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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

July 15, 2010

Robert Marchant
Senate Chief Clerk
B20 Southeast, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Patrick Fuller
Assembly Chief Clerk
Room 401
17 West Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 10-054

RULE NO.: Chapter Comm 121

RELATING TO: Small Business Innovation and Research Assistance Grants

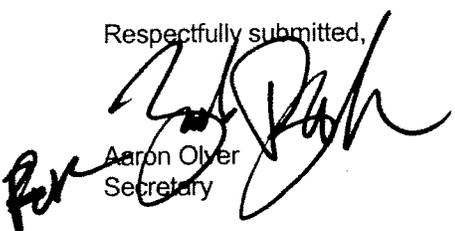
Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the chief clerk of each house for referral to the appropriate legislative standing committees.

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,


Aaron Olver
Secretary

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 10-054

Rule No.: Chapter Comm 121

Relating to: Small Business Innovation and Research Assistance Grants

Contact person for substantive questions: _____ *Contact person for internal processing:* _____

Name Sam Rockweiler Name (same)

Title Code Development Consultant Title _____

Telephone Number 266-0797 Telephone Number _____

1. Basis and purpose of the proposed rule.

These rules set forth the criteria the Department will use to administer the small business innovation and research assistance grants established under subchapter III of chapter 560 of the Statutes, as enacted in 2009 Wisconsin Act 28.

2. How the proposed rule advances relevant statutory goals or purposes.

The proposed rules are consistent with all of the related goals and purposes of subchapter III of chapter 560 of the Statutes.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

No substantive changes were made to the rule analysis or fiscal estimate.

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 121
Amendment No. if Applicable

Subject

Small Business Innovation and Research Assistance Grants

Fiscal Effect

State: No State Fiscal Effect

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

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

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

Although the rules will newly result in review of documentation relating to applications for grants under this chapter, the time needed for these reviews is expected to be spent by current employees. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

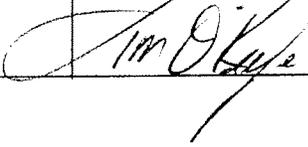
The proposed rules are not expected to impose any significant costs on the private sector because the rules address submittal of documentation only by entities that choose to pursue obtaining grants under this chapter.

Long-Range Fiscal Implications

None known.

Agency/Prepared by: (Name & Phone No.)
Commerce/Jim O'Keefe 264-7837

Authorized Signature/Telephone No.



Date

4/13/10

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 Chapter Comm 121

Amendment No.

Subject

Small Business Innovation and Research Assistance Grants

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None known.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
State Operations - Salaries and Fringes	\$0	-\$0
(FTE Position Changes)	(0.00 FTE)	(- 0.00 FTE)
State Operations - Other Costs	\$0	-\$0
Local Assistance	\$0	-\$0
Aids to Individuals or Organizations	\$0	-\$0
TOTAL State Costs By Category	\$0	-\$0
B. State Costs By Source of Funds	Increased Costs	Decreased Costs
GPR	\$0	-\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$0	-\$0
GPR Earned	\$0	-\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
TOTAL State Revenues	\$0	-\$0

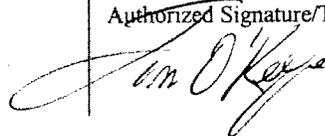
NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)

Commerce/ Jim O'Keefe 264-7837

Authorized Signature/Telephone No.



Date

4/13/10

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 10-054		Hearing Location: Madison	
Rule Number: Chapter Comm 121		Hearing Date: June 11, 2010	
Relating to: Small Business Innovation and Research Assistance Grants			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
No comments were received.			

File Reference: Comm 121/Hearing Summary

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 10-054

RULE NO.: Chapter Comm 121

RELATING TO: Small Business Innovation and Research Assistance Grants

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.

Less stringent requirements are not proposed for small businesses because the directive under which these rules are proposed, in section 560.45 of the Statutes, does not provide such flexibility.

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 issues were raised.

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

No substantive reporting would be imposed on small businesses.

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

The rules are not expected to impose significant costs on small businesses for other measures because the rules address submittal of documentation, and other activities, only by applicants that choose to pursue grants for assistance in the phase of development that precedes eligibility in the federal Small Business Innovation Research program, or for assistance with participating in the Phase III, commercialization portion of that program.

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.

None of the methods listed in 1. for reducing small-business impacts are included in the proposed rules.

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

None of the methods listed in 1. for reducing small-business impacts are included in the proposed rules.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

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 **10-054**

AN ORDER to create chapter Comm 121, relating to small business innovation research assistance grants, and affecting small businesses.

