



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

February 24, 2003

Mr. Michael E. Rafferty, PE
Fay, Spofford & Thorndike, LLC
5 Burlington Woods
Burlington, MA 01803

Re: Applicability of Prevailing Wages for Truck Drivers at the Sabbatia Lake Sewer Extension in Taunton, MA.

Dear Mr. Rafferty:

I am responding to your letter dated January 17, 2003 to the Division of Occupational Safety ("DOS"). As reflected in your letter, you request confirmation of our earlier discussion on the applicability of the prevailing wage law, G.L. c. 149, §§ 26 - 27H, to work associated with truck drivers at the Sabbatia Lake Sewer Extension in Taunton, Massachusetts.

In determining whether prevailing wages apply to the dump truck drivers who move excavated material on site and truck drivers who deliver stone and gravel to the site, we look to the definition in G. L. c. 149, § 26, which states "In the employment of mechanics and apprentices, teamsters, chauffeurs and laborers in the construction of public works by the commonwealth, or by a county, town, authority or district, or by persons contracting or subcontracting for such works," We also look to G.L. c. 149, § 27 which states "Said rates shall apply to all persons engaged in transporting gravel and fill to the site of said public works or removing gravel or fill from such site, regardless of whether such persons are employed by a contractor or subcontractor or are independent contractors or owner-operators."

It appears that your understanding of the applicability of the prevailing wage law to workers on this project is correct. Your letter of January 17, 2003 reiterates my verbal answer to you that, based on the information provided, drivers who haul on-site are covered by the prevailing wage law as well as drivers who transport gravel and fill, as specifically required by the statute (see above).

Please be advised that the terms "gravel and fill" are not defined in the prevailing wage statute. DOS has received requests for guidance in this area and the matter remains under advisement.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald E. Maranian", followed by a horizontal line.

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 Field
Division Chief
Office of the Attorney General