

Analysis Prepared By the Division of Emergency Management

The Wisconsin Department of Military Affairs, through its Division of Emergency Management, proposed an order to create WEM 7 relating to the application process and criteria for determining eligibility for payments to local units of government for damages and costs incurred for major catastrophes.

Statutory Authority: ss. 166.03 (2) (b) 9., and 227.11 (2) (a), Stats.

Statutes Interpreted: s. 166.03 (2) (b) 9

Explanation of Agency Authority: The Department of Military Affairs, through its Division of Emergency Management, is required under s. 166.03 (2) (b) 9 (created by 2005 Wisconsin Act 269) to promulgate and adopt rules to administer the payment program to local units of government for specific costs related to emergency response and recovery.

Related Rule of Statute: There are no other related statutes or rules other than those listed above.

Plain Language Analysis: Chapter WEM 7 establishes an application process and eligibility criteria for payments to local units of government for specific costs related to emergency response and recovery efforts. These would be costs that cannot be insured or that are impossible to predict based on the unique nature of the disaster response. These costs include debris removal, emergency protective measures taken to eliminate or reduce immediate threats to life, public health or safety or damages to roads or bridges.

Summary of and Comparison With, Existing or Proposed Federal Regulations: The federal Public Assistance Program (44 CFR part 206, Subparts G and H), made available in a Presidential Disaster Declaration, and the major disaster assistance program as provided for in WEM 7 are similar. Both programs provide grants to local governments that have sustained damages or incurred costs as a result of a major disaster. Each also has a cost share provision; the federal public assistance program is 75% federal with the remaining 25% split between the state and local applicant while the state program cost share is 70/30, state/local. The eligibility criteria for the state program resemble those of the federal program, specifically as they pertain to debris clearance, emergency protective measures and damage to road systems. The administrative and management processes for the state program will be patterned after those of the federal public assistance program and will be documented in a State Administrative Plan. For both programs the actual amount paid to an applicant is determined by the applicant's ability to submit appropriate documentation justifying the claimed costs.

Comparison with Rules in Adjacent States: The Division is unaware of any proposed or existing federal regulation that is covered by the proposed rule.

Summary of Factual Data and Analytical Methodologies: The Division reviewed records of disaster occurrences from 2000 through 2005 and determined that, on average, there were three to five disaster occurrences each year that did not qualify for federal disaster assistance, but placed a substantial financial burden on the impacted jurisdictions. In these disasters, the majority of public assistance costs were for debris removal, emergency protective measures and damage to road systems. The Division also took into account the established federal threshold for the state to qualify for the federal public assistance program made available in a Presidential Disaster Declaration. ~~The threshold is a guideline used by the Federal Emergency Management Agency to determine when to grant a Presidential Disaster Declaration in Wisconsin.~~

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Effect on Small Business: The proposed rule will have no significant effect on small business, as defined in s. 227.114 (1), Stats. There were no supporting documents used to determine the effect on small business and an economic impact report was not prepared. This rule will affect only local units of government.

Fiscal Estimate: In the current biennium the program is funded with PECFA SEG funds. In the next biennium budget an alternate source of funding will be needed. It is assumed that approximately \$3 million in damages and costs may be eligible for payment under the major disaster assistance fund. The increased workload will be significant but the agency will have to make do with current staff. Additional costs for supplies and services will likewise have to be absorbed within the agency's existing budget.

Agency Contact Person: Diane Kleiboer, Supervisor, Disaster Recovery Section, Wisconsin Emergency Management, 2400 Wright Street, P. O. Box 7865, Madison, WI 53707-7865. Telephone: 608-242-3200. Email: diane.kleiboer@dma.state.wi.us.

Place Where Comments Are to Be Submitted and Deadline for Submission:

Comments may be submitted to Diane Kleiboer, Supervisor, Disaster Recovery Section, 2400 Wright Street, P. O. Box 7865, Madison, WI 53707-7865. Telephone: 608-242-3200. Email: diane.kleiboer@dma.state.wi.us. Comments must be received on or before August 17, 2006 to be included in the record of rule-making proceedings.