

07hr_CRule_08-031_AC-Ag_pt01



Details:

(FORM UPDATED: 07/12/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Agriculture (AC-Ag)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



State of Wisconsin \ Department of Commerce

RULES IN FINAL DRAFT FORM

Rule No.: Chapter Comm 132

Relating to: Dairy Manufacturing Facility Investment Credits

Clearinghouse Rule No.: 08-031

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 08-031

Rule No.: Chapter Comm 132

Relating to: Dairy Manufacturing Facility Investment Credits

Contact person for substantive questions:

Contact person for internal processing:

Name Sam Rockweiler

Name (same)

Title Code Development Consultant

Title _____

Telephone Number 266-0797

Telephone Number _____

1. Basis and purpose of the proposed rule.

As required by section 3578h of 2007 Wisconsin Act 20, these proposed rules would implement a program for certifying applicants as eligible for dairy manufacturing facility investment tax credits, and for allocating those credits to the applicants who become certified.

2. How the proposed rule advances relevant statutory goals or purposes.

The rules would implement the provisions in 2007 Wisconsin Act 20 that are intended to assist manufacturers of dairy products.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

No changes were made to the rule analysis or the fiscal estimate.

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 132
Amendment No. if Applicable

Subject

Dairy manufacturing facility investment credits

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> 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 _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Although the rules will newly result in review of documentation relating to certifying applicants as eligible to then claim allocated tax credits for investments in dairy manufacturing facilities, the number of these reviews and allocations is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The proposed rules are not expected to impose any significant costs on the private sector, because the rules address only voluntary submittal of documentation relating to tax credits for investments in dairy manufacturing facilities.

Long-Range Fiscal Implications

None known.

Agency/Prepared by: (Name & Phone No.)

Commerce/ Jim O'Keefe 264-7837

Authorized Signature/Telephone No.

James O'Keefe 264-7837

Date

1/28/08

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 Chapter Comm 132

Amendment No.

Subject

Dairy manufacturing facility investment credits

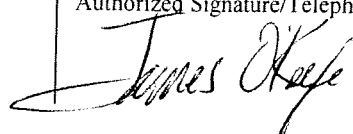
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None known.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
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
TOTAL State Costs By Category	\$0	-\$0
B. State Costs By Source of Funds		
GPR	Increased Costs \$0	Decreased Costs -\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev.	Decreased Rev.
GPR Taxes	\$0	-\$0
GPR Earned	\$0	-\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
TOTAL State Revenues	\$0	-\$0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)
 Commerce/ Jim O'Keefe 264-7837

Authorized Signature/Telephone No.


Date
 1/28/08

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 08-031		Hearing Location: Madison, Wisconsin	
Rule Number: Chapter Comm 132		Hearing Date: May 14, 2008	
Relating to: Dairy Manufacturing Facility Investment Credits			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
Oral	Bradley Legreid Wisconsin Dairy Products Association Middleton, Wisconsin	Strongly supports the proposed rules. States they are a continuation of a concerted effort over the past four years – including passage of laws that created dairy producer tax credits and livestock producer tax credits – for helping the #1 industry in Wisconsin, which is the dairy and agricultural industry. States Wisconsin’s dairy-product manufacturers export 85% of their products, and these manufacturers can utilize any assistance, such as tax credits or elimination of cumbersome regulations, for competing nationally against the growing dairy industries in other states. Cites as an example that California can produce cheese for about 10 cents less per pound than Wisconsin.	Support is noted.

File reference: *Comm 132/Hearing summary*

**ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to create chapter Comm 132 relating to certifying applicants and allocating dairy manufacturing facility investment tax credits, and affecting small businesses.

Analysis of Proposed Rules

1. Statutes Interpreted.

Sections 71.07 (3p), 71.28 (3p), 71.47 (3p), and 560.207 – as created in 2007 Wisconsin Act 20.

2. Statutory Authority.

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

3. Explanation of Agency Authority.

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

4. Related Statute or Rule.

The Department has rules for several other programs associated with tax credits, but none of those programs relate specifically to investments in dairy manufacturing facilities. For example, section 560.798 of the Statutes and chapter Comm 118 both refer to the Department's Agricultural Development Zone Program, which provides tax credits to agricultural businesses for job creation, capital investment, and environmental remediation. Those businesses must be located in specific geographic agricultural development zones in the State in order to qualify.

5. Summary of Rule.

The proposed rules in this order specify (1) the eligibility requirements for applicants; (2) the documentation that must be submitted by applicants to become certified as eligible for the dairy manufacturing facility investment credit, and to receive acceptance of incurred expenses for dairy manufacturing modernization or expansion; (3) the Department's response to the submitted documentation; and (4) use of the Department's response when filing a claim with the Department of Revenue for the corresponding tax credit.

