



## ADMINISTRATIVE POLICY

### STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

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**TITLE:** AGRICULTURAL LABOR  
STANDARDS — MEAL PERIODS,  
REST PERIODS, AND RATES OF PAY

**NUMBER:** ES.C.6.2

**CHAPTER:** [RCW 49.30](#)  
[RCW 49.46](#)  
[WAC 296-128](#)  
[WAC 296-131](#)

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This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

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This policy provides information about agricultural workplace standards including rates of pay, meal periods, rest periods, and overtime. Agricultural employees may be paid on an hourly, piece-rate, salary, or commission basis. An employee's pay rate may vary depending on the types of duties they are performing and the number of hours they work in a workweek. Employees also have the right to meal and rest periods.

### **Rates of Pay**

#### **1. Are agricultural employees entitled to minimum wage?**

Most agricultural employees are subject to the protections in the Washington Minimum Wage Act (MWA), [RCW 49.46](#), including the right to earn at least minimum wage for all hours worked, regardless of whether they are paid on an hourly, piece-rate, or salary basis, [RCW 49.46.020](#). Only those employees specifically excluded by the Legislature in [RCW 49.46.010\(3\)\(a\)](#) through (p) are not entitled to earn minimum wage. See Administrative Policy [ES.A.1](#) for more information about MWA applicability.

## 2. Do employers have to pay additional wages to agricultural piece-rate employees?

The Washington Supreme Court has also confirmed that the Minimum Wage Act (MWA), [RCW 49.46](#), requires employers to pay agricultural piece-rate employees a separate hourly rate for time spent performing non-piece-rate work. *Carranza v. Dovex Fruit Company*, 190 Wn.2d 612, 416 P.3d 1205 (2018). This work is commonly referred to as “piece-rate down time” or “nonproductive time.” The piece-rate work is referred to as “piece-rate active time” or “productive time.” The piece rate pay only compensates employees for their “piece-rate active time” or “productive time.” See Section 17 below for more guidance on how to calculate the additional pay required for employees’ “piece-rate down time” or “nonproductive time.”

## 3. What is the difference between “piece-rate active time” and “piece-rate down time?”

“Piece-rate active time” refers to an employee’s work that directly relates to earning the piece-rate pay. For example: picking fruit. Piece-rate active time is paid based on the employee’s productivity. An agricultural piece-rate employee must receive no less than the minimum wage for piece-rate active time. *Carranza v. Dovex Fruit Company*, 190 Wn.2d 612, 416 P.3d 1205 (2018).

“Piece-rate down time” refers to an employee’s work that does not lead directly to production or piece-rate pay, such as when an employee attends a mandatory safety meeting. Piece-rate pay does not include the pay for agricultural employees for their piece-rate down time, so employers must provide separate compensation for time spent performing these duties. Piece-rate down time must be paid the minimum wage or an agreed wage, whichever is greater.

## 4. What are examples of “piece-rate active time” and “piece-rate down time” duties?

Examples of piece-rate active time duties include:

- Going up and down ladders;
- Moving between trees;
- Emptying produce bins;
- Weighing product; or,
- Operating equipment directly associated with production.

Examples of piece-rate down time duties include:

- Traveling between orchards or fields and orchard or field blocks (by foot or vehicle);
- Attending mandatory meetings or trainings;
- Transporting ladders to a company trailer (or from the trailer to the areas where picking occurs);
- Storing equipment and materials in appropriate storing locations;
- Operating equipment that is not directly associated with production; or,
- Putting on and taking off required personal protective equipment.

If production is temporarily halted by equipment malfunction, and employees must wait to resume work while equipment is fixed, this would be considered piece-rate downtime. If the employee is completely relieved of all duties for at least 30 minutes and the time meets the other requirements of a meal period, this time would not be considered piece-rate downtime nor piece-rate active time. See Sections 5 and 6 below for additional guidance on meal period

requirements.

## **Meal Periods**

### **5. When is a meal period required?**

The agricultural meal period regulation, [WAC 296-131-020](#)(1), requires employers to provide one 30-minute meal period to agricultural employees who work a shift of more than five consecutive hours. Employees who work a shift of eleven or more consecutive hours must receive a second 30-minute meal period.

