



Department of Toxic Substances Control



Terry Tamminen
Agency Secretary
Cal/EPA

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Arnold Schwarzenegger
Governor

February 1, 2005

Mr. Bijan Sartipi, District Director
Department of Transportation
District 4
P.O. Box 23660
Oakland, California 94623-0660

LEAD CONTAMINATED SOIL VARIANCE MODIFICATION, CALTRANS DISTRICT 4

Dear Mr. Sartipi:

This letter concerns the lead-contaminated soil variance issued by the Department of Toxic Substances Control (DTSC) to Caltrans, District 4 (the District), on September 22, 2000. The variance governs the District's management of soil that contains aerially deposited lead.

Due to recent inquiries into the applicability of this variance on joint projects between Caltrans and local government agencies on Caltrans right-of-way, DTSC has determined that clarification of the variance is required. Highway projects are often joint venture projects where funding is wholly or partly shared by both Caltrans and local government. In instances where Caltrans is not the lead agency directly charged with the implementation of the project, Caltrans still has an oversight role if a project is conducted within the Caltrans right-of-way. Caltrans would need to verify that the project has adequate design, construction, and environmental controls in place to adhere to all State and Federal laws and regulations.

As currently written, it is not clear whether Caltrans can invoke the current variance given the joint project scenario described above. DTSC believes it would be appropriate for Caltrans to invoke the variance in these situations, and therefore is herewith modifying the variance by adding the following clarifying paragraph:

"7. d) DTSC finds that some projects involving lead contaminated soil are joint projects between Caltrans and other government entities. In these joint projects, Caltrans may, on occasion, not be the lead agency implementing the project, although Caltrans may still be involved if the project occurs on its right-of-way.

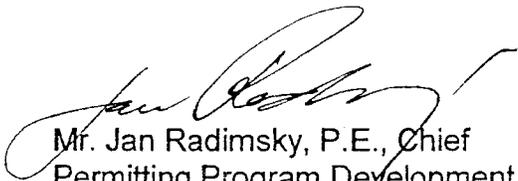
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Caltrans may invoke this variance for joint projects where Caltrans and a local government entity are involved provided that 1) the project is within the Caltrans right-of-way; 2) Caltrans reviews/oversees all phases of the project including design, contracting, environmental assessment, construction, operation, and maintenance; and 3) Caltrans oversees the project to verify all variance conditions are complied with. Caltrans will be fully responsible for the variance notification and implementation in these joint projects."

This letter will formally modify the variance issued to the District and shall be attached as an addendum to the existing variance.

If you have any questions or comments, please contact Michael Choe of my staff at (916) 322-5308.

Sincerely,



Mr. Jan Radimsky, P.E., Chief
Permitting Program Development Branch
Hazardous Waste Management Program

cc: ✓ Ms. Kim Christmann
Office of Noise, Vibration, and
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Mr. David Wright, P.E., Chief
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