

CR 93-70

**CERTIFICATE**  
ORDER ADOPTING RULES

STATE OF WISCONSIN)

)SS

MINING INVESTMENT  
AND LOCAL IMPACT  
FUND BOARD )

I, Lloyd Kincaid, Chairman of the Mining Investment and Local Impact Fund Board and custodian of the official records, certify that the annexed rules, relating to minor revisions and corrections to chapter Tax 13, were duly approved and adopted by this board on March 15, 1993.

I further certify that this copy has been compared by me with the original on file in this board and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 S. Webster Street in the city of Madison, this 12 day of July, 1993.



Lloyd Kincaid, Chairman  
Mining Investment and  
Local Impact Fund Board

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## ORDER OF THE MINING INVESTMENT AND LOCAL IMPACT FUND BOARD

The Wisconsin Mining Investment and Local Impact Fund Board hereby adopts an order to **repeal** Tax 13.03 (17), 13.05 (1)(a), 13.06 (1)(d)2., and 13.08 (2); **renumber** Tax 13.08 (1)11.; **amend** Tax 13.03 (3) and (10) and (11)(a) and (b)1., 13.06 (1)(intro.), 13.07 (2)(c)9.a., 13.08 (1)(title), 13.10 (9) and (13)(title), Tax 13.11 (3)(a) and (5)(c); and **create** Tax 13.08 (1)(L) and 13.08 (9), *relating to minor revisions and corrections.*

### ANALYSIS PREPARED BY THE MINING INVESTMENT AND LOCAL IMPACT FUND BOARD

**Rule-making authority:** ss. 70.395 (2)(hg) and (hr) and 227.11 (2), Stats.  
**Statutes interpreted:**

SECTION 1:	s. 144.85, Stats.
SECTION 2:	s. 70.395 (2)(d)5., Stats.
SECTION 3:	s. 70.395 (1)(1g), Stats.
SECTIONS 4,5,10:	s. 70.395 (2)(d), Stats.
SECTION 6:	s. 70.395 (2)(h), Stats.
SECTIONS 7,8:	s. 70.395 (2)(g), Stats.
SECTION 9:	s. 144.855 (5), Stats.
SECTION 11:	s. 70.375 (1)(bm), Stats.
SECTIONS 12,13:	s. 70.395 (2)(hg), Stats.

Some of the proposed changes correct what appears to be typos, or errors in grammar, terminology, and numbering. Others correct references to inappropriate statutes, or eliminate references to repealed statutes. Language and distribution procedures made unnecessary by outdated statutes and mining-industry changes are eliminated. Unclear rules are clarified.

*Regarding section 4:* An exact first dollar payment is not available in July if a mining company files under the estimated liability clause in s. 70.38 (1m), Stats. Furthermore, notification of payment amounts is not required for payments from other taxes, and thus should not be necessary in this case either.

*Regarding sections 7 and 11:* Two different statutes and different types of impact fund payments are addressed in one subsection, without clearly citing the different statutory authorities and making a distinction between similar phrases. Tax 13.08 (1) lists acceptable expenditures that apply only to discretionary grants awarded by the board, but the section also addresses acceptable expenditures for other impact fund payments. Furthermore, "purposes" and "mining-related purposes" are both used in the same section, although "mining-related purposes" is a clearly defined term under s. 70.375 (1)(bm), Stats., and "purposes" is not, although it refers to s. 70.395 (2)(g), Stats. Neither statute is cited.

Thus, the proposed order creates a sub. (9) titled "mining-related purposes" and retitles sub. (1) to "discretionary grants" in order to address the two different statutes and types of payments separately and more clearly.

*Regarding section 9:* A city, town, or village may already be reimbursed by the board for these expenses under s. 144.855 (5), Stats. However, these local governments may be unaware of this right because it is not clearly listed as an impact that a community might mitigate through a discretionary grant.

*Regarding section 10:* There are *two* rules numbered Tax 13.08 (2). Tax 13.08 (2) SPECIAL COUNTY EXPENDITURES seems to be the same rule as Tax 13.08 (7) SPECIAL COUNTY EXPENDITURES, since both apply to county use of first dollar payments. Thus, there are *two* rules with the same title, and *two* subdivisions numbered 13.08 (2).

*Regarding section 13:* The introduction of Tax 13.11 states that the accounting procedures listed in this section apply to *all* recipients of funds under Chapter Tax 13. Therefore, the references to specific types of payments in Tax 13.11 (3)(a) and (5)(c) should be deleted, as these accounting procedures must apply to all payment types.

CHAPTER TAX 13  
INVESTMENT AND LOCAL IMPACT FUND

**SECTION 1.** Tax 13.03 (3) and (10) and (11)(a) and (b)1. are amended to read:

Tax 13.03 (3) "Construction" means the activities described in the approved mining plan which can only occur at the mining site with the issuance of a ~~mine~~ mining permit and written authorization to commence mining under ss. 144.85 and s. 144.86 (3), Stats.