- Employees working five or more hours in a day must be allowed a meal period.
- Employees cannot work more than five hours without being allowed an uninterrupted meal period. For example, if an employee begins working at 6:00 AM, the meal period must begin no later than 11:00 AM.
- Employees who work eleven or more hours in a day must be allowed a second 30-minute meal period. For example, if an employee works from 6:00 AM to 6:00 PM, and receives their first meal period between 11:00-11:30 AM, their second meal period must begin no later than 4:30 PM.

If an employee wishes to waive a meal period, the employer may agree to it. The employee may at any time request the meal period. While it is not required, the department recommends obtaining a written request from each employee who chooses to waive a meal period. The request should also be written in the employee's native language. If, at some later date, the employee wishes to receive a meal period, any agreement would no longer be in effect.

### **6. What are the pay requirements for meal periods?**

Meal periods are not considered hours of work and may be unpaid as long as employees are completely relieved from their duties and receive at least 30 consecutive minutes of uninterrupted mealtime.

### **7. How should an employer document meal periods?**

To help ensure compliance with meal period requirements, a best practice for employers is to document when employees receive their meal periods. In the event that the department receives a missed meal period complaint, accurate employer records can demonstrate that the employer has met the meal period requirement under [WAC 296-131-020](#)(1).

## **Rest Periods**

### **8. What is a rest period?**

The term "rest period" means to stop work duties, exertions, or activities for personal rest and relaxation. Rest periods must be paid and are considered hours worked. Agricultural employees must be given a full uninterrupted 10-minute rest period in each 4-hour period of work "on the employer's time." The term "on the employer's time" means that the employer is responsible for paying the employee for the time spent on a rest period. Employees may not waive rest periods, and employers are required to ensure employees receive their rest periods.

**9. When is a rest period required?**

The agricultural rest period regulation, [WAC 296-131-020\(2\)](#), requires employers to provide employees a 10-minute rest period in each 4-hour period of work and to pay employees for rest periods. The term “rest period” means to stop work duties, exertions, or activities for personal rest and relaxation.

Employees must be given a full 10-minute rest period in each 4-hour period of work. [WAC 296-131-020\(2\)](#) does not state at what time the rest period must be scheduled; however, employees cannot work more than four hours without receiving a rest period. For example, if an employee begins working at 6:00 AM, the rest period must begin no later than 10:00 AM.

**10. When does the clock start for the rest period?**

The clock starts once the employee is fully relieved of duties. Employers may require employees to remain on the premises during their rest periods.

**11. Do employers need to pay agricultural and dairy employees paid on an hourly, shift, or other non-piece-rate basis separately for their rest periods?**

No. When an agricultural employee takes a rest period while performing non-piece-rate work (such as hourly, salaried, or shift work), the employer does not need to pay the employee separately for the rest period because the rest period has been paid “on the employer’s time.” To help ensure compliance with rest period requirements, a best practice for employers is to document when employees receive their rest periods. In the event that the department receives a missed rest period complaint, accurate employer records can demonstrate that the employer has met the rest period requirement under [WAC 296-131-020\(2\)](#).

**EXAMPLE 11-1 (Hourly employee’s earnings for the workweek):**

Note: The employer has promised to pay the employee \$20 per hour.								
	Sun. June 7	Mon. June 8	Tues. June 9	Wed. June 10	Thurs. June 11	Fri. June 12	Sat. June 13	Totals
Total Hours of Work (include rest periods)	0	11	12	10	9	10	8	60 total hours
Recorded Rest Periods	0	20 min. (10 x 2)	120 minutes (2.0 hours)					

The employer does not need to pay the employee separately for rest periods because the rest periods are paid “on the employer’s time.” Rest periods are considered hours worked and the employer is responsible for paying the employee for the time spent on a rest period.

**For the above example:**

60 total hours x \$20.00 per hour = \$1200.00 (total weekly pay not including overtime)  
 [60 x \$20.00 = \$1200.00]

See example 20-1 below for guidance on how to calculate overtime for this employee.

