SECTION 107 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

107.1 Laws to be Observed

(1) At all times, observe and comply with all applicable federal and state laws and administrative rules, codes, local laws, ordinances, and regulations that affect the conduct of the work, and applicable orders or decrees of bodies or tribunals having jurisdiction or authority over the work. The department will consider no plea of misunderstanding or ignorance thereof. The contractor shall indemnify and save harmless the state and all of its officers, agents, and employees against any claim or liability arising from or based on the violation of any applicable law, ordinance, regulation, order, or decree, whether by the contractor or the contractor's employees, subcontractors, or agents.

(2) Comply with all applicable federal, state, and local health official rules and regulations governing safety, health, and sanitation. Provide all necessary safeguards, safety devices, and protective equipment. Take all other actions reasonably necessary to protect the life and health of employees on the project and the safety of the public.

107.2 Haul Road Notification

(1) Notify the engineer in writing at least 3 business days before hauling project materials over a public road or street not a part of the state trunk highway system. The department will subsequently survey the existing condition of that haul route to establish a baseline for assessing damage that the contractor's hauling operations might cause.

107.3 Permits and Licensing

(1) Obtain all permits and licenses, pay all charges and fees, and give all notices necessary to perform the work. The contractor shall comply with all permit requirements whether the permit is issued to the contractor, the state, or the maintaining authority.

107.4 Patented Devices, Materials, and Processes

(1) Include in the bid prices royalties and costs arising from patents, trademarks, and copyrights. Before using a design, device, material, or process covered by letters, patents, or copyrights, provide for its use by suitable legal agreement with the patentee or owners. Provide proof of this agreement with the engineer if necessary. The contractor and the contractor's surety shall provide indemnification from all claims for infringement of patents, trademarks, or copyrights as specified in 107.12.

107.5 Labor Compliance

(1) Comply with all contract labor compliance provisions and take responsibility for subcontractor and lower tier subcontractor compliance. Submit department-requested documentation within the time the department specifies in a written notice. Resolve all labor compliance issues within 90 days after receiving the department's first written notice. The department and the contractor can mutually agree to extend this 90-day requirement. Actively pursue resolution of contract labor compliance issues and attend all contract labor compliance meetings and hearings.

107.6 Federal Participation

(1) If the federal government participates in the cost of the contract:

1. The work is subject to the inspection and approval of the proper officials of the federal government.
2. The work shall conform to the applicable federal statutes, rules, and regulations.

(2) The federal government is not a party to the contract and will not interfere with the rights of either party under the contract.

107.7 Nighttime Operations

(1) Do not perform work when there is insufficient light to conduct that work safely. If the contract requires or the engineer allows nighttime operations, provide artificial illumination as necessary to safely perform the work. Locate work lights within and around the work zone in a way that provides adequate illumination to perform the work, makes the workers and construction operations visible to the traveling public, and ensures that glare and brightness transition through the worksite does not interfere with driver visibility. Provide additional hazard lighting on equipment as well as high visibility apparel conforming to ANSI/ISEA guidelines for workers.

107.8 Public Convenience and Safety

(1) Maintain the safety of the traveling public and control traffic using barricades, warning signs, flaggers, and temporary barrier as specified in 104.6.1.

(2) If the contract provides that the road or portions of the road are closed to public traffic during construction, the engineer may direct or authorize the contractor to open sections of the road to public traffic before the work is completed as specified in 104.6.5.

(3) When hauling materials on public roads or streets, equip vehicles subject to spillage with tailgates and adequate sideboards. Use covers and other protective devices necessary to prevent spillage. The contractor is responsible for removing spillage from the entire area within the right of way of the haul route. Immediately remove spillage that interferes with or creates a hazard for traffic.

(4) Notify the responsible fire department and police department at least 24 hours before closing a road, street, or highway.

(5) If excavating adjacent to a building or wall, give the property owner sufficient written notice of the impending excavation. The contractor and the contractor's surety shall hold the state and the municipality in which the work is done harmless from damage to the building or wall.

(6) Check for and comply with local ordinances governing the hours for operation of construction equipment. Obtain the engineer's written approval for operations from 10:00 P.M. until 6:00 A.M.

