

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENTLEGAL SECTION
30 Van Ness Avenue, Ste. 4400
San Francisco, CA 94102

H. THOMAS CADELL, Chief Counsel

March 31, 1991

Wendy K. Genz
Rexon, Freedman, Kleptar & Hambleton
12100 Wilshire Blvd., Ste. 730
Los Angeles, CA 90025-7107

Re: Alternative Workweek

Dear Ms. Genz:

This is intended to reply to your letter of March 27th asking for an opinion regarding a proposed alternative workweek to be instituted by an employer in one of three operational regions in the State of California. Your letter asks whether the term "affected employees" would apply to all workers in the classification of "collector" statewide, or the affected employees could be limited to those employed in the each operational region.

As you know, the IWC Order 5-89 states that the term "affected employees may include all employees in a readily identifiable work unit, such as a division..." It seems clear, therefore, that workers in clearly identifiable "regions" could meet this definition.

The Division takes a very liberal view of the requirements set out by the Commission in this regard, believing that the IWC intended that workers who wished to take advantage of the alternative workweek should be given the opportunity. So long as the work units within which the workers are employed are readily identifiable and the workers have been given the information required by the Orders and have voted for the alternative workweek, the Division would approve of the plan. Proposals which are designed by the employer simply as a subterfuge to escape daily overtime liability will not, of course, be approved.

I hope this adequately addresses the issues you raised in your letter of March 27, 1991.

Yours truly,

H. THOMAS CADELL, JR.
Chief Counsel

c.c. James Curry

1991.03.31