**12. Do employers need to pay agricultural piece-rate employees separately for their rest periods? If so, how much?**

Agricultural employers who pay their employees by piece-rate must pay them separate wages for their rest periods. Employers cannot count piece-rate earnings toward the required rest period compensation. The separate payment must be based on either the regular rate of pay or minimum wage, whichever is greater. *Lopez Demetrio v. Sakuma Brothers Farms Inc.*, 183 Wn.2d 649, 355 P.3d 258 (2015).

How much an agricultural employee must be paid for the rest period depends on whether the employee's regular rate of pay—the average hourly rate of pay for the workweek not including rest periods—is above minimum wage.

To calculate the amount owed for rest periods, the employer must first calculate the employee's regular rate of pay. This is done by dividing the total compensation earned in a workweek by the total hours of work (the "total hours of work" does not include the break time). The result is the regular rate of pay for the week.

If the regular rate of pay is more than the minimum wage (\$14.49 in 2022), then the employer should multiply the amount of time an employee spends on rest periods by the regular hourly rate of pay and add this amount to what they owe the employee for their piece-rate wages.

If the regular hourly rate of pay is equal to or less than the minimum wage, then the employer should multiply all hours worked (including the rest periods) by the minimum wage (\$14.49 in 2022). The result is the amount of compensation the employer owes the employee for the week. The employer must bring the piece-rate compensation up to this amount, which ensures that all hours for the workweek (including the rest periods) are paid at the minimum wage.

**The following examples show how employers should calculate an agricultural employee's "regular rate of pay" for the workweek.**

First, add up the agricultural employee's total piece-rate earnings for the workweek and add the total to the total earnings the employee earned for performing piece-rate down time duties. Even if the employee earns different piece rates during the workweek, total all piece-rate earnings for the week. Next, divide those earnings by the employee's **total** hours of work (exclude rest period time). This amount is the employee's "regular rate of pay."

**If the regular rate of pay is *more than* minimum wage** (\$14.49 in 2022), multiply the regular rate of pay by the rest period time. This is the amount that must be paid separately for the employee's rest periods. No further calculations are needed for this employee.

**If the regular rate of pay is *equal to or less than* minimum wage**, multiply all hours of work (include all hours of work and rest period time) by the current minimum wage. This is the amount that must be paid to the employee for all hours of work including time spent on rest periods.

**EXAMPLE 12-1 (Employee’s regular rate of pay is *more than* minimum wage):**

Note: The employer has promised to pay 55 cents for every pound (unit) of strawberries picked and applicable minimum wage of \$14.49 per hour for piece-rate down time.								
	Sun. June 7	Mon. June 8	Tues. June 9	Wed. June 10	Thurs. June 11	Fri. June 12	Sat. June 13	Totals
Units (bins/trees/pounds/ etc.)	0	253	249	210	19 5	183	35 0	1440 total units
Total Hours of Work (include rest periods)	0	11	11.5	10	9.5	10	8	60 total hours
Subtract Rest Periods	0	20 min. (10 x 2)	120 minutes (2.0 hours)					
Piece-Rate Active Time	0	9 hours 40 min.	9 hours 40 min.	8 hours 40 min.	8 hours 40 min.	8 hours 40 min.	6 hours 40 min.	52 hours
Piece-Rate Down Time	0	1 hour	1 hour 30 min.	1 hour	30 min.	1 hour	1 hour	6 hours

**For the above example:**

1440 units x \$.55 per unit = \$792.00 (total piece-rate active time pay)  
[1440 x \$.55 = \$792.00]

6 hours piece-rate down time x \$14.49 per hour = \$86.94 (total piece-rate down time pay)  
[6 x \$14.49 = \$86.94]

\$792.00 (total piece-rate active time pay) + \$86.94 (total piece-rate down time pay) =  
\$878.94 (total weekly pay **not** including paid rest breaks)  
[\$792.00 + \$86.94 = \$878.94]

\$878.94 (total weekly pay **not** including rest period) ÷ 58 working hours (includes piece-  
rate active time and piece-rate down time) = \$15.15 per hour (regular rate of pay). This  
regular rate of pay is **more than** minimum wage (\$14.49 in 2022).  
[\$878.94 ÷ 58 = \$15.15]  
[\$15.15 > \$14.49]

\$15.15 per hour (regular rate of pay) x 2 hours (rest period total) = \$30.30 (total rest period  
pay). The employee must be paid this additional amount to compensate for rest periods  
during piece-rate time.  
[\$15.15 x 2 = \$30.30]

\$878.94 (total weekly pay not including paid rest period) + \$30.30 (total rest period pay) =  
\$909.24. The employee must be paid \$909.24 in gross wages (excluding overtime) for the  
workweek.  
[\$878.94 + \$30.30 = \$909.24]

See example 20-1 below for guidance on how to calculate overtime for this employee.

