



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N925 CM
Indianapolis, Indiana 46204

PHONE: (317) 232-5502
FAX: (317) 232-5551

Eric Holcomb, Governor
Joe McGuinness, Commissioner

April 9, 2019

CONSTRUCTION MEMORANDUM 19-05

TO: District Deputy Commissioners
District Construction Directors
District Technical Services Directors
District Area Engineers
District Project Management Director
Project Management Director
District LPA Coordinators
Project Engineers/Supervisors
Field Engineers

FROM: Gregory G. Pankow, Director
Division of Construction Management

A handwritten signature in black ink, appearing to read "Gregory G. Pankow", written over the printed name.

SUBJECT: Above Normal Inclement Weather Days

The purpose of this memorandum is to clarify Standard Specification 101.02 Above Normal Inclement Weather Days. This specification has been applied inconsistently within the Department. These inconsistencies include the interpretation of the term “yearly” when considering inclement weather days, the method of handling non-working weekend days, the method of handling inclement weather days within approved time extensions, and the importance of weekly report concurrence.

The term “yearly”, when used in the context of the number of days over and above the normal inclement weather days, will be taken as the cumulative number of inclement weather days within a single calendar construction season which exceed the total allowance specified in 101.02. A construction season will be understood as a continuous range of time, from April 1st to November 30th within a calendar year. **With this in mind, it should be noted that inclement weather days will not be considered or recalculated on a month-to-month basis. The effects of the entire time frame will be reviewed and taken into account.**

The day of the weather event and the days after the event which continue to be un-workable on the controlling operation, because of the event, would also be counted as an above normal inclement weather day.

Furthermore, if a construction contract begins or ends within a particular month which has an estimate of inclement weather days, that month’s estimate of inclement weather days will be prorated. The prorated number of days should be rounded in accordance with the Departments rules for rounding as found in the General Notes, item No. 9, located in the front pages of the Standard Specifications.

Example: If the contract completion date for an "R" contract is November 15th then the number of days to be used for an estimate of inclement weather for November would be 15 days/30 days in the month x 12 days(from table in 101.02) = 6 days of prorated time for November.

Also, inclement weather days will be calculated for time frames involving contract closure periods and time periods involving intermediate completion dates, utilizing only the period of time involved and prorated as appropriate.

Example: If an "R" contract is scheduled to start on April 1st and has an intermediate completion date of July 31st, the time frame will only look at the time period between and including these end dates. Therefore, if more than the 36 (18 days for April +8 days for May +5 days for June +5 days for July) inclement weather days occur during this period, a time extension will be given for the extra days and added to the July 31st date.

For contracts with multiple individualistic projects, such as those found in bundled contracts, it may be appropriate for weather to be tracked for each project. A weather event may affect specific projects while not effecting other projects within a contract.

In accordance with 108.08, contractor submitted time extension requests for specific projects effected by a weather event should be reviewed and considered based on the critical path identified within the contract schedule for the overall contract.

Inclement weather days will be counted by the Department for nonworking weekend days or holiday periods where the contractor is not required to shut down operations. For example, if the contractor has not been working weekends and inclement weather days take place on a Saturday or Sunday, the inclement weather days that take place on Saturdays and Sundays will still be counted in the calculation.

Inclement weather days that occur within an approved time extension shall be considered on a day-for-day basis. In other words, the Department will grant an excusable, non-compensable delay for every day that work on the controlling operation cannot take place during an approved time extension period due to inclement weather.

Example: If the contractor is granted a 10 day time extension, the contractor should be given 10 days with workable weather, this would include Saturdays and Sundays. Once the end of the 10 day workable extension ends, the contractor will be charged liquidated damages based on the contract documents. The Department expects the contractor to bid in the potential risk of inclement weather during the original time frame of the contract but does not expect the contractor to bid in risk during potential time extensions to the contract.

Keep in mind that both the PE/S and the contractor should engage in open and transparent communications as to whether a day is considered workable on the controlling operation or critical path. There may be a need for the contractor to describe and, if necessary, clarify alternate plans for upcoming work. The alternate plans should include any effects on controlling operations and critical path which may be effected by the weather event.

All agreements and discussions with the contractor should be documented on the daily and weekly reports. A weekly report showing the controlling operation and workable days is required by the Department to be furnished to the contractor on a weekly basis. The contractor will be allowed one week from the date of

receipt of the report in which to file a written protest stating their disagreement with the weekly report. If no written disagreement is received within the allowable time frame, the report will be deemed to be acceptable by the contractor. It is essential that concurrence is made in a timely manner between the PE/S and contractor to help alleviate post construction time extension disagreements and construction claims.

One further concern occurs when the contractor should have started active work on April 1st but did not start until August 1st. The contract completion date is October 1st. Contractors would like the Department to not consider the time from April 1st to August 1st in inclement weather calculations. Based on the Specifications stating that the contractor is expected to start active and continuous work in a timely manner after issuance of the notice to proceed, the entire time frame that the contractor could have worked will be considered (April 1st to October 1st) in the inclement weather calculations.

Questions should be directed to your Construction Management Field Engineer.

GGP/KAP/ddh