

**ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to create chapter Comm 130, relating to certifying businesses as being eligible to claim tax credits for fuel and electricity used in manufacturing, under sections 71.07 (3t), 71.28 (3t), and 71.47 (3t) of the Statutes, and affecting small business.

Rule Summary

1. Statutes Interpreted.

Sections 71.07 (3t), 71.28 (3t), 71.47 (3t), and 560.28

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.28 (2)

3. Explanation of Agency Authority.

Section 560.28 (2) of the Statutes requires the Department to promulgate rules for certifying businesses as eligible to claim tax credits for fuel and electricity used in manufacturing, under sections 71.07 (3t), 71.28 (3t), and 71.47 (3t) of the Statutes.

4. Related Statute or Rule.

The Department has rules for several other programs associated with tax credits, but none of those programs relate to certifying businesses as being eligible to claim these tax credits.

5. Plain Language Analysis.

The proposed rules specify (1) the eligibility requirements for businesses to become certified, (2) the documentation that must be submitted to receive certification, (3) the Department's response to the submitted documentation, and (4) use of the Department's response when filing claims with the Department of Revenue for the corresponding tax credits.

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.

Neither the Department nor the Department of Revenue is aware of any rules in adjacent states that address these tax credits.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of (1) incorporating the criteria in 2003 Wisconsin Act 99; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development, business development, and tax-credit verification; and (3) soliciting and utilizing input from the Department of Revenue, and from representatives of the stakeholders who are expected to participate in this program.

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 2003 Wisconsin Act 99. This Act requires the Department to promulgate rules for certifying businesses as eligible to claim tax credits for fuel and electricity used in manufacturing, under sections 71.07 (3t), 71.28 (3t), and 71.47 (3t) of the Statutes.

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 businesses that choose to pursue these tax credits.

11. Agency Contact Person.

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12. Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to srockweiler@commerce.state.wi.us, no later than December 5, 2007. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

File reference: Comm 130/rule analysis,ph