**EXAMPLE 12-2 (Employee’s regular rate of pay is equal to or less than minimum wage):**

Note: The employer has promised to pay 55 cents for every pound (unit) of strawberries picked and the applicable minimum wage of \$14.49 per hour for piece-rate down time.								
	Sun. June 7	Mon. June 8	Tues. June 9	Wed. June 10	Thurs. June 11	Fri. June 12	Sat. June 13	Totals
Units (bins/trees/pounds/ etc.)	0	194	202	152	17 5	183	12 7	1033 total units
Total Hours of Work (include rest periods)	0	11	11. 5	10	9.5	10	8	60 total hours
Subtract Rest Periods	0	20 min. (10 x 2)	120 minutes (2.0 hours)					
Piece-Rate Active Time	0	9 hours 40 min.	9 hours 40 min.	8 hours 40 min.	8 hours 40 min.	8 hours 40 min.	6 hours 40 min.	52 hours
Piece-Rate Down Time	0	1 hour	1 hour 30 min.	1 hour	30 min.	1 hour	1 hour	6 hours

**For the above example:**

1033 units x \$.55 per unit = \$568.15 (total piece-rate active time pay)  
[1033 x \$.55 = \$568.15]

6 hours piece-rate down time x \$14.49 per hour = \$86.94 (total piece-rate down time pay)  
[6 x \$14.49= \$86.94]

\$568.15 (total piece-rate active time pay) + \$86.94 (total piece-rate down time pay) =  
\$655.09 (total weekly pay **not** including paid rest period)  
[\$568.15 + \$86.94 = \$655.09]

\$655.09 (total weekly pay **not** including paid rest period) ÷ 58 working hours (includes  
piece-rate active time and piece-rate down time) = \$11.29 per hour. This regular rate of  
pay is **less than** minimum wage (\$14.49 in 2022).  
[\$655.09 ÷ 58 = \$11.29]  
[\$11.29 < \$14.49]

The employee must be paid at least minimum wage for all hours worked and rest period  
time. Total hours of work 60 x \$14.49 per hour (minimum wage in 2022) = \$869.40.  
[60 x \$14.49 = \$869.40]

Because the employee has only earned \$655.09 (including piece-rate active time and  
piece-rate down time), the employer must make up the difference so the employee is paid  
at least minimum wage.

\$869.40 total gross wages owed to the employee - \$655.09 total gross wages already paid  
to the employee = \$214.31 owed to the employee (excluding overtime).  
[\$869.40 - \$655.09 = \$214.31]

**13. What do employers need to pay for rest periods when agricultural employees alternate between piece-rate and hourly or other non-piece-rate pay?**

Rest periods for agricultural employees who alternate between piece-rate and hourly or other non-piece-rate pay must be paid according to their basis of pay at the time they take their rest period.

For example, if an employee takes a rest period during piece-rate time (including both piece-rate active time and piece-rate down time), the employer must pay the employee their regular rate of pay or minimum wage, whichever is greater.

If an employee takes a rest period while performing hourly work, an employer does not need to pay the employee separately for the rest period because the rest period has been paid “on the employer’s time.”

**14. May an agricultural employer and employee agree to a separate rate of pay for rest periods other than the piece-rate employee’s regular rate of pay?**

Yes, but a separate rate of pay for rest periods must be paid at a rate of pay equal to or greater than the agricultural piece-rate employee’s regular rate of pay in order to satisfy [WAC 296-131-020\(2\)](#)’s requirement that rest periods are “on the employer’s time.” *Lopez Demetrio v. Sakuma Brothers Farms Inc.*, 183 Wn.2d 649, 355 P.3d 258 (2015). Paid rest periods provided under [WAC 296-131-020\(2\)](#) may be subject to voluntary bargaining between an employer and employee, but the agreed rate of pay must be equal to or exceed both the applicable minimum wage rate and the piece-rate employee’s regular rate of pay.

