

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](http://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)**

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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.

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*File reference: Comm 132/rules 2008LRac*