

09hr_JCR-AR_Misc_pt37



Details: Emergency Rules by Department of Commerce.
(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)

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

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

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

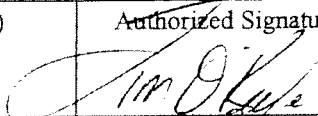
Although the rules will newly result in review of documentation relating to applications for grants under this chapter, the time needed for these reviews is expected to be spent by current employees. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

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

	STATE	LOCAL
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.

Jim O'Keefe

Date

4/13/10

The Wisconsin Department of Commerce adopts an order to create chapter Comm 121 relating to the small business innovation research assistance program, 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, Illinois provides grant-writing and consultant services for assistance in identifying, preparing, advancing and reviewing SBIR proposals – and Minnesota provides matching dollars to support commercialization of SBIR projects.

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 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-e

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. 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: 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. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.

File reference: Comm 121/rules e

**ORDER OF THE
DEPARTMENT OF COMMERCE**

EMERGENCY RULE RELATING TO TAX CREDITS FOR INVESTMENTS IN FOOD
PROCESSING PLANTS AND FOOD WAREHOUSES

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public welfare.

The facts constituting the emergency are as follows. Under sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes, as created in 2009 Wisconsin Act 295, a taxpayer may claim a tax credit for investments in food processing plants and food warehouses during taxable years beginning after December 31, 2009.

Section 560.2056 (4) of the Statutes, as likewise created in 2009 Wisconsin Act 295, requires the Department to (1) implement a program for certifying taxpayers as eligible for the food processing plant and food warehouse investment credit, (2) determine the amount of credits to allocate to those taxpayers, and (3) in consultation with the Department of Revenue, promulgate rules to administer the program. No other provisions are established in the Statutes regarding the specific process for taxpayers to use in applying for the credits, and for the Department of Commerce to use in certifying eligible taxpayers and in allocating the credits.

Because of enactment of 2009 Wisconsin Act 295, a number of entities that may be eligible for the tax credits have contacted the Department with inquiries concerning the process for applying for the credits, for expenditures that have been or will be incurred during taxable years that began after December 31, 2009. In addition, section 71.07 (3rm) of the Statutes includes a \$1,000,000 tax-credit allocation that became available on May 27, 2010, and expires on June 30, 2010.

Although the Department of Commerce has begun promulgating the permanent rule that is required by 2009 Act 295, the time periods in chapter 227 of the Statutes for promulgating permanent rules preclude the permanent rule from becoming effective in time to accommodate allocating the tax credits for the 2009-10 fiscal year. This emergency rule will enable the Department of Commerce to establish an application, certification, and tax credit allocation process for the entities that will be eligible for the allocation that expires on June 30, 2010.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

Dated at Madison this 2 day
Of June, A.D. 2010,
by the Department of Commerce



Aaron Olver, Secretary

FISCAL ESTIMATE
DOA-2048 (R06:99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 135
Amendment No. if Applicable

Subject
Food Processing Plant and Food Warehouse Investment Credit

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

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

3 Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

2 Decrease Costs
 Permissive Mandatory

4 Decrease Revenues
 Permissive Mandatory

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

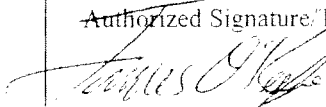
Although the rules will newly result in review of documentation relating to certifying applicants as eligible to then claim allocated tax credits for investments in food processing plants and food warehouses, the number of these reviews and allocations is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. 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 only voluntary submittal of documentation relating to tax credits for investments in food processing plants and food warehouses.

Long-Range Fiscal Implications
None known.

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

Authorized Signature/Telephone No.



Date
6/2/10

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 135

Amendment No.

Subject

Food Processing Plant and Food Warehouse Investment Credit

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

	STATE	LOCAL
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.

James O'Keefe

Date

6/2/10

The Wisconsin Department of Commerce adopts an order to create chapter Comm 135 relating to investment tax credits for food processing plants and food warehouses, and affecting small businesses.

Analysis of Rules

1. Statutes Interpreted.

Sections 71.07 (3rm), 71.28 (3rm), 71.47 (3rm), and 560.2056 (4) – as created in 2009 Wisconsin Act 295.

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.2056 (4).

3. Explanation of Agency Authority.

Section 560.2056 (4) of the Statutes requires the Department to promulgate rules for implementing and administering a program to certify applicants and allocate tax credits for the food processing plant and food warehouse investments addressed in sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

4. Related Statute or Rule.

The Department has rules for several other programs associated with tax credits, but those programs are not targeted specifically to investments in food processing plants and food warehouses.

5. Summary of Rule.

The rules in this order address (1) the eligibility requirements for applicants; (2) the documentation that must be submitted by applicants to become certified as eligible for the food processing plant and food warehouse investment credit, and to receive acceptance of incurred expenses; (3) the Department's response to the submitted documentation; and (4) filing a claim with the Department of Revenue for the corresponding tax credit.

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 this tax credit.

7. Comparison With Rules in Adjacent States.

Minnesota, Illinois and Iowa have various tax-credit programs but nothing similar to the food processing plant and food warehouse investment credit addressed in these rules. Michigan

has an Agricultural Processing Renaissance Zone program that offers abatement of certain taxes to agricultural processing facilities.

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 2009 Wisconsin Act 295; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development, business development, and tax-credit verification; (3) soliciting and utilizing input from the Department of Revenue; and (4) 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 document that was used to determine the effect of the rules on small business was 2009 Wisconsin Act 295. This Act requires the Department to implement a program to certify taxpayers as eligible for the food processing plant and food warehouse investment credit under sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes, and requires the Department to promulgate rules for administering the program. This Act applies its private-sector requirements only to food processing plants and food warehouses for which a corresponding tax credit is desired.

10. Effect on Small Business.

The rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants that choose to pursue tax credits for modernization or expansion of food processing plants and food warehouses.

