

0071105 LEGAL REQUIREMENTS AND RESPONSIBILITIES TO THE PUBLIC –
OPERATIONS WITHIN RAILROAD RIGHT-OF-WAY
COMMENTS FROM INTERNAL/INDUSTRY REVIEW

Comment: (6-17-10) (Internal Review)

Comment on 20 days perhaps can be resolved as follows:

Projects with less than **or equal to** 20 consecutive days of flagging services ...

Thanks!

Annette Lapkowski, P.E.
Rail Operations Administrator
Operation Lifesaver State Coordinator

Florida Department of Transportation
Work: 850-414-4541; M-Th 7:30-5; F 7:30-11:30
annette.lapkowski@dot.state.fl.us

Check out <http://www.oli.org/> 

From: Wise, Fred

Sent: Wednesday, June 16, 2010 1:18 PM

To: Lapkowski, Annette

Subject: FW: Internal Review 0071105 Legal Requirements and Responsibilities to the Public -
Operations within Railroad Right-of-Way

Need to address notification if flaggers needed for 20 days. Proposed language addresses more than and less than 20 days but not 20 days.

Response: We concur, see revised language above.

Dan Hurtado
dan.hurtado@dot.state.fl.us

Comments: (6-23-10)

Text: 7-11.5.3 Watchman or Flagging Services - The proposed change addresses flagging less than 20 days and flagging greater than 20 days, but it does not address exactly 20 days. One of them should be either a "greater than or equal to" or "less than or equal to" condition.

Response: Revised to "20 or more"

Bill Newlin
407-264-3009
william.newlin@dot.state.fl.us

Comments: (6-23-10)

Recommend an active voice revision to the last sentence of 7-11.5.2 by changing "The

Contractor is responsible" to "Assume responsibility".

Response: Revised as recommended.

Mike Ruland, P.E.
Resident Engineer
D5 - Daytona Beach Construction (MS 513)
915 S. Clyde Morris Blvd., Daytona Beach, FL 32114
(386)943-5761 - Phone
(386)238-3195 - Fax
email: michael.ruland@dot.state.fl.us

Comments: (6-23-10)

Recommend having a weblink to the CSX specification document(s) that's being referenced

Specifically, comply with the Construction Submission Criteria of the CSX Transportation (CSXT) Public Project Information document and Construction sections of the CSXT Pipeline and Wireline Design and Construction Specifications prior to beginning work.

Weblink—<http://www.etc,etc.....>

Response: DOT's web site will house these documents which will be incorporated as part of the contract.

Alan Autry
850-414-4195
alan.autry@dot.state.fl.us

Comments: (6-24-10)

Should a weblink be include in this specification which directs the contractor to the "Construction Submission Criteria of the CSX Transportation (CSXT) Public Project Information document and Construction sections of the CSXT Pipeline and Wireline Design and Construction Specifications"? Re: 7-11.5.3 Recommend striking the 1st sentence of proposed paragraph 2 which states "CSXT flagging resources are limited."

Response: Revised as recommended.

Keith Waugh
Work: 352-787-1616
Fax: 352-787-3161
kwaugh@lewarecc.com

Comments: (6-24-10)

The addition of language specific to CSX documents is much needed. But, "Anticipate only one flagger per project." is too restrictive. How will projects with multiple crossing sites, where work at more than one site daily is necessary to meet project schedules, be handled?

Response: DOT's web site will house the CSXT documents which will be incorporated as part of the contract.

Careful coordination may provide necessary manpower, however production needs often outweigh limited flagging resources. Labor agreements require CSX to exclusively use union members for flagging. Flagging positions are limited to the senior Maintenance-of-Way personnel. Depending on project limits, one flagger often can cover multiple crossings within the same construction project. Production schedules should anticipate only one flagger per project working a standard 40 hour work week. The Department meets weekly to discuss flagging supply and demand for our construction projects. Advanced notification of project needs facilitate the process of obtaining flagging services.

