

Oregon Bureau of Labor and Industries

Commissioner's Office

MEMO

DATE: November 4, 2008 **COMMENT DEADLINE EXTENDED**

TO: Legislators and Interested Persons

FROM: Marcia Ohlemiller, Rules Coordinator

REGARDING: **AMENDED** Notice of Proposed Rulemaking Hearing Regarding the Provision of Meal and Rest Periods to Employees

Commissioner Brad Avakian filed with the Secretary of State a Notice of Proposed Rulemaking Hearing on October 15, 2008, regarding amendments to OAR 839-020-0050, which relate to the provision of meal and rest periods to employees. The commissioner appointed the Meal and Rest Period Advisory Committee (MARPAAC) comprised of labor and business representatives to review the rule and recommend amendments. MARPAAC has completed its process and provided its Recommendations to the commissioner. The commissioner on this date is filing an Amended Notice of Rulemaking Hearing and an Amended Statement of Need and Fiscal Impact with the Secretary of State and is providing the language of the proposed rule amendments to all persons and organizations listed on the bureau's rules notice list, and will post the language of the proposed rule on the bureau web page at www.oregon.gov/boli on November 5, 2008. The bureau will hold a rulemaking hearing at 8 am on November 17, 2008, in Room 1-B of the State Office Building at 800 NE Oregon St. in Portland to receive public testimony on the proposed amendments and will adopt a permanent rule thereafter. **Public comments pertaining to the proposed rule amendments may be submitted to the Rules Coordinator by DECEMBER 2, 2008.**

Background

The rule was previously amended in July 2008 after filing the required rulemaking notices with the Secretary of State, to clarify the bureau's interpretation that the "nature or circumstances" exception to the requirement to provide a meal period was intended to apply in "exceptional and unanticipated circumstances." In addition, the bureau repealed the language allowing for a paid meal period of less than 30 minutes if there was an industry practice or custom for such, based on its belief that this provision was outdated and unused.

After the rule was amended, interested parties contacted the commissioner with concerns about the changes. The commissioner agreed to suspend the amended rule and adopted a temporary rule on September 23, 2008, restoring the language of the previous rule.

The text of the temporary rule currently in effect, the Recommendations of the MARPAAC advisory committee, the text of the proposed rule amendments, the Amended Notice of Rulemaking Hearing and Amended Statement of Need and Fiscal Impact may be accessed November 5, 2008 on the bureau's webpage at www.oregon.gov/boli.

If you have any questions regarding this matter, or wish to be listed on the bureau's email rules notice list, please email me at marcia.l.ohlemiller@state.or.us or contact me at 971-673-0784.