**15. If an employer pays agricultural employees a bonus, does this bonus affect the piece-rate rest period pay?**

If a bonus is “discretionary,” it does not affect the separately paid piece-rate rest period. A “discretionary” bonus, gift, or payment in the nature of a gift given on special occasions need not be included in the regular rate of pay. Such a “discretionary” bonus includes any bonus in which the employer retains sole discretion both that a bonus will be paid and that the amount will not be determined until the end, or near the end of the bonus period. Discretionary bonuses are given without any prior contract, agreement, or promise (express or implied), causing the employee to expect the bonus. Discretionary bonuses are not included in an employee’s regular rate of pay.

If a bonus is “non-discretionary,” it must be included in the agricultural piece-rate employee’s regular rate of pay. A “non-discretionary” bonus is any bonus which is promised to employees upon hiring or is the result of an agreement that includes, but is not limited to, inducing the employees to work more steadily, more rapidly, more efficiently, or more accurately. If a bonus is based on work performance or production, it is considered a non-discretionary bonus. Non-discretionary bonuses must be included in the piece-rate employee’s regular rate of pay. For non-discretionary bonuses, employers must either:

- Retroactively re-calculate the separate paid rest period rate; or,

- Credit the entire production bonus to the workweek in which the bonus is paid *and* calculate the separate paid rest period rate of pay *and* pay for rest periods during that workweek accordingly. See example 15-1 “Harvest/Season End Bonus” below.

**EXAMPLE 15-1 - HARVEST/SEASON END BONUS**

An employer promises to pay a non-discretionary bonus of \$1 per bin at the end of the harvest. The bonus is contingent on the employee remaining with the employer through to the end of the harvest. The employee is paid each week.

**WEEK 1** (For ease of calculations, we will assume the employee completed the same work each week for the six weeks of the apple harvest)

Note: The employer has promised to pay \$15 for every bin (unit) of apples picked.								
	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Totals
Units (bins/trees/pounds/etc.)	0	8	9	7	8	7	6	45 total units
Total Hours of Work (include rest periods)	0	11	11.5	10	9.5	10	8	60 total hours
Subtract Rest Periods	0	20 min. (10 x 2)	120 minutes (2.0 hours)					
Piece-Rate Active Time	0	9 hours 40 min.	9 hours 40 min.	8 hours 40 min.	8 hours 40 min.	8 hours 40 min.	6 hours 40 min.	52 hours
Piece-Rate Down Time	0	1 hour	1 hour 30 min.	1 hour	30 min.	1 hour	1 hour	6 hours

**Bonus treated as retroactive to beginning of season:**

270 bins picked in 6 weeks x \$1 bonus = \$270  
 [270 x \$1 = \$270]

58 hours of work x 6 weeks = 348 hours of work  
 [58 x 6 = 348]

\$270 bonus ÷ 348 total hours of work = \$.775 bonus per hour  
 [\$270 ÷ 348 = \$.775]

2 hours of rest periods each week = 12 hours of rest periods  
 12 hours of rest periods x \$.775 bonus per hour = \$9.30 total additional pay for the rest periods  
 [12 x \$.775 = \$9.30]

**Bonus attributed to last workweek:**

270 bins picked in 6 weeks x \$1 bonus = \$270  
 [270 x \$1 = \$270]

\$270 bonus ÷ 58 total hours of work = \$4.655 bonus per hour  
 [\$270 ÷ 58 = \$4.655]

2 hours of rest periods x \$4.655 bonus per hour = \$9.31 total additional pay for the rest

periods  
[2 x \$4.655 = \$9.31]

**16. If an agricultural employee is paid an hourly rate of pay and receives a bonus, must the employee be paid separately for the rest periods?**

The requirement to pay separate wages for rest periods does not apply to agricultural employees who are paid solely on an hourly rate of pay. However, payments (including bonuses) based on production meet the definition of piecework because the piece-rate payment is tied to the employee's output. Such piece-rate payments must be included in the separate pay for rest periods to satisfy the requirement that rest periods are "on the employer's time." Accordingly, if an agricultural piece-rate employee paid hourly receives a payment based upon production, separate pay for rest periods is required. The additional rest period pay would be based on the amount of the production-based payments only and would not include the hourly rest period pay already provided.