Submitted by **DEPARTMENT OF COMMERCE**

05-05-2010 RECEIVED BY LEGISLATIVE COUNCIL.

06-01-2010 REPORT SENT TO AGENCY.

RNS:DWS

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 RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

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CLEARINGHOUSE RULE 10-054

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

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

- a. In s. Comm 121.02, “Department” should be lower case.
- b. The department should clarify that the match requirements in s. Comm 121.06 applies to all of the types of grants under the chapter, if that is what is intended.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 10-054

RULE NO.: Chapter Comm 121

RELATING TO: Small Business Innovation and Research Assistance Grants

Agency contact person for substantive questions.

Name: Sam Rockweiler

Title: Code Development Consultant

Telephone No. 266-0797

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

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



State of Wisconsin \ Department of Commerce

RULES IN FINAL DRAFT FORM

Rule No.: Chapter Comm 121

Relating to: Small Business Innovation and Research Assistance Grants

Clearinghouse Rule No.: 10-054

**PROPOSED ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to create chapter Comm 121 relating to small business innovation research assistance grants, and affecting small businesses.

Rule Summary

1. Statutes Interpreted.

Section 560.45.

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.45 (3).

3. Explanation of Agency Authority.

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department. Section 560.45 (3) of the Statutes requires the Department to promulgate rules for administering the small business innovation and research assistance grants established under subchapter III of chapter 560 of the Statutes.

4. Related Statute or Rule.

The Department has various rules for administering several economic development programs, including criteria in chapter Comm 129 for grants or loans to fund professional services related to completing an application to be submitted to the federal government for obtaining early stage research and development funding.

5. Plain Language Analysis.

These rules set forth the criteria the Department or its designee will use to administer the small business innovation and research assistance grants established under subchapter III of chapter 560 of the Statutes, as enacted in 2009 Wisconsin Act 28. These grants will assist businesses in the phase of development that precedes the eligibility of the businesses in the federal Small Business Innovation Research (SBIR) program, or businesses which are participating in the Phase III, commercialization portion of that program.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

The U.S. Small Business Administration (SBA) Office of Technology administers the federal SBIR program. Federal agencies with extramural research and development budgets over

\$100 million are required to administer SBIR programs using an annual set-aside of 2.5% for small companies to conduct innovative research or research and development that has potential for commercialization and public benefit. Through this competitive program, SBA ensures that the nation's small, high-tech, innovative businesses are a significant part of the federal government's research and development efforts. Eleven federal departments participate in the SBIR program. As of May 2007, over \$12 billion had been awarded to various small businesses, and the current annual allocation, in combination with the parallel Small Business Technology Transfer program, is over \$2 billion. The Department is not aware of any federal grants that provide funding for assistance with submitting applications or otherwise participating in the SBIR program.

7. Comparison With Rules in Adjacent States.

None of the adjacent States were found to have rules that are likewise primarily directed at providing grants to assist businesses with (1) establishing eligibility for or preparing applications for federal SBIR funding or (2) commercializing products developed through SBIR funding. However, the following programs in Illinois and Michigan appear to address some of the activities that are expected to occur under these proposed rules, for achieving these objective.

Illinois

The Illinois Innovation Challenge program seeks to increase the number of Illinois companies that apply for federal research grants. The program provides grant-writing assistance to eligible Illinois technology-based entrepreneurs, innovators and new venture startups to access federal SBIR funding opportunities.

The Illinois Department of Commerce and Economic Opportunity and the University of Illinois have partnered to provide qualified Illinois small businesses and entrepreneurs with consultant services for SBIR proposals. The services are designed to match the needs of the small business or entrepreneur, and assist in identifying, preparing, advancing and reviewing Phase I SBIR proposals.

Michigan

The Michigan Small Business and Technology Development Center (MI-SBTDC) has partnered with the Michigan Economic Development Corporation (MEDC) to establish the Michigan Emerging Technologies Fund (ETF). The MI-SBTDC administers the ETF through a contractual agreement with the MEDC authorized by the Michigan Strategic Fund Board. Funding for the program is provided through the Michigan 21st Century Jobs Fund. Since 2008, \$4.2 million has been allocated to the ETF. ETF funds are awarded on a first-come, first-serve basis.

