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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 02-116

#### 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 October 2002.]**

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

a. Since the chapter is divided into subchapters, ss. Comm 118.01 and 118.02 should be in a subchapter too. They should be in subch. I and the subsequent subchapters should be renumbered.

b. Slashed alternatives should be avoided in rules. See ss. Comm 118.02 (1) and 118.10 (4) (title).

c. Has consent been obtained from the Attorney General and the Revisor of Statutes for incorporation of the standard in s. Comm 118.32 (1) (d)? [See s. 2.08, Manual.]

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

In s. Comm 118.02 (12), the cite to s. 560.798 (4) (b), Stats., is wrong.

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

a. In s. Comm 118.01 (2), the title and the content of the subsection do not match. The sentence could begin “This chapter is promulgated under the authority of s. 560.798, Stats., relating to . . . .”

b. In s. Comm 118.02 (1), the definition would be clearer if the notes were integrated into the definition.

c. In s. Comm 118.02 (3), “the scope” could be deleted.

d. In s. Comm 118.02 (4), there should be a comma after “municipality.” Also, “of counties” should replace “thereof.” Further, it is unclear how a region or an entire county can be located within a municipality; this should be clarified.

e. In s. Comm 118.02 (7), either the definition should be made into one sentence, or “The applicant . . .” should be changed to “An eligible applicant . . . .”

f. In s. Comm 118.02 (8), is it the department’s intent to define an “expanding business” as one that is merely retaining jobs?

Also, in s. Comm 118.02 (8), the definition of “expanding business” as a “person” makes the definition ambiguous. Since the definition of “person” includes a natural person, it seems that an “expanding business” could be an individual who is making an investment in a company. The business receiving the investment might not fall under the definition of “expanding business.” This problem continues in s. Comm. 118.20 (2). As that subsection is currently written, it seems that an individual who is located in the zone could submit an application regardless of where the business is located. The use of the term “person” needs to be examined throughout the rule. Could “person” be replaced by “business”?

g. In s. Comm 118.02 (9), “. . . and be eligible . . .” should be changed to “. . . and is eligible . . . .” However, subch. III does not set out any eligibility standards; rather it concerns limitations on the amount of tax benefits, and how to file a claim for tax benefits.

h. In s. Comm 118.02 (11), “. . . meaning under . . .” should be changed to “. . . meaning given under . . . .” In the note, “country” should be changed to “county.”

i. In s. Comm 118.10 (1) (a) and (3) (intro.), “. . . a agricultural . . .” should be changed to “. . . an agricultural . . . .”

j. Section Comm 118.10 (2) should be redrafted using the active voice.

k. In s. Comm 118.10 (3) (c), what are “principal agricultural business development-supporting efforts and activities”?

l. In s. Comm 118.10 (4) (b), “Commerce” should be changed to “The department.”

m. In s. Comm 118.10 (5), what is “. . . the date of such notification . . . .”? Is it the date the notification is received; the date it is sent? Also, “the” should replace “such.”

n. In s. Comm 118.10 (6), “duration” should be changed to “duration of the designation.”

o. In s. Comm 118.11 (1), is it the department’s intent that only the contact person can submit the information? Further, is it the department’s intent that the boundaries can be modified based on any information submitted after notification, or should the information have come to light after the notification (i.e., a change in circumstances)?

p. Is s. Comm 118.20 (1) needed?

q. In s. Comm 118.20 (2), “shall” should be changed to “may”; “application to the” should be changed to “. . . application to become a certified business to the . . .”; and “A person” should be changed to “The applicant.” Furthermore, “as specified under s. Comm 118.21” should be deleted since that section does not deal with how an application should be submitted.

r. In s. Comm 118.20 (2) (c), “the agricultural development zone contact” should be defined or explained. Furthermore, if the agricultural development zone contact is not a person who works for the department, the department is delegating a tremendous amount of discretion and power. The same comment applies to s. Comm 118.31 (1).

s. In s. Comm 118.21 (1), “shall” should be changed to “may.”

t. In s. Comm 118.21 (1) (b), what does “the project” refer to?

u. In s. Comm 118.21 (1) (c), “of the person” should be deleted, and “appropriate” should be changed to “person’s.”

v. In s. Comm 118.21 (1) (h), “historical and projected financial information” of what?

w. In s. Comm 118.21 (2) (b), what is the “private investment” in? In the certified business? In the whole zone?

x. In s. Comm 118.21 (2) (h), is this paragraph meant to refer to movement between any municipalities, or must one of the municipalities be in the zone?

y. In s. Comm 118.21 (3) (a), the first “as” should be deleted.

z. In s. Comm 118.21 (4) (a), “Result in the direct loss” should be changed to “Directly result in the loss.”

aa. In s. Comm 118.21 (4) (b), what is a “direct transfer”?

bb. In s. Comm 118.23 (1), “for either of” should be changed to “in.”

cc. In s. Comm 118.23 (1) (a), “Submittal” should be changed to “Submission.” Is it the department’s intent to limit this paragraph to situations where the false information was submitted *in order to obtain* certification? This would exclude situations where the false information was submitted by accident.

dd. In s. Comm 118.30, the title “Eligibility” is a misnomer; the section concerns the amount of tax benefits a person may claim. Further, is this section necessary?

ee. In s. Comm 118.31 (1) (b), “form” should be changed to “certification” or to “certification form.”

ff. In s. Comm 118.31 (2) (b), “The department” should be changed to “If the department decreases the tax benefit, it.”

gg. In s. Comm 118.32 (1), “may” should be changed to “shall.”

hh. In s. Comm 118.32 (2), “to the department” should be deleted.

ii. In s. Comm 118.40 (4), the subsection should be deleted or be made more specific as to how the balancing test would be conducted and under what authority. Also, in sub. (4) (intro.), "Certain" should be deleted and ", as follows:" should be inserted after "Stats."