OFFICIAL NOTICE

INDUSTRIAL WELFARE COMMISSION
ORDER NO. 16-2001
REGULATING
WAGES, HOURS AND WORKING CONDITIONS IN THE

CERTAIN ON-SITE OCCUPATIONS IN THE CONSTRUCTION, DRILLING, LOGGING AND MINING INDUSTRIES

Effective January 1, 2002 as amended

Sections 4(A) and 10(C) amended and republished by the Department of Industrial Relations, effective January 1, 2017, pursuant to SB 3, Chapter 4, Statutes of 2016 and section 1182.13 of the Labor Code

This Order Must Be Posted Where Employees Can Read It Easily

Please Post With This Side Showing

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TAKE NOTICE: To employers and representatives of persons working in industries and occupations in the State of California: The Department of Industrial Relations amends and republishes the minimum wage and meals and lodging credits in the Industrial Welfare Commission's Orders as a result of legislation enacted (SB 3, Ch. 4, Stats of 2016, amending section 1182.12 of the California Labor Code), and pursuant of section 1182.13 of the California Labor Code. The amendments and republishing make no other changes to the IWC's Orders.

1. APPLICABILITY OF ORDER

This order shall apply to all persons employed in the on-site occupations of construction, including but not limited to work involving alteration, demolition, building, excavating, renovation, remodeling, maintenance, improvement, and repair work, and work for which a contractor's license is required by the California Business and Professions Code, Division 3, Chapter 9, Sections 7025 *et seq.;* drilling, including but not limited to all work required to drill, establish, repair, and rework wells for the exploration or extraction of oil, gas, or water resources; logging work for which a timber operator's license is required pursuant to California Public Resources Code Sections 4571 through 4586; and mining (not covered by Labor Code Section 750 *et seq.*), including all work required to mine and/or establish pits, quarries, and surface or underground mines for the purposes of exploration or extraction of nonmetallic minerals and ores, coal, and building materials such as stone and gravel, whether paid on a time, piece rate, commission, or other basis, except that:

(A) The provisions of Sections 3 through 11 shall not apply to persons employed in administrative, executive, or professional capacities. No person shall be considered to be employed in an administrative, executive, or professional capacity unless the person is primarily engaged in the duties which meet the test of the exemption, and earns a monthly salary equivalent to not less than (2) two times the state minimum wage for full-time employment. The duties that meet the test of the exemption are one of the following set of conditions:

(1) The employee is engaged in work which is primarily intellectual, managerial, or creative, and which requires exercise of discretion and independent judgment; or

(2) The employee is licensed or certified by the State of California, and is engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting, or the employee is engaged in an occupation that is commonly recognized as a learned or artistic profession; provided, however, that pharmacists employed to engage in the practice of pharmacy, and registered nurses employed to engage in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this section unless they individually meet the criteria established for exemption as executive or administrative employees.

(3) To the extent that there is no conflict with California law (Labor Code Section 515(e) requires than an employee be "primarily" engaged in exempt work, which means more than one-half of the employee's work time. Thus the "primary duty" test set forth in federal regulations does not apply.), the duties that meet the test of the administrative and executive exemptions are defined as set forth in the following sections of the Code of Federal Regulations as they existed as of the date of this wage order: 29 C.F.R. Sections 541.1 (a)-(c), 541.102, 541.104, 541.105, 541.106, 541.108, 541.109, 541.111, 541.115, and 541.116 (defining executive duties); 29 C.F.R. Sections 541.2 (a)-(c), 541.201, 541.205, 541.208, and 541.210 (defining administrative duties).

(4) For the purposes of this section, "full-time employment" means employment in which an employee is employed for 40 hours per week.

(B) Except as provided in Sections 1, Applicability; 2, Definitions; 4, Minimum Wages; 9, Meals and Lodging; and 18, Penalties, the provisions of this order shall not apply to any employees directly employed by the State or any political subdivision thereof, including any city, county, or special district.

(C) The provisions of this order shall not apply to outside salespersons.

(D) The provisions of this order shall not apply to any individual who is the parent, spouse, child, or legally adopted child of the employer.

(E) The provisions of this order shall not apply to any individual participating in a national service program, such as AmeriCorps, carried out using assistance provided under Section 12571 of Title 42 of the United States Code. (See Stats. 2000, ch. 365, amending Labor Code Section 1171.)