11. Agency Contact Person.

Steven Sabatke, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 267-0762; e-mail Steven.Sabatke@Wisconsin.gov

File reference: Comm 135/rules, analysis-e

SECTION 1. Chapter Comm 135 is created to read:

Chapter Comm 135

FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT

Comm 135.10 Authority and purpose. Pursuant to s. 560.2056 (4), Stats., this chapter sets forth the requirements for obtaining all of the following from the department:

(1) A certification that a taxpayer, including a taxpayer who is any of the following, is eligible for the food processing plant and food warehouse investment credit under s. 71.07 (3rm), 71.28 (3rm), or 71.47 (3rm), Stats.:

- (a) A partner of a partnership.
- (b) A member of a limited liability company.
- (c) A shareholder of a tax-option corporation.

(2) A determination of the maximum amount of tax credit that may be claimed under this chapter for an investment in a food processing plant or food warehouse.

Note: The statute sections listed in this section address income and franchise tax credits for investments in food processing plants and food warehouses.

Comm 135.20 Definitions. In this chapter:

(1) "Department" means the department of commerce.

(2) "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.

(3) "Food" has the meaning given in s. 97.01 (6), Stats.

Note: Section 97.01 (6) of the Statutes reads as follows: "'Food' means: (a) Articles used for food or drink by persons.

(b) Chewing gum.

(c) Articles used for components of matters specified in pars. (a) and (b)."

(4) "Food processing" has the meaning given in s. 97.29 (1) (g) (intro.) to 3., Stats.

Note: Section 97.29 (1) (g) (intro.) to 3. of the Statutes reads as follows: "'Food processing' means the manufacture or preparation of food for sale through the process of canning, extracting, fermenting, distilling, pickling, freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling or packaging, or through any other treatment or preservation process. 'Food processing' includes the activities of a bakery, confectionary or bottling establishment, and also includes the receipt and salvaging of distressed food for sale or use as food. 'Food processing' does not include any of the following:

- 1. Activities covered under a dairy plant license issued under s. 97.20.

2. Activities covered under a meat or poultry establishment license issued under s. 97.42.
3. The retail preparation and processing of meals for sale directly to consumers or through vending machines if the preparation and processing is covered under a restaurant permit or other permit issued under s. 254.64.

(5) "Food processing plant" has the meaning given in s. 71.07 (3rm) (a) 2., Stats.

Note: Under section 71.07 (3rm) (a) 2. of the Statutes, "Food processing plant" means any place where food processing is conducted, except that it does not include (1) any establishment subject to the requirements of section 97.30 of the Statutes; (2) any restaurant or other establishment holding a permit under section 254.64 of the Statutes, to the extent that the activities of that establishment are covered by section 97.30 of the Statutes or the permit under section 254.64 of the Statutes; (3) dairy plants licensed under section 97.20 of the Statutes; or (4) meat establishments licensed under section 97.42 of the Statutes.

(6) "Food warehouse" has the meaning given in s. 71.07 (3rm) (a) 3., Stats.

Note: Under section 71.07 (3rm) (a) 3. of the Statutes, "Food warehouse" means a warehouse used for the storage of food, and includes a cold-storage warehouse, frozen-food warehouse and frozen-food locker plant. "Food warehouse" does not include (1) a warehouse used solely for the storage of grain or other raw agricultural commodities; (2) a retail food establishment, restaurant or other retail facility at which food is stored on a temporary basis incidental to retail preparation or sale; (3) A warehouse located in a dairy plant licensed under section 97.20 of the Statutes, a food processing plant licensed under section 97.29 of the Statutes, or a meat establishment licensed under section 97.42 of the Statutes, and used primarily for the storage of food ingredients or food products manufactured or processed at the licensed establishment; (4) a warehouse operated by a milk distributor licensed under section 97.21 (3) of the Statutes and used primarily for the storage and distribution of milk and fluid milk products, as defined in section 97.20 (1) (c) and (g) of the Statutes; and (5) a facility owned or operated by a consumer and used by that consumer to store food for the consumer's use.

Comm 135.30 Applying for certification and allocation. (1) (a) A taxpayer or one of the following entities may apply for a certification and an allocation for a food processing plant or food warehouse investment credit:

1. A partnership.
2. A limited liability company.
3. A tax-option corporation.

(b) A "taxpayer" or the "entities" in par. (a) may include either the operator of a food processing plant or food warehouse, or an owner of a building or facility in which a food processing plant or food warehouse is located.

(2) Application to the department for a certification and an allocation of the credit shall be made on a valid, department-prescribed form.

Note: The application form that is currently valid can be obtained from the Department at P.O. Box 7970, Madison, WI, 53707, or at www.commerce.wi.us.

(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 the project, including the eligible capital investment.
3. A description of how the project will promote economic development.
4. Any other information that the department deems 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, 2017.

(4) Each application shall be completed and either postmarked or delivered to the department no sooner than upon completion of the taxable year in which the costs listed in the application were incurred and no later than February 15th of the subsequent taxable year, unless this deadline is extended by the department, except as specified in sub. (5).

(5) For tax credits that may be allocated in fiscal year 2009-10 under s. 71.07 (3rm) (c) 3. a., 71.28 (3rm) (c) 3. a., and 71.47 (3rm) (c) 3. a., Stats, each application shall be completed and either postmarked or delivered to the department no later than June 18, 2010.

Comm 135.40 Certifications for applicants, and allocation of tax credits. (1) After receipt of the applications submitted under s. Comm 135.30, the department shall issue certifications for the applicants that have met the criteria in s. Comm 135.30 (2) to (5).

(2) (a) In conjunction with issuing a certification for an applicant, the department shall determine the maximum amount of tax credit that the applicant may either claim or distribute to its partners, members or shareholders, except as specified in par. (b).