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

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

7. Comparison With Rules in Adjacent States.

Michigan

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

Minnesota

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

Iowa

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

Illinois

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

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these proposed rules were derived from and consisted of (1) incorporating the criteria in 2007 Wisconsin Act 20; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development, business development, and tax-credit verification; (3) soliciting and utilizing input from the Department of Revenue and the Department of Agriculture, Trade and Consumer Protection, and from representatives of the stakeholders who are expected to participate in this program; and (4) reviewing Internet-based sources of related federal, state, and private-sector information.

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

The primary document that was used to determine the effect of the proposed rules on small business was 2007 Wisconsin Act 20. This Act requires the Department to implement a program to certify taxpayers as eligible for the dairy manufacturing facility investment credit under sections 71.07 (3p), 71.28 (3p), and 71.47 (3p) of the Statutes, and requires the

Department to promulgate rules for administering the program. The proposed rules apply their private-sector requirements only to dairy manufacturing facilities for which a corresponding tax credit is desired.

10. Effect on Small Business.

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

11. Agency Contact Person.

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

File reference: Comm 132/rules, analysis LR

SECTION 1. Chapter Comm 132 is created to read:

Chapter Comm 132

DAIRY MANUFACTURING FACILITY INVESTMENT CREDIT

Comm 132.10 Authority and purpose. Pursuant to s. 560.207 (4), Stats., this chapter sets forth the requirements for obtaining the following from the department:

(1) A certification that a taxpayer is eligible for the dairy manufacturing facility investment credit under s. 71.07 (3p), 71.28 (3p), or 71.47 (3p), Stats.

(2) A determination of the maximum amount of tax credit that a taxpayer may claim under this chapter for investing in dairy manufacturing facilities.

Note: The statute sections listed in this section address income and franchise tax credits for investments in dairy manufacturing facilities.

Comm 132.20 Definitions. In this chapter:

(1) “Dairy manufacturing” has the meaning given in s. 71.07 (3p) (a) 2., Stats.

Note: Section 71.07 (3p) (a) 2., Stats., reads as follows: “ ‘Dairy manufacturing’ means processing milk into dairy products or processing dairy products for sale commercially.”

(2) “Dairy product” means a value-added, saleable product resulting from processing milk or another dairy product – and includes beverage milk products; soft milk products such as yogurt, ice cream and cottage cheese; cheese; butter; non-fat dried milk; whole milk powder; dried whey; whey protein concentrate or isolates; casein; and dairy waste that can be used to produce energy, fuel or industrial products.

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

(4) “Eligible capital investment” includes all expenses incurred in the acquisition, construction or improvement of buildings or facilities; and the purchase price of depreciable personal property or equipment.

(5) “Milk” means the lacteal secretion of cows, sheep or goats.

(6) “Person” includes natural persons, fiduciaries, and corporations, unless the context requires otherwise.

Comm 132.30 Applying for certification and allocation. (1) (a) A person who intends to claim a dairy manufacturing facility investment credit may apply for certification and allocation of the credit.

(b) A “person” in this section may include either the operator of a dairy manufacturing operation, or an owner of a building or facility in which the operation occurs.

(2) Application to the department for certification and allocation of the credit shall be made on a valid, department-prescribed form; and shall include a department of revenue tax schedule DM, listing the applicant's eligible expenses for the project.

Note: The application form that is currently valid can be obtained from the Department at P.O. Box 7970, Madison, WI, 53707. Schedule DM can be obtained from the Department of Revenue at P.O. Box 8949, Madison, WI, 53708-8949; and may be available by accessing that Department's Web site at www.revenue.wi.gov.

(3) (a) Each application shall include all of the following information:

1. A description of the business operations of the applicant, in relation to the project.
2. A description of what the project is.
3. A description of how the project will promote economic development.
4. Any other information that the department deems is necessary to evaluate applications and allocate available tax credits.
5. Any subsequent clarification requested by the department.

(b) No application may include costs incurred in taxable years beginning on or after January 1, 2015.

(4) Each application shall be completed and either postmarked or delivered to the department, no sooner than upon completion of the claimant's taxable year in which the costs listed on tax schedule DM were incurred, and no later than March 31st of the subsequent taxable year, unless this deadline is extended by the department.

Comm 132.40 Certification of applicants, and allocation of tax credits. (1) After receipt of the applications submitted under s. Comm 132.30, the department shall certify the applicants that have met the criteria in s. Comm 132.30 (2) to (4).

