufacture of advanced products or materials used in factory automation, biotechnology, chemicals, computer hardware, computer software, defense, energy, environmental, manufacturing equipment, medical, pharmaceuticals, photonics, subassemblies and components, test and measurement, telecommunications and transportation.

(b) A person that is identified by the technology zone as part of a target cluster and is a knowledge-based business or a business that utilizes advanced technology production processes, systems or equipment.

(6) "New business" means a person that has been in operation for less than one year prior to the date of application for business certification under subch. II.

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

(8) "Tax benefit" means a tax credit under s. 560.96 (1).

(9) "Technology zone" means an area designated by the department consistent with the technology zone program as authorized under s. 560.96, Stats.

(10) "Wisconsin technology zone program" means the program administered under the scope of this chapter.

### **Subchapter I—Technology Zones**

**Comm 107.10 Application, evaluation and designation. (1) GENERAL.** (a) As specified under s. 560.96 (2) (a), Stats., the department may designate up to 8 areas in the state as technology zones. The designation shall be in effect for 10 years from the time the department initially designates the area as a technology zone.

(b) The department may not designate a technology zone that includes an area designated as an agricultural development zone under s. 560.798, Stats.

(2) **APPLICATION.** Applications from eligible applicants shall be submitted to the department.

(3) **APPLICATION CONTENT.** Each application shall contain all of the following:

(a) The name, address, phone number, and designated contact person of the eligible applicant.

(b) A map outlining the specific area where technology development is likely to occur.

(c) A detailed description of principal technology development-supporting efforts and activities including, but not limited to:

1. Networking and clustering of high-technology business.
2. Existing or planned technology parks and incubators in the proposed designated technology zone and immediate vicinity of the technology zone.
3. Venture financing available to high-technology business.
4. Workforce development available to high-technology business.
5. Any additional incentives being made available by the eligible applicant to high-technology business located or planning to locate in the technology zone.
6. Mechanisms to facilitate technology transfer.
7. Technical infrastructure and stable traditional infrastructure available to high-technology business.
8. Available supplier network to high-technology business.
9. Any other information as requested by the department.

(d) The eligible applicant's comprehensive plan or strategy developed for the attraction, promotion and expansion of high-technology business.

(e) Any local criteria and guidelines for certification of high-technology business.

**(4) EVALUATION.** (a) The department shall evaluate applications submitted by an eligible applicant based on the local capacity and organization of the area as it relates to the attraction, promotion and expansion of high-technology business.

(b) The department may consider regional cooperation and geographical distribution when evaluating applications.

**(5) NOTIFICATION OF DESIGNATION.** The department shall provide written notification of designation as a technology zone. The date of such notification shall be the beginning date of the technology zone duration as specified under sub. (1).

**(6) TAX BENEFITS.** As specified under s. 560.96 (2) (b), Stats., not more than \$5,000,000 of tax benefits may be claimed in each technology zone for the duration.

**Comm 107.11 Modification of boundaries.** (1) The boundaries of a technology zone may be modified by the department upon review of additional information submitted by the technology zone since the date of notification.

(2) The modification of a technology zone boundary shall have no effect on the technology zone duration.

## Subchapter II—Certified Business

**Comm 107.20 Eligibility. (1) GENERAL.** As provided under s. 560.96, Stats., the department may certify persons for tax benefits available under this chapter.

(2) **CRITERIA FOR ELIGIBILITY.** A person located in or planning to be located in a technology zone shall submit an application to the department as specified under s. Comm 107.21. A person shall meet all of the following:

- (a) The business is new or expanding.
- (b) The business is a high-technology business.
- (c) The technology zone recommends the business for certification.

**Comm 107.21 Application and determination. (1) SUBMITTAL.** The person whose economic activity meets the provisions specified under s. Comm 107.20 (2) shall submit an application to the department which will include at least the following:

- (a) The name, address and phone number of the person's high-technology business and a designated contact person.
- (b) The appropriate Wisconsin tax identification number of the person.
- (c) The names and addresses of other locations outside the technology 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 technology zone.
- (e) The estimated number of full-time jobs that will be created, retained or significantly upgraded in the technology zone because of the person's high-technology business.
- (f) The extent and nature of the high technology used or produced by the business.
- (g) Historical and projected financial information.
- (h) Documentation supporting sales, property and income tax projections.
- (i) Other information as required by the department or the technology zone.

(2) **TAX BENEFIT DETERMINATION.** The department shall consider all of the following to establish a tax benefit limit:

- (a) The prospects for the project to attract related high-technology business to the area.

(b) The extent and nature of the high technology used or produced by the business.

(c) The amount of private investment that is likely to result from the project.

(d) The number and quality of jobs that are likely to be retained, created or upgraded as a result of the project.

(e) The competitive effect of the tax benefits on other businesses in the area.

(f) Whether the project is likely to occur or continue without allocation of the tax benefits available under this chapter.

(g) The financial soundness of the high-technology business.

(h) Any other factors that the department may consider relevant.

**(3) NOTIFICATION.** If the department determines that the person is eligible for tax benefits under the standards as provided in sub. (2), the department shall notify the person of its certification in the technology zone.

**(4) CERTIFICATION DISALLOWED IN CERTAIN CASES.** No person may be certified under s. 560.96, Stats., if the proposed new business, expansion of an existing business or other proposed economic activity in a technology zone would do either of the following:

(a) Result in the direct loss of full-time jobs at another of the person's business locations in this state but located outside the technology zone.

