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Montana Department of Transportation
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Jim Lynch, Director
Brian Schweitzer, Governor

February 13, 2007

TO: ALL CONTRACTORS

Subject: Materials Certifications

As a recipient of federal-aid funds, MDT is required to comply with and enforce the appropriate federal laws and regulations. To comply with those requirements, MDT has enacted specifications that require contractors to supply necessary material certifications **before** those materials are used on or incorporated into a project. (For example, see Subsections 106.01.2, 106.03, 106.09 and others in the Standard Specifications, as revised.) MDT's compliance is a prerequisite to the state's receipt of the federal funds, and MDT is required to inform FHWA of any occasions when materials are used in a project without required certifications. Incidents of non-compliance have resulted in federal investigations and, in some cases, non-participation by the FHWA.

Contractors have occasionally asked to install the materials without certifications in-hand, promising to "turn them in later" or, in some cases, have installed the materials without permission. This will not be permitted.

To avoid problems or funding disputes, MDT is immediately reinforcing a policy of strict enforcement of it specifications. Except as stipulated in section 106.01.2, **when materials that require certification are to be used in an MDT project, they may not be used on the project until the documentation is delivered to the Project Manager**. If proper documentation is not supplied, those materials will remain stockpiled or otherwise in storage until that requirement is met and they will not be eligible for payment as materials in storage. The contractor is responsible to ensure that proper, accurate, and complete documentation is provided before the materials may be used.

If the contractor is unable to obtain the necessary certifications from their supplier causing work delays, it will be a matter solely between the contractor and the supplier. No additional compensation, project time, or any other contract revision will be allowed by MDT due to a contractor's failure to provide the certifications. This is a contract requirement, under federal law, which every contractor and supplier must meet and anticipate when providing such materials.

Loran Frazier, P.E., Administrator
Highways & Engineering Division