

Memorandum

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To: DEPUTY DISTRICT DIRECTORS, Construction
DEPUTY DIVISION CHIEF, Structure Construction
CONSTRUCTION MANAGERS
SENIOR CONSTRUCTION ENGINEERS
RESIDENT ENGINEERS

Date: October 23, 2009

File: Division of Construction
CPD 09-13

From: MARK LEJA
Chief
Division of Construction



Subject: Variance for Aerially Deposited Lead

The Department of Toxic Substances Control (DTSC) on June 30, 2009, issued a statewide Caltrans Variance No. V09HQSCD006 (Variance) for lead-contaminated soil caused by aerially deposited lead (ADL). The Variance and additional information about ADL are available on the Division of Environmental Analysis internet and intranet websites:

http://www.dot.ca.gov/hq/env/haz/hw_adl.htm

<http://pd.dot.ca.gov/env/haz/html/adl.htm>

The four major differences in this Variance versus existing variances are:

1. Variance applies to all districts
2. The level of lead measured in contaminated soil that may remain within the Caltrans right-of-way when it is placed under one foot of clean soil has been raised from 0.5 mg/L to 1.5 mg/L of extractable lead (based on a modified waste extraction test using deionized water as the extractant).
3. The level of lead measured in contaminated soil that may remain within the Caltrans right-of-way when placed under pavement has been raised from 50 mg/L to 150 mg/L (based on a modified waste extraction test using deionized water as the extractant).
4. Caltrans must develop and implement a permanent record-keeping mechanism to record and retain permanent records of all locations where lead contaminated soil has been buried. To accomplish this record-keeping, contractors are required to survey the top and bottom perimeter areas of ADL burial site locations and report the information to the resident engineer and the Division of Environmental Analysis. The division will review the data for acceptability, place it into a database if it is acceptable, and report to the resident engineer.

Districts with projects that invoked the existing variances may continue without invoking the Variance.

Districts may want to invoke the Variance on projects to realize cost savings because, based on the raised extractable lead limit, some contaminated soil identified as Type Z-2 can now be left onsite. Districts without existing variances may benefit by invoking the Variance on some projects.

Consider invoking the Variance on ongoing projects to reduce project delivery costs and environmental impacts because of:

- Immediate project cost savings resulting from reduced or eliminated hauling and disposal costs.
- Immediate project cost savings since the need to purchase clean fill may be reduced or eliminated.
- Long-term cost savings for Caltrans resulting from reduced liability for hazardous waste in Class I landfills. These landfills inevitably become insolvent after closure, and every entity that sent waste to the landfill becomes responsible for operation, maintenance, and remediation. Responsibility is apportioned based on volume, not toxicity. As a result, the low-toxicity soil containing lead that Caltrans sends to the landfill may result in a very large cost share, even though the landfill contains much more toxic materials. Every bit of hazardous waste we can keep out of the landfill reduces future liability and costs.
- Reduced environmental impacts when the soil is retained on the project site since emissions from the trucks hauling the waste to the landfill adversely impact air quality and increase greenhouse gases.

Resident engineers should evaluate the opportunity to invoke the Variance and retain ADL soil on their projects. Consult with the project engineer for assistance in recalculating earthwork quantities. Review the project with your district construction environmental liaison to determine the requirements for invoking the Variance.

A sample contract change order and a sample contract change order memorandum are attached to this construction policy directive (CPD) for reference.

This CPD serves as delegation of authority, from both the Division of Construction and the Federal Highway Administration for approval of contract change orders when implemented under the requirements of this CPD and the Variance.

This CPD supersedes CPD 08-4.

For additional information or assistance, please contact Chuck Suszko, Division of Construction, at chuck-suszko@dot.ca.gov or (916)227-7314.

Attachments: Contract Change Order Memorandum—Variance for Lead Contaminated Soil
Contract Change Order—Variance for Lead Contaminated Soil
FHWA—Record of Blanket Prior Approval for Major Contract Change Order