(b) Likely result in the direct transfer of employees from a business location in this state to a business location in the technology zone, unless it is determined by the department that the total number of full-time jobs provided by the person in this state would be reduced if the person were not certified under s. 560.96, Stats., or if the situation is extraordinary.

**Comm 107.22 Extension.** After three consecutive years of certification, the department may extend certification for two additional years as specified under s. 560.96 (5) (e), Stats.

**(1)** The extension of certification shall be based on at least one of the following:

(a) Additional significant job creation.

(b) Additional significant capital investment.

**(2)** The department may not extend certification under this section unless the certified business has met or exceeded the baseline goals as set forth in its original certification.

**Comm 107.23 Revocation.** (1) The department shall revoke the certification of a person certified under s 560.96, Stats., for either of the following circumstances:

(a) Submittal of false or misleading information in order to obtain certification under this chapter.

(b) Cessation of operations as a high-technology business within the technology zone.

(2) After certification has been revoked, the department shall so notify the department of revenue.

### **Subchapter III—Tax Benefits**

**Comm 107.30 Eligibility.** (1) GENERAL. The actual amount of tax benefit that a person may be eligible to claim shall be determined by the department in accordance with subch. II.

**Comm 107.31 Modification.** (1) INCREASE TAX BENEFITS. The department may, on the request of a certified business and on the recommendation of the technology zone, increase the limit of tax benefits established for the certified business, if the department does all of the following:

(a) Complies with s. 560.96 (2) (b), 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 certified business.

(2) DECREASE TAX BENEFITS. (a) The department may reduce the limit of tax benefits as established under s. Comm 107.30 or sub. (1) if the department determines that any of the following apply:

1. The limit is not consistent with the criteria listed under s. Comm 107.30.

2. The information on which the limit is based was inaccurate or significantly misestimated.

(b) The department shall revise the certification and provide a copy of the revised form to the department of revenue and to the certified business.

**Comm 107.32 Claims.** (1) A certified business may file for tax benefits using forms acceptable to the department of revenue. Technology zone tax benefit claims shall include at least all of the following:

(a) A copy of the certification issued by the department.

(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 North American Industry Classification System code (NAICS) for that business.

**Note:** For additional information on NAICS, refer to U.S. Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503; phone (202) 395-3093; fax (202) 395-7245.

(e) Any forms required by the department of revenue.

(2) Prior to filing for tax benefits under sub. (1), a certified business shall complete and file with the department an annual project report supporting the tax benefit claim to the department on a form prescribed by the department. The annual project report shall include all of the following:

(a) The information required under ss. 71.07 (3g), 71.28 (3g) and 71.47 (3g), Stats.

(b) The status of the certified business' project including, without limitation, the number of jobs created, retained or significantly upgraded, the total amount invested and other information relating to the tax benefits claimed by the certified business.

(c) Documentation of sales, property and income tax projections.

(d) Any other information as requested by the department.

(3) (a) The department shall verify the tax benefit claim. The department may request additional information from the certified business to support the claim.

(b) No person may file for tax benefits under this chapter without the written approval of the department.

#### **Subchapter IV - Records**

**Comm 107.40 Documentation and records.** Documents or material submitted with an application that may contain trade secret information, social security numbers, state or federal employer identification numbers, private financial information, or tax documents or information shall have the information deleted before public disclosure.

**Note:** Any forms referred to in this chapter are available without a fee on request from the Department of Commerce, Bureau of Enterprise Development, 201 W. Washington Avenue, P.O. Box 7970, Madison, WI 53707-7970; phone (608) 266-7123; fax (608) 266-8969; or on the Commerce webpage at <http://www.commerce.state.wi.us/CD/CD-bed.html>.

\*\*\*\*\*

#### **EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the first month following publication in the Wisconsin Administrative Register.

\*\*\*\*\*

(end)

**Department of Commerce**  
**Emergency Rule Relating to Wisconsin Technology Zone Program**

**Finding of Emergency and Rule Analysis**


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

Facts constituting the emergency are as follows:

- In accordance with s. 560.02 (4), Stats., the department of commerce has the responsibility to promulgate rules to provide for the attraction, promotion and expansion of high-technology business in the state.
- Section 560.96, Stats., makes available certain tax benefits for certified businesses within the 8 designated technology zones. Tax benefits are available to certified businesses if their tax year begins on or after January 1, 2002.
- In response to a downturn in the economy and recent economic forecasts, Governor McCallum has prioritized the need to promulgate these rules as part of his economic stimulus package.
- The technology zone program will address several action items identified by the 2000 Wisconsin Economic Summit to ensure Wisconsin's short- and long-term economic vitality and success, including:
  1. Combating the state's 'brain drain' by increasing high tech jobs.
  2. Linking Wisconsin's research expertise with Wisconsin firms to grow clusters of high-tech jobs.
  3. Linking economic strategies across regions for power through collaboration.
- This emergency rule is being created in order that the process of designating the 8 technology zones be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Wisconsin Technology Zone Program.