(b) In conjunction with issuing a certification for an applicant who submits an application under s. Comm 135.30 (5), the department shall determine the maximum amount of tax credit that the applicant may either claim or distribute to its partners, members or shareholders, based on eligible capital investments made by the applicant from January 1, 2010, to May 31, 2010.

Note: Under chapter 71, of the Statutes., the aggregate amount of credits that a taxpayer may claim under this chapter is \$200,000; except that partnerships, limited liability companies, tax-option corporations and other multiple-owner entities are limited to an aggregate of \$200,000 for an entity.

(3) (a) Due to the \$1,000,000; \$1,200,000 and \$700,000 maximum totals established in s. 71.07 (3rm) (c) 3., Stats., for allocations in fiscal years 2009-10, 2010-11 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 all of 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 food processing and food warehouse industries 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 to address the criteria in par. (b).

Note: See chapter Comm 149 for additional requirements relating to (1) contracts between the Department and recipients of economic-development tax credits and (2) penalties for submitting false or misleading information.

Comm 135.50 Notifications. Following completion of the certifications and allocations in s. Comm 135.40, the department shall notify each applicant of the outcome of their application – and shall notify the department of revenue of every certification issued under this chapter and the amount of the tax credit allocated to the applicant.

Comm 135.60 Claims. A taxpayer may file for a tax credit under this chapter using forms acceptable to the department of revenue.

(END)

EFFECTIVE DATE

Pursuant to s. 227.2 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.

File reference: Comm 135/rules e2



DEPARTMENT OF COMMERCE

EMERGENCY RULE
RELATING TO
NO SMOKING SIGNS

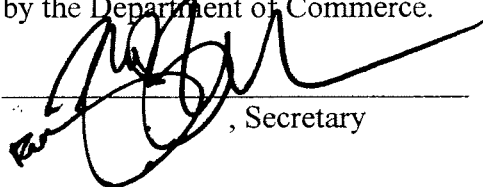
Basis for Issuance of Emergency Rules

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. Implementation of 2009 Wisconsin Act 12, s. 101.123, Stats., is to take effect July 5, 2010.
2. Under the Act, the department is to establish by rule uniform characteristics for no smoking signs.
3. Under the Act, the responsibilities of person in charge of a public conveyance or at a location where smoking is prohibited include the posting of no smoking signs.
4. The department believes that the emergency rules are necessary in order to clarify the minimum no smoking sign characteristics so that persons in charge may fulfill the statutory obligations.

Pursuant to section 227.24 (1) (c), Stats., this rule is adopted as an emergency rule to take effect on July 5, 2010.

Dated at Madison this 11TH
day of JUNE, 2010,
by the Department of Commerce.


_____, Secretary

The Wisconsin Department of Commerce adopts an order to create Comm 62.0400 (5) relating to no smoking signs.

Analysis of Rule

1. Statutes Interpreted

Statutes Interpreted: s. 101.123 (6), Stats.

2. Statutory Authority

Statutory Authority: ss. 101.02 (1) and 101.123 (6), Stats.

3. Related Statute or Rule

Statutes: 101.123 (2m)

4. Explanation of Agency Authority

2009 Wisconsin Act 12, s. 101.123, Stats., which is to take effect on July 5, 2010, basically prohibits smoking in enclosed places of public buildings and places of employment. The Act directs the department to establish characteristics for no smoking signs which persons in charge are to utilize aboard public conveyances and in public buildings and places of employment.

5. Summary of Proposed Rules

The rules dictate that minimally no smoking signs include the international "No Smoking" symbol consisting of a pictorial burning cigarette enclosed in a red circle with a red bar across the cigarette.

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

An internet search on U.S. federal regulations and U.S. federal register yielded no results regarding a general national prohibition of smoking in places of employment and public buildings.

7. Comparison with Rules in Adjacent States

The following is a comparison of smoking prohibitions and signage enacted in adjacent states.

Illinois The Smoke Free Illinois Act, 410 ILCS 82, as of January 1, 2008 prohibits smoking in a public place or in any place of employment or within 15 feet of any entrance to a public place

or place of employment. Under the Act "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it are to be utilized.

Iowa Effective July 1, 2008, Iowa under the Smokefree Air Act no longer allows smoking in almost all public places and enclosed areas within places of employment, as well as some outdoor areas. The law applies to: restaurants, bars, outdoor entertainment events and amphitheatres. It also covers places of employment such as office buildings, health care facilities, and child care facilities. Smoking is allowed on the gaming floor of a licensed casino, as well as designated hotel and motel rooms. Under the law "No Smoking" signs or the international "No Smoking" symbol are to identify no smoking establishments.

Michigan Beginning May 1, 2010, smoking is prohibited in most public places in Michigan. The law covers any workplace and any food service establishment. This law covers public places, including, but not limited to, restaurants, bars, shopping malls, bowling alleys, concert halls, arenas, museums, mechanic shops, health facilities, nursing homes, education facilities, and child care centers. Under the Act "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it are to be utilized.

Minnesota As of October 1, 2007 Minnesota under the Clean Indoor Air Act prohibits smoking in bars, restaurants, private clubs such as VFWs and American Legion halls, bowling alleys, country club lounges, lobbies of hotels and motels, public transportation, taxis, home offices where employees work or customers visit, home day cares when children are present, and smaller commercial vehicles carrying more than one person. Under the rules administered by the Minnesota Department of Health, s. 4620.0500, whenever the international no smoking symbol is used, the diameter of the outer circle must not be less than three inches.

8. Summary of Factual Data and Analytical Methodologies

The rules were developed as a result of an analysis of 2009 Wisconsin Act 12 and the variety of buildings and structures potentially affected and their circumstances of operation.

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

The department does not believe that the proposed rules will increase the effect on small businesses over that imposed by the Act.

An economic impact report has not been required to be prepared.

10. Agency Contact.

James Quast, Program Manager, jim.quast@wisconsin.gov, (608) 266-9292

11. Public Hearing Comments.

The hearing record on this emergency rule will remain open until July 30, 2010. Written comments on the proposed may be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.quast@wisconsin.gov.

