

## Memorandum

**To:** DIVISION CHIEFS, CONSTRUCTION  
AREA CONSTRUCTION MANAGERS  
SENIOR CONSTRUCTION ENGINEERS  
RESIDENT ENGINEERS

**From:** DEPARTMENT OF TRANSPORTATION  
CONSTRUCTION PROGRAM

**Subject:** Industrial Work Order 16 and Assembly Bill 60

**Date:** February 28, 2001

**File:** CPD 01-02


Assembly Bill 60 is commonly referred to as the "Eight-Hour-Day Restoration and Workplace Flexibility Act of 1999." The bill's primary objective was the reinstatement of premium pay at a rate of 1½ times base rate for each hour worked in excess of eight hours per day.

As authorized by Assembly Bill 60, the Industrial Welfare Commission (IWC) issued Wage Order 16. Among a plethora of new work rules and requirements, Wage Order 16 requires a ten-minute rest period for every four hours worked. In limited circumstances, when a rest period could result in disruption of a continuous operation and could jeopardize the product or process of the work, authorization for the rest period is not required if the employer compensates the employee for each missed ten minutes rest time at his or her own regular rate of pay within the same pay period.

Wage Order 16 generated several protests and requests for additional compensation by contractors. The basis of this request is usually a notice of potential claim of "changed condition" of the contract. The requirements of Wage Order 16 do not constitute a change in contract provisions.

Caltrans has no contractual obligation to honor the requests for additional compensation regardless of the impacts Wage Order 16 may have on project delivery or project cost. *Standard Specifications*, Section 7-1.01 "LAWS TO BE OBSERVED" requires "The contractor shall keep fully informed of all existing and future state and federal laws and county and municipal ordinances and regulations which in any manner affect those engaged or employed in the work . . . and shall protect and indemnify the State of California, and all officers and employees thereof connected with the work, including but not limited to the director and the engineer, against any claim or liability arising from or based on the violation of any law, ordinance, regulation, order or decree."

Contractor requests for additional compensation due to the impacts of Assembly Bill 60 or Wage Order 16, should be denied.

  
ROBERT PIEPLOW  
Program Manager  
Construction