

98-074 COMM 115 - COMM. BASED  
ECON. DEVEL. PROGRAM

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

---

**CLEARINGHOUSE REPORT TO AGENCY**

---

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-074**

AN ORDER to repeal Comm 115.02 (9) (e), 115.03 (3) and (6), 115.035 (3), 115.04 (3) and (4), 115.045 (2) (a), 115.05 (1) (a) 3. and 115.06; to amend Comm 115.02 (5), (9), (13) and (14), 115.03 (2), 115.035 (1) and (2), 115.04 (1) (c) and (6) (a) 1., 2., 3., 4. and 5., 115.05 (1), 115.07 (1), (2) and (3), 115.08 and 115.09; to repeal and recreate Comm 115.02 (15) and (16); and to create Comm 115.02 (2m) and (9m), 115.043, 115.046, 115.048 and 115.05 (1) (j) and (k) and (4), relating to the community-based economic development program.

Submitted by **DEPARTMENT OF COMMERCE**

05-18-98 RECEIVED BY LEGISLATIVE COUNCIL.

06-12-98 REPORT SENT TO AGENCY.

RNS:DF:kjf:jt

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-074

### 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 1994.]**

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

- a. The introductory clause preceding SECTION 1 has not been properly drafted. This provision should follow the format set forth in the *Administrative Rules Procedures Manual*. [See s. 1.02 (1), Manual.] Specifically, it should include a relating clause and an enumeration of the sections treated by the proposed order and the nature of the treatment.
- b. In all of the rule SECTIONS, except SECTIONS 3, 8, 9, 11, 13, 15 to 18, 20, 23 and 25, the rule section number should appear prior to the text of the affected rule. [See examples in s. 1.04 (2) (a), Manual.] In SECTIONS 15, 18, 19 and 25, "Comm" should appear prior to the text.
- c. In s. Comm 115.02 (9m), in the second sentence, "shall be" should be substituted for "is" and "may not" for "cannot."
- d. The terms defined in s. Comm 115.02 (15) and (16) should be reversed so that they are in alphabetical order.
- e. In s. Comm 115.035 (2), "~~\$10,000 \$30,000 and may not exceed or~~" should be replaced by "\$10,000 and may not exceed \$30,000 or."
- f. In the treatment clause of SECTION 14, periods should be inserted after the subdivision numbers.
- g. In the treatment clause of SECTION 21, "(a)" should be deleted.

- h. In s. Comm 115.08, “be required to” should be stricken.

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

a. The department’s statement of statutory authority incorrectly states that s. 560.20, Stats., creates the community-based economic development programs administered by the Department of Commerce. This reference should be changed to s. 560.14, Stats. Section 560.20 relates to other business development initiatives.

- b. In s. Comm 115.02 (15), “(1)” should be inserted before “(h).”

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

- a. In s. Comm 115.02 (13), the underscored comma should be deleted.

- b. In s. Comm 115.035 (1), “to” should be deleted.

c. Section Comm 115.07 (1) refers to “the application manual provided by the department.” Where may a manual be obtained? [See s. 1.09 (2), Manual.] If any portions of the manual have the effect of law and meet the definitions of a rule, those portions should be promulgated as rules. [See ss. 227.01 (13) and 227.10 (1), Stats.]

# COMMERCE

## Rule Submittal Date

On May 12, 1998, the Wisconsin Department of Commerce submitted a proposed rule to the Legislative Council rules Clearinghouse affecting Ch. COMM 115, Wis. Adm. Code, relating to the community-based economic development program.

## Analysis

Statutory Authority: Section 560.20. creates the Community-Based Economic Development programs. Subsections 560.14 (3m), (3r) (b), (5) (b) and (bn) authorize the Department to create administrative rules to interpret the section.

## Analysis Prepared by the Department of Commerce

Statutory Authority: Section 560.20., creates the Community-Based Economic Development programs. Subsections 560.14 (3m), (3r) (b), (5) (b) and (bn) authorize the Department to create administrative rules to interpret the section.

The proposed rule makes changes to the Community-Based Economic Development Program. The changes are the result of statutory changes made to the program in 1997 Wis. Act 27, the biennial budget bill. The proposed rule also makes some technical changes to simplify the rule and to make the rules for this program more uniform with the rules for the Department's other financial assistance programs.

The significant changes in the proposed rule include:

1. Priority for funding under the program will be given to brownfield projects.
2. The definition for "extreme financial hardship area" is changed to delete the reference to households that receive aid to families with dependent children, because this program no longer exists under the W-2 initiative.
3. The definition of small business is changed from a business with 25 employees to a business with 100 or less employees.
4. The amount of funds that can be granted to a community-based organization for a development project or business assistance project is changed from \$20,000 to \$30,000.
5. The amount of funds that can be granted to a political subdivision for an economic diversification plan is changed from \$10,000 to \$30,000. In addition, community-based organizations are also eligible to apply for an economic diversification plan.