The ETF was created to provide matching grants to support commercialization of SBIR projects. The ETF matches 25% of phase I SBIR awards up to \$25,000, and 25% of phase II SBIR awards up to \$125,000. The ETF Funds must be used to help bring Michigan SBIR projects to commercialization in at least one of the following four technology sectors: (1) life sciences; (2) alternative energy; (3) advanced automotive, manufacturing and materials and (4) homeland security and defense. Companies must leverage third-party funding to be eligible for ETF Funds. Before submitting an SBIR proposal to the federal government, a company must first secure a commitment from the MI-SBTDC.

Minnesota and Iowa

Neither Minnesota nor Iowa was found to have a state-level program addressing the SBIR assistance that is addressed in these rules.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of (1) applying the corresponding provisions in section 560.45 of the Statutes; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development and business development; and (3) reviewing Internet-based sources of related federal, state, and private-sector information.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary documentation that was used to determine the effect of the rules on small business was section 560.45 of the Statutes. The proposed rules and this section of the Statutes apply their private-sector requirements only to entities that choose to pursue a corresponding grant. No economic impact report was prepared.

10. Effect on Small Business.

The rules are expected to result in only beneficial effects on small business because the rules only address grants that will assist businesses in the phase of development which precedes the eligibility of the businesses in the federal SBIR program, or businesses that are participating in Phase III of that program.

11. Agency Contact Person.

Shelly Harkins, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 266-0346; e-mail Shelly.Harkins@wi.gov.

File reference: Comm 121rules, analysis-pLR

SECTION 1. Chapter Comm 121 is created to read:

CHAPTER Comm 121, SMALL BUSINESS INNOVATION RESEARCH ASSISTANCE PROGRAM

Comm 121.01 Purpose and authority. (1) **PURPOSE.** The purpose of this chapter is to set forth the criteria the department or its designee will use to administer the small business innovation research assistance program established under subch. III of ch. 560, Stats.

(2) **AUTHORITY.** This chapter is promulgated under the authority in s. 560.45 (3), Stats.

Note: Section 560.45 (2) of the Statutes limits the Department to awarding no more than \$250,000 in grants under this chapter in each fiscal year.

Comm 121.02 Definitions. In this chapter, "department" means the department of commerce.

Comm 121.03 Early stage technical assistance grants. (1) An eligible applicant under this section is an individual who is starting, developing or operating a Wisconsin business that is in the early stage research and development phase preceding eligibility for grants under the federal small business innovation research program.

(2) Eligible activities are the professional services provided by an independent third party that are necessary for the applicant to become eligible for the federal small business innovation research program and may include any of the following:

- (a) Business planning.
- (b) Accounting and financial organization.
- (c) Grant writing assistance.
- (d) Market development.
- (e) Intellectual property costs.

(3) Annually the department or its designee shall allocate up to \$100,000 for grants under this section.

(4) A grant to an applicant under this section may not exceed \$15,000.

Comm 121.04 Technical assistance grants for small business innovation research.

(1) An eligible applicant under this section is an individual who is starting, developing or operating a Wisconsin business and who is preparing an application for participation in the federal small business innovation research program.

(2) Eligible activities are the professional services provided by an independent third party that are necessary to prepare an application for participation in the federal small business innovation research program.

(3) Annually the department or its designee shall allocate up to \$50,000 for grants under this section.

(4) A grant to an applicant under this section may not exceed \$15,000.

Comm 121.05 Commercialization grants. (1) An eligible applicant under this section is a Wisconsin business that has received prior federal small business innovation research funding and is in the commercialization phase of this activity.

(2) Eligible activities are those that are necessary to participate in phase III of the federal small business innovation research program, and include work that derives from, extends, or logically concludes efforts performed under prior federal funding from that program.

(3) Annually the department or its designee shall allocate up to \$100,000 for grants under this section.

Comm 121.06 Match requirement. For all of the grants under this chapter, a minimum of 25% of eligible project costs shall be paid in cash and shall be from sources other than the state.

Comm 121.07 Criteria. The department or its designee shall consider the following when making an award under this chapter:

- (1) The amount of economic impact the applicant, if successful, will have in this state.
- (2) The quality of the professional service provider assisting the applicant.
- (3) The level of need demonstrated by the applicant.
- (4) Whether the applicant has or will have a business location in this state.

Note: Application materials for awards under this chapter may be accessed through the Department's Web site at www.commerce.wi.gov/BD.

Note: See chapter Comm 149 for additional requirements relating to (1) contracts between the Department and recipients of economic-development grants; (2) submittal of statements for such grants; and (3) penalties for submitting false or misleading information, or for failing to comply with the terms of a contract.

(END)

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.

File reference: Comm 121/rules LRac