Pursuant to s. 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

Dated at Madison, Wisconsin, this 30<sup>th</sup>  
day of November, A.D. 2001  
by the Department of Commerce

  
Philip Edw. Albert, Acting Secretary

**RULE EFFECTIVE**

**DEC 05 2001**

SECTION 1. Chapter Comm 107 is created to read:

**Chapter Comm 107**

**WISCONSIN TECHNOLOGY ZONE PROGRAM**

Comm 107.01 Purpose, scope and authority.

Comm 107.02 Definitions.

**Subchapter I—Technology Zones**

Comm 107.10 Application, evaluation and designation.

Comm 107.11 Modification of boundaries.

**Subchapter II—Certified Business**

Comm 107.20 Eligibility.

Comm 107.21 Application and determination.

Comm 107.22 Extension.

Comm 107.23 Revocation.

**Subchapter III—Tax Benefits**

Comm 107.30 Eligibility.

Comm 107.31 Modification.

Comm 107.32 Claims.

**Subchapter IV - Records**

Comm 107.40 Documentation and records.

**Comm 107.01 Purpose, scope and authority.** (1) **PURPOSE AND SCOPE.** The purpose of this chapter is to establish a procedure for the administration of the Wisconsin technology zone program. The provisions of this chapter shall apply to designating technology zones and certifying high-technology businesses eligible for tax credits for the attraction, promotion and expansion of high technology in the state.

(2) **AUTHORITY.** Pursuant to ss. 560.02 (4) and 560.96, Stats., the department shall promulgate rules for the administration of the technology zone program.

**Comm 107.02 Definitions.** In this chapter:

(1) “Certified business” means a person that conducts economic activity in a technology zone and has been certified as eligible for tax benefits by the department under subch. II.

(2) “Department” means the department of commerce.

(3) “Eligible applicant” 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 the state of Wisconsin.

(4) “Expanding business” means a person that is making a capital investment such as expansion of existing facilities, construction of new facilities or purchase of new equipment, or is retaining, creating or significantly upgrading jobs.



(5) "High-technology business" means either:

(a) A person primarily engaged in the activities of research, development or manufacture of advanced products or materials used in factory automation, biotechnology, chemicals, computer hardware, computer software, defense, energy, environmental, manufacturing equipment, medical, pharmaceuticals, photonics, subassemblies and components, test and measurement, telecommunications and transportation.

(b) A person that is identified by the technology zone as part of a target cluster and is a knowledge-based business or a business that utilizes advanced technology production processes, systems or equipment.

(6) "New business" means a person that has been in operation for less than one year prior to the date of application for business certification under subch. II.

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

(8) "Tax benefit" means a tax credit under s. 560.96 (1).

(9) "Technology zone" means an area designated by the department consistent with the technology zone program as authorized under s. 560.96, Stats.

(10) "Wisconsin technology zone program" means the program administered under the scope of this chapter.

### **Subchapter I—Technology Zones**

**Comm 107.10 Application, evaluation and designation. (1) GENERAL.** (a) As specified under s. 560.96 (2) (a), Stats., the department may designate up to 8 areas in the state as technology zones. The designation shall be in effect for 10 years from the time the department initially designates the area as a technology zone.

(b) The department may not designate a technology zone that includes an area designated as an agricultural development zone under s. 560.798, Stats.

(2) APPLICATION. Applications from eligible applicants shall be submitted to the department.

(3) APPLICATION CONTENT. Each application shall contain all of the following:

(a) The name, address, phone number, and designated contact person of the eligible applicant.

(b) A map outlining the specific area where technology development is likely to occur.

(c) A detailed description of principal technology development-supporting efforts and activities including, but not limited to:

1. Networking and clustering of high-technology business.
2. Existing or planned technology parks and incubators in the proposed designated technology zone and immediate vicinity of the technology zone.
3. Venture financing available to high-technology business.
4. Workforce development available to high-technology business.
5. Any additional incentives being made available by the eligible applicant to high-technology business located or planning to locate in the technology zone.
6. Mechanisms to facilitate technology transfer.
7. Technical infrastructure and stable traditional infrastructure available to high-technology business.
8. Available supplier network to high-technology business.
9. Any other information as requested by the department.

(d) The eligible applicant's comprehensive plan or strategy developed for the attraction, promotion and expansion of high-technology business.

(e) Any local criteria and guidelines for certification of high-technology business.

**(4) EVALUATION.** (a) The department shall evaluate applications submitted by an eligible applicant based on the local capacity and organization of the area as it relates to the attraction, promotion and expansion of high-technology business.

(b) The department may consider regional cooperation and geographical distribution when evaluating applications.

**(5) NOTIFICATION OF DESIGNATION.** The department shall provide written notification of designation as a technology zone. The date of such notification shall be the beginning date of the technology zone duration as specified under sub. (1).

**(6) TAX BENEFITS.** As specified under s. 560.96 (2) (b), Stats., not more than \$5,000,000 of tax benefits may be claimed in each technology zone for the duration.

**Comm 107.11 Modification of boundaries.** (1) The boundaries of a technology zone may be modified by the department upon review of additional information submitted by the technology zone since the date of notification.

(2) The modification of a technology zone boundary shall have no effect on the technology zone duration.

## Subchapter II—Certified Business

**Comm 107.20 Eligibility. (1) GENERAL.** As provided under s. 560.96, Stats., the department may certify persons for tax benefits available under this chapter.