Did not amend s. 560.20, only s. 560.14

6. It establishes procedures for a new program that allows community-based organizations to apply for a grant to establish a revolving loan fund to make loans to small businesses.

7. It establishes procedures for a new program that allows a private, nonprofit foundation to apply for a grant to conduct an entrepreneurship training program for economically disadvantaged or socially at-risk children.

8. It establishes procedures for a new program that allows a community-based organization or private nonprofit organization to apply for a grant to conduct a venture capital development conference. The successful applicant must provide at least 50 percent of the cost of the project.

### **Agency Procedure for Promulgation**

A public hearing is required.

### **Contact Person**

Louie Rech  
Department of Commerce  
Telephone (608) 267-9382

wrong format

Pursuant to the authority vested in the Department of Commerce by ss. 560.02 (4), 560.14 (3m), 560.14 (3r) (b), 560.14 (5) (b), 560.14 (5) (bm), and 227.11 (2), Stats., the Department of Commerce hereby creates rules interpreting s. 560.14, Stats.

SECTION 1. Comm 115.02 (2m) is created to read:

^ (2m) "Brownfields" has the meaning given in s. 560.60 (1v), Stats.

SECTION 2. Comm 115.02 (5) and (9) are amended to read:

^ (5) "Ceases operations" means the removal of all tenants from the business incubator, the cessation of shared services or managerial assistance by the business incubator, and, the conversion of the business incubator to some other use by the ~~applicant~~ recipient or the organization that operates the business incubator.

^ (9) "Extreme financial hardship area" means an area to which any 4 3 of the following paragraphs apply:

✓ SECTION 3. Comm 115.02 (9) (e) is repealed.

SECTION 4. Comm 115.02 (9m) is created to read:

^ (9m) "In-kind contributions" means staff time, supplies, materials and services contributed to the project. Time volunteered by a non-staff person or an unpaid board member is considered an in-kind contribution, but the rate of pay for this contribution cannot be calculated at a rate higher than any of the staff people working on the project.

shall be

may not

SECTION 5. Comm 115.02 (13) and (14) are amended to read:

o (13) "Plan" means a document that is adopted by resolution of the governing body of an area or a community-based organization and which documents input from area residents, identifies the economic development needs of the area, sets the goals, objectives and activities that address those needs and identifies the resources needed to implement the activities and attain the goals and objectives.

(14) "Small business" means a business which employs ~~25~~ 100 or fewer persons.

SECTION 6. Comm 115.02 (15) and (16) are repealed and recreated to read:

↪ (15) "Technology-based incubator" has the meaning given in s. 560.14 (h), Stats.

↪ (16) "Technically oriented business" has the meaning given in s.560.90, Stats.

SECTION 7. Comm 115.03 (2) is amended to read:

(2) The maximum amount that may be granted for any ~~project of~~ local economic development or small business assistance project is the lesser of ~~\$20,000~~ \$30,000 or 75% of the cost of the project ~~for which the grant is made.~~

✓ SECTION 8. Comm 115.03 (3) is repealed.

✓ SECTION 9. Comm 115.03 (6) is repealed.

SECTION 10. Comm 115.035 (1) and (2) are amended to read:

(1) The department may make a grant to a community-based organization or a political subdivision to develop a plan to diversify its economy, attract new businesses and jobs and to promote economic development.

(2) The maximum amount of a grant under this section is the lesser of \$10,000 \$30,000 and may not exceed or 75% of the cost of the project ~~for which the grant is made.~~

✓ SECTION 11. Comm 115.035 (3) is repealed.

SECTION 12. Comm 115.04 (1) (c) is amended to read:

(c) To start, expand or rehabilitate a new business or technology-based incubator ~~by financing the construction, rehabilitation or expansion of a business or technology-based incubator.~~ To qualify under this paragraph, neither construction nor acquisition may have occurred prior to the date of the grant award unless the building is owned by a nonprofit, nonstock corporation, and limited or no rehabilitation has taken place as of the date of the application and the nonprofit, nonstock corporation meets one of the following:

✓ SECTION 13. Comm 115.04 (3) and (4) are repealed.

SECTION 14. Comm 115.04 (6) (a) 1, 2, 3, 4 and 5 are amended to read:

1. If the incubator ceases operations during the first year, ~~then~~ the department may require repayment of up to 100% of grant funds received.