(F) This order supersedes any industry or occupational order for those employees employed in occupations covered by this order.

2. DEFINITIONS

(A) "Alternative workweek schedule" means any regularly scheduled workweek proposed by an employer who has control over the wages, hours, and working conditions of the employees, and ratified by an employee work unit in a neutral secret ballot election, that requires an employee to work more than eight (8) hours in a 24-hour period.

(B) "Commission" means the Industrial Welfare Commission of the State of California.

(C) "Construction occupations" mean all job classifications associated with construction, including but not limited to work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, and repair work, by the California Business and Professions Code, Division 3, Chapter 9, Sections 7025 *et seq.*, and any other similar or related occupations or trades.

(D) "Division" means the Division of Labor Standards Enforcement of the State of California.

(E) "Drilling occupations" mean all job classifications associated with the exploration or extraction of oil, gas, or water resources work, including but not limited to the installation, establishment, reworking, maintenance or repair of wells and pumps by boring, drilling, excavating, casting, cementing and cleaning for the extraction or conveyance of fluids such as water, steam, gases, or petroleum.

(F) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(G) "Employ" means to engage, suffer, or permit to work.

(H) "Employee" means any person employed by an employer.

(I) "Employer" means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(J) "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(K) "Logging occupations" mean any work for which a timber operator's license is required pursuant to California Public Resources Code Sections 4571-4586, including the cutting or removal or both of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the work that is incidental thereto, including but not limited to construction and maintenance of roads, fuel breaks, fire breaks, stream crossings, landings, skid trails, beds for the falling of trees, and fire hazard abatement.

(L) "Mining occupations" mean miners and other associated and related occupations (not covered by Labor Code Sections 750 *et seq.*) required to engage in excavation or operations above or below ground including work in mines, quarries, or open pits, used for the purposes of exploration or extraction of nonmetallic minerals and ores, coal, and building materials such as stone, gravel, and rock, or other materials intended for manufacture or sale, whether paid on a time, piece rate, commission, or other basis.

(M) "Minor" means, for the purpose of this order, any person under the age of 18 years as defined by Labor Code Sections 1285-1312 and 1390-1399.

(N) "Outside salesperson" means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer's place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities. An "outside salesperson" does not include an employee who makes deliveries or service calls for the purpose of installing, replacing, repairing, removing, or servicing a product.

(O) "Primarily" means more than one-half the employee's work time.

(P) "Regularly scheduled workweek" means a schedule where the length of the shift and the number of days of work are predesignated pursuant to an alternative workweek schedule.

(Q) "Split shift" means a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.

(R) "Wages" are as defined by California Labor Code Section 200.

(S) "Workday" and "day" mean any consecutive 24-hour period beginning at the same time each calendar day.

(T) "Workweek" and "week" mean any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods.

(U) "Work unit" means all nonexempt employees of a single employer within a given craft who share a common work site. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection are met.

3. HOURS AND DAYS OF WORK

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half ($1^1/_2$) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half ($1^1/_2$) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation to be paid to a nonexempt full-time salaried employee shall be computed by

using one-fortieth (1/40) of the employee's weekly salary as the employee's regular hourly rate of pay.

(B) Alternative Workweek Schedules

(1) No employer, who has control over the wages, hours, and working conditions of employees, shall be deemed to have violated the provisions of Section 3, Hours and Days of Work, by instituting, pursuant to the election procedures set forth in this order, a regularly scheduled alternative workweek pursuant to the following conditions:

(a) The alternative workweek schedule shall provide for work by the affected employees of no longer than ten (10) hours per day within a 40 hour workweek without the payment to the affected employees of an overtime rate of compensation pursuant to this section.

(b) An affected employee working longer than eight (8) hours but no more than ten (10) hours in a day pursuant to an alternative workweek schedule adopted pursuant to this section shall be paid an overtime rate of compensation of not less than one and one-half ($1^1/_2$) times the regular rate of pay of the employee for any work in excess of the regularly scheduled hours established by the alternative workweek agreement and for any work in excess of 40 hours per week.

(c) An overtime rate of compensation of not less than double the employee's regular rate of pay shall be paid for any work in excess of 12 hours per day and for any work in excess of eight (8) hours on those days worked beyond the regularly scheduled workdays established by the alternative workweek agreement.

(d) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(e) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative schedule established as the result of that election. Employees affected by a change in work hours resulting from the adoption of an alternative workweek schedule shall not be required to work those new work hours for at least 30 days after the announcement of the final results of the election.

