



CONSTRUCTION BULLETIN

Colorado Department of Transportation
Project Development Branch

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Date: July 7, 2008

Polymer and Asphalt Cement Shortages

CDOT was informed by the Asphalt Industry on June 20, 2008 that a national shortage of asphalt and polymer is being experienced. The effect of these shortages is expected to be short-term but will affect the remainder of the 2008 construction season. CDOT is currently reviewing all HMA/SMA projects to determine a priority list of projects to be supplied with the available Asphalt Cement and Polymer for the remainder of the 2008 construction season. The Asphalt Cement suppliers have informed CDOT that any projects going to AD that are to be constructed in the 2008 season will not be bid. The Asphalt Cement suppliers expect the supply of asphalt to improve in the fall of 2008 and winter of 2009. As a result regions may need to take actions on ongoing projects to address these shortages. Possible actions:

- 1) If construction on a project has not yet begun termination for convenience may be considered. Termination requires approval of the Chief Engineer.
- 2) Modify mix designs and/or typical sections to reduce or eliminate polymers with concurrence from Region Materials Engineer.
- 3) Extension of project time.

Determination and Extension of Contract Time

The following document is intended to assist with the implementation and interpretation of Standard Specification 108.07 Determination and Extension of Contract Time as it relates to delays in delivery of materials to the Contractor due to some unusual market condition caused by an area-wide shortage.

Subsection 108.07 (c) of the Standard Specifications states that "Delays in delivery of materials or fabrication scheduling, resulting from late ordering, financial considerations, or other causes which could have been foreseen or prevented, will be considered nonexcusable delays. **However, delays caused by fuel shortage or delay in delivery of materials to the Contractor due to some unusual market condition caused by industry-wide strike, national disaster, area-wide shortage, or other reasons beyond the control of the Contractor which prevent procurement of materials or fuel within the allowable contract time limits will be considered excusable delays.**"

In order to be eligible for a time extension, the Contractor must submit documentation that their supplier is unable to deliver the planned material to the project as a result of an area-wide shortage of polymer and/or Asphalt Cement binder. The Contractor must also submit a revised schedule showing how the shortage affects the critical path of the project. Time extensions should only be granted for the amount of time that the shortage will extend the completion date of the project beyond the contract time. The documentation verifying the shortage and the revised schedule should be used as the basis of a CMO adding time to the project. The CMO will be discussed with an Area Engineer. Changes in binder grade or typical sections could result in project savings on active projects. The Area Engineers are available to assist in calculating these potential savings.

Section 108.07 defines a compensable delay as an excusable delay caused by the Department. Non-compensable delay is defined as an excusable delay for which the contractor may be entitled to an extension of time but no additional monetary compensation. Non-compensable delays are those not



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caused by the Department or by the Contractor's fault or negligence. An area-wide shortage is considered a non-compensable delay because it is an excusable delay not caused by CDOT.

If you have questions, please contact your Area Engineer in Project Development.

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