(2) **CRITERIA FOR ELIGIBILITY.** A person located in or planning to be located in a technology zone shall submit an application to the department as specified under s. Comm 107.21. A person shall meet all of the following:

- (a) The business is new or expanding.
- (b) The business is a high-technology business.
- (c) The technology zone recommends the business for certification.

**Comm 107.21 Application and determination. (1) SUBMITTAL.** The person whose economic activity meets the provisions specified under s. Comm 107.20 (2) shall submit an application to the department which will include at least the following:

- (a) The name, address and phone number of the person's high-technology business and a designated contact person.
- (b) The appropriate Wisconsin tax identification number of the person.
- (c) The names and addresses of other locations outside the technology 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 technology zone.
- (e) The estimated number of full-time jobs that will be created, retained or significantly upgraded in the technology zone because of the person's high-technology business.
- (f) The extent and nature of the high technology used or produced by the business.
- (g) Historical and projected financial information.
- (h) Documentation supporting sales, property and income tax projections.
- (i) Other information as required by the department or the technology zone.

(2) **TAX BENEFIT DETERMINATION.** The department shall consider all of the following to establish a tax benefit limit:

- (a) The prospects for the project to attract related high-technology business to the area.

- (b) The extent and nature of the high technology used or produced by the business.
- (c) The amount of private investment that is likely to result from the project.
- (d) The number and quality of jobs that are likely to be retained, created or upgraded as a result of the project.
- (e) The competitive effect of the tax benefits on other businesses in the area.
- (f) Whether the project is likely to occur or continue without allocation of the tax benefits available under this chapter.
- (g) The financial soundness of the high-technology business.
- (h) Any other factors that the department may consider relevant.

(3) **NOTIFICATION.** If the department determines that the person is eligible for tax benefits under the standards as provided in sub. (2), the department shall notify the person of its certification in the technology zone.

(4) **CERTIFICATION DISALLOWED IN CERTAIN CASES.** No person may be certified under s. 560.96, Stats., if the proposed new business, expansion of an existing business or other proposed economic activity in a technology zone would do either of the following:

(a) Result in the direct loss of full-time jobs at another of the person's business locations in this state but located outside the technology zone.

(b) Likely result in the direct transfer of employees from a business location in this state to a business location in the technology zone, unless it is determined by the department that the total number of full-time jobs provided by the person in this state would be reduced if the person were not certified under s. 560.96, Stats., or if the situation is extraordinary.

**Comm 107.22 Extension.** After three consecutive years of certification, the department may extend certification for two additional years as specified under s. 560.96 (5) (e), Stats.

(1) The extension of certification shall be based on at least one of the following:

- (a) Additional significant job creation.
- (b) Additional significant capital investment.

(2) The department may not extend certification under this section unless the certified business has met or exceeded the baseline goals as set forth in its original certification.

**Comm 107.23 Revocation.** (1) The department shall revoke the certification of a person certified under s 560.96, Stats., for either of the following circumstances:

(a) Submittal of false or misleading information in order to obtain certification under this chapter.

(b) Cessation of operations as a high-technology business within the technology zone.

(2) After certification has been revoked, the department shall so notify the department of revenue.

### **Subchapter III—Tax Benefits**

**Comm 107.30 Eligibility.** (1) GENERAL. The actual amount of tax benefit that a person may be eligible to claim shall be determined by the department in accordance with subch. II.

**Comm 107.31 Modification.** (1) INCREASE TAX BENEFITS. The department may, on the request of a certified business and on the recommendation of the technology zone, increase the limit of tax benefits established for the certified business, if the department does all of the following:

(a) Complies with s. 560.96 (2) (b), 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 certified business.

(2) DECREASE TAX BENEFITS. (a) The department may reduce the limit of tax benefits as established under s. Comm 107.30 or sub. (1) if the department determines that any of the following apply:

1. The limit is not consistent with the criteria listed under s. Comm 107.30.

2. The information on which the limit is based was inaccurate or significantly misestimated.

(b) The department shall revise the certification and provide a copy of the revised form to the department of revenue and to the certified business.

**Comm 107.32 Claims.** (1) A certified business may file for tax benefits using forms acceptable to the department of revenue. Technology zone tax benefit claims shall include at least all of the following:

(a) A copy of the certification issued by the department.

(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 North American Industry Classification System code (NAICS) for that business.

**Note:** For additional information on NAICS, refer to U.S. Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503; phone (202) 395-3093; fax (202) 395-7245.

(e) Any forms required by the department of revenue.

(2) Prior to filing for tax benefits under sub. (1), a certified business shall complete and file with the department an annual project report supporting the tax benefit claim to the department on a form prescribed by the department. The annual project report shall include all of the following:

(a) The information required under ss. 71.07 (3g), 71.28 (3g) and 71.47 (3g), Stats.

(b) The status of the certified business' project including, without limitation, the number of jobs created, retained or significantly upgraded, the total amount invested and other information relating to the tax benefits claimed by the certified business.

(c) Documentation of sales, property and income tax projections.

(d) Any other information as requested by the department.

(3) (a) The department shall verify the tax benefit claim. The department may request additional information from the certified business to support the claim.

(b) No person may file for tax benefits under this chapter without the written approval of the department.

#### **Subchapter IV - Records**

**Comm 107.40 Documentation and records.** Documents or material submitted with an application that may contain trade secret information, social security numbers, state or federal employer identification numbers, private financial information, or tax documents or information shall have the information deleted before public disclosure.

