



Florida Department of Transportation

RON DESANTIS
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

JARED W. PERDUE, P.E.
SECRETARY

September 18, 2024

DCE MEMORANDUM NO. 24-06
(FHWA Approved: September 5, 2024)

TO: DISTRICT CONSTRUCTION ENGINEERS

FROM: Tim Lattner, P.E., Director, Office of Construction

DocuSigned by:
Tim Lattner
C7704ED8972C440...

COPIES: Dan Hurtado, Patrick Overton, Ananth Prasad (FTBA), Jose Ortiz (FHWA), Amy Miller (ACAF)

SUBJECT: CPAM 7.6.5 GOVERNOR DECLARED EMERGENCIES

The Department has implemented revisions to FDOT Construction Project Administration Manual (CPAM) Chapter 7.6 as listed below.

Chapter 7.6.5 Governor Declared Emergencies

Changes will provide for compensation for idle equipment prior to and after an event on projects where the Contractor could have prosecuted work but for the Department directed suspension of operations.

Revisions to the CPAM listed above are attached.

If you have any questions, please contact the State Construction Office at (850) 414-4150

TL

7.6.5 Governor Declared Emergencies

To account for the potential impacts natural disasters covered by Governor declared emergencies have on active construction projects, the following process will be utilized, pursuant to **Specifications 7-14 and 8-7.3.2**. Suspension and resumption of operations on projects shall be implemented by the Districts on a case by case basis. No statewide closures will be implemented in advance of a natural disaster covered by a Governor declared emergency unless directed by the Chief Engineer.

1. A State of Emergency must be declared by the Governor of the State of Florida.
2. During the period of the State of Emergency, the Department elects to compensate the Contractor for the following and/or grant time extensions for the following, where the Contractor has taken every reasonable precaution to prepare for the natural disaster covered by a Governor declared emergency:
 - Damage to material that was incorporated into the projects and accepted by the Department prior to the natural disaster (Federal-aid participating*; FHWA Emergency Relief (ER) eligible);
 - Damage to stored materials at the project site that would otherwise be permanently incorporated into the project (Federal-aid non-participating*; FHWA ER ineligible);
 - Reconstruction of permanent or temporary erosion control features in accordance with **sub-article 104-7.1** (Federal-aid participating*; FHWA ER eligible);
 - Taking down and replacing Maintenance of Traffic (MOT) devices as directed by the District Construction Office (Federal-aid participating*; FHWA ER ineligible);
 - Repair of damaged post-mounted MOT signs, deemed to be essential by the Engineer and damaged where left in place; and repair of damaged Changeable (Variable) Message Signs that were specifically directed by the Department to be placed on projects during the storm (Federal-aid participating*; FHWA ER eligible);
 - In the days immediately preceding a natural disaster covered by a Governor declared emergency, the Department may prohibit lane closures to allow departing travelers unrestricted egress from evacuation areas. The Department will compensate idle equipment at the Standby Rate as defined in **sub-article 4-3.2** for the days on which the contractor could have prosecuted the work but for the District directed suspension of operations (Federal-aid participating*; FHWA ER ineligible);
 - In the days immediately following a natural disaster covered by a Governor declared emergency, the Department may prohibit lane closures to allow

returning travelers and assistance service vehicles unrestricted ingress to evacuation areas. The Department will compensate idle equipment at the Standby Rate as defined in **sub-article 4-3.2** for the days on which the contractor could have prosecuted the work but for the District directed suspension of operations. Each contract will be evaluated on a case by case basis and factors such as adverse conditions at the job site, loss of power, etc. shall be considered in the determination of whether the contractor could have prosecuted work (Federal-aid participating*; FHWA ER ineligible).

* Reference to "*Federal-aid participating*" in this section refers to use of regular Federal-aid funds.

The Project Administrator and the Contractor must establish the extent of damage. The Department will pay these costs no later than the second (2nd) estimate following submittal by the contractor provided that all information and documentation requirements have been met.