107.9 Contractor's Use of the Highway Right of Way

(1) The department has sole authority to grant the contractor permission to occupy and use the right of way. All activity within the right of way is subject to the engineer's approval.

(2) If the engineer allows, the contractor may store materials and equipment or locate the contractor's plant on portions of the right of way not required for public travel. Post warning signs in advance of points of ingress and egress and provide other traffic control the engineer deems necessary to minimize hazards to motorists, pedestrians, and workers. Do not park vehicles or equipment, store materials, or create other obstructions where the engineer determines the required safety measures may distract motorists.

107.10 Use of Explosives

(1) Observe the utmost care when using explosives so as not to endanger life and property. Use, store, and handle explosives and highly inflammable materials conforming to applicable federal, state, and local laws and regulations including the rules of the Wisconsin department of commerce.

107.11 Protecting and Restoring Property

107.11.1 General

(1) Notify, in writing, all public and private property owners whose property interferes with the work. Advise them of the nature of the interference, and arrange with them for the disposition of the property. Upon request, furnish the engineer with copies of all notifications and final agreements.

(2) Use every reasonable precaution to prevent damage to all property including poles, trees, shrubbery, crops, and fences adjacent to or interfering with the work; all overhead structures including wires, cables, etc.; and all underground structures including water or gas shut-off boxes, water meters, pipes, conduits, etc.; within or outside the right of way. (3) Assume liability for all damage to public or private property resulting from contractor operations, defective work or materials, or non-execution of the contract. Restore property, to a condition similar or equal to that existing before causing the damage, as the engineer directs or in a manner acceptable to the property owner. If the contractor fails to restore property within a reasonable time, the department may, upon 48 hours written notice, restore that property as the engineer deems necessary. The department will deduct restoration costs from payments due the contractor under the contract.

107.11.2 Freeway Traffic Management Systems

(1) If the contractor's operations interrupt FTMS service, notify the engineer immediately and take the action required to restore service within 24 hours. Repair damaged facilities to the condition existing before interruption. If the contractor does not restore service within 24 hours, the department may restore service and deduct restoration costs from payments due the contractor under the contract.

107.11.3 Property Marks

(1) Protect and carefully preserve all known property and survey marks and land monuments, and notify the engineer of the nature and location of these markers. Do not disturb or destroy markers until the engineer has arranged for their referencing or perpetuation.

107.11.4 Burning

(1) Do not start fires without first securing the necessary permits and the approval of the local authority having jurisdiction, or the county forest ranger, or the WDNR bureau of forestry. Comply with applicable

requirements of the WDNR's air pollution control rules, including the limitations on open burning. When burning brush, stumps, or rubbish, take care not to damage standing trees, shrubs, or other property. Assume liability for all damage caused by fires.

107.12 Responsibility for Damage and Tort Claims

(1) The contractor and the contractor's insurer shall defend, indemnify, and save harmless governmental entities involved in the project, or in which all or a part of the project site is located, including the officers, agents except for consulting firms, and employees of any of the foregoing from suits, actions, or claims brought because of injuries or damages sustained by any person or property arising from one or more of the following:

1. Contractor operations.
2. Contractor neglect in safeguarding the work.
3. Contractor use of unacceptable materials in constructing the work.
4. Acts or omissions, neglect, or misconduct of the contractor.
5. Claims or amounts recovered for an infringement by the contractor of patent, trademark, or copyright.
6. Claims or amounts arising or recovered under the workers compensation act, relating to the contractor's employees.
7. The contractor’s noncompliance with a law, ordinance, order, or decree relating to the contract.

(2) The department may retain payments due the contractor in amounts the engineer deems sufficient to cover the cost of suits, actions, or claims caused by the reasons specified in 107.12(1). The department will not release this retainage until the contractor furnishes satisfactory evidence of one of the following:

1. The contractor is adequately protected from the suits, actions, or claims with the insurance coverages specified in 107.26 or other insurance.
2. The parties have settled the suits, actions, or claims.