SECTION 1. Comm 62.0400 (5) is created to read:

Comm 62.0400 (5) NO-SMOKING SIGNS. No-smoking signs shall include the international “No Smoking” symbol consisting of a pictorial burning cigarette enclosed in a red circle with a red bar across the cigarette.

END

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule on July 5, 2010.

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 62.0400
Amendment No. if Applicable

Subject

No smoking signs

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

- 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

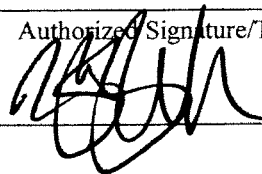
2009 Wisconsin Act 12, s. 101.123, Stats., which is to take effect on July 5, 2010, basically prohibits smoking in enclosed places of public buildings and places of employment. The Act directs the department to establish characteristics for no smoking signs which persons in charge are to utilize aboard public conveyances and in public buildings and places of employment. The department does not believe that the proposed rules will increase the effect on small businesses over that imposed by the Act.

Long-Range Fiscal Implications

No long-range fiscal implications are anticipated.

Agency/Prepared by: (Name & Phone No.)
Commerce/James Quast, (608) 266-9292

Authorized Signature/Telephone No.

 266-8926

Date

6/16/10

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

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Comm 62.0400

Subject
 No smoking signs

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

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 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
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	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

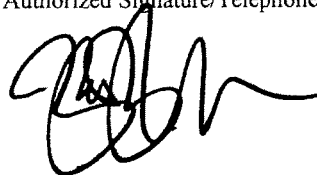
STATE

LOCAL

NET CHANGE IN COSTS \$ 0 \$ 0
 NET CHANGE IN REVENUES \$ 0 \$ 0

Agency/Prepared by: (Name & Phone No.)
 Commerce/ James Quast, 266-9292

Authorized Signature/Telephone No.

 266-8176

Date

6/1/00



**ORDER OF THE
DEPARTMENT OF COMMERCE**

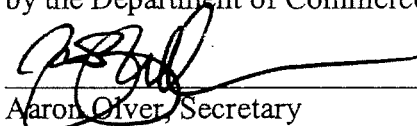
EMERGENCY RULE RELATING TO RURAL OUTSOURCING GRANTS

Exemption From Finding of Emergency

The Legislature, by SECTION 45 (1) (b) of 2009 Wisconsin Act 265, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

Dated at Madison this 24 day
of JUNE, A.D. 2010,
by the Department of Commerce



for Aaron Oliver, Secretary

The Wisconsin Department of Commerce adopts an order to create chapter Comm 139 relating to rural outsourcing grants, and affecting small businesses.

Analysis of Rules

1. Statutes Interpreted.

SECTION 45 (1) in 2009 Wisconsin Act 265.

2. Statutory Authority.

Section 227.11 (2) (a) of the Statutes and SECTION 45 (1) (b) in 2009 Wisconsin Act 265.

3. Explanation of Agency Authority.

SECTION 45 (1) (b) in 2009 Wisconsin Act 265 requires the Department to promulgate rules for awarding the rural outsourcing grants established in SECTION 45 (1). Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

4. Related Statute or Rule.

The Department has rules for several other programs associated with economic and business development grants, but those programs are not targeted specifically to grants to businesses for outsourcing work to rural municipalities.

5. Summary of Rule.

The rules in this order address (1) the eligibility requirements for applicants and projects; (2) the documentation that must be submitted by applicants; (3) the Department's response to the submitted documentation; and (4) the Department's use of any funds that are not applied for by the end of the 2009-11 fiscal biennium.

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

No similar existing or proposed federal regulations or programs were found through review of the Code of Federal Regulations and pertinent federal agency Web sites – including at the US Department of Agriculture, the US Department of Commerce, the US Economic Development Administration, and the US Small Business Administration.

7. Comparison With Rules in Adjacent States.

Review of existing rules and programs in adjacent States and review of proposed state legislation through the National Conference of State Legislatures did not reveal any similar rules or programs in the adjacent States.

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 applicable criteria in SECTION 45 in 2009 Wisconsin Act 265; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic 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 45 (1) in 2009 Wisconsin Act 265. This SECTION authorizes the Department to award grants to businesses for outsourcing work to rural municipalities and requires the Department to promulgate rules for administering the program. This SECTION applies its private-sector requirements only to businesses that chose to apply for the grants.

10. Effect on Small Business.

The rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants that choose to pursue grants for outsourcing work to rural municipalities.

11. Agency Contact Person.

Mary Gage, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 266-2766; e-mail Mary.Gage@Wisconsin.gov.

File reference: Comm 139/rules, analysis-e

SECTION 1. Chapter Comm 139 is created to read:

CHAPTER Comm 139, RURAL OUTSOURCING GRANTS

Comm 139.10 Authority and purpose. The purpose of this chapter is to set forth the criteria the department will use to administer the rural outsourcing grants established under SECTION 45 (1) of 2009 Wisconsin Act 265.

Comm 139.20 Definitions. In this chapter:

(1) "Department" means the department of commerce.

(2) "Eligible business" means a for-profit company that at the time of application to the department outsources work to outside of this state but will be shifting that work to a business operation or facility located in a rural municipality in this state.

(3) "Eligible uses" means costs incurred by an eligible business to transfer the outsourced work to an operation in a rural municipality.

(4) "Rural municipality" means any of the following:

(a) A city, town or village that is located in a county with a population density of less than 150 persons per square mile.

(b) A city, town or village with a population of 6,000 or less.

Comm 139.30 Outsourcing Grants. (1) The department may award grants from the appropriation under s. 20.143 (1) (cp), Stats., only to the extent the unencumbered balances of the appropriations under ss. 20.143 (1) (ie), (ig), (im), and (ir), Stats., are insufficient to fund the grant. The total amount of grants under this chapter may not exceed \$500,000.