(f) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who was hired after the date of the election and who is unable to work the alternative schedule established as the result of that election.

(g) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by Government Code Section 12940(j).

(h) Notwithstanding paragraph (B)(1), subparagraphs (a)-(c), for employees working in offshore oil and gas production, drilling, and servicing occupations, as well as for employees working in onshore oil and gas separation occupations directly servicing offshore operations, an alternative workweek schedule may authorize work by the affected employees of no longer than 12 hours per day within a 40 hour workweek without the payment to the affected employees of an overtime rate of compensation. Employees working pursuant to an alternative workweek schedule adopted pursuant to this section shall be paid an overtime rate of compensation of no less than two (2) times their regular rate of pay in excess of the regularly scheduled hours established by the alternative workweek agreement, and for one and one-half ($1^1/_2$) times their regular rate of pay for any work in excess of 40 hours per week. The other provisions of this section, including those governing elections, shall apply to these occupations.

(i) In no case shall an alternative workweek requiring more than eight (8) hours of work in a day be utilized on a public works contract in violation of Labor Code Sections 1810-1815.

(C) Election Procedures

Election procedures for the adoption and repeal of alternative workweek schedules require the following:

(1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer who has control over wages, hours, and working conditions of the affected employees, and adopted in a secret ballot election, held before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The employer may propose a single work schedule that would become the standard schedule for workers in the unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

(2) The election shall be held during regular working hours at the employees' work site. Ballots shall be mailed to the last known address of all employees in the work unit who are not present at the work site on the day of the election but have been employed by the employer within the last 30 calendar days immediately preceding the day of the election.

(3) Prior to the secret ballot vote, any employer who proposes to institute an alternative workweek schedule shall make a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide the disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. Notices shall be mailed to the last known address of all employees in the work unit in accordance with provision (2) above. Failure to comply with this paragraph shall make the election null and void.

(4) Any election to establish or repeal an alternative workweek schedule shall be held during regular working hours at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the labor commissioner, the labor commissioner may require the employer to select a neutral third party to conduct the election.

(5) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held, provided six (6) months have passed since the election authorizing the alternative workweek. A two-thirds (2/3) vote of the affected employees

shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer.

(6) If the number of employees who are employed for at least 30 days in the work unit that adopted an alternative workweek schedule increases by 50 percent above the number who voted to ratify the employer-proposed alternative workweek schedule, the employer must conduct a new ratification election pursuant to the rules contained in subsection (C).

(7) The results of any election conducted pursuant to this order shall be a public document and shall be reported by the employer to the Office of Policy, Research and Legislation within 30 days after the results are final. The report of the election results shall also be posted at the job site in an area frequented by employees where it may easily be read during the workday. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer. Employees participating in the election shall be free from intimidation and coercion. However, nothing in this section shall prohibit an employer from expressing its position concerning that alternative workweek to the affected employees. No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. The labor commissioner shall investigate any alleged violation of this section and shall upon finding a serious violation render the alternative workweek schedule null and void.

(D) Combination of Overtime Rates. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

(E) Nondiscrimination. No employee shall be terminated, disciplined or otherwise discriminated against for refusing to work more than 72 hours in any workweek, except in an emergency as defined in Section 2 (F) above.

(F) Makeup Time. If an employer approves a written request of an employee to make up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that makeup work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of 11 hours of work in one (1) day or 40 hours of work in one (1) workweek. If an employee knows in advance that he/she will be requesting makeup time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make up work time for up to four (4) weeks in advance; provided, however, that the makeup work must be performed in the same week that the work time was lost. An employee shall provide a signed written request for each occasion that the employee makes a request to make up work time pursuant to this subsection. While an employer may inform an employee of this makeup time option, the employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make up the work hours within the same workweek pursuant to this subsection. (See Labor Code Section 513.)

(G) One Day's Rest in Seven. The provisions of Labor Code Sections 551 and 552 regarding one (1) day's rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day's rest in seven (7).

(H) Collective Bargaining Agreements

(1) Subsections (A), (B), (C), (D), and (E) of Section 3, Hours and Days of Work, shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage. (See Labor Code Section 514).

(2) Subsection (F) of Section 3, Hours and Days of Work, shall apply to any employee covered by a valid collective bargaining agreement unless the collective bargaining agreement expressly provides otherwise.