2. If the incubator ceases operations during the second year, ~~then~~ the department may require repayment of up to 80% of grants funds received.

3. If the incubator ceases operations during the third year, ~~then~~ the department may require repayment of up to 60% of grant funds received.

4. If the incubator ceases operations during the fourth year, ~~then~~ the department may require repayment of up to 40% of grant funds received.

5. If the incubator ceases operations during the fifth year, ~~then~~ the department may require repayment of up to 20% of grant funds received.

✓ SECTION 15. Comm 115.043 is created to read:

**115.043 COMMUNITY-BASED REVOLVING LOAN FUND GRANTS.** (1) The department may make a grant to a community-based organization to establish a revolving loan fund to make loans to small businesses in its service area.

(2) The maximum amount that may be granted for a local revolving loan fund project is \$50,000 to an organization in one year. The applicant must provide a cash match of not less than 50% of the total cost of the project.

(3) The community-based organization may provide a loan to a business of not more than 60% of the total project cost.

(4) Before awarding a grant under this section, the department shall consider all of the following:

(a) The experience of the community-based organization in underwriting and servicing loans.

(b) The experience of the community-based organization in conducting economic development activities.

(c) The extent of the representation of the financial and business communities on the loan review board of the community-based organization.

(d) The effectiveness of the revolving loan fund operating procedures manual of the community-based organization. }

(e) The experience of the community-based organization in working with small businesses.

(f) The need for a small business revolving loan fund in the service area of the community-based organization.

(g) The likelihood the loans will be made available to businesses located in a development zone, development opportunity zone, or main street business center.

(h) The types of activities for which the revolving loan funds will be used.

✓ SECTION 16. Comm 115.045 (2) (a) is repealed.

SECTION 17. Comm 115.046 is created to read:

**115.046 ENTREPRENEURSHIP TEACHING GRANT.** (1) The department may make a grant under this section to a private, nonprofit foundation for an entrepreneurship training project for economically disadvantaged or socially at-risk children.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(a) The extent to which the applicant will be partnering with an educational institution in the design and implementation of the project.

(b) The extent to which the applicant will be collaborating with area businesses in obtaining financial and operational support for the project.

(c) The extent to which the project will provide real-life experiences for the children.

(d) The extent to which the project will include placement and follow-up activities.

(e) The experience of the applicant in working with economically disadvantaged or socially at-risk children.

SECTION 18. Comm 115.048 is created to read:

**115.048 VENTURE CAPITAL DEVELOPMENT CONFERENCE.** (1) The department may make a grant under this section to a community-based organization or private nonprofit organization for a venture capital development conference.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(a) The criteria in s. 560.14 (4m) (a) 1. to 3. and 5., Stats.

(b) The applicant's access to capital markets.

(c) The experience of the applicant in linking investors with emerging businesses.

(d) The experience of the applicant in providing business plan assistance.

(e) The size of the area in which the project will be located.

(f) The level of on-going assistance that will be provided to the entrepreneurs.

SECTION 19. Comm 115.05 (1) is amended to read:

(1) Before making a determination under s. Comm 115.03, 115.035, ~~or 115.04, 115.043, 115.045, or 115.046~~, the department shall consider all of the following:

✓ SECTION 20. Comm 115.05 (1) (a) 3. is repealed.

SECTION 21. Comm 115.05 (1) ~~(a)~~(j) and (k) are created to read:

(j) The quality and effectiveness of the performance of the applicant on previous grants awarded under this chapter.

(k) The extent of the participation of the municipality in the design and implementation of the project.

SECTION 22. Comm 115.05 (4) is created to read:

(4) The department shall give priority under this chapter for projects related to brownfields redevelopment.

✓ SECTION 23. Comm 115.06 is repealed.

SECTION 24. Comm 115.07 (1) to (3) are amended to read:

(1) The department shall prepare application manuals for grants under ~~ss. Comm 115.03, 115.035, 115.04, and 115.045~~ this chapter which it may update as needed. ~~The manuals shall contain the application procedures, requirements and instructions for funding under this chapter. Eligible applicants shall submit an application for funding that addresses all the instructions and items in the application manual provided by the department.~~

(2) The department shall hold annual competitions for grants under ~~s. Comm 115.03, 115.035, 115.04 and 115.045~~ this chapter. The competition for grants under s. Comm 115.04 shall be divided into 4 categories for s. Comm 115.04 (1) (a), (b), (c) and (d) grant determinations.