(2) (a) The department may award a grant to an eligible business for a project that shifts work from being performed outside of this state, to instead be performed in a rural municipality.

(b) The grant funds may be used only for the following capital or operating expenses incurred in establishing, equipping, or maintaining a facility for the work in the rural municipality:

1. Facility-related costs.

2. Equipment purchases.

3. Employee training costs.

4. Other expenditures deemed by the department to be related to the project.

(3) Prior to receiving a grant, an eligible business shall demonstrate that it will provide a match of at least 50% from sources other than the department. Eligible match sources include

costs related to the project that the business has incurred or will incur for any of the following:

- (a) Capital expenditures.
- (b) Family supporting wages.
- (c) Rent or other facility costs.
- (d) Electricity costs.
- (e) Equipment leases.
- (f) Software expenses.

(4) In addition to submitting the demonstration information in sub. (3), the applicant shall submit information enabling the department to consider the factors addressed in subs. (2) (b) and (5) (b).

(5) (a) Due to the \$500,000 maximum available under this program for awards during the 2009-2011 fiscal biennium, the department may allocate the grant funds in a manner that the department believes is most likely to promote economic development.

(b) In determining the allocation of grant funds under par. (a), the department shall consider all of 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 rural municipality.
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.

Comm 139.40 Remaining allocation. If after the first day of the 12th month beginning after the effective date of the rules the department has not received completed applications and made awards totaling \$500,000, the department may use the remaining funds, but not more than \$250,000, for other eligible uses under s. 20.143 (1) (c), Stats.

Note: See chapter Comm 149 for additional requirements relating to (1) contracts between the Department and recipients of economic-development grants and (2) penalties for submitting false or misleading information.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.

File reference: Comm 139/rules e

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 139
Amendment No. if Applicable

Subject
Rural Outsourcing 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

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

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

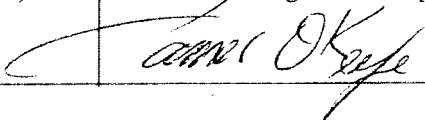
Although the rules will newly result in review of documentation relating to issuing grants to businesses for outsourcing work to rural municipalities, the number of these reviews and grants is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. 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 only voluntary submittal of documentation relating to grants for outsourcing work to rural municipalities.

Long-Range Fiscal Implications
None known.

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

Authorized Signature/Telephone No.



Date

6/24/10

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 139

Amendment No.

Subject

Rural Outsourcing 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

	STATE	LOCAL
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.

James O'Keefe

Date

6/24/10



**ORDER OF THE
DEPARTMENT OF COMMERCE**

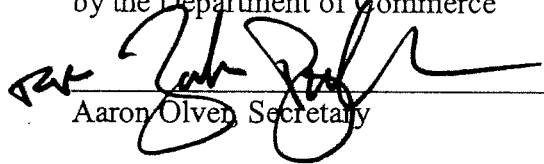
**EMERGENCY RULE RELATING TO REALLOCATIONS FOR
RECOVERY ZONE FACILITY BONDS**

Exemption From Finding of Emergency

The Legislature, by SECTION 5 (1) (b) in 2009 Wisconsin Act 112, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

Dated at Madison this 19 day
of JULY, A.D. 2010,
by the Department of Commerce



Aaron Olven, Secretary

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Charter Comm 137
Amendment No. if Applicable

Subject

Reallocations for Recovery Zone Facility Bonds

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

The bond closing fee assessed under section Comm 137.08 (2) (b) is estimated to annually average \$5000 from each of 20 projects, for an annual total of \$100,000.

The proposed rules are not expected to impose any significant costs on the private sector because the rules address submittal of documentation, and other activities, only by applicants that choose to participate in the tax-exempt private activity bonding addressed in the rules.

Long-Range Fiscal Implications
None known.

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

Authorized Signature/Telephone No.

James O'Keefe 264-7837

Date

7/1/10

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 137

Amendment No.

Subject

Reallocations for Recovery Zone Facility Bonds

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	\$100,000	-\$0
SEG/SEG-S	\$0	-\$0
TOTAL State Revenues	\$100,000	-\$0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 100,000	\$ 0

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

Commerce/ Jim O'Keefe 264-7837

Authorized Signature/Telephone No.

James O'Keefe 264-7837

Date

7/1/10

The Wisconsin Department of Commerce adopts an order to repeal and recreate chapter Comm 137 relating to reallocations for recovery zone facility bonds as established under the federal American Recovery and Reinvestment Act of 2009, and affecting small businesses.

Rule Summary

1. Statutes Interpreted.

Section 560.033.

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.033.

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 560.033 (1) of the Statutes directs the Department to establish by rule, a system for reallocating waived allocations for recovery zone facility bonds – as defined under 26 USC 1400U-3(b)(1) – to the authorities and local governmental units which are defined in sections 66.1104 (1) (a) and (b) of the Statutes. Section 560.033 (3) of the Statutes authorizes the Department to place any condition on these reallocations that the Department deems is in the best interest of the State.

4. Related Statute or Rule.

Chapter Comm 113 contains rules relating to allocating volume cap on tax-exempt private activity bonds for manufacturing and housing, pursuant to 26 USC 146.

Chapter Comm 136 establishes a procedure by which the Governor can designate tax-exempt Midwestern disaster area bonds that can be issued by, or on behalf of, the State or any political subdivision thereof, under the federal Heartland Disaster Tax Relief Act of 2008. These are private activity bonds that are designed to facilitate the recovery and rebuilding of areas which were declared major disaster areas in 2008.

5. Plain Language Analysis.

The rules in this order address a system for reallocating all of the federal recovery zone facility bond allocations that were not used by June 1, 2010, to the authorities and local governmental units which are defined in sections 66.1104 (1) (a) and (b) of the Statutes, as created in 2009 Wisconsin Act 112. This reallocation system includes deadlines that are designed to result in complete use of the federal bond allocation prior to its expiration on December 31, 2010.

