

Prevailing Wage Opinion Letter 10-09-08

I am writing in response to your request for this Office's written opinion regarding the applicability of the Massachusetts Prevailing Wage Law, G.L. c. 149, §§26-27D. Specifically, you have asked for confirmation of the job classification applicable to certain asbestos abatement and demolition work performed at XXXX College.

The project in question was interior demolition and removal of asbestos-containing and asbestos contaminated materials in a XXXX College building. A detailed scope of work was provided, at our request. Your letter states that the workers were using blowtorches and jackhammers to demolish walls, door frames, tile floors and bathroom stalls. Workers also transported debris from inside the containment to a staging area, and then loaded it on a truck for disposal. You would like written confirmation of the appropriate job classification. The contractor in this case paid all workers at the *Asbestos Worker (Pipes & Tanks)* rate, rather than at the *Laborer: Hazardous Waste/Asbestos Remover* rate. [\[1\]](#)

As you know, the Massachusetts prevailing wage law applies to the construction of public works by the commonwealth, or by a county, town, authority or district. G.L. c. 149, §§26, 27. The term "construction" is defined, in pertinent part, as "additions to and alterations of public works." G.L. c. 149, §27D. When public awarding authorities contract for construction work, within the meaning of the statute, the Division of Occupational Safety (DOS) sets prevailing wage rates for these projects based on "collective agreements or understandings in the private construction industry between organized labor and employers." G.L. c. 149, §26. DOS also looks to these agreements and understandings to determine the appropriate job classifications under the prevailing wage law.

For the town of XXXX, the Asbestos and Hazardous Abatement Workers Agreement between the International Association of Heat & Frost Insulators and Asbestos Workers Local 6 establishes the craft jurisdiction for the *Asbestos Worker (Pipes & Tanks)* occupational classification and wage rate. The Massachusetts State-Wide Wrecking and Environmental Remediation agreement between the Massachusetts Building Wreckers' and Environmental Remediation Association, Inc. and the Massachusetts Laborers District Council establishes the craft jurisdiction for the *Laborer: Hazardous Waste/Asbestos Remover*.

Based upon a review of these collective bargaining agreements, and a memorandum of understanding entered into by the respective unions regarding trade jurisdiction that has been in effect since 1985, this Office confirms that the appropriate job classification for the work you have described is *Laborer: Hazardous Waste/Asbestos Remover*, with the exception of removal of insulation materials from mechanical systems that are to remain intact. If any such work was involved, the appropriate job classification for this work is *Asbestos Worker (Pipes & Tanks)*. See DOS Letter Opinion to Jocelyn Jones, dated October 26, 2007.

I hope this information has been helpful. If you have any further questions, please feel free to contact me.

Sincerely,
Laura M. Marlin
Commissioner

[\[1\]](#) Your letter mentions that some workers were handling asbestos debris without an asbestos worker license. Whether or not such a license was required depends upon whether the material was properly sealed and in a "clean" area, or if the debris was still inside an active worksite, e.g. in containment. Work performed at an active work site by persons in either job classification requires the appropriate asbestos license. See 453 C.M.R. §6.00 et seq. Payment of prevailing wages is required regardless of any licensing issues.