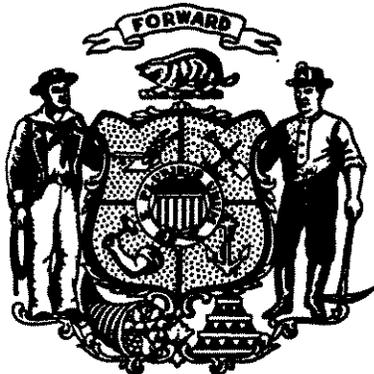
(3) The department may make a grant under ~~ss. Comm 115.03, 115.035, 115.04 or 115.045~~ this chapter after examining the application and any other information it deems relevant if, ~~based upon the applicable criteria in ss. Comm 115.045 and 115.05~~, the application submitted by the applicant compares favorably to other applications received ~~during the fiscal year~~. ~~The department shall fund only those proposals which, in its judgement, effectively address the applicable criteria even if the department's determination results in the expenditure of less than the total funding allocated for such grants under s. Comm 115.06 (1).~~

✓ SECTION 25. Comm 115.08 and 115.09 are amended to read:

**115.08 Contracts.** Successful applicants shall be required to enter into a contract with the department for the purposes of implementing the proposed grant ~~or loan~~. The contracts shall be signed by the secretary of ~~development~~ the department and the ~~chief executive officer of the successful applicant, or by their authorized representatives~~ person or persons authorized by the applicant to enter into the contract. The department may void a contract and seek a return of any funds released under the contract for failure by the applicant to perform its obligations under the contract. Amendments to these contracts may be adopted by the written consent of both parties.

**115.09 Reporting and auditing.** Each successful applicant shall provide the department periodic ~~financial~~ reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of each contract ~~that is for an amount greater than \$30,000.~~ The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the grant. The ~~financial reports-reimbursement documentation,~~ audit and the program reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

*END*



*END*



201 West Washington Avenue  
P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018

Tommy G. Thompson, Governor  
William J. McCoshen, Secretary

August 12, 1998

Senate Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Assembly Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE  
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 98-074

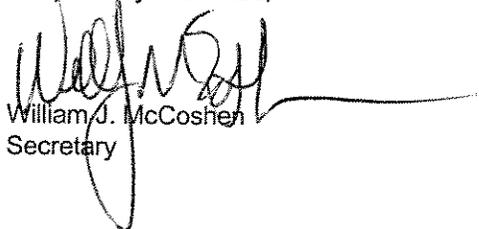
RULE NO.: ch. Comm 115

RELATING TO: Community-Based Economic Development Program

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

  
William J. McCoshen  
Secretary



201 West Washington Avenue  
P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018

Tommy G. Thompson, Governor  
William J. McCoshen, Secretary

August 12, 1998

Senator Brian Rude  
President of the Senate  
119 Martin L. King Blvd, Rm 102  
Madison, Wisconsin 53702

Representative Scott Jensen  
Speaker of the Assembly  
211 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Rude and Representative Jensen:

### NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 98-074

RULE NO.: Ch. COMM 115

RELATING TO: Community-Based Economic Development Program

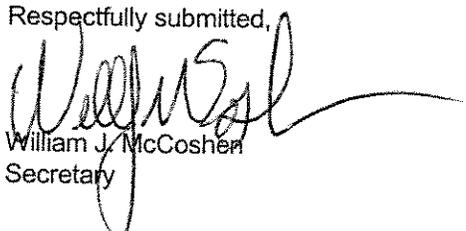
Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
  - a) Rule Report.
  - b) Public Hearing Attendance Record.
  - c) Public Hearing Comment and Agency Response Form.
  - d) Legislative Council Rules Clearinghouse Report.
  - e) Response to Legislative Council Rules Clearinghouse Report.
  - f) Fiscal Estimate.
  - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

  
William J. McCoshen  
Secretary



State of Wisconsin \ Department of Commerce

# **RULES in FINAL DRAFT FORM**

**Rule No.:** Ch. COMM 115

**Relating to:** Community-Based Economic Development Program

**Clearinghouse Rule No.:** 98-074

## Department of Commerce

### Rule Relating to the Community-Based Economic Development Program

#### Analysis of Rules

Statutory Authority: § 560.14 (3m), (3r) (b), (5) (b) and (bn), stats.

Statutes Interpreted: § 560.14, stats.

On May 12, 1998, the Wisconsin Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse affecting Ch. COMM 115, Wis. Adm. Code, relating to the community-based economic development program.

Statutory Authority: Section 560.14, stats., creates the Community-Based Economic Development programs. Subsections 560.14 (3m), (3r) (b), (5) (b) and (bn), stats., authorize the Department to create administrative rules to interpret the section.

The proposed rule makes changes to the Community-Based Economic Development Program. The changes are the result of statutory changes made to the program in 1997 Wis. Act 27. The proposed rule also makes some technical changes to simplify the rule and to make the rules for this program more uniform with the rules for the Department's other financial assistance programs.