**Note:** Any forms referred to in this chapter are available without a fee on request from the Department of Commerce, Bureau of Enterprise Development, 201 W. Washington Avenue, P.O. Box 7970, Madison, WI 53707-7970; phone (608) 266-7123; fax (608) 266-8969; or on the Commerce webpage at <http://www.commerce.state.wi.us/CD/CD-bed.html>.

(end)



P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777  
www.commerce.state.wi.us

Scott McCallum, Governor  
Philip Edw. Albert, Acting Secretary

11/30/01

Gary Poulson  
Assistant Revisor of Statutes  
Suite 800  
131 West Wilson Street  
Madison, Wisconsin 53703-3233

Douglas LaFollette  
Secretary of State  
10th Floor  
30 West Mifflin Street  
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

### TRANSMITTAL OF EMERGENCY RULE ADOPTION

EMERGENCY RULE NO.: Ch. Comm 107

RELATING TO: Wisconsin Technology Zone Program

Pursuant to section 227.24 (3), Stats., an agency is required to file a certified copy of every emergency rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate.
3. Emergency Rule.

Pursuant to section 227.24 (1) (e), Stats., a plain language analysis and a fiscal estimate is also included.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Philip Edw. Albert', written over a horizontal line.

Philip Edw. Albert  
Acting Secretary

# ORDER OF ADOPTION

## Emergency Rule Department of Commerce

Pursuant to authority vested in the Department of Commerce by section(s) 560.02 (4) and 560.96,

\_\_\_\_\_ Stats., the Department of Commerce  creates;  amends;

repeals and recreates;  repeals and adopts an emergency rule of Wis. Admin. Code chapter(s):

Comm 107  
(number)

Wisconsin Technology Zone Program  
(Title)

Pursuant to section 227.24 (1) (c), Stats., the attached emergency rule shall take effect on December 5, 2001.

Adopted at Madison, Wisconsin this

date: November 30, 2001

DEPARTMENT OF COMMERCE

Philip Edw. Albert  
Philip Edw. Albert, Acting Secretary



# RULES CERTIFICATE

## Emergency Rule Department of Commerce

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Philip Edw. Albert, Acting Secretary of the Department of Commerce,  
and custodian of the official records of said department, do hereby certify that the annexed emergency rule  
relating to chapter Comm 107, the Wisconsin Technology Zone Program  
(Subject)

was duly approved and adopted by this department.

I further certify that said copy has been compared by me with the original on file in the department and  
that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set  
my hand at 201 West Washington Avenue  
in the City of Madison, this 30<sup>th</sup>  
day of November A.D. 2001

  
Philip Edw. Albert, Acting Secretary

**Fiscal Estimate — 2001 Session**

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number ch. Comm 107

Subject  
 Wisconsin Technology Development 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       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 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       Tribes  
 School Districts       WTCS Districts

Fund Sources Affected

GPR       FED       PRO       PRS       SEG       SEG-S

Affected Chapter 20 Appropriations

**Assumptions Used in Arriving at Fiscal Estimate**

Section 560.96, Stats., as passed in the 2001/03 biennial budget, establishes the Wisconsin Technology Zone Program. Commerce is provided the authority to develop rules concerning the designation of technology zones and the certification of businesses within those zones. Ch. Comm 107 thus relates mainly to establishing that process and defining key terms.

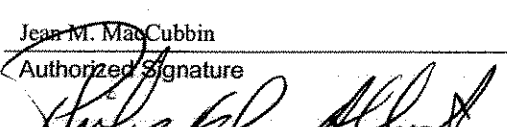
**1. State Fiscal Effect**

By instituting a rigorous application process, the proposed rule will increase the workload for the Department of Commerce by requiring staff to review applications and make preliminary determinations as to designation of technology zones. Commerce can absorb this new work by using existing staff.

**2. Local Fiscal Effect**

Under the proposed rules, towns, villages, cities, tribes, and counties, either separately or in concert, may submit technology zone applications. These applications are expected to be lengthy documents requiring a significant investment of time. Costs arising from the rules are, however, permissive since communities are not required to apply for participation in the program.

**Long-Range Fiscal Implications**

Prepared By: Jean M. MacCubbin Authorized Signature	Telephone No. 608-266-0955	Agency Commerce
	Telephone No. (608) 267-0770	Date (mm/dd/ccyy) 11/30/01

**Fiscal Estimate Worksheet — 2001 Session**  
 Detailed Estimate of Annual Fiscal Effect

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number ch. Comm 107

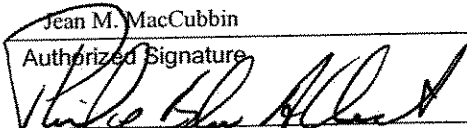
Subject  
 Wisconsin Technology Zone Program

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

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations — Salaries and Fringes		\$ 0	\$ - 0
(FTE Position Changes)		( 0.00 FTE )	( - 0.00 FTE )
State Operations — Other Costs		0	- 0
Local Assistance		0	- 0
Aids to Individuals or Organizations		0	- 0
<b>Total State Costs by Category</b>		<b>\$ 0</b>	<b>\$ - 0</b>
<b>B. State Costs by Source of Funds</b>			
GPR		\$ 0	\$ - 0
FED		0	- 0
PRO/PRS		0	- 0
SEG/SEG-S		0	- 0
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$ 0	\$ - 0
GPR Earned		0	- 0
FED		0	- 0
PRO/PRS		0	- 0
SEG/SEG-S		0	- 0
<b>Total State Revenues</b>		<b>\$ 0</b>	<b>\$ - 0</b>

