




August 30, 2004

DESIGN OFFICE

SEP 01 2004

RECEIVED

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FROM: Don Nelson   
360-705-7101

SUBJECT: **Project Delivery Memo #04-05** – Disposal of Excess Material

### Purpose and Direction

**Background:** Recent changes in the Washington Administrative Code (WAC) have recently been enacted and have had some impact on the requirements for the disposal of excess material from our project sites. Under the Department of Ecology's old solid waste rule (173-304 WAC), soils were not considered a permitted solid waste unless they were derived from a cleanup or hazardous waste operation. Under the new rule (173-350 WAC), Ecology requires that all construction-derived soils be considered solid waste until it is demonstrated that soils meet background criteria at the re-use location. If background criteria are not met, the re-use location must be permitted as a solid waste landfill. Statewide application of this rule interpretation would result in severe schedule and cost impacts to WSDOT projects.

The new rule impacts the way excess material that has heretofore not exceeded EPA contaminate thresholds may be used. Additional costs or delays could result if excess material "degrades" the disposal site.

The HQ Environmental Services Office, along with AGC and other stakeholder groups, has met with the Department of Ecology, and Ecology has agreed to review the new rule through an administrative process in which WSDOT will be a participant. Prior to the outcome of the administrative process, some clarifications were agreed to as to how the new rule will be interpreted for WSDOT work, as outlined below:

- The new provisions of WAC 173-350 are not intended to add new regulatory standards for roadway soils that are used for road construction, moved along the roadway, or to median areas provided they do not violate other regulatory standards.
- Determine that soils are free from contamination based on existing information. Additional sampling or testing is not required unless there is specific information

suggesting that soils may be contaminated. The term "contaminated soil" pertains only to soils identified as problem wastes or solid wastes, as defined in WAC 174-304-100.

- Specify in contracts that soils must be disposed or reused in a manner that does not degrade sensitive resources such as wellhead protection zones, surface water bodies, parks, and child-use areas. In addition, specify that the disposal of soils directly to topsoil manufacturers is prohibited.

**Types of Projects Affected:** Projects that have any amount of earthwork and it is anticipated that there will be excess material that needs to be hauled off the project site to a contractor-furnished disposal site will be affected. This also impacts only those projects that will be advertised after August 2, 2004.

**Direction:** Until such time as the administrative process is completed, WSDOT has agreed to include that attached special provision in all contracts.

**Value in Making the Change:** This change is necessary to be in compliance with interim rules that have been agreed upon with the Department of Ecology as to how the new rules are expected to be implemented while amendments to the WAC are being considered.

### Action Requested

#### Project Development

Include the attached special provision in all contracts until the administrative process for rule changes is complete and any necessary changes are made to the Standard Specification to come into compliance with the new regulations.

#### Contract Ad and Award

For projects currently being advertised for bids, this provision should be added to the contract provisions by addendum, if it is possible to do so without impacting the bid opening.

#### Construction

Projects that are currently under contract will need to be evaluated on a case-by-case basis. Only the larger earthwork projects should be affected. A change order may be required if the disposal site for excess material is in one of the sensitive locations listed in the attached special provision.

DN:cd  
KJD/HJP/JRS  
Attachment

cc/att: Region Construction Engineers	John Conrad
Region Construction Trainers	Tom Baker
Region Design Trainers	Kevin Dayton
Region Materials Engineers	Harold Peterfeso
Region Project Development Engineers	Megan White

## **Instructions to Designers**

Until notified otherwise, include the following specification as a special provision on all WSDOT projects.

### **Disposal of Surplus Material**

#### **Contractor-Provided Disposal Site**

Section 2-03.3(7)C is supplemented with the following:

All surplus excavation or other materials shall be disposed of or reused in a manner that does not degrade sensitive resources such as wellhead protection zones, surface water bodies, parks, and child-use areas. Disposing of soils of any kind directly to a topsoil manufacturer is prohibited.