

**EMPLOYMENT STANDARDS PROGRAM – (360) 902-5316
PREVAILING WAGE SECTION – (360) 902-5335
SPECIALTY COMPLIANCE SERVICES DIVISION
PO BOX 44540, OLYMPIA, WA 98504-4540**

April 30, 2004

Dennis Capper
DeAngelo Brothers Incorporated
4863 Cheyenne Way
Chino, California 91710

Re: Prevailing Wage Rate for Herbicide Application

Dear Mr. Capper:

This letter is to respond to your March 23, 2004 letter and subsequent conversations requesting a determination of the appropriate classification for work performed relating to herbicide application via backpack sprayers and truck mounted spray systems and whether this work falls under the Landscape Construction category.

In making a determination for the appropriate classification for purposes of the Prevailing Wage Law (Chapter 39.12 RCW and Chapter 296-127 WAC), the department uses the established Scope of Work descriptions found in WAC 296-127-013. To make this determination, it was necessary to look at the enclosed Scope of Work description for Landscape Construction (WAC 296-127-01346), Laborer (WAC 296-127-01344), and Operating Engineer (WAC 296-127-01354).

According to the scope of work description, Landscape Construction “involves the beautification of a plot of land by changing its natural features through the addition or modification of lawns, trees, bushes, etc.” The remainder of the rule provides various activities that, within the context of the passage above, are or are not to be considered Landscape Construction.

In determining whether the Landscape Construction classification is applicable for the work in question you need to consider both the nature and purpose of the work to determine if it is in fact related to landscape construction and its intended application. Also, for herbicide application via truck mounted or power operated systems and equipment you should be mindful that the Landscape Construction classification may not be used for work that requires the use of power equipment with more than ninety horsepower or trucks with more than one rear axle.

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The Landscape Construction classification may not be utilized for any landscape construction type work that is preparatory to any nonlandscaping construction work. An applicable example relating to herbicide application may be the removal or termination of vegetation in preparation to constructing a public building.

In regards to the intended application, the Landscape Construction scope of work applies specifically to landscaping and those things directly related to the construction and maintenance of lawns, yards, gardens, or other landscape surfaces provided the work was not preparatory to any nonlandscaping construction work. That being said, the application of herbicides on actual landscaped surfaces (e.g. parks, golf courses, athletic fields, school grounds, and grounds for public buildings) is a maintenance type function associated with the landscape that would be covered under the Landscape Construction classification. However, the use of herbicides on non-landscaped surfaces would not be covered under the Landscape Construction classification, unless the work is preparatory to landscape construction.

The use of herbicides or other chemicals on non-landscaped surfaces could be that of the Laborer (WAC 296-127-01344) category, the Operating Engineer (WAC 296-127-01354), or the “Other Trucks” classification under the Truck Driver pay rate depending on the application method used. Although the Laborer and Operating Engineer classifications do not specifically identify herbicide application nor is their a specific Scope of Work description for the Truck Driver classification, based on historical policy and interpretation(s) associated with this type of work and the equipment used, these classifications are applicable to this type of work.

I hope this letter serves to provide the information you requested. Please feel free to contact me at 360-902-5330 with any further questions.

Sincerely,

Josh Swanson
Industrial Statistician
Prevailing Wage Manager

Enclosures