(3) The state is not liable to the contractor for damages or delays resulting from third party work, except for excusable delays as specified in 108.10.2 and 108.10.3. The state also is exempt from liability to the contractor for damages or delays resulting from injunctions or other restraining orders obtained by third parties except where the damage or delay is a direct result of an injunction or restraining order obtained by a citizen’s action alleging violations of 42 U.S.C. 4331-4332, 23 U.S.C. 138, or public law 91-646.

107.13 Third Party Beneficiary

(1) This contract does not create anyone as a third party beneficiary. This contract does not authorize non-parties to the contract to maintain actions for damages under the contract.

107.14 Contractor's Responsibility for Work

(1) Until the engineer accepts the work as specified in 105.11 the contractor shall maintain charge and care of the work except as specified in 104.6. Within 107.14, the term “work” is redefined to mean “the work product that is completed in its final position and is incorporated in the project.” Protect all of the work against injury or damage caused by the action of the elements, or from any other cause, whether arising from the execution or non-execution of the work. Rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by the above causes at no additional cost to the department.

(2) The contractor shall not bear the expense for damage to the work caused by abnormal and unforeseeable occurrences beyond the control of, and without the fault or negligence of, the contractor. These abnormal and unforeseeable occurrences include but are not limited to the following:

1. Cataclysmic phenomena of nature.
2. Acts of the public enemy.
3. Acts of government authorities.

(3) Before suspending the work, take the necessary precautions to prevent damage to the project, prevent traffic accidents, and provide for normal drainage. Erect necessary temporary barrier, barricades, signs, or other facilities at no expense to the department except as specified in 104.6.

(4) The contractor is responsible for all damages to equipment and supplies regardless of the circumstances.

107.15 Personal Liability of Public Officials

(1) In carrying out contract provisions, or in exercising power or authority granted to them by or within the scope of the contract, the department, the engineer, or their authorized representatives have no liability, either personally or as officials of the state. In all of these matters, they act solely as agents and representatives of the state. The contractor waives all rights of action against the department, its agents, or employees.

107.16 No Waiver of Legal Rights

(1) The department may correct a measure, estimate, or certificate at any time before or after final acceptance. The department may recover from the contractor, surety, or both, overpayments upheld for a breach (failure to fulfill contract obligations). A waiver on the part of the department of a breach of a part of the contract is not a waiver of another or subsequent breach.

(2) The following department actions do not waive the department's rights or power under the contract:

1. Payment for or acceptance of all or portions of the work.
2. Extension of contract time.
3. Possession of the work.

(3) Assume liability for latent defects, fraud, gross mistakes as may amount to fraud, or as regards to the department's rights under a warranty or guaranty without prejudice to the terms of the contract.

107.17 Railroad-Highway Grade Separations and Approaches, New Railroad Crossings, and Operations on Railroad Right of Way

107.17.1 General

Add 107.17.1(1) to require the crossing number, milepost, and subdivision on written communications with railroads.

(1) Coordinate with the railroad for all work performed on or near the railroad right of way. Include the following on all submittals and other written communications with the railroad:

- WisDOT crossing number.
- Railroad milepost.
- Railroad subdivision.

(2) The railroad's chief engineering officer may inspect the work and contractor operations on grade separations and their approaches, grade crossings, or on railroad right of way. Perform the work in a manner satisfactory to the railroad's chief engineering officer.

(3) Perform all work within the railroad's right of way in a way that does not interfere with the safe and uninterrupted operation of railroad traffic. Maintain clearances during construction as follows:

1. Do not operate equipment closer than 25 feet horizontally from a track centerline or 22 feet vertically above the top of a rail, except under the protection of railroad flaggers.
2. Do not store materials or equipment closer than 25 feet horizontally from a track centerline.
3. Provide an obstruction-free work zone adjacent to a track extending 12 feet or more horizontally on both sides of the track centerline. Keep this work zone free of construction debris.
4. Unless the railroad's chief engineering officer approves otherwise in writing, maintain minimum clearances from falsework, forms, shoring, and other temporary fixed objects as follows:

   4.1 Provide 12 feet, plus 1.5 inches per degree of track curvature, measured horizontally from the track centerline.

   4.2 Provide 21 feet, plus compensation for super-elevated track, measured vertically above the top of the highest rail.

(4) Comply with the railroad's rules and regulations regarding operations on railroad right of way. If the railroad's chief engineering officer requires, arrange with the railroad to obtain the services of qualified railroad employees to protect railroad traffic through the work. Bear the cost of these services and pay the railroad. Notify the railroad's chief engineering officer in writing at least 5 business days before starting work near a track. Provide the specific time planned to start the operations.