(2) In conjunction with certifying an applicant, the department shall determine the maximum amount of tax credit that the applicant may claim.

(3) (a) Due to the \$600,000 and \$700,000 maximum totals established in s. 560.207 (2), Stats., for allocations in fiscal years 2007-08 and thereafter, respectively, the department may allocate the tax credits in a manner that the department believes is most likely to promote economic development.

(b) In determining the allocation of tax credits under par. (a), the department shall consider the following:

1. The jobs created by the project.
2. The salaries, wages and other employee benefits of the jobs created by the project.

3. The impact of the project on the dairy industry in Wisconsin.
4. The extent to which the area served by the project is economically distressed.
5. The amount of new, eligible capital investment in the project.
6. The impact of the project on business in Wisconsin.
7. Any previous assistance from the department.

(c) The department may prorate some or all of the allocations in order to broaden the potential for promoting economic development and addressing the criteria in par. (b).

Comm 132.50 Notifications. Following completion of the certifications and allocations in s. Comm 132.40, the department shall notify each applicant of the outcome of their application – and shall notify the department of revenue of every taxpayer certified under this chapter, and the amount of the tax credit allocated to the taxpayer.

Comm 132.60 Claims. (1) A certified applicant may file for a tax credit under this chapter using forms acceptable to the department of revenue.

(2) Dairy manufacturing facility investment credit claims shall include at least all of the following:

- (a) A copy of the certification issued by the department under s. Comm 132.50.
- (b) The state employer tax identification number.
- (c) The North American Industry Classification System code (NAICS) for the certified applicant.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall become effective on the first day of the month commencing after publication in the Wisconsin administrative register.

File reference: Comm 132/rules 2008LRac



Ruby, Erin

From: Rep.Ott
Sent: Wednesday, July 30, 2008 10:53 AM
To: Rep.Garthwaite; Rep.Gronemus; Rep.Jorgensen; Rep.Molepske; Rep.Mursau; Rep.Murtha; Rep.Nerison; Rep.Tauchen; Rep.Vruwink; Rep.WilliamsM
Cc: Arrowood, Craig; Cross, William; Halbach, Nathan; Hochhausen, Natolie; Hoelter, Jon; Junck, Linda; Kraak, Maureen; McKinny, Chris; Nelson, Elise; 'Palese Tony'; Patronskey, Mark; Peterson2, Ilsa; Plata, Christian; Potts, Andrew; Rausch, Scott; Smith-Loomans, Sandra; Sweeney, Rebekah; Wolkomir, Jon; 'Moll, Keeley A - DATCP'; Rockweiler, Sam - COMMERCE
Subject: Clearinghouse Rules Referred to Assembly Committee on Agriculture
Attachments: 20080730101133599.pdf; 20080730100913840.pdf

The following Clearinghouse Rules have been referred to the Assembly Committee on Agriculture for a 30 day review period:

Clearinghouse Rule 07-116: Meat and Inedible Animal By-Products (Attached - 73 pages).



2008073010113359
9.pdf (4 MB)

Clearinghouse Rule 08-031: Dairy Manufacturing Facility Investment Tax Credits (Attached - 12 pages).



2008073010091384
0.pdf (586 KB)...

Please contact my office if you have any questions, need hard copies of these documents, or would like to request a hearing on either rule.

The initial 30 day deadline for committee review is Thursday, August 28, 2008.

DATE: July 29, 2008

TO: Erin Ruby

Committee on Agriculture

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

CLEARINGHOUSE RULE 08-031

AN ORDER to create chapter Comm 132, relating to certifying applicants and allocating dairy manufacturing facility investment tax credits, and affecting small businesses.

Submitted by **Department of Commerce.**

Report received from Agency on **July 16, 2008.**

To committee on **Agriculture.**

Referred on **Tuesday, July 29, 2008.**

Last day for action - **Thursday, August 28, 2008.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.

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Al Ott

State Representative • 3rd Assembly District

September 2, 2008

Deputy Secretary Aaron Olver
Wisconsin Department of Commerce
201 W. Washington Avenue
Madison, WI 53707

Dear Deputy Secretary Olver,

This letter is to inform you that the following clearinghouse rule has been reported out of the Assembly Committee on Agriculture:

Clearinghouse Rule #08-031
Relating to: Certifying Applicants and Allocating Dairy Manufacturing Facility
Investment Tax Credits

A public hearing was not held, and no committee action was taken on the rule.

Please feel free to contact my office if you have any questions.

Sincerely,

Al Ott
State Representative
Chair, Assembly Committee on Agriculture