

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LEONARD HOSHIJO
DIRECTOR


LOIS IYOMASA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

August 8, 2018

Notice Re: MEMORANDUM NO. WSD 2013-01

TO: All State and County Governmental Contracting Agencies and Contractors

FROM: Leonard Hoshijo, Director 
Department of Labor and Industrial Relations

SUBJECT: Applicability of Chapter 104, Hawaii Revised Statutes (HRS), to Truck Drivers on Asphalt Paving Public Construction Projects When the Spreader Box or Paving Machine Method in Construction is Used

Effective August 8, 2018, the Department of Labor and Industrial Relations (DLIR) is reinstating Memorandum No. WSD 2013-01, issued on July 1, 2013. The Department previously suspended the implementation of Memorandum No. WSD 2013-01 on July 10, 2013.

In light of the amendments to and compilation of Chapter 12-22, Hawaii Administrative Rules, effective July 23, 2018, the practice of truck drivers delivering asphalt paving materials to spreader boxes or paving machines as described in Memorandum No. 2013-01, is covered under Chapter 104, HRS, Wages and Hours of Employees on Public Works Law. Therefore, these truck drivers must be classified and paid the appropriate prevailing wage rate in accordance with the applicable Wage Rate Schedule.

If you have any questions, please call the DLIR Wage Standards Division at (808) 586-8777.



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DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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Email: dlir.director@hawaii.gov

July 1, 2013

MEMORANDUM NO. WSD-2013-1

TO: All State and County Governmental Contracting Agencies and Contractors

FROM: *Audrey Hidano*
Dwight Takamine, Director
Department of Labor and Industrial Relations

SUBJECT: Applicability of Chapter 104, HRS, to Truck Drivers on Asphalt Paving Public Construction Projects When the Spreader Box or Paving Machine Method in Construction is Used.

In order to promote consistency in the interpretation of the treatment of truck drivers on asphalt paving public construction projects and pursuant to Section 12-22-8, Hawaii Administrative Rules (HAR), the Department of Labor and Industrial Relations (DLIR) is providing this notice to all governmental contracting agencies and contractors subject to the Wages and Hours of Employees on Public Works Law, Chapter 104, Hawaii Revised Statutes (HRS).

Spreader Box or Paving Machine Method Included Activities

A truck driver hauling asphalt or other paving materials under the spreader box or paving machine method on State and county public works construction projects is deemed to be a laborer or mechanic performing construction work of transporting materials under Section 12-22-1.1, HAR. As a laborer or mechanic, a truck driver must be paid the proper prevailing wage required by Chapter 104, HRS. Time spent at the construction site and the time transporting the equipment and materials to and from the construction site are covered under the law.

The spreader box or paving machine method is a method of construction where the truck driver backs the dump truck against an asphalt paving machine, raises the truck bed, and delivers the paving materials directly into the paving machine. The paving machine then lays the materials onto the roadbed. As the holding capacity of the asphalt paving machine cannot accommodate a full truck load of materials, the dump truck remains in contact with the asphalt paving machine, and the dump truck driver works in concert with the asphalt paving machine operator by controlling the rate of the materials being emptied into the asphalt paving machine's hopper.

In the spreader box or paving machine method, a truck driver who empties their load directly into the spreading machine and coordinates with the spreading machine operator to ensure a specific rate of materials flow while the spreading machine lays down a layer of the materials is an example of the incorporation of the delivered materials into the public construction process. A truck driver delivering asphalt or other paving materials to a public work construction jobsite in the spreader box or paving machine method is deemed to be performing the construction work of a laborer or

MEMORANDUM NO. WSD-2013-1
Department of Labor and Industrial Relations
July 1, 2013

mechanic and must be classified and paid the applicable prevailing wage provided in the appropriate Wage Rate Schedule Bulletin published by the DLIR.

To ensure compliance, contracting agencies should share this memo with all paying contractors. Contractors who are not in compliance should be advised to conduct a self-audit to correct the violation.

If you have any questions, please call the DLIR Wage Standards Division at (808) 586-8777. This document is available on the DLIR website at: <http://labor.hawaii.gov/wsd/>