ATE OF CALIFORNIA
PARTMENT OF INDUSTRIAL RELATIONS
VISION OF LABOR STANDARDS ENFORCEMENT
gal Section
Van Ness Avenue, Suite 4400
n Fra co, CA 94102

PETE WILSON, Governor

1991.10.07

October 7, 1991

Valerie Carricato
Canadien
380 World Way
Los Angeles, CA 90045

Re: **Alternative Workweek Schedules**

Dear Ms. Carricato:

Your letter to the Labor Commissioner dated September 24, 1991, has been assigned to this office for response.

In your letter you state that you have recieved two different interpretation regarding the requirement for premium overtime compensation in the following situation:

> If the alternative workweek agreement adopted by the employees provides for two ten-hour days and two four-hour days is premium pay required for hours worked in excess of four hours on those days for which that is the agreed upon limit?

The answer is yes. This question was addressed in Interpretive Bulletin 89-1 (page 5, fn. 6) wherein Commissioner Aubry stated:

> "Of course, any time worked beyond the hours in the schedule adopted, even if the hours are below the 10 or 12 hour straight time cap in the Orders, would have to be compensated at the applicable premium rates."

The rationale for this interpretation is found in Interpretive Bulletin 89-3 (page 4) which noted that:

> "The IWC, in effect, required a trade-off for exemption from the overtime requirements after eight hours. It would not require such overtime as long as employees' hours were agreed to by the employees and 'regularly scheduled'."

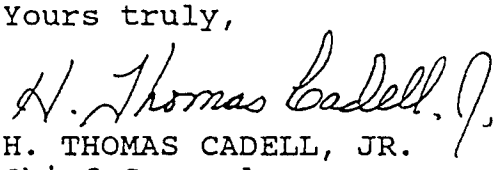
You also asked for guidance regarding the requirements for paying overtime in the event that the employee is called to work on a scheduled off day after having completed his or her 28-hour weekly schedule. As the provisions of Interpretive Bulletin 89-3 point out, premium pay is required in those circumstances as well.

I am sorry you have received conflicting information from the District offices in Los Angeles and San Francisco. Many times these differences can occur as a result of misunderstanding in phone conversations. However, it is possible that one or more of the Division employees is not aware of the Division policy in this regard. I am taking this opportunity to disseminate this letter to all Senior Deputies in the Division so that if there has been any misunderstanding regarding the meaning of the Interpretive Bulletins this letter will serve to explain to enforcement policy.

Frankly, I am not familiar with the material contained in the "Wage and Hour Manual For California Employers" which you state the Los Angeles District Office relied upon. I can say that while I consider that treatise to be a valuable tool in understanding and applying California labor law, there are a few positions taken by the author which differ with the enforcement policies of the DLSE.

I hope this adequately addresses the questions you raised in your letter. If you have any questions please contact the Senior Deputy in the Los Angeles District office of DLSE. Again, I apologize for any inconvenience your company may have suffered. Hopefully, the fact that you brought this matter to the attention of the Labor Commissioner will alleviate this problem in the future.

Yours truly,



H. THOMAS CADELL, JR.
Chief Counsel

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All Regional Managers, Claims and BOFE
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