The significant changes in the proposed rule include:

1. Priority for funding under the program will be given to brownfield projects.
2. The definition for "extreme financial hardship area" is changed to delete the reference to households that receive aid to families with dependent children, because this program no longer exists under the W-2 initiative.
3. The definition of small business is changed from a business with 25 employees to a business with 100 or fewer employees.
4. The amount of funds that can be granted to a community-based organization for a development project or business assistance project is changed from \$20,000 to \$30,000.

5. The amount of funds that can be granted to a political subdivision for an economic diversification plan is changed from \$10,000 to \$30,000. In addition, community-based organizations are also eligible to apply for an economic diversification plan.
6. It establishes procedures for a new program that allows community-based organizations to apply for a grant to establish a revolving loan fund to make loans to small businesses.
7. It establishes procedures for a new program that allows a private, nonprofit foundation to apply for a grant to conduct an entrepreneurship training program for economically disadvantaged or socially at-risk children.
8. It establishes procedures for a new program that allows a community-based organization or private nonprofit organization to apply for a grant to conduct a venture capital development conference. The successful applicant must provide at least 50 percent of the cost of the project.

Pursuant to the authority vested in the Department of Commerce by ss. 560.02 (4), 560.14 (3m), 560.14 (3r) (b), 560.14 (5) (b), 560.14 (5) (bm), and 227.11 (2), Stats., the Department of Commerce hereby proposes an order to repeal Comm 115.02 (9) (e), 115.03 (3) and (6), 115.035 (3), 115.04 (3) and (4), 115.045 (2) (a), 115.05 (1) (a) 3. and 115.06; to amend Comm 115.02 (5), (9), (13) and (14), 115.03 (2), 115.035 (1) and (2), 115.04 (1) (c) and (6) (a) 1., 2., 3., 4. and 5., 115.05 (1), 115.07 (1), (2) and (3), 115.08 and 115.09; to repeal and recreate Comm 115.02 (15) and (16); and to create Comm 115.02 (2m) and (9m), 115.043, 115.046, 115.048 and 115.05 (1) (j) and (k) and (4), relating to the community-based economic development program.

SECTION 1. Comm 115.02 (2m) is created to read:

Comm 115.02 (2m) "Brownfields" has the meaning given in s. 560.60 (1v), Stats.

SECTION 2. Comm 115.02 (5) and (9) are amended to read:

Comm 115.02 (5) "Ceases operations" means the removal of all tenants from the business incubator, the cessation of shared services or managerial assistance by the business incubator, and, the conversion of the business incubator to some other use by the applicant recipient or the organization that operates the business incubator.

(9) "Extreme financial hardship area" means an area to which any 4 3 of the following paragraphs apply:

SECTION 3. Comm 115.02 (9) (e) is repealed.

SECTION 4. Comm 115.02 (9m) is created to read:

Comm 115.02 (9m) "In-kind contributions" means staff time, supplies, materials and services contributed to the project. Time volunteered by a non-staff person or an unpaid board member shall be considered an in-kind contribution, but the rate of pay for this contribution may not be calculated at a rate higher than any of the staff people working on the project.

SECTION 5. Comm 115.02 (13) and (14) are amended to read:

Comm 115.02 (13) "Plan" means a document that is adopted by resolution of the governing body of an area or a community-based organization and which documents input from area residents, identifies the economic development needs of the area, sets the goals, objectives and activities that address those needs and identifies the resources needed to implement the activities and attain the goals and objectives.

(14) "Small business" means a business which employs ~~25~~ 100 or fewer persons.

SECTION 6. Comm 115.02 (15) and (16) are repealed and recreated to read:

Comm 115.02 (15) "Technically oriented business" has the meaning given in s.560.90, Stats.

(16) "Technology-based incubator" has the meaning given in s. 560.14 (1) (h), Stats.

SECTION 7. Comm 115.03 (2) is amended to read:

Comm 115.03 (2) The maximum amount that may be granted for any ~~project of local economic development or small business assistance project~~ is the lesser of ~~\$20,000~~ \$30,000 or 75% of the cost of the project ~~for which the grant is made.~~

SECTION 8. Comm 115.03 (3) is repealed.

SECTION 9. Comm 115.03 (6) is repealed.

SECTION 10. Comm 115.035 (1) and (2) are amended to read:

Comm 115.035 (1) The department may make a grant to a community-based organization or a political subdivision to develop a plan to diversify its economy, attract new businesses and jobs and promote economic development.

(2) The maximum amount of a grant under this section is the lesser of \$10,000 and may not exceed \$30,000 or 75% of the cost of the project for which the grant is made.