(5) Do not blast on the railroad's right of way without the written permission of the railroad's chief engineering officer. At least 3 business days before blasting, notify the responsible railroad official if explosives will be detonated within 100 yards of a track. Provide specific dates, times, and locations for all blasting.

(6) Develop shop drawings, with detailed plans and computations, for the following temporary construction:

1. Falsework and forms of highway structures spanning a track.
2. Forms for piers and abutments adjacent to a track.
3. Shoring, if the contract requires shoring of an excavation near a track.

(7) Have a registered professional engineer sign and seal the shop drawings. At least 30 calendar days before starting falsework, form, or shoring construction; submit 3 sets of shop drawings to the railroad's chief engineering officer and one set to the engineer. The engineer and the railroad may review the shop drawings. If the engineer or the railroad finds the shop drawings unsatisfactory, the contractor shall make the required changes. A satisfactory shop drawing review does not relieve the contractor of responsibility and liability for the structural integrity and proper functioning of the falsework, forms, or shoring.

(8) Make all necessary arrangements for crossing a railroad's track at a location other than an existing public crossing. Bear all costs incident to that crossing, including flagging costs.

107.17.2 Work by Railroad

(1) The railroad company may perform work or operations incident to the project that are the subject of an agreement between the department and the railroad company. Do not alter this work without the consent of the railroad company. If the railroad company makes contractor-requested alterations with railroad company forces, pay the railroad company for those alterations.

(2) Bear the cost of the movement or adjustment of telegraph, telephone, or signal facilities owned, operated, or maintained by the railroad company and not otherwise provided for in the contract or in agreements between the department and the railroad company.

107.17.3 Railroad Insurance Requirements

Revise 107.17.3 to require that the department be named as an additional insured; and to require that the contractor provide immediate notice to both the railroad and the region if insurance coverage is canceled or materially changes and cease operations if coverage is cancelled or reduced. This change was implemented in ASP 6 effective with the Nov 2011 letting.

(1) If required by the special provisions, provide or arrange for a subcontractor to provide railroad protective liability insurance in addition to the types and limits of insurance required in 107.26. Keep railroad protective liability insurance coverage in force until completing all work, under or incidental to the contract, on the railroad right of way or premises of the railroad and until the department has accepted the work as specified in 105.11.2.4.

(2) Provide railroad protective liability insurance coverage written as specified in 23 CFR part 646 subpart A with the Wisconsin Department of Transportation, its officers, agents, and employees named as an additional insured. Provide a separate policy for each railroad owning tracks on the project. Ensure that the railroad protective liability insurance policies provide the following minimum limits of coverage:

1. Coverage A, bodily injury liability and property damage liability; $2 million per occurrence.
2. Coverage B, physical damage to property liability; $2 million per occurrence.
3. An annual aggregate amount of $6 million that shall apply separately to each policy renewal or extension.

(3) Obtain coverage from insurance companies licensed to do business in Wisconsin that have an A.M. Best rating of A- or better. The cost of providing the required insurance coverage and limits is incidental to the contract.

(4) Submit the following to each railroad owning tracks on the project as evidence of that railroad's respective coverage:

1. A certificate of insurance for the types and limits of insurance specified in 107.26.
2. The railroad protective liability insurance policy or other documentation acceptable to the railroad company.

(5) Submit the following to the region as evidence of the required coverage:

1. A copy of the letter to the railroad company transmitting the submittal documents specified in 107.17.3(4).
2. A certificate of insurance for the required railroad protective liability coverages.

(6) Do not begin work on the right of way or premises of the railroad company until the region receives the submittals specified in 107.17.3(5) and notification from the railroad company that the contractor has provided sufficient insurance information to begin work.

