The Commonwealth of Massachusetts
Department of Labor and Workforce Development
Division of Occupational Safety

ANGELO BUONOPANE
Director

ROBERT J. PREZIOSO
Deputy Director

December 3, 1997

John D. O'Reilly, III, Counsel
Labor Relations Division of the
Construction Industries of Massachusetts
77 Turnpike Road
Post Office Box 3118
Southborough, MA 01745-0118

Re: Applicability of prevailing wage rates to the operation of a drawbridge during construction

Dear Mr. O'Reilly:

This letter responds to your request for a determination of the applicability of the prevailing wage law, M.G.L. ch. 149, sections 26 - 27F, to the operators of the drawbridge over the Fore River in Quincy (the "drawbridge") during the upcoming rehabilitation project (Massachusetts Highway Department project # 110651).

There is no dispute that, in general, the rehabilitation project is covered by prevailing wage rates. This letter addresses the specific issue of whether prevailing wage rates are applicable to the operators of the drawbridge -- the persons who will control the raising and lowering of the bridge, along with any associated functions -- for the duration of the rehabilitation project.

Given that the construction contractor will provide drawbridge operators at all times during the rehabilitation project in place of regular Massachusetts Highway Department employees, it is obvious that the bridge will need to be raised and lowered to accommodate construction activities and that the regular operation of the drawbridge will require additional care due to the hazards and/or limitations caused by the construction. The operator will, at all times, need to be mindful of the construction schedule; the structural changes in progress; and the hazards to vehicular traffic, pedestrian traffic, and waterway traffic caused by the construction. Therefore, the operation of the drawbridge will be an integral part of the rehabilitation project and the prevailing wage schedule issued pursuant to M.G.L. ch. 149, sections 26 and 27 for this project will apply to the operators employed by the construction contractor.

A copy of this letter will be provided to the Massachusetts Highway Department. If you have additional questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Robert J. Prezioso,
Deputy Director

cc: Stewart Field, Program Manager, DOS
Linda Hamel, Esq., General Counsel, DOS
David Mullen, Esq., Massachusetts Highway Department