4. MINIMUM WAGES

(A) Every employer shall pay to each employee wages not less than the following:

(1) Any employer who employs 26 or more employees shall pay to each employee wages not less than the following:

(a) Ten dollars and fifty cents ($10.50) per hour for all hours worked, effective January 1, 2017; and

(b) Eleven dollars ($11.00) per hour for all hours worked, effective January 1, 2018;

(B) Any employer who employs 25 or fewer employees shall pay to each employee wages not less than the following:

(a) Ten dollars ($10.00) per hour for all hours worked, effective January 1, 2016 through December 31, 2017; and

(b) Ten dollars and fifty cents ($10.50) per hour for all hours worked, effective January 1, 2018.

Employees treated as employed by a single qualified taxpayer pursuant to Revenue and Taxation Code section 23626 are treated as employees of that single taxpayer.

5. REPORTING TIME PAY

(A) All employer-mandated travel that occurs after the first location where the employee's presence is required by the employer shall be compensated at the employee's regular rate of pay or, if applicable, the premium rate that may be required by the provisions of Labor Code Section 510 and Section 3, Hours and Days of Work, above.

(B) Each workday that an employee is required to report to the work site and does report, but is not put to work or is furnished less than half of his/her usual or scheduled day's work, the employer shall pay him/her for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay, which shall not be less than the minimum wage.

(C) The foregoing reporting time pay provisions are not applicable when:

(1) Operations cannot commence or continue due to threats to employees or property; or when recommended by civil authorities; or

(2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or

(3) The interruption of work is caused by an Act of God or other cause not within the employer's control.

(D) Collective Bargaining Agreements. This section shall apply to any employees covered by a valid collective bargaining agreement unless the collective bargaining agreement expressly provides otherwise.

6. RECORDS

(A) Every employer who has control over wages, hours, or working conditions shall keep accurate information with respect to each employee, including the following:

(1) The employee's full name, home address, occupation, and social security number. The employee's date of birth, if under 18 years of age, and designation as a minor. Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(2) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(3) Total hours worked during the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request. When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer who has control over wages, hours, or working conditions shall semimonthly or at the time of each payment of wages furnish each employee an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item. (See Labor Code Section 226.) This information shall be furnished either separately or as a detachable part of the check, draft, or voucher paying the employee's wages.

(C) All required records shall be in the English language and in ink or other indelible form, dated properly, showing month, day and year. The employer who has control over wages, hours, or working conditions shall also keep said records on file at the place of employment or at a central location for at least three years. An employee's records shall be available for inspection by the employee upon reasonable request.

(D) Employers performing work on public works projects should refer to Labor Code Section 1776 for additional payroll reporting requirements.

7. DEDUCTIONS FROM PAY

No employer shall collect or deduct from any employee any part of the wages that are paid unless such deductions are allowed by law. (See Labor Code Sections 220-226.) No fee shall be charged by the employer or agent of the employer for cashing a payroll check.

8. UNIFORMS AND EQUIPMENT

(A) When the employer requires uniforms to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term "uniform" includes wearing apparel and accessories of distinctive design or color.

(B) When the employer requires the use of tools or equipment or they are necessary for the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage may provide and maintain hand tools and equipment customarily required by the particular trade or craft in conformity with Labor Code Section 2802.

9. MEALS AND LODGING

(A) "Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

(B) "Lodging" means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(C) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the following:

	Effective January 1, 2017		**Effective January 1, 2018**	
For an employer who employs:	26 or More Employees	25 or Fewer Employees	26 or More Employees	25 or Fewer Employees
Lodging:				
Room occupied alone	$49.38/week	$47.03/week	$51.73/week	$49.38/week
Room shared	$40.76/week	$38.82/week	$42.70/week	$40.76/week
Apartment—two-thirds (2/3) of the ordinary rental value, and in no event more than	$593.05/month	$564.81/month	$621.29/month	$593.05/month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than	$877.27/month	$835.49/month	$919.04/month	$877.26/month
Meals:				
Breakfast	$3.80	$3.62	$3.98	$3.80
Lunch	$5.22	$4.97	$5.47	$5.22
Dinner	$7.01	$6.68	$7.35	$7.01

(D) Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift. Deductions shall not be made for meals not received or lodging not used.

(E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of the values listed herein.

10. MEAL PERIODS

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee. (See Labor Code Section 512.)

