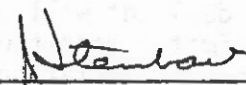


TO: SUPERSEDED BY EB 96-027 EFFECTIVE 6/18/96	ENGINEERING BULLETIN NEW YORK STATE DEPARTMENT OF TRANSPORTATION
	SUBJECT: OVERTIME DISPENSATION Subject Code 7.30
Distribution: <input checked="" type="checkbox"/> Main Office <input type="checkbox"/> Regions <input checked="" type="checkbox"/> Special	Code: <u>EB 82-14</u>
APPROVED:  <u>Jack Sternbach, Deputy Chief Engineer (Construction Div.)</u>	Date: <u>4/15/82</u> Supersedes: <u>EB 82-11</u> dated 3/3/82

This Engineering Bulletin Expires _____

Effective with the Letting of June 24, 1982, Department Proposals for construction projects will no longer contain the "Special Note to Bidders in Relation to Overtime Dispensation." The elimination of this Special Note does not alter either the criteria or the procedure established for processing Contractor Applications for Dispensation for Hours as set forth in Subsection 102-08C, Para. B, of the Construction Supervision Manual.

Pursuant to the informal agreement described therein, the Labor Department Bureau of Public Work has been very cooperative in granting overtime work dispensations until October 15th, based on our certification that such work "is of an important nature and that a delay in carrying it to completion would result in serious disadvantage to the public," a condition required by Section 220, Article 8, of the Labor Law.

However, a large number of overtime dispensation applications are being processed for periods extending beyond October 15th (some covering more than one construction season) without regard to the criteria established, and the general agreement on the use of limited waivers. Thus, if we are to retain the existing cooperative relationship, applications should be carefully reviewed. It is essential that our certification be based solely on shortening the period during which the project work results in a serious disadvantage to the public, rather than a benefit to the Contractor such as "to enable the Contractor to complete the project by the date fixed in the contract."

For the present, you may continue to process for approval those overtime dispensation applications which are in accordance with the criteria below, during the height of the construction season, where it is deemed to be in the best interest of the public. Only those meeting all of the following criteria should be certified:

1. Acceleration of the project, or specific activity for which the request is made, is necessary for the "preservation of the contract site and for the protection of the life and limb of the persons using the same." (Section 220, Article 8 of the Labor Law)
2. The utilization of additional laborers, workmen and mechanics, due to the nature of the project and the work to be performed, is impracticable and could not be

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used to progress the project to a more expeditious completion.

3. The use of multiple shifts is either not practical or will not be sufficient to adequately progress the work without overtime.

Additional scrutiny should be given to Applications for Dispensation extending beyond October 15, considering that less than ten hours of daylight will be available; the seasonal limitations on bituminous paving; and other climatic conditions. Accordingly, support for such applications should address these limitations; for example, by indicating whether paving operations are for other than top course or by specifying the operation which is to be extended beyond daylight hours and whether by artificial lighting.

When all of the criteria have been met, the Regions should countersign and forward to the Construction Division three (3) copies of the application together with two (2) copies of a memorandum supporting each transmitted application and containing the following information:

1. Summary of specific operations included in the Application, if all operations are not applicable to the overtime request.
2. Explanation of the emergency nature of the work, the public benefits to be accrued, and the consequences of disapproval of the application.
3. Aspects of the project which preclude the utilization of additional laborers, workmen and mechanics in expediting the work.
4. Evaluation of the potential use of multiple shifts, with or without overtime, the practicality of same, and whether such shifting is planned.

Please note that Applications for Dispensation should not be sent directly to the Department of Labor; they must be sent to the Construction Division for further processing.

A copy of this Bulletin should be inserted in the Construction Supervision Manual following page 102-7.