**Net Annualized Fiscal Impact**

	State	Local
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

Prepared By:	Telephone No.	Agency
Jean M. MacCubbin	608-266-0955	Commerce
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	(608) 267-0770	11/30/01

2/11/2002

Donald J. Schneider  
Senate Chief Clerk  
Room 501  
119 Martin Luther King Blvd  
Madison, Wisconsin 53703

~~John A. Scores~~  
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.: 01-147

RULE NO.: Chapter Comm 107

RELATING TO: Wisconsin Technology 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,



Philip Edw. Albert  
Secretary



P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777  
www.commerce.state.wi.us

Scott McCallum, Governor  
Philip Edw. Albert, Secretary

2/11/2002

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.: 01-147

RULE NO.: Chapter Comm 107

RELATING TO: Wisconsin Technology 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,

Philip Edw. Albert  
Secretary

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 01-147

RULE NO.: Chapter Comm 107

RELATING TO: Wisconsin Technology Zone Program

Final regulatory flexibility analysis not required. (Statement of determination required.)

The proposed rules have no direct adverse impact on small business; the rules are permissive in nature and small businesses are not required to apply for certification to be eligible for tax benefits.

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.

The subject of the rules is to provide tax benefits for new and expanding high-technology businesses in 8 technology zones in the state. The expectation is that the creation of these zones will not only attract, promote and expand high-technology business in the area, create new jobs and investment, but also provide economic stimulus to other businesses in the area and throughout the state.

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 testimony was given at the hearing.

*(Continued on next page)*

**FINAL REGULATORY FLEXIBILITY ANALYSIS**

Ch. Comm 107 Wisconsin Technology Zone Program

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

The rules require no substantial reporting requirements in addition to annual reporting to the department of revenue.

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

None enumerated.

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.

Department staff will absorb any additional workload with existing staffing levels.

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

None enumerated.

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 01-147

RULE NO.: Chapter Comm 107

RELATING TO: Wisconsin Technology Zone Program

Agency contact person for substantive questions.

Name: Bill Wheeler

Title: Deputy Division Administrator, Community Development

Telephone No. \_\_\_\_\_

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 next page)*



3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
  - a.  Accepted
  
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
  - a.  Accepted
  
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: 5.f. The department expects the process of designating technology zones to be completed prior to adoption of the permanent rule; a Note was added to s. Comm 107.10 (4) for clarification purposes.
  
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
  - a.  Accepted
  
7. Review rules for permit action deadline [s. 227.15(2)(h)]
  - a.  Accepted



State of Wisconsin \ Department of Commerce

# **RULES in FINAL DRAFT FORM**

**Rule No.:** Chapter Comm 107

**Relating to:** Wisconsin Technology Zone Program

**Clearinghouse Rule No.:** 01-147

SECTION 1. Chapter Comm 107 is created to read:

**Chapter Comm 107**

**WISCONSIN TECHNOLOGY ZONE PROGRAM**

Comm 107.01 Purpose, scope and authority.

Comm 107.02 Definitions.

**Subchapter I—Technology Zones**

Comm 107.10 Application, evaluation and designation.

Comm 107.11 Modification of boundaries.

**Subchapter II—Certified Business**

Comm 107.20 Eligibility for application for business certification.

Comm 107.21 Application and determination.

Comm 107.22 Extension.

Comm 107.23 Revocation.

**Subchapter III—Tax Benefits**

Comm 107.30 Eligibility.

Comm 107.31 Modification.

Comm 107.32 Claims.

**Subchapter IV - Records**

Comm 107.40 Documentation and records.

**Comm 107.01 Purpose, scope and authority. (1) PURPOSE AND SCOPE.** The purpose of this chapter is to establish a procedure for the administration of the Wisconsin technology zone program. The provisions of this chapter shall apply to designating technology zones and certifying high-technology businesses eligible for tax credits for the attraction, promotion and expansion of high technology in the state.

**(2) AUTHORITY.** This chapter relates to the Wisconsin technology zone program promulgated pursuant to ss. 560.02 (4) and 560.96, Stats.

**Comm 107.02 Definitions.** In this chapter:

**(1) “Certified business”** means a person that conducts economic activity in a technology zone and has been certified as eligible for tax benefits by the department under subch. II.

**(2) “Department”** means the department of commerce.

**(3) “Eligible applicant”** 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 the state of Wisconsin.

**(4) “Expanding business”** means a person that is making a capital investment such as expansion of existing facilities, construction of new facilities or purchase of new equipment, or is retaining, creating or significantly upgrading jobs.

(5) "High-technology business" means either of the following:

(a) A person engaged in the activities of research, development or manufacture of advanced products or materials for use in factory automation, biotechnology, chemicals, computer hardware, computer software, defense, energy, environmental, manufacturing equipment, medical, pharmaceuticals, photonics, subassemblies and components, test and measurement, telecommunications and transportation.

(b) A person that is identified by the technology zone contact as part of a target cluster and is a knowledge-based business or a business that utilizes advanced technology production processes, systems or equipment.

