



Labor Compliance Policy Bulletin

LCPB 23-1 Monitoring and Enforcement of On Hauling of Materials Used for Paving, Grading and Fill

References:	<i>California Labor Code</i>	Section 1720.3, Definition of Public Works
	<i>California Code of Regulations</i>	Section 16434, Duties of Labor Compliance Program
	<i>Construction Manual</i>	Section 8-102A (2), Resident Engineer Project Responsibilities

Effective Date: November 28, 2023

Approved: 

RAMON HOPKINS, Chief
Division of Construction

Approval Date: November 27, 2023

New Procedure

This bulletin provides clarification of the monitoring and enforcement requirements for California Labor Code 1720.3, "Definition of Public Works," which pertains to prevailing wage laws and the hauling of materials onto public works sites. Effective January 1, 2023, the definition of public works was amended by Assembly Bill 1851 (AB 1851) in Labor Code 1720.3 to include the "on hauling of materials used for paving, grading, and fill onto a public works site, if the individual driver's work is integrated into the flow process of construction." This aligns with the guidance published by the Department of Industrial Relations (DIR). It is also in alignment with the longstanding interpretations found under *O.G. Sansone Co. v. Department of Transportation* (1976) 55 Cal.App.3d 434, and its subsequent interpretations.

DIRs guidance uses the title of dump truck driver, taken from the Dictionary of Occupational Titles (4th Ed., Rev. 1991) 902.683.010, as an advisory scope of work for the dump truck driver classification examples. These examples are paving, grading, and fill materials, which include, but are not limited to, "sand, gravel, crushed rock, coal, or bituminous paving materials."

For contracts advertised on or after January 1, 2023, the Caltrans Labor Compliance staff will continue to perform all monitoring and enforcement processes to apply the prevailing wage laws (Labor Code 1720.3, et seq.), including, but not limited to, the collection and confirmation of certified payroll records, auditing of records, contractor and subcontractor registration with DIR as a public

works contractor, apprentice and training requirements, daily reports of site activity, and withholding of contract payments for violations.

In accordance with DIR's guidance for contracts advertised before January 1, 2023, Labor Compliance will apply the pre-AB1851 version of Labor Code 1720.3 to the project, even if the project was awarded on or after January 1, 2023.

It is important to note that this addition to Labor Code 1720.3 and this bulletin have no effect or bearing on other unrelated laws and procedures. For example, the laws surrounding, and the procedures for the hauling and delivery of ready-mix concrete in accordance with Labor Code 1720.9, the off haul of refuse in accordance with Labor Code 1720.3, and the hauling of materials between public works sites, remain unchanged.

Background

Caltrans employs an approved labor compliance program in accordance with Labor Code 1771.5, "Small Project Option; Labor Compliance Programs; Payroll Records." In part, the associated responsibilities include prevailing wage monitoring and enforcement activities. Historically, this includes the monitoring and enforcement of on hauling of materials used for paving, grading, and fill.

As a result of the ratification of AB 1851 (2022), Labor Code 1720.3, "Definition of Public Works," has been amended to include the "on hauling of materials used for paving, grading, and fill onto a public works site, if the individual driver's work is integrated into the flow process of construction." This amendment's effective date is January 1, 2023.

Caltrans enforced this concept before the ratification of AB 1851, to remain in line with the findings of *O.G. Sansone Co. v. Department of Transportation* (1976) 55 Cal.App.3d 434. However, a recently updated "Frequently Asked Questions" (FAQ) portion of the DIR website has given further guidance for enforcement. The FAQ states, in part, that "if a project's benchmark date is before January 1, 2023, Caltrans will apply the pre-AB 1851 version of the prevailing wage law to the project, even if the project was awarded on or after January 1, 2023." As a result, Caltrans Labor Compliance staff will cease monitoring and enforcement activities for on hauling of materials for projects advertised before January 1, 2023.

If you have any questions or comments regarding this bulletin, please contact Lindsey Woolsey, Labor Compliance Branch Chief, at Lindsey.Woolsey@dot.ca.gov or (530) 204-7745.