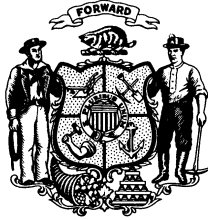


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CLEARINGHOUSE RULE 98-061

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Section Comm 119.05 (2) provides that an applicant receiving funds for a revolving loan fund project must administer and use the funds in accordance with requirements contained in the revolving loan fund manual established by the department. Section Comm 119.06 provides that eligible applicants must submit an application addressing the items in an application manual provided by the department. Finally, s. Comm 119.07 (2) provides that the board may develop other evaluation criteria in order to make a determination to award a grant or loan. To the extent that requirements and items in department manuals and board-established criteria affect the award of grants and loans, the requirements, items and criteria should be promulgated as administrative rules under ch. 227, Stats.

2. Form, Style and Placement in Administrative Code

- a. In s. Comm 119.05 (2), the word “must” should be replaced by the word “shall.”
- b. Sections Comm 119.05 (2) and 119.06 refer to manuals established by the department. Assuming the manuals contain material that need not be promulgated as administrative rules, the rule should state where copies of the manuals may be obtained.
- c. In s. Comm 119.10, the notation “s.” should precede the reference to “Comm 119.07.”

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

- a. The reference to “ch. 560” in the introductory clause to Clearinghouse Rule 98-061 is unnecessary because the reference to s. 560.135 means that the section is in ch. 560, Stats.

b. A definition of “Department of Commerce” should be included in s. Comm 119.03. The term “department” is used throughout the rule but is not defined anywhere within it.

c. The references to s. Comm 119.03 in s. Comm 119.05 (4) should be replaced with references to s. Comm 119.04.

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

a. The reference to “minority” economic development grants and loans program in the first paragraph of the analysis to Clearinghouse Rule 98-061 should be replaced with a reference to the “mining” economic development grants and loans program. In addition, the word “programs” in the first paragraph of the analysis and the word “includes” in the third paragraph of the analysis should be written in the singular tense. In addition, the bracket at the end of par. 2G. should be eliminated.

b. The department should consider replacing the word “investment” in s. Comm 119.05 (1) with the word “loan.” In addition, as drafted, Clearinghouse Rule 98-061 suggests that the department intends to require reimbursement of both grants and loans under the mining economic development grants and loans program. Section Comm 119.05 states that the board will require repayment of the “funds plus a reasonable return on the investment,” without specifying whether this requirement applies to both grants and loans. In addition, s. Comm 119.09 requires grant recipients to provide “periodic reimbursement documentation” without regard to whether the recipient is the recipient of a grant or a loan. It is suggested that the department clarify its intent as to this matter. In other words, the rule is confusing because a grant of funds normally implies that the funds need not be repaid; however, the rule appears to assume that a grant will be repaid, thus transforming the grant into a loan.

c. The rule does not contain an effective date provision. [See s. 1.02 (4), Manual.]