**Note:** Knowledge-based businesses possess some, if not all, of the following attributes: highly skilled/highly educated workforce, high level of research and development activities, strong export orientation, high percentage of intangible assets, and products/materials with short life expectations and high gross margins. In addition, knowledge-based businesses are considered more likely to use and/or develop advanced technologies and be innovative in their products, services or processes.

(6) "New business" means a person that has been in operation for less than one year prior to the date of application for business certification under subch. II and be eligible for tax benefits under subch. III.

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

(8) "Tax benefit" means a tax credit under s. 560.96 (1), Stats.

(9) "Technology zone" means an area designated by the department consistent with the technology zone program as authorized under s. 560.96, Stats.

(10) "Wisconsin technology zone program" means the program administered under the scope of this chapter.

### **Subchapter I—Technology Zones**

**Comm 107.10 Application, evaluation and designation. (1) GENERAL.** (a) As specified under s. 560.96 (2) (a), Stats., the department may designate up to 8 areas in the state as technology zones. The designation shall be in effect for 10 years from the time the department initially designates an area as a technology zone.

(b) The department may not designate a technology zone that includes an area designated as an agricultural development zone under s. 560.798, Stats.

(2) **APPLICATION.** Applications for designation as a technology zone from eligible applicants shall be submitted to the department.

**Note:** The processes involved in the receipt and evaluation of applications for and designation of the technology zones are expected to be completed prior to the end of the state fiscal year 2002, (June 30, 2002).

**(3) APPLICATION CONTENT.** Each application for designation as a technology zone shall contain all of the following:

(a) The name, address, phone number and designated contact person of the eligible applicant.

(b) A map outlining the specific area where technology development is likely to occur.

(c) A detailed description of principal technology development-supporting efforts and activities including, but not limited to:

1. Networking and clustering of high-technology business.

2. Existing or planned technology parks and incubators in the proposed designated technology zone and immediate vicinity of the technology zone.

3. Venture financing available to high-technology business.

4. Workforce development available to high-technology business.

5. Any additional incentives being made available by the eligible applicant to high-technology business located or planning to locate in the technology zone.

6. Mechanisms to facilitate technology transfer.

7. Technical infrastructure and stable traditional infrastructure available to high-technology business.

8. Available supplier network to high-technology business.

9. Any other information as requested by the department.

(d) The eligible applicant's comprehensive plan or strategy developed for the attraction, promotion and expansion of high-technology business.

(e) Any local criteria and guidelines for certification of high-technology business.

**(4) EVALUATION.** (a) The department shall evaluate applications submitted by an eligible applicant based on the local capacity and organization of the area as it relates to the attraction, promotion and expansion of high-technology business.

(b) The department may consider regional cooperation and geographical distribution when evaluating applications.

(5) **NOTIFICATION OF DESIGNATION.** The department shall provide written notification of designation as a technology zone. The date of such notification shall be the beginning date of the technology zone duration as specified under sub. (1).

(6) **TAX BENEFITS.** As specified under s. 560.96 (2) (b), Stats., not more than \$5,000,000 of tax benefits may be claimed in each technology zone for the duration.

**Comm 107.11 Modification of boundaries.** (1) A boundary of a technology zone may be modified by the department upon review of additional information submitted by the technology zone contact since the date of notification.

(2) The modification of a technology zone boundary shall have no effect on the technology zone duration specified under s. Comm 108.10 (1).

### **Subchapter II—Certified Business**

**Comm 107.20 Eligibility for application for business certification.** (1) **GENERAL.** As provided under s. 560.96, Stats., the department may certify persons for tax benefits available under this chapter.

(2) **CRITERIA FOR ELIGIBILITY FOR APPLICATION.** A person located in or planning to be located in a technology zone shall submit an application to the department as specified under s. Comm 107.21. A person shall meet all of the following:

- (a) The person's business is new or expanding.
- (b) The person's business is a high-technology business.
- (c) The technology zone contact recommends the person's business for certification.

**Comm 107.21 Application and determination.** (1) **SUBMITTAL.** A person who meets the provisions specified under s. Comm 107.20 (2) shall submit an application to the department which includes at least all of the following:

- (a) The name, address and phone number of the person's high-technology business and a designated contact person.
- (b) The appropriate Wisconsin tax identification number of the person.
- (c) The names and addresses of other locations outside the technology 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's business in the technology zone.
- (e) The estimated number of full-time jobs that will be created, retained or significantly upgraded in the technology zone because of the person's high-technology business.

- (f) The extent and nature of the high technology used or produced by the business.
- (g) Historical and projected financial information.
- (h) Documentation supporting sales, property and income tax projections.
- (i) Other information as required by the department or the technology zone contact.

(2) **TAX BENEFIT DETERMINATION.** The department shall consider all of the following to establish a tax benefit limit:

- (a) The prospects for the project to attract related high-technology business to the area.
- (b) The extent and nature of the high technology used or produced by the business.
- (c) The amount of private investment that is likely to result from the project.
- (d) The number and quality of jobs that are likely to be retained, created or upgraded as a result of the project.
- (e) The competitive effect of the tax benefits on other businesses in the area.
- (f) Whether the project is likely to occur or continue without allocation of the tax benefits available under this chapter.
- (g) The financial soundness of the high-technology business.
- (h) The baseline goals of the person's high-technology business.
- (i) Any other factors that the department may consider relevant.