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

Current federal law, including the American Recovery and Reinvestment Act of 2009 (ARRA), authorizes certain local governments to issue several different types of tax-exempt

bonds, including recovery zone facility bonds. The amount of bonds that may be issued is limited. Through each State, the ARRA allocates to counties, and to cities with a population of at least 100,000, the limited amount of recovery zone facility bonds that may be issued. The ARRA also authorizes these counties and cities to then waive some or all of their allocation, in which case the State in which the local units are located may reallocate the waived allocation to other units of government in that State.

7. Comparison With Rules in Adjacent States.

Minnesota, Illinois, Iowa and Michigan have not yet promulgated any rules relating to counties or cities waiving allocations for recovery zone facility bonds. As a result, each county or city within those States may have developed their own requirements or guidelines for utilizing their portion of the State's recovery zone facility bond allocation.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of (1) reviewing 2009 Wisconsin Act 112 and the corresponding criteria in section 1401 of the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development and business development; and (3) incorporating recommendations from stakeholders.

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

The primary documents that were used to determine the effect of the rules on small business were 2009 Wisconsin Act 112 and the corresponding criteria in section 1401 of the federal American Recovery and Reinvestment Act of 2009.

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 tax-exempt private activity bonds that allow businesses to finance certain depreciable capital projects in areas which are designated by the bond issuers as having significant poverty, unemployment, rate of home foreclosures, or general distress.

11. Agency Contact Person.

Steven Sabatke, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 267-0762; e-mail Steven.Sabatke@Wisconsin.gov.

File reference: Comm 137/rules, analysis-e New

SECTION 1. Chapter Comm 137 is repealed and recreated to read:

CHAPTER Comm 137, REALLOCATIONS FOR RECOVERY ZONE FACILITY BONDS

Comm 137.01 Purpose. The purpose of this chapter is to establish a system for the reallocation of waived allocations of the limitation on the issuance of recovery zone facility bonds, as defined under 26 USC 1400U-3(b)(1), among authorities and local governmental units.

Note: 26 USC 1400U-3 was created by Section 1401 of Title I in Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

Comm 137.02 Definitions. In this chapter:

(1) "Authority" has the meaning specified in s. 66.1104 (1) (a), Stats.

(2) "Department" means the department of commerce.

(3) "Issuer" means any of the following:

(a) A municipality.

(b) An agency or authority that is empowered to borrow money, including any redevelopment authority, community development authority, or housing authority established by or on behalf of these entities.

(c) A person acting for or on behalf of an entity listed in par. (a) or (b).

(d) Any public corporation or commission established by or on behalf of an entity listed in par. (a) or (b).

(4) "Limitation on aggregate amount" means the limitation applicable to the state of Wisconsin on the aggregate amount for the issuance of recovery zone facility bonds.

Note: The limitation on aggregate amount for Wisconsin is \$238,217,000.

(5) "Local governmental unit" has the meaning specified in s. 66.1104 (1) (b), Stats.

(6) "Midwestern disaster area bond" has the meaning specified in s. 66.1104 (1) (bm), Stats.

Note: Section 66.1104 (1) (bm) of the Statutes reads as follows: " 'Midwestern disaster area bond' means a bond described under 26 USC 1400N(a), as modified by P.L. 110-343, title VII, subtitle A, section 702(d)(intro.) and (1)."

(7) "Municipality" has the meaning given in s. 67.01 (5), Stats.

Note: Section 67.01 (5) of the Statutes reads as follows: " 'Municipality' means any of the following which is authorized to levy a tax: a county, city, village, town, school district, board of park commissioners,

technical college district, metropolitan sewerage district created under ss. 200.01 to 200.15 or 200.21 to 200.65, town sanitary district under subch. IX of ch. 60, transit authority created under s. 66.1039, public inland lake protection and rehabilitation district established under s. 33.23, 33.235, or 33.24, and any other public body empowered to borrow money and issue obligations to repay the money out of public funds or revenues. 'Municipality' does not include the state."

(8) "Project" means any project for which recovery zone facility bonds may be issued.

(9) "Recovery zone facility bond" or "recovery zone bond" has the meaning specified in s. 66.1104 (1) (c), Stats.

Note: Section 66.1104 (1) (c) of the Statutes reads as follows: " 'Recovery zone bond' means a bond described under 26 USC 1400U-3(b)(1)."

(10) "Shovel-ready" means planning has been completed, approvals have been secured, and construction or equipment acquisition is ready to proceed after the funding is in place for the project.

Comm 137.03 Accounting for the limitation on aggregate amount, waiver and reallocation. (1) The department shall keep a record of all waived allocations received, and reallocations made, by the department pursuant to s. 560.033, Stats.

(2) (a) The allocation of the limitation on aggregate amount received by a city or county shall be considered waived on March 1, 2010, except with regard to any amount about which the city or county sends written notice to the department before that date in which the city or county does one of the following:

1. States that recovery zone facility bonds have been issued pursuant to the city's or county's allocation of the limitation on aggregate amount.
2. Identifies the amount of a proposed issuance of recovery zone facility bonds and the nongovernmental entity that will own or operate the project being financed and includes a letter addressed to the department from the prospective purchaser of the recovery zone facility bonds that states the expectation of the prospective purchaser that an agreement will be executed before May 1, 2010, providing for the purchase of the recovery zone facility bonds and that the recovery zone facility bonds will be issued before June 1, 2010.

(b) The allocation of the limitation on aggregate amount received by a city or county and not waived pursuant to par. (a) shall be considered waived on May 1, 2010, except with regard to any amount about which the city or county sends written notice to the department before that date in which the city or county states one of the following:

1. That recovery zone facility bonds have been issued pursuant to the city's or county's allocation of the limitation on aggregate amount.
2. That an agreement has been executed by the city, county, other local governmental unit, or authority that will issue the recovery zone facility bonds, and a bond purchaser, providing for the purchase of recovery zone facility bonds.