(7) Notify the railroad and the region immediately upon cancellation or initiating cancellation, whichever is earlier, or any material change in coverage. Cease operations within 50 feet of the railroad right of way immediately if insurance is cancelled or reduced. Do not resume operations until the required coverage is in force.

107.18 Environmental Protection

(1) Comply with all applicable federal, state, and local laws and regulations that control the prevention of pollution of the environment including those related to the introduction or spread of invasive species or pathogens in waterways.

(2) Comply with the pertinent requirements of laws relating to solid waste disposition and air pollution. Control and minimize the dispersion of dust and particulate matter and other pollutants into the atmosphere.

(3) Take all necessary precautions to prevent pollution of streams, lakes, wetlands, and reservoirs with fuels, oils, bitumens, calcium chloride, magnesium chloride, paint, or other harmful materials. Conduct and schedule work operations to avoid or minimize siltation of streams, lakes, and reservoirs. Protect drainage ways, culverts, and drainage structures from debris caused by a contractor operation.

(4) Do not ford live streams unless a plan for the fording operation meets the engineer's approval and results in minimum siltation to the streams. Do not operate machinery on the bed of live streams.

(5) Remove existing structures over live streams in large pieces, minimizing the number of smaller pieces that may drop into the water or wetlands. Remove from the water or wetlands all steel and all concrete pieces or other debris larger than 5 inches in any dimension.

(6) If work areas or pits are located in or adjacent to live streams, lakes, or wetlands, separate the work areas or pits from the stream, lake, or wetland by a dike, silt fence, or other barrier to keep sediment from entering these locations. Take care during the construction and removal of these barriers to minimize the siltation or filling of the stream, lake, or wetland.

(7) Treat water from aggregate washing or other sediment producing operations by filtration, a settling basin, or other means sufficient to reduce the sediment content to not more than that of the stream or lake into which the water is discharged.

107.19 Construction Over or Adjacent to Navigable Waters

(1) Within 107.19, the term "governmental authority" means the U.S. Army Corps of Engineers, the U.S. Coast Guard, the WDNR, or other agency having jurisdiction over the navigable waters within the project limits and empowered to take the actions specified in 107.19.

(2) Conduct all work over, on, or adjacent to navigable waters so that free navigation of the waterways is not impeded and existing navigable depths are not impaired except as allowed by permit issued by the governmental authority. Obtain all permits before beginning construction.

(3) Obtain all permits required by 107.3. Submit applications for U.S. Coast Guard and WDNR permits to the boating law administrator of the WDNR bureau of law enforcement. Provide one copy of each permit to the project engineer for posting in the field office before construction activities affecting navigation begin.

(4) The governmental authority may supervise all construction and related operations as is customary for operations in navigable waters. Conform to special requirements or directions from the governmental authority.

(5) Ascertain from the governmental authority the minimum horizontal and vertical clearance requirements for navigation during construction, and maintain those clearances during the period of construction.

(6) If the governmental authority during progress of the work issues directions or orders affecting the contractor's operations or order of procedure, the contractor shall promptly file with the engineer a written copy of the directions or orders.

(7) Should the contractor during the progress of the work lose, dump, throw overboard, sink, or misplace material or equipment, which in the opinion of the governmental authority may interfere with or obstruct navigation, the contractor shall promptly recover or remove the same. Give immediate notice with descriptions and locations of possible obstructions to the governmental authority. If the governmental authority requires, mark or buoy the obstructions until their removal. Should the contractor refuse, neglect, or delay compliance with the above requirements, the governmental authority may remove the obstructions. The department may deduct the cost of this removal from payments due to the contractor, or may recover the cost under the bond deposited by the contractor.

(8) During construction, provide temporary lights, waterway markers, other devices, or combination thereof as the governmental authority specifies and requires.

(9) All expenses the contractor incurs to maintain navigation are incidental to the contract cost.

107.20 Erosion Control

(1) Perform the temporary and permanent erosion control measures and the storm water management measures required by Trans 401 of the Wisconsin administrative code, the contract, and as the engineer directs.

(2) Coordinate temporary erosion control measures with the permanent erosion control measures to ensure economical, effective, and continuous erosion control.