(3) **NOTIFICATION.** (a) For a person located in a technology zone. If the department determines that the person is eligible to be certified for tax benefits under the standards as provided in sub. (2), the department shall notify the person of its certification in the technology zone and enter into an agreement specified under s. 560.96 (3) (d), Stats.

(b) A person planning to be located in a technology zone. In order to be eligible to be certified for tax benefits under the standards as provided in sub. (2), the person's business shall be located in a technology zone. When the business is located in a technology zone, the department shall notify the person of its certification in the technology zone and enter into an agreement specified under s. 560.96 (3) (d), Stats.

(4) **CERTIFICATION DISALLOWED IN CERTAIN CASES.** No person may be certified under s. 560.96, Stats., if the proposed new business, expansion of an existing business or other proposed economic activity in a technology zone would do either of the following:

(a) Result in the direct loss of full-time jobs at another of the person's business locations in this state but located outside the technology zone.

(b) Likely result in the direct transfer of employees from a business location in this state to a business location in the technology zone, unless it is determined by the department that the total number of full-time jobs provided by the person in this state would be reduced if the person were not certified under s. 560.96, Stats., or if the situation is extraordinary.

**Comm 107.22 Extension.** (1) After a person has been certified for three consecutive years, the department may extend certification for one additional two-year extension specified under s. 560.96 (5) (e), Stats.

(2) The extension of certification shall be based on at least one of the following:

(a) Additional significant job creation.

(b) Additional significant capital investment.

(3) The department may not extend certification under this section unless the certified business has met or exceeded the baseline goals as set forth in its original certification.

**Comm 107.23 Revocation.** (1) The department shall revoke the certification of a person's high-technology business certified under s 560.96, Stats., for either of the following circumstances:

(a) Submittal of false or misleading information in order to obtain certification under this chapter.

(b) Cessation of operations as a high-technology business within the technology zone.

(2) After certification has been revoked, the department shall so notify the department of revenue.

### **Subchapter III—Tax Benefits**

**Comm 107.30 Eligibility.** (1) GENERAL. The actual amount of tax benefit that a person may be eligible to claim shall be determined by the department in accordance with subch. II.

**Comm 107.31 Modification.** (1) INCREASE TAX BENEFITS. The department may, on the request of a certified business and on the recommendation of the technology zone contact, increase the limit of tax benefits established for the certified business, if the department does all of the following:

(a) Considers the tax credit benefits awarded to all certified businesses in a technology zone such that not more than \$5,000,000 in tax credits may be claimed in a technology zone.

(b) Revises the certification and provides a copy of the revised form to the department of revenue and to the certified business.



**(2) DECREASE TAX BENEFITS.** (a) The department may reduce the limit of tax benefits as established under s. Comm 107.30 or sub. (1) if the department determines that the information on which the limit is based was inaccurate or significantly misestimated.

(b) The department shall revise the certification and provide a copy of the revised form to the department of revenue and to the certified business.

**Comm 107.32 Claims.** (1) A certified business may file for tax benefits using forms acceptable to the department of revenue. Technology zone tax benefit claims shall include at least all of the following:

- (a) A copy of the certification issued by the department.
- (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 North American Industry Classification System code (NAICS) for that business.

**Note:** For additional information on NAICS, refer to U.S. Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503; phone (202) 395-3093; fax (202) 395-7245.

(e) Any forms required by the department of revenue.

**(2)** Prior to filing for tax benefits under sub. (1), a certified business shall complete and file with the department an annual project report supporting the tax benefit claim to the department on a form prescribed by the department. The annual project report shall include all of the following:

(a) The information required under ss. 71.07 (3g), 71.28 (3g) and 71.47 (3g), Stats.

(b) The status of the certified business' project including, without limitation, the number of jobs created, retained or significantly upgraded, the total amount invested and other information relating to the tax benefits claimed by the certified business.

(c) Documentation of sales, property and income tax projections.

(d) Any other information as requested by the department.

**(3)** (a) The department shall verify the tax benefit claim. The department may request additional information from the certified business to support the claim.

(b) No person may file for tax benefits under this chapter without the written approval of the department.

**Subchapter IV - Records**

**Comm 107.40 Documentation and records.** Certain documents, records, information, and other materials submitted with an application under this chapter may not be subject to disclosure and may be removed or separated from records that may be disclosed under s. 19.36 (6), Stats.

(1) Trade secret information shall not be subject to disclosure under s. 19.36 (5), Stats.

(2) Tax documents shall not be subject to disclosure under s. 71.78, Stats.

(3) Social security and federal employer identification numbers shall not subject to disclosure under 5 USC 552a and other applicable federal law.

(4) Private financial information shall not be subject to disclosure as determined in a balancing test by the legal custodian of the department.

**Note:** Any forms referred to in this chapter are available without a fee on request from the Department of Commerce, Bureau of Enterprise Development, 201 W. Washington Avenue, P.O. Box 7970, Madison, WI 53707-7970; phone (608) 266-7123; fax (608) 266-8969; or on the Commerce webpage at <http://www.commerce.state.wi.us/CD/CD-bed.html>.

\*\*\*\*\*

**EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the first month following publication in the Wisconsin Administrative Register.

\*\*\*\*\*

(end)