SECTION 11. Comm 115.035 (3) is repealed.

SECTION 12. Comm 115.04 (1) (c) is amended to read:

Comm 115.04 (1) (c) To start, expand or rehabilitate a new business or technology-based incubator ~~by financing the construction, rehabilitation or expansion of a business or technology-based incubator.~~ To qualify under this paragraph, neither construction nor acquisition may have occurred prior to the date of the grant award unless the building is owned by a nonprofit, nonstock corporation, and limited or no rehabilitation has taken place as of the date of the application and the nonprofit, nonstock corporation meets one of the following:

SECTION 13. Comm 115.04 (3) and (4) are repealed.

SECTION 14. Comm 115.04 (6) (a) 1., 2., 3., 4. and 5. are amended to read:

Comm 115.04 (6) (a) 1. If the incubator ceases operations during the first year, ~~than~~ the department may require repayment of up to 100% of grant funds received.

2. If the incubator ceases operations during the second year, ~~than~~ the department may require repayment of up to 80% of grants funds received.

3. If the incubator ceases operations during the third year, ~~than~~ the department may require repayment of up to 60% of grant funds received.

4. If the incubator ceases operations during the fourth year, ~~than~~ the department may require repayment of up to 40% of grant funds received.

5. If the incubator ceases operations during the fifth year, ~~than~~ the department may require repayment of up to 20% of grant funds received.

SECTION 15. Comm 115.043 is created to read:

**115.043 COMMUNITY-BASED REVOLVING LOAN FUND GRANTS.** (1) The department may make a grant to a community-based organization to establish a revolving loan fund to make loans to small businesses in its service area.

(2) The maximum amount that may be granted for a local revolving loan fund project is \$50,000 to an organization in one year. The applicant must provide a cash match of not less than 50% of the total cost of the project.

(3) The community-based organization may provide a loan to a business of not more than 60% of the total project cost.

(4) Before awarding a grant under this section, the department shall consider all of the following:

(a) The experience of the community-based organization in underwriting and servicing loans.

(b) The experience of the community-based organization in conducting economic development activities.

(c) The extent of the representation of the financial and business communities on the loan review board of the community-based organization.

(d) The effectiveness of the revolving loan fund operating procedures manual of the community-based organization.

(e) The experience of the community-based organization in working with small businesses.

(f) The need for a small business revolving loan fund in the service area of the community-based organization.

(g) The likelihood the loans will be made available to businesses located in a development zone, development opportunity zone, or main street business center.

(h) The types of activities for which the revolving loan funds will be used.

SECTION 16. Comm 115.045 (2) (a) is repealed.

SECTION 17. Comm 115.046 is created to read:

**115.046 ENTREPRENEURSHIP TEACHING GRANT.** (1) The department may make a grant under this section to a private, nonprofit foundation for an entrepreneurship training project for economically disadvantaged or socially at-risk children.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(a) The extent to which the applicant will be partnering with an educational institution in the design and implementation of the project.

(b) The extent to which the applicant will be collaborating with area businesses in obtaining financial and operational support for the project.

(c) The extent to which the project will provide real-life experiences for the children.

(d) The extent to which the project will include placement and follow-up activities.

(e) The experience of the applicant in working with economically disadvantaged or socially at-risk children.

SECTION 18. Comm 115.048 is created to read:

**115.048 VENTURE CAPITAL DEVELOPMENT CONFERENCE.** (1) The department may make a grant under this section to a community-based organization or private nonprofit organization for a venture capital development conference.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(a) The criteria in s. 560.14 (4m) (a) 1. to 3. and 5., Stats.

(b) The applicant's access to capital markets.

(c) The experience of the applicant in linking investors with emerging businesses.

(d) The experience of the applicant in providing business plan assistance.

(e) The size of the area in which the project will be located.

(f) The level of on-going assistance that will be provided to the entrepreneurs.

SECTION 19. Comm 115.05 (1) is amended to read:

Comm 115.05 (1) Before making a determination under s. Comm 115.03, 115.035, ~~or 115.04, 115.043, 115.045, or 115.046~~, the department shall consider all of the following:

SECTION 20. Comm 115.05 (1) (a) 3. is repealed.

SECTION 21. Comm 115.05 (1) (a) (j) and (k) are created to read:

Comm 115.05 (1) (a) (j) The quality and effectiveness of the performance of the applicant on previous grants awarded under this chapter.

(k) The extent of the participation of the municipality in the design and implementation of the project.

SECTION 22. Comm 115.05 (4) is created to read:

Comm 115.05 (4) The department shall give priority under this chapter for projects related to brownfields redevelopment.