(3) Submit an ECIP for the project, including borrow sites and material disposal sites, according to Trans 401 of the Wisconsin administrative code. Prepare the ECIP according to CMM 6-45 and provide the information enumerated in department worksheet WS1073. Perform the work according to the ECIP.

(4) The engineer may limit the area of erosive land that the contractor may expose to the elements by grubbing, excavation, borrow, or fill operations at any one time. Provide the shortest duration that is practical for this exposure before final trimming, finishing, and seeding, or application of temporary erosion control measures.

(5) Perform construction in and adjacent to rivers, streams, lakes, or other waterways in a manner to avoid washing, sloughing, or deposition of materials into the waterways that would obstruct or impair the flow of the waterways and thus endanger the roadway or stream banks, or that would result in undue or avoidable contamination, pollution, or siltation of these waterways.

(6) The engineer has full authority to suspend or limit grading and other operations pending adequate performance of permanent erosion control measures, such as finish grading, topsoiling, mulching, matting, and seeding, and all temporary erosion control measures that the engineer orders.

(7) Perform grubbing and grading operations in sequence with other work to minimize erosion. Construct intercepting ditches or dikes as soon as it is practical after completing clearing and grubbing operations and before or during the operations of excavating the cuts. Where erosion is likely to be a problem, provide the permanent erosion control measures immediately after performing grading operations, unless the engineer authorizes temporary erosion control measures.

(8) Except as limited by 628.4.1.1 and 628.5.1 for borrow sites and material disposal sites, the engineer will measure, and the department will pay for, temporary and permanent erosion control as provided for by the various contract bid items or as extra work, if this work is not specified in the contract. However, the department will not pay for this work if the engineer requires temporary erosion control because of the contractor's negligence, carelessness, or failure to install permanent controls.

107.21 Use of Fire Hydrants

(1) If the contractor desires to use water from public hydrants, the contractor shall make application to the proper authorities and shall conform to their ordinances, rules, and regulations concerning fire hydrant use.

(2) Ensure that fire hydrants are accessible at all times to the fire department. Do not place material or other obstructions closer to a fire hydrant than allowed by ordinances, rules, or regulations, or within 5 feet of a fire hydrant in the absence of specific ordinances, rules, or regulations.

107.22 Contractor's Responsibility for Utility Facilities, Property, and Services

(1) The department expressly reserves for the proper authorities of the municipality in which the work is done the right to construct utility services in the highway or street, or to grant permits for the same, at any time. Coordinate and cooperate with utilities in the removal and rearrangement of existing facilities to minimize their service interruption and duplication of work by the utilities. At least 3 business days before breaking ground, the contractor shall notify the proper utility authorities that the contractor's operations may affect their facilities including: streets, gas and water pipes, electric and other conduits, railroads, poles, manholes, catch basins, sewers, and other property. Never hinder or interfere with utility representatives in the protection or operation of their facilities. Obtain all necessary information regarding existing facilities. Protect existing facilities from damage and unnecessary exposure.

(2) Obtain all necessary information regarding the planned installation of new facilities identified in the contract. Make proper provision and give proper notification so the utilities can install new facilities at the

proper time without delay or unnecessary inconvenience. Do not pave over the location of a new underground facility, planned for installation concurrently with this contract, before installing the facility.

(3) If the contractor damages or interrupts service, the contractor shall notify the utility promptly. Coordinate and cooperate with the utility in the repair of the facility. The department will determine who is responsible for repair costs as specified in Wisconsin statutes 66.0831 and 182.0175(2).

(4) If the contractor finds facilities not identified in the contract, the engineer will determine whether adjustment or relocation of the facility is necessary to accommodate contract work. The engineer will arrange with the utility or the contractor to adjust or relocate the facility. If deemed necessary, the engineer will revise the contract as specified in 104.2.

(5) If specified in the contract, the contractor and the department will comply with administrative rule, Trans 220 of the Wisconsin administrative code.

107.23 Antitrust Assignment Clause

(1) The contractor hereby assigns to the department all claims for overcharges resulting from antitrust violations as to goods and materials purchased in connection with this contract, except as to overcharges that result from antitrust violations commencing after the price is established under this contract and any change order. In addition, the contractor warrants and represents that each of the contractor's first tier suppliers and subcontractors shall assign all antitrust violation claims to the state subject to the aforementioned exception.