**17. How should an employer document payment for rest periods on the employee's pay statements?**

Agricultural employers must comply with the pay statement requirements rule—[WAC 296-131-015](#).

When paying employees on piece rate, employers must document each agricultural piece-rate employee's rest period rate or rates of pay, the total hours spent on rest periods, and the gross amount paid for the rest periods. A separate pay statement that provides this information would also comply with the WAC.

For more information on documenting payments, see Administrative Policy [ES.D.2](#) Recordkeeping and Access to Payroll Records (Agricultural Employment).

**Overtime**

**18. When are dairy employees entitled to earn overtime?**

Dairy employees are entitled to overtime. Under the Supreme Court's decision in *Martinez-Cuevas v. Deruyter Brothers Dairy, Inc.*, 196 Wn.2d 506, 475 P.3d 164 (2020), dairy employees are entitled to earn overtime for hours worked over 40 per workweek as of the date of the court decision on November 5, 2020. The Legislature also formerly removed the exemption from the Minimum Wage Act's overtime requirement as it applied to dairy workers with the passage of [ESSB 5172](#). See [RCW 49.46.130](#). A "dairy employee" includes any employee engaged in dairy cattle and milk production activities described in code 112120 of the North American industry classification system. Any employee who meets this definition is entitled to earn overtime for hours worked over 40 per workweek even if the employee spends time performing non-dairy related job duties.

**19. When are other agricultural employees entitled to earn overtime?**

All agricultural employees in Washington have the right to earn overtime pay beginning Jan. 1, 2022. In 2021, the Legislature passed [ESSB 5172](#), a bill expanding overtime protections to all agricultural employees, including agricultural piece-rate employees, with a three-year phase-in

schedule. Agricultural employees had historically been exempt from receiving overtime pay under the State Minimum Wage Act, but that exemption will expire December 31, 2021.

Each year, the phase-in schedule gradually reduces the number of hours agricultural employees need to work in a workweek to receive overtime pay.

- Beginning Jan. 1, 2022: overtime pay is required for all work over 55 hours per week.
- Beginning Jan. 1, 2023: overtime pay is required for all work over 48 hours per week.
- Beginning Jan. 1, 2024: overtime pay is required for all work over 40 hours per week.

See the example in section 21 below for more guidance on how to calculate overtime pay for agricultural piece-rate employees.

**20. How should an employer calculate overtime pay for dairy and agricultural employees paid on an hourly basis?**

If the employer compensates the employee solely at a single, hourly rate, the hourly rate is the “regular rate.” If the employee works more than the hourly overtime threshold in the workweek, the employer must pay the employee at least 1.5 times the regular rate for each hour worked over the threshold. The hourly rate will not be the regular rate if the employee earns any additional compensation or incentive pay during the workweek. See Administrative Policy [ES.A.8.2](#) section 3, for additional guidance and examples on how to calculate overtime for hourly employees.

**EXAMPLE 20-1 (Calculating overtime for an agricultural employee—who is not a dairy employee—paid on a non-piece-rate basis when the 2022 threshold applies):**

Note: The employer has promised to pay the employee \$20 per hour in 2022.

	Sun. June 5	Mon. June 6	Tues. June 7	Wed. June 8	Thurs. June 9	Fri. June 10	Sat. June 11	Totals
Total Hours of Work (include rest periods)	0	11	12	10	9	10	8	60 total hours
Recorded Rest Periods	0	20 min. (10 x 2)	120 minutes (2.0 hours)					

**For the above example:**

55 hours x \$20.00 per hour = \$1,100.00 (initial wages for the workweek at the 2022 threshold (55), not including overtime)

[55 x \$20.00 = \$1,100]

\$20.00 (regular rate of pay) x 1.5 (overtime rate) = \$30.00 (overtime rate owed)

[\$20.00 x 1.5 = \$30.00]

\$30.00 (overtime rate owed) x 5 hours (overtime hours above the 2022 agricultural overtime hours threshold (55)) = \$150.00 (overtime pay for the workweek)

[\$30.00 x 5 = \$150.00]

\$1,100.00 (initial wages earned, not including overtime) + \$150.00 (total overtime pay) = \$1,250.00 total wages paid for the workweek

[\$1,100.00 + \$150.00 = \$1,250.00]

See Administrative Policy [ES.A.8.2](#) for more information about how to calculate overtime for employees paid on a non-piece-rate basis.

