

New Jersey Department of Transportation

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Baseline Document Change Announcement

**Road User Cost, Construction Engineering Cost and Lane Occupancy Charges
BDC99S-017**

March 27, 2000

Subject: Revisions to the 1998 Supplemental Specifications to the 1996 Standard Specifications, Subsections 101.03, 108.16 and 108.19.

The Department has completed the development of a method to calculate Road User Costs and Lane Occupancy Charges. Therefore, the specifications for subsections 101.03, 108.16 and 108.19 have been revised to include the calculated values for these costs/charges, as well as Construction Engineering Costs.

In order to incorporate these changes, the Standard Input (SI98 DOT1) is revised as follows:

101.03 Terms.

THE FOLLOWING TERMS ARE ADDED:

CONSTRUCTION ENGINEERING COSTS. The costs incurred by the Department for engineering, inspection, and administration of a Project during construction.

LANE OCCUPANCY CHARGE. A contractual obligation of the Contractor to compensate for the Contractor's use and occupancy of a lane or lanes of the Traveled Way beyond the time period set forth in the traffic control plans or Special Provisions.

ROAD USER COSTS. The added vehicle operating costs resulting from establishment of construction, maintenance, or rehabilitation work zones and delay and inconvenience costs incurred by the traveling public.

108.16 Failure to Complete on Time.

THE ENTIRE TEXT OF THIS SUBSECTION IS CHANGED TO:

The Contractor and the Department recognize that delay in Completion results in damages to the State in terms of the effect of the delay on the use of the Project, upon the public convenience and economic development of the State, and also results in additional costs to the State for engineering, inspection, and administration of the Contract. Because it is difficult or impossible to accurately estimate the damages incurred; therefore, the parties agree that if the Contractor fails to complete the Contract within the time stated in these Special Provisions, or within such further time as may have been granted in accordance with the provisions of the Contract, the Contractor shall pay the State liquidated damages in accordance with the following paragraph. Such liquidated damages shall be paid for each and every day, as hereafter, defined that the Contractor is in default to complete the Contract.

THE CONSTRUCTION SCHEDULING AND ASSESSMENT UNIT OF QMS AND THE CONSTRUCTABILITY UNIT OF THE BUREAU OF CONSTRUCTION ENGINEERING SHALL PROVIDE THE ROAD USER AND CONSTRUCTION ENGINEERING COSTS RESPECTIVELY, TO THE PROJECT'S DESIGNATED ROADWAY SPECIFICATION DEVELOPMENT GROUP, (SDG), AFTER THE FINAL SUBMISSION REVIEW.

THE SDG SHALL DO THE FOLLOWING:

1. SELECT THE APPROPRIATE CHOICE BELOW BASED ON THE COMPLETION DATES IN CALENDAR DAYS/SPECIFIC DATES OR NUMBER OF WORKING DAYS.
2. ADD THE VALUES OF THE ROAD USER AND CONSTRUCTION ENGINEERING COSTS AND INSERT THE TOTAL VALUE INTO ITEM 1 OF THE CHOICE SELECTED.
3. DIVIDE THE VALUE OF THE CONSTRUCTION ENGINEERING COST BY 2 AND INSERT THIS VALUE INTO ITEM 2 OF THE CHOICE SELECTED.

“CHOICE A”

INSERT THE FOLLOWING WHEN THE COMPLETION DATES ARE IN CALENDAR DAYS, OR SPECIFIC DATES HAVE BEEN PROVIDED.

Liquidated damages shall be as follows:

1. For each Calendar Day that the Contractor fails to complete Construction Operations, as specified in Item A of Subsection 108.10 of these Special Provisions, for Substantial Completion, the Contractor shall pay liquidated damages consisting of Road User Costs and Construction Engineering Costs, as defined in Subsection 101.03, to the State in the amount of \$_____.
2. For each Calendar Day that the Contractor fails to complete the entire Work of the Project as specified in Item B of Subsection 108.10 of these Special Provisions, for Completion, the Contractor shall pay liquidated damages consisting of Construction Engineering Costs, as defined in Subsection 101.03, to the State in the amount of \$_____, provided that Construction Operations as specified for Substantial Completion are actually completed.

“CHOICE B”

INSERT THE FOLLOWING WHEN COMPLETION DATES ARE IN NUMBER OF WORKING DAYS.

Liquidated damages shall be as follows:

1. For each Working Day that the Contractor fails to complete Construction Operations, as specified in Item A of Subsection 108.10 of these Special Provisions, for Substantial Completion, the Contractor shall pay liquidated damages consisting of Road User Costs and Construction Engineering Costs, as defined in Subsection 101.03, to the State in the amount of \$_____.
2. For each Working Day that the Contractor fails to complete the entire Work of the Project as specified in Item B of Subsection 108.10 of these Special Provisions, for Completion, the Contractor shall pay liquidated damages consisting of Construction Engineering Costs, as defined in Subsection 101.03, to the State in the amount of \$_____, provided that Construction Operations as specified for Substantial Completion are actually completed.

The days in default set forth above are the number of Calendar Days in default when the time for Completion is specified on the basis of Calendar Days or a specified completion date, and are the number of Working Days in default when the time for Completion is specified on the basis of Working Days.

Anytime after the Engineer notifies the Contractor in writing, that Substantial Completion of the Project has been actually achieved, the Commissioner may elect, to waive the imposition of liquidated damages under paragraph number 2 above and, in lieu thereof, require the Contractor to pay the actual costs incurred by the State for engineering, inspection, and administration (including overhead) between the actual date of Substantial Completion

or such subsequent date as the Commissioner may determine and the actual date of Completion of all Work, as established by the Certificate of Completion. The Contractor hereby waives the right to challenge this election by the Commissioner on the grounds that such costs exceed the amount of liquidated damages specified under number 2 above.

