

THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
DIVISION OF OCCUPATIONAL SAFETY

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DEPUTY DIRECTOR

November 4, 1999

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

Re: Prevailing Wage Classifications; Field Engineers

Dear Mr. O'Reilly:

I have reviewed the matter raised in your letter dated August 30, 1999 concerning the occupational classifications for field engineers issued by the Division of Occupational Safety ("DOS") on prevailing wage schedules.

As we have already established in our conversations, earlier this year DOS amended the occupational classifications for field engineers to include heavy construction in addition to building and site work. This change is consistent with the "Scope of Agreement" section of the most recent collective bargaining agreement established for field engineers by the International Union of Operating Engineers, Local 4E.

It is your contention that DOS should not include heavy construction on the occupational classifications for field engineers because an informal arrangement was reached in 1995<sup>1</sup> that limited their applicability to building and site work (along with work on the Central Artery/Tunnel Project as established by a side agreement). At the time this agreement was

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<sup>1</sup> Although there is no letter or memorandum from DOS concerning this arrangement, you had written a letter dated October 2, 1995 that set forth the terms of your proposed arrangement which was adopted in practice.

entered, this limited applicability was consistent with the terms of the Local 4E agreement then in place.

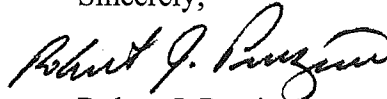
Recently you asserted that the basis for the 1995 arrangement limiting the applicability of the field engineering categories to building and site work only was not the "Scope of Agreement" section of the Local 4E agreement but rather the terms of the 1995 arrangement itself. You believe DOS should have continued to limit the applicability of the field engineering categories to building and site work only, regardless of the current, more expansive "Scope of Agreement" section in the Local 4E agreement.

My understanding of the terms of the 1995 arrangement is not consistent with your assertion. The 1995 arrangement was based on DOS following the "Scope of Agreement" section of the Local 4E agreement for the field engineering categories as it appeared in 1995. Heavy construction is now listed on the wage schedules precisely because, as of 1996, that work is covered in the "Scope of Agreement" section of the Local 4E agreement.

As such, the occupational classifications for field engineers will continue to include heavy construction until the informal arrangement of 1995 is altered or dissolved, or there is a change in the "Scope of Agreement" section of the Local 4E collective bargaining agreement.

If you have any further questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Robert J. Prezioso  
Deputy Director

cc: Linda Hamel, General Counsel, DOS  
Benjamin B. Tymann, DOS  
Janice Tatarka, Chief of Staff, DLWD  
Paul O'Neill, General Counsel, DLWD  
Francis X. Flaherty, Jr., Office of the Attorney General