(10) "Mining permit application" means the ~~mine~~ mining permit application form filed with the department of natural resources pursuant to s. NR 132.06 Wis. Adm. Code.

(11)(a) Of a metalliferous ore deposit for which a ~~mine~~ mining permit application has been filed pursuant to s. 144.85, Stats.

(b)1. Filed as part of a ~~mine~~ mining permit application under s. 144.85, Stats., or

**SECTION 2.** Tax 13.03 (17) is repealed.

**SECTION 3.** Tax 13.05 (1)(a) is repealed.

**SECTION 4.** Tax 13.06 (1) (intro.) is amended to read:

Tax 13.06 Direct Payments. (1) FIRST DOLLAR PAYMENTS. Certain counties, cities, villages, towns, and Native American communities shall receive a first dollar payment under s. 70.395 (2)(d), Stats. ~~The board shall give written public notice in July listing the~~

~~municipalities to receive a first dollar payment or a percentage of the tax collected, or both, and the amount of each payment. Only county expenditures of first dollar payments are restricted under s. Tax 13.08 (7). Cities, villages, towns, and Native American communities are not restricted to mining-related expenditures of first dollar payments.~~ Each December, the board shall certify to the department of administration the specific payments to be made on the first Monday in January of the next year, as follows:

**SECTION 5.** Tax 13.06 (1)(d)2. is repealed.

**SECTION 6.** Tax 13.07 (2)(c)9.a. is amended to read:

Tax 13.07 (2)(c)9.a. Distribution shall first be made to those municipalities with active metalliferous mining sites that were active within 3 years previous to December 31 of the year in which the grant application is made, or to those municipalities in which a permit has been issued under ~~s.144.86~~ s.144.85, Stats., to commence mining.

**SECTION 7.** Tax 13.08 (1) (title) is amended to read:

**Tax 13.08 Expenditures.** (1) (title) DISCRETIONARY GRANTS. ~~Except for any first dollar payments to a city, village, town, or Native American community, all funds distributed to a municipality by the board shall be used for mining-related purposes.~~ Discretionary grants to alleviate metalliferous mining impacts may be applied towards the following purposes, in accordance with s. 70.395 (2)(g), Stats.:

**SECTION 8.** Tax 13.08 (1)11. is renumbered to Tax 13.08 (1)(k).

**SECTION 9.** Tax 13.08 (1)(L) is created to read:

Tax 13.08 (1)(L) Expenses related to water monitoring and provision of water under s. 144.855 (5), Stats., incurred by a city, town, or village.

**SECTION 10.** Tax 13.08 (2) [which appears *first* in the chapter] is repealed.

**SECTION 11.** Tax 13.08 (9) is created to read:

Tax 13.08 (9) (title) MINING-RELATED PURPOSES. Except for any first dollar payments to a city, village, town, or Native American community, all funds distributed to a municipality by the board shall be used for mining-related purposes, in accordance with s. 70.375 (1)(bm), Stats.

**SECTION 12.** Tax 13.10 (9) and (13) (title) are amended to read:

Tax 13.10 (9) PROCUREMENT OF SERVICES. Fund recipients shall solicit a minimum of 3 proposals when purchasing services for \$2,000 or more. This subsection shall apply to technical, planning, engineering, and other consulting and professional services. Public works projects paid with mining impact funds are subject to provisions outlined in ss. 59.08, 60.47, 61.55, and 62.15, and ~~120.55~~, Stats. Procurement procedures shall:

Tax 13.10 (13) (title) EXPENDITURES NOT ALLOWED. Fund recipients may not claim expenditures for:

**SECTION 13.** Tax 13.11 (3)(a) and (5)(c) are amended to read:

Tax 13.11 (3)(a) Records of transactions ~~pertaining to grant funds~~ which are inclusive, timely, verifiable, and supported by source documentation.

Tax 13.11 (5)(c) The board's staff may make on-site visits over the course of any year and otherwise monitor the use of ~~permit period payments, construction period payments, and discretionary payment payments received~~ by municipalities. Staff shall keep the board informed of its activities and findings in this regard. From the monitoring activities, the completed expenditure reports, and the auditing procedures outlined in s. Tax 13.09, the board shall determine whether municipalities have ~~applies~~ applied their funds to the purposes authorized.

**EFFECTIVE DATE:**

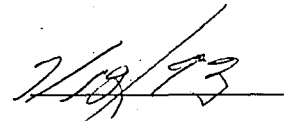
This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro), Stats.

**FINAL REGULATORY FLEXIBILITY ANALYSIS:**

The rule will have no effect on small businesses.



Lloyd Kincaid, Chairman  
Mining Investment and Local Impact Fund Board



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