**21. How should an employer calculate overtime pay for agricultural employees paid on a piece-rate basis?**

To calculate the amount owed for overtime pay, the employer must first calculate the agricultural employee’s regular rate of pay. This is done by dividing the total compensation earned in a workweek by the total hours of work (the “total compensation” and “total hours of work” include rest break pay and rest break time). The result is the regular rate of pay for the week.

First, add up the employee’s total piece-rate earnings for the workweek and add the total to the total earnings the employee earned for performing piece-rate down time duties and their total rest break time pay. Even if the employee earns different piece rates during the workweek, total all piece-rate earnings for the week. Next, divide those earnings by the employee’s **total** hours of work (including rest period time). This amount is the employee’s “regular rate of pay.” Note, the regular rate of pay calculated for purposes of determining rest break pay is the same rate of pay used for overtime calculations.

The Washington State overtime law, [RCW 49.46.130](#), requires overtime compensation be paid at a rate of at least 1.5 times the employee’s “regular rate” for each overtime hour worked in a workweek. Since the combined piece-rate earnings, piece-rate down-time pay, and rest break pay have already been paid at the straight time rate for all of the hours worked, it is only the remaining “one-half” portion of paying time-and-one-half that is still due for these employees for any overtime worked.

**EXAMPLE 21-1 (Calculating overtime for employee paid on piece-rate):**

Note: The employer has promised to pay 55 cents for every pound (unit) of strawberries picked and applicable minimum wage of \$14.49 per hour for piece-rate down time.								
	Sun. June 7	Mon. June 8	Tues. June 9	Wed. June 10	Thurs. June 11	Fri. June 12	Sat. June 13	Totals
Units (bins/trees/pounds/etc.)	0	253	249	210	19 5	183	35 0	1440 total units
Total Hours of Work (include rest periods)	0	11	11. 5	10	9.5	10	8	60 total hours
Subtract Rest Periods	0	20 min. (10 x 2)	20 min. (10 x 2)	20 min. (10 x 2)	20 min. (10 x 2)	20 min. (10 x 2)	20 min. (10 x 2)	120 minutes (2.0 hours)
Piece-Rate Active Time	0	9 hours 40 min.	9 hours 40 min.	8 hours 40 min.	8 hours 40 min.	8 hours 40 min.	6 hours 40 min.	52 hours
Piece-Rate Down Time	0	1 hour	1 hour 30 min.	1 hour	30 min.	1 hour	1 hour	6 hours

Note: See example 12-1 above to see how rest break pay and gross earnings were calculated for this employee.		
	Total Hours	Gross earnings
Piece-Rate Active Time	52 hours	\$792.00
Piece-Rate Down Time	6 hours	\$86.94
Rest Periods	2 hours	\$30.30
<b>Totals</b>	<b>60 hours</b>	<b>\$909.24</b>

**For the above example:**

\$792.00 (total piece-rate active time pay) + \$86.94 (total piece-rate down time pay) + \$30.30 (total rest break pay) = \$909.24 (gross wages for the workweek not including overtime)

$[\$792.00 + \$86.94 + \$30.30 = \$909.24]$

\$909.24 (gross wages for the workweek, including rest break pay) ÷ 60 working hours (including rest breaks) = \$15.15 (regular rate of pay)

$[\$909.24 \div 60 = \$15.15]$

\$15.15 (regular rate of pay) x 0.5 (half time rate owed for overtime hours) = \$7.58 (overtime rate owed)

$[\$15.15 \times 0.5 = \$7.58]$

\$7.58 (overtime rate owed) x 5 hours (overtime hours above the 2022 overtime hours threshold (55)) = \$37.90 (overtime pay for the workweek)

$[\$7.58 \times 5 = \$37.90]$

\$909.24 (total weekly pay including paid rest periods) + \$37.90 (total overtime pay) = \$947.14. The employee must be paid \$947.14 in gross wages for the workweek.

$[\$909.24 + \$37.90 = \$947.14]$