107.24 Hazardous Substances

(1) Whenever the construction operations encounter or expose an abnormal condition that may indicate the presence of a hazardous substance, immediately discontinue construction operations near the abnormal condition and notify the engineer. Treat all abnormal conditions with extreme caution. Abnormal conditions include, but are not limited to, the following:

1. The presence of a tank or barrel.
2. An obnoxious odor.
3. Excessively hot earth.
4. Smoke.
5. Visible fumes.
6. Discolored earth or sheen on groundwater.

(2) Do not resume construction operations in this area until the engineer so directs. The contractor may continue work in other areas of the project unless the engineer otherwise directs.

(3) Take actions to prevent the hazardous substance from spreading into an uncontaminated area.

(4) Dispose of hazardous substances conforming to the requirements and regulations of the responsible state or federal agencies. If the engineer requires the contractor to dispose of the hazardous substance and the contract does not provide for this work, the work is extra work as specified in 104.2. If the responsible state or federal agency requires special procedures for the disposal, the department will arrange with qualified persons to dispose of the substance.

107.25 Archaeological and Historical Findings

(1) For construction operations on the project, if encountering human remains or if encountering artifacts of potential archaeological or historical significance, immediately stop operations at the encounter site and notify the engineer. Cooperate, as necessary, by moving construction operations from the encounter site and complying with the engineer's directions. The contractor may continue work elsewhere on the project unless the engineer directs otherwise. Do not resume operations at the encounter site without the engineer's permission.

(2) For operations on private property, if encountering human remains or if encountering artifacts of potential archaeological or historical significance, immediately stop operations at the encounter site and notify the engineer and the responsible state agencies. Cooperate, as necessary, by moving construction operations from the encounter site and complying with the responsible state agencies' directions. Do not resume operations at the encounter site without the responsible state agencies' permission.

107.26 Standard Insurance Requirements

Revise 107.26 to require worker's comp regardless of the number of employees; to require that the department be named as an additional insured; and to require that the contractor provide immediate notice if insurance coverage is canceled or

materially changes and cease operations if coverage is cancelled or reduced. This change was implemented in ASP 6 effective with the Nov 2011 letting.

(1) Maintain the following types and limits of commercial insurance in force until completing and obtaining the department's acceptance of all work as specified in 105.11.2.4.

TYPE OF INSURANCE	MINIMUM LIMITS REQUIRED[1]
1. Commercial general liability insurance endorsed to include blanket contractual liability coverage.[2]	$2 million combined single limits per occurrence with an annual aggregate limit of not less than $4 million.
2. Workers' compensation providing coverage regardless of the number of employees.	Statutory limits
3. Employers' liability insurance.	Bodily injury by accident: $100,000 each accident Bodily injury by disease: $500,000 each accident $100,000 each employee
4. Commercial automobile liability insurance covering all contractor-owned, non-owned, and hired vehicles used in carrying out the contract.[2]	$1 million-combined single limits per occurrence.

[1] The contractor may satisfy these requirements with primary insurance coverage or with excess/umbrella policies.

[2] The Wisconsin Department of Transportation, its officers, agents, and employees shall be named as an additional insured under the general liability and automobile liability insurance.

(2) For a joint venture, limited liability company, or partnership; ensure that the bidding entity is the named insured and that coverages apply jointly and severally to its member entities.

(3) Obtain coverage from insurance companies licensed to do business in the state that have an A.M. Best rating of A- or better. The cost of providing the required insurance coverage and limits is incidental to the contract.

(4) The department may request proof of insurance at any time. Submit copies of insurance policies as well as associated certificates of insurance upon department request.

(5) Notify the department immediately upon cancellation or initiating cancellation, whichever is earlier, or any material change in coverage. Cease operations immediately if any insurance is cancelled or reduced. Do not resume operations until the required coverage is in force.

(6) The above insurance requirements apply with equal force whether the contractor or a subcontractor, or anyone directly or indirectly employed by either, performs work under the project.