The Commissioner will recover all damages specified above by deducting the amount thereof from any monies due or that may become due the Contractor, or from the Contractor or from its surety.

THE FOLLOWING NEW SUBSECTION IS ADDED

108.19 Lane Occupancy Charges.

The phrase "lane closure limits" as used herein shall refer to the time period for lane openings as set forth in the Contract Documents. The Contractor is advised that time is of the essence as to all the lane closure limits during which a lane or lanes of the Traveled Way may be closed by the Contractor to perform the Work. In the event that the Contractor fails to open a lane or lanes of the Traveled Way in accordance with the lane closure limits, the Department will have the right to collect a Lane Occupancy Charge for the use and occupancy of each such lane or lanes beyond the permitted time period until such time that the lane or lanes are reopened to traffic or until such time that the lane closure is allowed to take place again under the lane closure limits.

Except as specifically excluded below, a Lane Occupancy Charge will be collected by deducting the appropriate charge, calculated in accordance with this Subsection, from the monthly estimate, whenever a lane or lanes are not promptly made available to the traveling public during the lane closure limits for the following reasons: equipment breakdowns; non-extreme weather related causes; late start of work; shortage of labor, materials, fuel, machinery or equipment or by reason of the Contractor's negligence or fault or that of its workers, employees, subcontractors or suppliers. This charge will be collected per lane for that period of time each lane is unavailable to the traveling public beyond the lane closure limits. The Resident Engineer, however, will allow a fifteen-minute grace period per occurrence at no charge to the Contractor. If the Contractor fails to open the Traveled Way before the end of the grace period, the Contractor shall be charged for the first fifteen minute period at half the rate listed below and at the rate indicated for any subsequent time of delay in the opening of the Traveled Way. This charge will be calculated by multiplying the length of time of the delayed opening, in minutes, by the applicable rate or rates per minute as set forth below and, where more than one lane is involved, by the number of lanes so affected.

The rate or rates to be applied in the calculation of a Lane Occupancy Charge shall be in accordance with the following:

**WHEN APPLICABLE, THE CONSTRUCTION SCHEDULING AND ASSESSMENT
SECTION OF QMS WILL PROVIDE THE LANE OCCUPANCY CHARGES TO THE SDG
AFTER FINAL SUBMISSION REVIEW FOR INSERTION INTO THE SPECIAL
PROVISIONS.
NOTE: THERE IS A PROVISION FOR ONE INSERTION, THE SDG IS TO ADD
ADDITIONAL LINES IF REQUIRED.**

DESCRIPTION	RATE PER MINUTE / LANE
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The total amount of the Lane Occupancy Charge collected from a Contractor shall not exceed \$5,000.00 per day.

The Resident Engineer will keep and record the length of time the lane or lanes are kept closed beyond the lane closure limits. The Resident Engineer also reserves the right to suspend all Work until the next allowable lane closure time period, where the Contractor exceeds the lane closure limits and the grace period extension thereof. Prior to deduction of any charge from a monthly estimate for occupancy of a lane or lanes of the Traveled Way, the Department will provide the Contractor with a statement of the charges to be collected and the supporting calculations.

A Lane Occupancy Charge, however, will not be collected by the Department from the Contractor where a lane or lanes are closed directly and solely by reason of extraordinary, exigent circumstances defined as: extreme weather conditions, natural cataclysmic phenomena, unanticipated labor stoppages or strikes, acts of the State or its employees, police action, riot or civil unrest, war, fire, natural geologic conditions unknown to the Contractor, or a serious vehicular or pedestrian accident; so long as the Contractor undertakes all reasonable actions that are immediately necessary to open the closed lane or lanes as soon as practicable given the circumstances extant at the

time of the occurrence of the event or the events directly causing closure beyond the lane closure limits, no matter the reason thereof. Where, however, the Contractor fails to take appropriate, reasonable action to open a lane closed by reason of extraordinary, exigent circumstances, as defined above, the Engineer will have the right to charge for that period of time that a lane or lanes are closed beyond that period of time reasonably needed by the Contractor, under the given circumstances, to open the closed lane or lanes to the traveling public. Also, this paragraph shall not be construed as limiting, in any manner, the Contractor's liability or risk as governed under Subsections 107.22 Risks Assumed by the Contractor and 107.23 Insurance, or under any other provisions of the Special Provisions and shall be deemed as only applying to collection of charges from the Contractor for lane closures.

Instructions to Designers:

The Project Manager shall request the Road User Costs and Lane Occupancy Charges from the Construction Scheduling and Assessment Section (CSAS) of Quality Management Services and the Construction Engineering Cost from the Constructibility Unit (CU) of the Bureau of Construction Engineering. Upon receipt of the responses from CSAS and CU, the Project Manager shall forward the information to the Roadway Specification Development Group for insertion into the specifications. The Roadway SDG will select the appropriate specification for subsection 108.16, insert the values for Road User Cost and Construction Engineering Cost as described in the instructional text to the specification insert. The Roadway SDG will also insert the description and rate per minute/lane in 108.19 for Lane Occupancy Charges if required.

The revisions to Subsections 101.03 and 108.16 shall be included for all projects and the revision for Subsection 108.19 shall be included in projects that warrant Lane Occupancy Charges and are scheduled for a Final Design Submission after April 17, 2000.

The Baseline Document Change Announcement, BDC99S-008 dated June 4, 1999 on Lane Occupancy Charges is hereby superseded.

The Corrective Action Notice CAN024, dated September 2, 1999, on liquidated damages is hereby superseded.

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