No compensation will be paid to the contractor for the following items:

- Per day MOT devices not in place on a project;
- Damage to MOT devices, whether in place or elsewhere, except under the exception provided above;
- Temporary works or material damage, except under the exception provided above;
- Idle labor;
- Idle equipment except as stated above;
- Reduced production rates due to effects of inclement weather;
- Loss of Profits; and
- Home Office Overhead, Jobsite Overhead, and any other Overhead except as stated above.

REDLINE VERISON**7.6.5 Governor Declared Emergencies**

To account for the potential impacts natural disasters covered by Governor declared emergencies have on active construction projects, the following process will be utilized, pursuant to **Specifications 7-14 and 8-7.3.2**. Suspension and resumption of operations on projects shall be implemented by the Districts on a case by case basis. No statewide closures will be implemented in advance of a natural disaster covered by a Governor declared emergency unless directed by the Chief Engineer.

1. A State of Emergency must be declared by the Governor of the State of Florida.
2. During the period of the State of Emergency, the Department elects to compensate the Contractor for the following and/or grant time extensions for the following, where the Contractor has taken every reasonable precaution to prepare for the natural disaster covered by a Governor declared emergency:
 - Damage to material that was incorporated into the projects and accepted by the Department prior to the natural disaster (Federal-aid participating*; FHWA Emergency Relief (ER) eligible);
 - Damage to stored materials at the project site that would otherwise be permanently incorporated into the project (Federal-aid non-participating*; FHWA ER ineligible);
 - Reconstruction of permanent or temporary erosion control features in accordance with **sub-article 104-7.1** (Federal-aid participating*; FHWA ER eligible);
 - Taking down and replacing Maintenance of Traffic (MOT) devices as directed by the District Construction Office (Federal-aid participating*; FHWA ER ineligible);
 - Repair of damaged post-mounted MOT signs, deemed to be essential by the Engineer and damaged where left in place; and repair of damaged Changeable (Variable) Message Signs that were specifically directed by the Department to be placed on projects during the storm (Federal-aid participating*; FHWA ER eligible);
 - In the days immediately preceding a natural disaster covered by a Governor declared emergency, the Department may prohibit lane closures to allow departing travelers unrestricted egress from evacuation areas. ~~These days, up to two (2) calendar days with prohibited lane closures, would not be eligible for compensation. For any days exceeding the two (2) calendar days, t~~The

Department will compensate idle equipment ~~and labor at the Standby Rate as defined in per-sub-article 4-3.2~~ for the days on which the contractor could have prosecuted the work but for the District directed suspension of operations (Federal-aid participating*; FHWA ER ineligible);

- In the days immediately following a natural disaster covered by a Governor declared emergency, the Department may prohibit lane closures to allow returning travelers and assistance service vehicles unrestricted ingress to evacuation areas. ~~These days, up to two (2) calendar days with prohibited lane closures, would not be eligible for compensation. For any days exceeding the two (2) calendar days,~~ The Department will compensate idle equipment ~~and labor at the Standby Rate as defined in per-sub-article 4-3.2~~ for the days on which the contractor could have prosecuted the work but for the District directed suspension of operations. Each contract will be evaluated on a case by case basis and factors such as adverse conditions at the job site, loss of power, etc. shall be considered in the determination of whether the contractor could have prosecuted work (Federal-aid participating*; FHWA ER ineligible).

* Reference to "*Federal-aid participating*" in this section refers to use of regular Federal-aid funds.

The Project Administrator and the Contractor must establish the extent of damage. The Department will pay these costs no later than the second (2nd) estimate following submittal by the contractor provided that all information and documentation requirements have been met.

No compensation will be paid to the contractor for the following items:

- Per day MOT devices not in place on a project;
- Damage to MOT devices, whether in place or elsewhere, except under the exception provided above;
- Temporary works or material damage, except under the exception provided above;
- Idle labor ~~except as stated above~~;
- Idle equipment except as stated above;
- Reduced production rates due to effects of inclement weather;
- Loss of Profits; and
- Home Office Overhead, Jobsite Overhead, and any other Overhead except as stated above.