



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

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January 22, 2002

Mr. Francis A. Shannon, III
Shannon Law Associates, Inc.
One Bowdoin Square
Boston, MA 02114

Re: Applicability of Prevailing Wages regarding Laborers Working at Contractor's Yard.

You have asked the Division of Occupational Safety ("DOS") to determine whether the Massachusetts Prevailing Wage Law, M.G.L. ch. 149, §§ 26 to 27H applies to "Laborers working at a contractor's yard loading and unloading materials and/or equipment for use in the construction of a public construction project and Laborers working in a contractor's yard processing and manufacturing materials and/or equipment to be used in a public construction project."

With regards to the first question as to whether Laborers who load and unload materials and/or equipment at the contractor's yard is considered work on a "public construction" project, DOS has previously determined that "Materialmen" are not covered by the prevailing wage law unless they participate in the installation of materials at the work site. I am attaching an applicability determination dated November 1, 1999 to M. Toni Maloney, Assistant Massachusetts Attorney General, in reference to "Materialmen".

With regards to the second question as to whether Laborers who process and manufacture materials and/or equipment to be used in a public construction project, any activities performed away from the public works site are not covered by the prevailing wage law except for drivers who only transport gravel and fill to the site of a public works project or removing gravel or fill from such site. The language of the statute makes repeated reference to the work site itself by repeatedly using the terms "on" and "upon". Clearly, the expressed purpose of the statute is to cover workers only at the work site.

For these reasons, DOS has determined that prevailing wages do not apply to "Laborers working at a contractor's yard loading and unloading materials and/or equipment for use in the construction of a public construction project and Laborers working in a contractor's yard processing and manufacturing materials and/or equipment to be used in a public construction project."

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

Sincerely,



Ronald E. Maranian
Program Manager

cc: Robert J. Prezioso
Deputy Director
Division of Occupational Safety

Kathryn B. Palmer
General Counsel
Division of Occupational Safety

Daniel S. Field, Chief
Fair Labor and Business Practices Division
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