(c) The allocation of the limitation on aggregate amount received by a city or county and not waived pursuant to par. (a) or (b) shall be considered waived on June 1, 2010, except with regard to any amount about which the city or county sends written notice to the department before that date in which the city or county states that recovery zone facility bonds have been issued pursuant to the city's or county's allocation of the limitation on aggregate amount.

(3) (a) The written notice to the department under sub. (2), shall consist of an official letter from a city or county, that is signed by the mayor, city manager, county board chairman or county executive.

(b) A written notice to the department in which the city or county states that recovery zone facility bonds have been issued pursuant to the city's or county's allocation of the limitation on aggregate amount shall include all of the following information for statistical purposes:

1. The amount of the bond issue.
2. The nongovernmental entity that will own or operate the project being financed.
3. The date of the bond issue.
4. The bond purchaser.
5. The economic impact of the project being financed including all of the following information:
 - a. The total investment in the project.
 - b. The total number of full-time jobs that will be created, retained or substantially upgraded in connection with the project.
 - c. The average wages and benefits that will be provided to persons hired as a result of the project.

Note: The written notice can either be sent by mail to Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI 53707, or by fax at 608-264-6151, or by email to Steven.Sabatke@Wisconsin.gov.

(c) A written notice to the department in which the city or county states that an agreement as described in sub. (2) (b) 2. has been executed shall include a copy of the agreement.

Comm 137.04 (1) REQUEST PROCESS. A request for a reallocation of the limitation on aggregate amount under this chapter shall be made to the department on a form prescribed by the department and shall include all of the following:

- (a) The name and address of the issuer.

(b) A description of the project, including the name and address of the owner, operator or sponsor of the project and the trade or business in which the project will be used.

(c) The location of the project including both the county and the city, village or town.

(d) The total investment in the project.

(e) The total number of full-time jobs that will be created, retained or substantially upgraded in connection with the project.

(f) The average wages and benefits that will be provided to persons hired as a result of the project.

(g) The requested amount of the reallocation.

Note: The application form prescribed by the Department can be obtained from the Department at P.O. Box 7970, Madison, WI 53707 or from the Department's Web site at commerce.wi.gov.

(2) CERTIFICATION ITEMS. In addition to the material required in sub. (1), the department shall receive all of the following prior to certification of a reallocation of the limitation on aggregate amount:

(a) 1. Evidence that official action has been taken by the issuer with respect to the issuance of the bonds.

2. For bonds issued pursuant to s. 66.1103, Stats., the evidence under subd. 1. shall be the initial resolution previously filed with the department with respect to the bonds.

(b) Evidence that a recovery zone, as defined in 26 USC 1400U-1(b), has been designated by the issuer or by the county or the city in which the project is located.

(c) A letter from bond counsel to the effect that the obligations would constitute recovery zone facility bonds.

(d) A letter from a financial institution indicating a commitment to either purchase the obligations upon delivery by the issuer or issue a letter of credit.

(e) A nonrefundable payment of \$300 by cash or by check payable to the department.

Comm 137.05 Review process. (1) Except as provided in sub. (3), the department shall review each reallocation request in the order in which qualifying requests are received.

(2) For the reallocation requests that meet the requirements of s. Comm 137.04, the department shall evaluate the included projects based upon consideration of all of the following:

(a) The prospects for new investment and economic development in the area.

(b) The amount of investment that is likely to result from the project.

(c) The number of full-time jobs that are likely to be created or retained as a result of the project including green jobs that are created as a result of the project. In this paragraph, "green job" means a job that provides a service or produces a product in any of the following categories:

1. Increasing energy efficiency.
2. Producing renewable energy.
3. Recycling existing materials.
4. Preventing, reducing or mitigating environmental degradation.
5. Cleaning up and restoring the natural environment.

(d) Whether the project will result in the dislocation of a business from one municipality to another.

(e) Whether the project can be financed in whole or in part by any other forms of tax-exempt private activity financing, such as industrial revenue bonds or Midwestern disaster area bonds.

(f) The feasibility of the financial commitment for the bond issue.

(g) Whether the project is likely to occur or continue without the reallocation.

(h) The degree to which the project is shovel-ready.

(i) Whether a reallocation in the requested amount would cause the aggregate amount of allocations under this chapter to exceed the aggregate amount of waived allocations.

(j) The adequacy of any remaining waived allocation for other pending or expected requests.

(k) Any other factors that the department considers relevant.

(3) (a) In reviewing an application for a reallocation that is made after March 1, 2010, but before June 1, 2010, the department shall give priority to those requests for projects in the cities or counties that waived their allocations provided the request does not exceed the amount of the allocation that the city or county waived.

(b) Any priority assigned under this subsection shall comply with the allocation limitations specified in s. 560.033 (5), Stats.

Note: Section 560.033 (5) of the Statutes reads as follows: "For a reallocation made under this section after March 1, 2010, but before June 1, 2010, before making the reallocation, the department shall consider the amount of recovery zone bond limitation allocation waived under s. 66.1104 (2) (a) or (b) by each city or county then seeking a reallocation under this section. The department shall reallocate from the aggregated waived allocation, as that term is used in sub. (1), an allocation of the recovery zone bond limitation to a project in a city or county that waived an allocation under s. 66.1104 (2) (a) or (b) in an amount up to the total limitation allocation waived by the city or county or equal to the limitation allocation determined by the city or county to be necessary for the project, whichever is less. In the event requests by cities and counties for a reallocation under this section exceed the aggregated waived allocation, the department shall prorate the available waived allocation among cities and counties in proportion to the amount waived by the cities and counties."