Andy Clark
Work Phone: (352) 787-1616
Fax: (352) 787-5389
aclark@lewarecc.com

Comments: (6-24-10)

"whatever requirements an authorized representative of the railroad company deems necessary" is too vague. These requirements need to be specifically detailed and addressed in the bid documents. All CSX/CSXT requirements/documents need to be provided to perspective bidders with the bid documents.

7-11.5.3: There should not be a limit ("one") on the number of flaggers. This does not address multiple operations at different locations along the railroad. The Contractor should have at least one flagger available at every location and the flagger be available 24 hours/day, 7 days/week. Otherwise, durations/schedules, bonuses, incentives/disincentives, no-excuses, etc. contracts could be greatly affected. I do not see how the Department can fairly and accurately establish contract guidelines without this information, nor can a bidder provide an accurate and competitive bid. This specification needs a good cross-section of industry and railroad in order to improve this document.

Response: DOT's web site will house the CSXT documents which will be incorporated as part of the contract. Flagging resources are limited, see response above.

Jeff Moore
(813) 264-9500
jtmoore@pcl.com

Comments: (7-12-10)

The Department needs to consider a project that will require long-term flagging services from the first day of work. The 6 month notification will not be possible unless a delayed start is allowed and known at bid time or the Department will need to take the responsibility of notifying CSX prior to bid and ensure flagging is available without delaying the contractor.

Response: Revised to require the Department to notify CSX.

Lori Wilson
D5 Constuction

Comments: (7-13-10)

1. How does the Department propose providing the referenced document “ Construction Submission Criteria of the CSX Transportation (CSXT) Public Project Information document” to the contractor?

2. Projects with less than 20 consecutive days of flagging services require a CSXT short-term flagger and 45 days written advance notice. Projects with more than 20 consecutive days of flagging services require CSXT long-term flagger and six months written advance notice. These notice requirements will necessitate other specification changes (lead time, etc.) as they impose unreasonable advance notice requirements on the Department’s contractor. We have reduced the elapsed time from let date to construction to around 75-90 days...yet we want six months notice for flagger needs, which on some projects start on day 1. The flaggers have given us as little as a few days notice that they will not be available on certain days (even when FDOT has complied with these notice requirements), and the FDOT has been forced to pay damages to their contractors for these Railroad caused delays. While outside the realm of the specification, there should be some mechanism. Recommend modifying the specification to include any delay caused by the railroad is third party and will warrant time only.

Response:

- 1. DOT’s web site will house the CSXT documents which will be incorporated as part of the contract.
- 2. Revised to require the Department to notify CSX.

Sergio J Figueroa
Resident QA/AC Specialist
FDOT, Orlando Construction
Tel 407 482 7828
Fax 407 275 4187

Comments: (7-16-10)

I have read the proposed changes for these specifications and I think that there is a potential conflict in the language written in 7-11.5.2 and 7-11.5.3

7-11.5.2 This spec is giving all responsibilities to the contractor for any work to be completed within the CSXT right of way.

7-11.5.3 The Department coordination for the scheduling flagging resources with CSXT appears to be a liability for DOT. The CSXT resources are very limited and coordination is a very difficult function. This coordination might result in a delay for the contractor.

Response: Because of the current level of public works projects effecting railroad property, flagging resources have become severely limited. This circumstance requires strategic planning and organization of construction schedules to maximize these limited flagging resources. The Department coordinates with CSX on a weekly basis to plan resources.

Christopher Wood
D2 Construction, Contract Support Specialist
2198 Edison Ave, Jacksonville, FL 32204-2619, MS 2803
(904) 360-5673
Email:Christopher.Wood@dot.state.fl.us

Comments: (7-21-10)

I have received the following comments from the D2 Construction Residencies for the above mentioned Specification change:

The six month advance notice for a flagger, if imposed, will require advance notice prior to letting. Someone needs to address this issue.

The contractor doesn't have the contract 6 months in advance. Compliance with that requirement will require FDOT to schedule the flagman.

Response: Revised to require the Department to notify CSX.
