

February 8, 2005

Alan Perlof, Senior Deputy Labor Commissioner
Division of Labor Standards Enforcement
State Building 9th Floor West
Post Office Box 420603
San Francisco, CA 94142

Dear Commissioner Perlof,

This letter is to register WORKSAFE's opposition to the change of rules regarding meal and rest breaks.

WORKSAFE! is a project of Cal COSH, which is a statewide non-profit organization dedicated to promoting safety and health and minimizing toxic hazards in the community by empowering Californians through public education, advocacy, technical assistance and training. WORKSAFE! is a coalition of individuals and groups throughout California, including occupational safety and health and other professionals, environmentalists, community groups and labor dedicated to protecting the California workforce.

Research shows that workers who take breaks are less likely to sustain injuries on the job. Breaks are important in preventing many types of injuries, including especially musculoskeletal disorders. Allowing time for workers to eat and rest during work will allow them to do their jobs more safely. Therefore, the number of breaks a worker takes should definitely not be decreased. And studies show there should be more frequent rest breaks in order to allow the body to recover from repetitive motion and thus decrease the incidence of injury. A recent survey of hotel room cleaners in numerous hotels shows that workers who skipped or shortened their meal or rest breaks in order to finish their work were more than twice as likely to report severe pain compared to those who did not skip meal or rest breaks.

The proposed changes in the meal break regulation will be particularly harmful to low wage workers and workers who are not able to express themselves in English. Many low wage workers do jobs that are physical and involve repetition, lifting, and other risk factors for musculoskeletal disorders. Low wage workers and workers who cannot speak English are far less likely to assert themselves to their employers, either because they don't know their rights, because they cannot articulate their needs or because they fear they will lose their jobs. These workers understand their bodies and know when they are tired or when their body hurts, but they do not have the job security or ability to demand their breaks.

Thus the proposed changes aggravate a situation and may ultimately result in increased workers' compensation costs for the employer and loss of wages and even livelihood for the employee when a musculoskeletal injury or illness occurs as a result of failing to take breaks. Certainly there is an immediate cost to the employer of breaks, but that cost will be vastly overshadowed by the cost of an injury. Because breaks have been demonstrated to be one of the most important ways to protect workers from such injuries, this is a penny-wise and pound foolish approach. And no amount of excuses - no pretending that this is for the benefit of the workers - should take precedence over a clear and present hazard.

The proposed changes also aggravate other work situations where breaks are necessary to avoid not only injuries to workers, but also injuries to the public. Many extremely dangerous jobs involve shift work (refineries, etc.). These jobs require long work hours at night when the risk of falling asleep is much higher. Regular breaks are essential in minimizing these risks. The danger associated with shift work and the potential decrease in breaks work together to increase the risk of worker injuries and the risk to the community when a tired worker may make a mistake that results in a catastrophe.

We join other occupational, environmental and public health leaders and experts in opposing these rule changes as they increase the likelihood of worker injuries and illnesses and the likelihood that catastrophes may occur and injure members of the community. We oppose these changes as well because they will result in increased costs to the employer and worker community from resulting injuries. The risks and benefits of breaks are not outweighed by the employee's perceived need for a compressed work schedule or the employer's pressure to work without breaks.

Very truly yours,

Frances C. Schreiber
WORKSAFE! Volunteer

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