



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

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November 1, 1999

Judith Oakes
Town of Needham
Department of Public Works
470 Dedham Av.
Needham, MA 02492

Re: Prevailing Wage Rates; Transportation of Refuse from Town-Owned Transfer Station

Dear Ms. Oakes:

This letter is a follow-up to our discussion and your subsequent letter dated October 5, 1999 on the issue of whether prevailing wage rates must be paid to the truck drivers who transport refuse from a town-owned transfer station to some final destination.

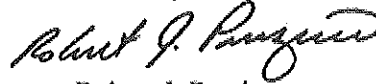
The Division of Occupational Safety ("DOS") has been issuing prevailing wage schedules for municipal trash and recycling contracts for many years. These contracts have included both curbside collection and the pick-up of refuse materials at public buildings, and the transportation of those materials to facilities where collection vehicles empty their loads, such as transfer stations, dumps, landfills, incinerators, or other facilities. Recently, the Massachusetts Appeals Court affirmed this position in Perlera v. Vining Disposal, 47 Mass. App. Ct. 491, 493-496 (Mass. App. 1999).

The applicability of the prevailing wage law does not extend, however, to the transportation of refuse, sorted refuse, processed refuse, or the byproducts of incinerated refuse from the facilities where collection vehicles empty their loads to other destinations. Truck drivers engaged in such activities are not required to be paid prevailing wage rates.

As for your second question: Once a prevailing wage schedule is issued for a project or contract, it remains in effect for the duration of that project or contract. No updates should be requested while project is ongoing.

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

Sincerely,



Robert J. Prezioso
Deputy Director

cc: Linda Hamel, General Counsel
Benjamin B. Tymann, DOS
Francis X. Flaherty, Jr., Office of the Attorney General