SECTION 23. Comm 115.06 is repealed.

SECTION 24. Comm 115.07 (1) to (3) are amended to read:

Comm 115.07 (1) The department shall prepare application manuals for grants under ~~ss. Comm 115.03, 115.035, 115.04, and 115.045~~ this chapter which it may update as needed. The manuals shall contain the application procedures, requirements and instructions for funding under this chapter.

(2) The department shall hold annual competitions for grants under ~~s. Comm 115.03, 115.035, 115.04 and 115.045~~ this chapter. The competition for grants under s. Comm 115.04 shall be divided into 4 categories for s. Comm 115.04 (1) (a), (b), (c) and (d) grant determinations.

(3) The department may make a grant under ~~ss. Comm 115.03, 115.035, 115.04 or 115.045~~ this chapter after examining the application and any other information it deems relevant if, ~~based upon the applicable criteria in ss. Comm 115.045 and 115.05~~, the application submitted by the applicant compares favorably to other applications received ~~during the fiscal year~~. ~~The department shall fund only those proposals which, in its judgement, effectively address the applicable criteria even if the department's determination results in the expenditure of less than the total funding allocated for such grants under s. Comm 115.06 (1).~~

SECTION 25. Comm 115.08 and 115.09 are amended to read:

**115.08 Contracts.** Successful applicants shall ~~be required to~~ enter into a contract with the department for the purposes of implementing the proposed grant ~~or loan~~. The contracts shall be signed by the secretary of ~~development~~ the department and the ~~chief executive officer of the successful applicant, or by their authorized representatives~~ person or persons authorized by the

applicant to enter into the contract. The department may void a contract and seek a return of any funds released under the contract for failure by the applicant to perform its obligations under the contract. Amendments to these contracts may be adopted by the written consent of both parties.

**115.09 Reporting and auditing.** Each successful applicant shall provide the department periodic financial reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of each contract ~~that is for an amount greater than \$30,000.~~ The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the grant. ~~The financial reports reimbursement documentation, audit and the program reports shall be submitted to the department by a date specified in the contract.~~ The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

(END)

\*\*\*\*\*

These rules 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

## Department of Commerce

CLEARINGHOUSE RULE NO.: 98-074

RULE NO.: Ch. COMM 115

RELATING TO: Community-Based Economic Development Program

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

No comments or issues were received at public hearings from small businesses.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

No comments or issues were received at public hearings from small businesses.

3. Nature and estimated cost of preparation of any reports by small businesses.

None.

4. Nature and estimated cost of other measures and investments required of small businesses.

None.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

No additional costs have been identified.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None.

# RULE REPORT

## Department of Commerce

Rule No.: Ch. COMM 115

---

Relating to: Community-Based Economic Development Program

---

*Agency contact person for substantive questions:*

Name Julie Keal

Title Policy Analyst

Telephone Number 266-6748

*Agency contact person for internal processing:*

Name Julie Keal

Title Policy Analyst

Telephone Number 266-6748

1. Agency statutory authority under which the agency intends to promulgate the rule(s).  
§ 560.14 (3m), (3r) (b), (5) (b) and (n), stats.
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).  
None.
3. Citation of court decisions which are applicable to the proposed rule(s).  
None.

4. Description of the proposed rule(s).

See attached Analysis of Rules.

5. Reason for the proposed rule(s).

See attached Analysis of Rules.

LRB or Bill No./Adm. Rule No.  
Ch. COMM 115

Amendment No. if Applicable

FISCAL ESTIMATE  
DOA-2048 N(R10/94)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**Subject**

Community-Based Economic Development Program

**Fiscal Effect**

State:  No State Fiscal Effect

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

Increase Costs - May be possible to Absorb Within Agency's Budget     Yes     No

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

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**

The proposed rule change will have no fiscal effect.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)  
Department of Commerce  
Louis Cornelius 266-8629

Authorized Signature/Telephone No.  
*Louis J. Cornelius*

Date  
8/10/98

# FISCAL ESTIMATE WORKSHEET

1997 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Ch. COMM 115	Amendment No.
---	---------------

Subject

Community-Based Economic Development Program

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

None.

**II. Annualized Costs:**

A. State Costs by Category	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$0	\$ -0
(FTE Position Changes)	( 0 FTE)	(- 0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	0-
Aids to Individuals or Organizations	0	-0
<b>TOTAL State Costs by Category</b>	<b>\$ 0</b>	<b>\$ 0</b>
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ -0
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues -	Increased Rev.	Decreased Rev.
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$ 0	\$ -0
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$ -</b>

**NET ANNUALIZED FISCAL IMPACT**

	STATE	LOCAL
NET CHANGE IN COSTS	\$0 _____	\$0 _____
NET CHANGE IN REVENUES	\$ _____	\$ _____

Agency/Prepared by: (Name & Phone No.)  
Louie Cornelius 266-8629

Authorized Signature/Telephone No.