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived. (See Labor Code Section 512.)

(C) In all places of employment the employer shall provide an adequate supply of potable water, soap, or other suitable cleansing agent and single use towels for hand washing.

(D) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to and complies with Labor Code Section 512.

(E) Collective Bargaining Agreements. Subsections (A), (B), and (D) of Section 10, Meal Periods, shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

(F) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. In cases where a valid collective bargaining agreement provides final and binding mechanism for resolving disputes regarding enforcement of the meal period provisions, the collective bargaining agreement will prevail.

11. REST PERIODS

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof. Rest periods shall take place at employer designated areas, which may include or be limited to the employees' immediate work area.

(B) Rest periods need not be authorized in limited circumstances when the disruption of continuous operations would jeopardize the product or process of the work. However, the employer shall make up the missed rest period within the same workday or compensate the employee for the missed ten (10) minutes of rest time at his/her regular rate of pay within the same pay period.

(C) A rest period need not be authorized for employees whose total daily work time is less than three and one-half ($3^1/_2$) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(D) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided. In cases where a valid collective bargaining agreement provides final and binding mechanism for resolving disputes regarding enforcement of the rest period provisions, the collective bargaining agreement will prevail.

(E) This section shall not apply to any employee covered by a valid collective bargaining agreement if the collective bargaining agreement provides equivalent protection.

12. SEATS

Where practicable and consistent with applicable industry-wide standards, all working employees shall be provided with suitable seats when the nature of the process and the work performed reasonably permits the use of seats. This section shall not exceed regulations promulgated by the Occupational Safety and Health Standards Board.

13. TEMPERATURE

The temperature maintained in each interior work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. This section shall not exceed regulations promulgated by the Occupational Safety and Health Standards Board.

14. ELEVATORS

Where practicable and consistent with applicable industry-wide standards, adequate elevators, escalators, or similar service consistent with industry-wide standards for the nature of the process and the work performed, shall be provided when employees

are employed 60 feet or more above or below ground level. This section shall not exceed regulations promulgated by the Occupational Safety and Health Standards Board.

15. EXEMPTIONS

If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 6, Records; Section 11, Rest Periods; Section 12, Seats; Section 13, Temperature; or Section 14, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

16. FILING REPORTS

(See California Labor Code, Section 1174(a))

17. INSPECTION

(See California Labor Code, Section 1174)

18. PENALTIES

(A) Penalties for Violations of the Provisions of this Order. Any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to civil and criminal penalties as provided by law. In addition, violation of any provision of this order shall be subject to a civil penalty as follows:

(1) Initial Violation - $50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to the amount which is sufficient to recover unpaid wages.

(2) Subsequent Violations - $100.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover unpaid wages.

(3) The affected employee shall receive payment of all wages recovered. The labor commissioner may also issue citations pursuant to California Labor Code Section 1197.1 for non-payment of wages for overtime work in violation of this order.

(B) Penalties for Violations of Child Labor Laws. Any employer or other person acting on behalf of the employer is subject to civil penalties of from $500 to $10,000 as well as to criminal penalties for violation of child labor laws. (See Labor Code Sections 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws.) Employers should inquire at local school districts about any required work permits required for minors attending school.

(In addition, see California Labor Code, Section 1199)

19. SEPARABILITY

If the application of any provision of this order, or any section, subsection, subdivision, sentence, clause, phase, word, or portion of this order should be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part is held to be invalid or unconstitutional had not been included herein.

20. POSTING OF ORDER

Every employer shall keep a copy of this order posted in an area frequented by employees where it may be easily read during the workday. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this order, and make it available to every employee upon request.

QUESTIONS ABOUT ENFORCEMENT of the Industrial Welfare Commission orders and reports of violations should be directed to the Labor Commissioner's Office. A listing of offices is on the back of this wage order. For the address and telephone number of the office nearest you, information can be found on the internet at http://www.dir.ca.gov/DLSE/dlse.html or under a search for "California Labor Commissioner's Office" on the internet or any other directory. The Labor Commissioner has offices in the following cities: Bakersfield, El Centro, Fresno, Long Beach, Los Angeles, Oakland, Redding, Sacramento, Salinas, San Bernardino, San Diego, San Francisco, San Jose, Santa Ana, Santa Barbara, Santa Rosa, Stockton, Van Nuys.