Comm 137.06 Certification process. If the department approves an application under this chapter, the department shall promptly certify and reallocate the amount requested to the issuer. The reallocation shall be valid for a period equal to the lesser of 60 calendar days or the remainder of the calendar year 2010. The issuer may petition the department for a 15-day extension. The amount of the reallocation shall not exceed the maximum amount authorized for issuance under the official action taken by the issuer with respect to the obligation. Certain reallocations are subject to earlier termination pursuant to s. Comm 137.08 (3). Any reallocation made under this section shall be valid only with respect to bonds issued in calendar year 2010.

Comm 137.07 Emergency. Based upon the federal tax law requirement that a recovery zone facility bond must be issued prior to January 1, 2011, the department's review and evaluation of each application shall be completed expeditiously and in any event within 30 days unless the department provides notice to the applicant of a need to extend the 30-day period for review and evaluation.

Comm 137.08 Post-reallocation process. (1) After making a reallocation, the department shall record that the corresponding portion of the limitation on aggregate amount has been allocated.

(2) (a) Each issuer shall notify the department in writing as to the amount of recovery zone facility bonds issued pursuant to the reallocation, within 5 business days after the issuance of the bonds. Each notification shall include all of the following information:

1. The date of the bond issue.
2. The term of the bond issue and interest rate.
3. The bond purchaser and whether the bond issue was either a private placement or public sale.

(b) 1. Each notification under par. (a) shall include a nonrefundable payment of 0.1% of the amount of the bonds issued pursuant to the reallocation, up to a maximum of \$10,000, by cash or by a certified or cashier's check payable to the department.

2. The payment in subd. 1 may be reduced by the amount paid to the department under s. Comm 137.04 (2) (e).

(3) An issuer shall notify the department if it chooses to surrender all or any part of its rights to a reallocation under this chapter. Upon surrender, the surrendered portion of the reallocation shall expire.

(4) All recovery zone facility bonds shall be issued before January 1, 2011.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.

File reference: Comm 137/rules e New



**ORDER OF THE
DEPARTMENT OF COMMERCE**

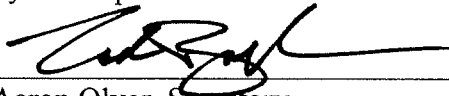
EMERGENCY RULE RELATING TO RURAL OUTSOURCING GRANTS

Exemption From Finding of Emergency

The Legislature, by SECTION 45 (1) (b) of 2009 Wisconsin Act 265, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

Dated at Madison this 19TH day
of NOVEMBER, A.D. 2010,
by the Department of Commerce



Aaron Olver, Secretary



FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 139
Amendment No. if Applicable

Subject

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

- 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 issuing grants to businesses for outsourcing work to rural municipalities, the number of these reviews and grants is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. 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 only voluntary submittal of documentation relating to grants for outsourcing work to rural municipalities.

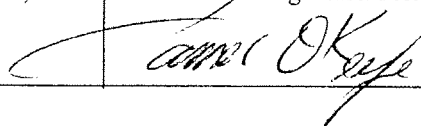
Long-Range Fiscal Implications

None known.

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

Commerce/Jim O'Keefe 264-7837

Authorized Signature/Telephone No.



Date

6/24/10

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 139

Amendment No.

Subject
 Rural Outsourcing 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

	STATE	LOCAL
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.

James O'Keefe

Date

6/24/10

The Wisconsin Department of Commerce adopts an order to repeal Comm 139.20 (3) and to repeal and recreate Comm 139.20 (2) relating to rural outsourcing grants, and affecting small businesses.

Analysis of Rules

1. Statutes Interpreted.

SECTION 45 (1) in 2009 Wisconsin Act 265.

2. Statutory Authority.

Section 227.11 (2) (a) of the Statutes and SECTION 45 (1) (b) in 2009 Wisconsin Act 265.

3. Explanation of Agency Authority.

SECTION 45 (1) (b) in 2009 Wisconsin Act 265 requires the Department to promulgate rules for awarding the rural outsourcing grants established in SECTION 45 (1). Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

4. Related Statute or Rule.

The Department has rules for several other programs associated with economic and business development grants, but those programs are not targeted specifically to grants to businesses for outsourcing work to rural municipalities.

5. Summary of Rule.

The rules in this order redefine the businesses that are eligible for the rural-outsourcing grants awarded under SECTION 45 (1) in 2009 Wisconsin Act 265.

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

No similar existing or proposed federal regulations or programs were found through review of the Code of Federal Regulations and pertinent federal agency Web sites -- including at the US Department of Agriculture, the US Department of Commerce, the US Economic Development Administration, and the US Small Business Administration.

7. Comparison With Rules in Adjacent States.

Review of existing rules and programs in adjacent States and review of proposed state legislation through the National Conference of State Legislatures did not reveal any similar rules or programs in the adjacent States.

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 applicable criteria in SECTION 45 in 2009 Wisconsin Act 265; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic 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 45 (1) in 2009 Wisconsin Act 265. This SECTION authorizes the Department to award grants to businesses for outsourcing work to rural municipalities and requires the Department to promulgate rules for administering the program. This SECTION applies its private-sector requirements only to businesses that chose to apply for the grants.

10. Effect on Small Business.

The rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants that choose to pursue grants for outsourcing work to rural municipalities.

11. Agency Contact Person.

Mary Gage, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 266-2766; e-mail Mary.Gage@Wisconsin.gov.

File reference: Comm 139/rules, analysis-e new

SECTION 1. Comm 139.20 (2) is repealed and recreated to read:

Comm 139.20 (2) "Eligible business" means any of the following:

(a) A for-profit company that at the time of application to the department either performs or has work performed outside of this state, but will be shifting that work to a business operation or facility located in a rural municipality in this state.

(b) A for-profit company that will be performing the shifted work described in par. (a), for the company which is shifting the work.

SECTION 2. Comm 139.20 (3) is repealed.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.

*****F

file reference: Comm 139/rules e2ac