*Louie Cornelius*

Date

8/10/95





# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 98-074

RULE NO.: Ch. COMM 115

RELATING TO: Community-Based Economic Development Program

Agency contact person for substantive questions.

Name: Julie Keal

Title: Policy Analyst

Telephone No. 266-6748

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority (s.227.15(2)(a))

a.  Accepted

b.  Accepted in part

c.  Rejected

d.  Comments attached

2. Review of rules for form, style and placement in administrative code (s.227.15(2)(c))

a.  Accepted

b.  Accepted in part

c.  Rejected

d.  Comments attached

*(Continued on reverse side)*

3. Review rules for conflict with or duplication of existing rules (s.227.15(2)(d))
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
4. Review rules for adequate references to related statutes, rules and forms (s.227.15(2)(e))
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness (s.227.15(2)(f))
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations (s.227.15(2)(g))
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
7. Review rules for permit action deadline (s.227.15(2)(h))
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached

WISCONSIN LEGISLATIVE COUNCIL STAFF



***RULES CLEARINGHOUSE***

Ronald Sklansky  
Director  
(608) 266-1946



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

Richard Sweet  
Assistant Director  
(608) 266-2982

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

---

**CLEARINGHOUSE REPORT TO AGENCY**

---

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-074**

AN ORDER to repeal Comm 115.02 (9) (e), 115.03 (3) and (6), 115.035 (3), 115.04 (3) and (4), 115.045 (2) (a), 115.05 (1) (a) 3. and 115.06; to amend Comm 115.02 (5), (9), (13) and (14), 115.03 (2), 115.035 (1) and (2), 115.04 (1) (c) and (6) (a) 1., 2., 3., 4. and 5., 115.05 (1), 115.07 (1), (2) and (3), 115.08 and 115.09; to repeal and recreate Comm 115.02 (15) and (16); and to create Comm 115.02 (2m) and (9m), 115.043, 115.046, 115.048 and 115.05 (1) (j) and (k) and (4), relating to the community-based economic development program.

Submitted by **DEPARTMENT OF COMMERCE**

05-18-98      RECEIVED BY LEGISLATIVE COUNCIL.  
06-12-98      REPORT SENT TO AGENCY.

RNS:DF:kjf;jt

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-074

### 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 1994.]**

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

a. The introductory clause preceding SECTION 1 has not been properly drafted. This provision should follow the format set forth in the *Administrative Rules Procedures Manual*. [See s. 1.02 (1), Manual.] Specifically, it should include a relating clause and an enumeration of the sections treated by the proposed order and the nature of the treatment.

b. In all of the rule SECTIONS, except SECTIONS 3, 8, 9, 11, 13, 15 to 18, 20, 23 and 25, the rule section number should appear prior to the text of the affected rule. [See examples in s. 1.04 (2) (a), Manual.] In SECTIONS 15, 18, 19 and 25, "Comm" should appear prior to the text.

c. In s. Comm 115.02 (9m), in the second sentence, "shall be" should be substituted for "is" and "may not" for "cannot."

d. The terms defined in s. Comm 115.02 (15) and (16) should be reversed so that they are in alphabetical order.

e. In s. Comm 115.035 (2), "~~\$10,000~~ \$30,000 ~~and may not exceed or~~" should be replaced by "~~\$10,000 and may not exceed~~ \$30,000 or."

f. In the treatment clause of SECTION 14, periods should be inserted after the subdivision numbers.

g. In the treatment clause of SECTION 21, "(a)" should be deleted.

- h. In s. Comm 115.08, “be required to” should be stricken.

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

a. The department’s statement of statutory authority incorrectly states that s. 560.20, Stats., creates the community-based economic development programs administered by the Department of Commerce. This reference should be changed to s. 560.14, Stats. Section 560.20 relates to other business development initiatives.

- b. In s. Comm 115.02 (15), “(1)” should be inserted before “(h).”

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

- a. In s. Comm 115.02 (13), the underscored comma should be deleted.

- b. In s. Comm 115.035 (1), “to” should be deleted.

c. Section Comm 115.07 (1) refers to “the application manual provided by the department.” Where may a manual be obtained? [See s. 1.09 (2), Manual.] If any portions of the manual have the effect of law and meet the definitions of a rule, those portions should be promulgated as rules. [See ss. 227.01 (13) and 227.10 (1), Stats.]