



Construction Policy Bulletin

CPB 06-10 Trucking Owner-Operator Certification Status Form

References: April 2006 Labor Compliance Trucking Advisory
April 2006 Prevailing Wage Trucking Guidelines

Labor Compliance Manual

Section 3-204A, "Verification of Owner-Operator Status"

Standard Specifications

Section 7-1.01(A)3, "Payroll Records"

Effective Date: December 21, 2006

Approved: 
for ROBERT PIEPLOW
Chief
Division of Construction

Approval Date: December 20, 2006

Background

In April 2006, the Division of Construction Labor Compliance Program revised its trucking policy as it relates to covered and non-covered trucking operations on contracts subject to prevailing wage provisions of the California Labor Code and the Federal Davis Bacon and Related Acts. In part, the policy requires that prevailing wages be paid to any employees engaged in a covered trucking operation and all individuals claiming to be owner-operators must provide verification of such status.

Federal and state owner-operator labor regulations differ significantly. Under federal enforcement, bona fide owner-operators of trucks who own and drive their own trucks are treated as independent contractors and are not covered by prevailing wage provisions. California Labor Code section 1772 provides though, that "workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work." True owner-operators are not "workers employed," but are themselves independent contractors for which the payment of prevailing wages is not required.

Form CEM 2505, "Owner-Operator Listing," will no longer be used for verifying the status of a trucker as a bona fide owner-operator.

The verification of owner-operator status will be accomplished by certification. The certification provides sufficient information to identify the truck owner-operator, the description, identity and ownership of the owner-operator's truck, and a written declaration under penalty of perjury that the information is true and correct.

Existing Procedure

Currently, Form CEM 2505, "Owner-Operator Listing," is used for status verification of all owner-operators, including trucks and equipment. The contractor employing the owner-operator, not the actual owner-operator, must complete and certify the form. Each Form CEM 2505, "Owner-Operator Listing," must be accompanied by a signed Form CEM 2503, "Statement of Compliance," and must be submitted on a weekly basis.

New Procedure

Form CEM 2505, "Owner-Operator Listing," is now used for equipment owner-operators only.

The verification of owner-operator status for **trucks only** is accomplished by completing Form CEM 2510, "Truck Owner-Operator Certification of Ownership," (attached). The certification form requires that the owner-operator identify business and owner names and addresses, driver's license number, truck description, motor carrier permit number, any identifying California permit numbers, and truck license numbers. The form also contains a signature block under penalty of perjury that the information submitted is true and correct.

Form CEM 2510, "Truck Owner-Operator Certification of Ownership," is completed and signed by the owner-operator. The form is submitted once per project and is due by the 15th of the following month, after the owner-operator first appears on the project. An updated form is required when any changes occur in the data required by the form.

Labor Compliance personnel review the form to ensure that all information is reported and that the owner-operator has provided a signature. For instructions on verifying the validity of the information submitted by the owner-operator, see Section 3-204A, "Verification of Owner-Operator Status," of the *Labor Compliance Manual*, which can be found on the internet at:

<http://www.dot.ca.gov/hq/construc/LaborCompliance/MASTERlaborcompliance.pdf>

Labor Compliance personnel are to contact the prime contractor and the resident engineer when incomplete forms are received. For missing and incomplete forms, a monthly labor compliance deduction should be taken in accordance with Section 7-1.01(A)3, "Payroll Records," of the *Standard Specifications*.

Attachment