SUMMARIES IN OTHER LANGUAGES

The Department of Industrial Relations will make summaries of wage and hour requirements in this Order available in Spanish, Chinese and certain other languages when it is feasible to do so. Mail your request for such summaries to the Department at:
P.O. Box 420603, San Francisco, CA 94142-0603.

RESUMEN EN OTROS IDIOMAS

El Departamento de Relaciones Industriales confeccionará un resumen sobre los requisitos de salario y horario de esta Disposición en español, chino y algunos otros idiomas cuando sea posible hacerlo. Envíe por correo su pedido por dichos resúmenes al Departamento a: P.O. Box 420603, San Francisco, CA 94142-0603.

其它文字的摘錄

工業關係處將摘錄本規則中有關工資和工時的規定，用西班牙文、中文印出。其它文字如有需要，也將同樣辦理。如果您有需要，可以來信索閱，請寄到：

Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142-0603

All complaints are handled confidentially. For further information or to file your complaints, contact the State of California at the following department offices:

California Labor Commissioner's Office, also known as, **Division of Labor Standards Enforcement (DLSE)**

BAKERSFIELD
Labor Commissioner's Office/DLSE
7718 Meany Ave.
Bakersfield, CA 93308
661-587-3060

EL CENTRO
Labor Commissioner's Office/DLSE
1550 W. Main St.
El Centro, CA 92643
760-353-0607

FRESNO
Labor Commissioner's Office/DLSE
770 E. Shaw Ave., Suite 222
Fresno, CA 93710
559-244-5340

LONG BEACH
Labor Commissioner's Office/DLSE
300 Oceangate, 3rd Floor
Long Beach, CA 90802
562-590-5048

LOS ANGELES
Labor Commissioner's Office/DLSE
320 W. Fourth St., Suite 450
Los Angeles, CA 90013
213-620-6330

OAKLAND
Labor Commissioner's Office/DLSE
1515 Clay Street, Room 801
Oakland, CA 94612
510-622-3273

OAKLAND – HEADQUARTERS
Labor Commissioner's Office/
DLSE 1515 Clay Street, Room
401 Oakland, CA 94612
510-285-2118
DLSE2@dir.ca.gov

REDDING
Labor Commissioner's Office/DLSE
250 Hemsted Drive, 2nd Floor, Suite A
Redding, CA 96002
530-225-2655

SACRAMENTO
Labor Commissioner's Office/DLSE
2031 Howe Ave, Suite 100
Sacramento, CA 95825
916-263-1811

SALINAS
Labor Commissioner's Office/DLSE
950 E. Blanco Rd., Suite 204
Salinas, CA 93901
831-443-3041

SAN BERNARDINO
Labor Commissioner's Office/DLSE
464 West 4th Street, Room 348
San Bernardino, CA 92401
909-383-4334

SAN DIEGO
Labor Commissioner's Office/DLSE
7575 Metropolitan, Room 210
San Diego, CA 92108
619-220-5451

SAN FRANCISCO
Labor Commissioner's Office/DLSE
455 Golden Gate Ave. 10th Floor
San Francisco, CA 94102
415-703-5300

SAN JOSE
Labor Commissioner's Office/DLSE
100 Paseo De San Antonio, Room 120
San Jose, CA 95113
408-277-1266

SANTA ANA
Labor Commissioner's Office/DLSE
605 West Santa Ana Blvd., Bldg. 28, Room 625
Santa Ana, CA 92701
714-558-4910

SANTA BARBARA
Labor Commissioner's Office/DLSE
411 E. Canon Perdido, Room 3
Santa Barbara, CA 93101
805-568-1222

SANTA ROSA
Labor Commissioner's Office/DLSE
50 “D” Street, Suite 360
Santa Rosa, CA 95404
707-576-2362

STOCKTON
Labor Commissioner's Office/DLSE
31 E. Channel Street, Room 317
Stockton, CA 95202
209-948-7771

VAN NUYS
Labor Commissioner's Office/DLSE
6150 Van Nuys Boulevard, Room 206
Van Nuys, CA 91401
818-901-5315

EMPLOYERS: Do not send copies of your alternative workweek election ballots or election procedures.

Only the results of the alternative workweek election shall be mailed to:

Department of Industrial Relations
Office of Policy, Research and Legislation
P.O. Box 420603
San Francisco, CA 94142-0603
(415) 703-4780

Prevailing Wage Hotline (415) 703-4774