

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY
WWW.STATE.MA.US/DOS

JANE SWIFT
GOVERNOR

ANGELO R. BUONOPANE
DIRECTOR

ROBERT J. PREZIOSO
DEPUTY DIRECTOR

October 2, 2002

Mr. Patrick Kennedy
Solid Waste Solutions, LLC
576 Pine Meadow Road
Northfield, MA 01360

Re: Gate Attendant; Transfer Station Operation; Prevailing Wage Applicability

Dear Mr. Kennedy:

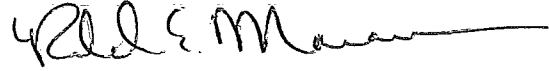
I am responding to your letter dated August 27, 2002 asking whether the prevailing wage law applies to the "gate attendant" at the Hadley Transfer Station. You state that the responsibilities of the gate attendant include checking incoming vehicles for current permits and directing customers to the appropriate container for waste and recyclables disposal.

The Division of Occupational Safety ("DOS") is responsible for regulating the prevailing wage law, G.L. c. 149, sections 26-27H. Section 26 requires prevailing wage rates to be paid to persons engaged "in the *construction* of public works." "Construction" is defined in G.L. c. 149, section 27D. Also, section 27F requires the operators of leased or rented "trucks, vehicles, or equipment" to be paid prevailing wage rates on public projects. Nowhere in your description of the gate attendant's duties at the transfer station in Hadley, MA does work in either of the above-mentioned categories appear. Thus, prevailing wage rates are not required to be paid based on the description you provide.

This determination is based on the information that you have provided. If any of the factual information provided by you changes, please inform me as soon as possible.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald E. Maranian", with a long horizontal flourish extending to the right.

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
Office of Attorney General