



## ADMINISTRATIVE POLICY

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

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<b>TITLE:</b>	<b>RECORDKEEPING AND ACCESS TO PAYROLL RECORDS (AGRICULTURAL EMPLOYMENT)</b>	<b>NUMBER:</b>	<b>ES.D.2</b>
		<b>REPLACES:</b>	<b>ES-029</b>
<b>CHAPTER:</b>	<a href="#">RCW 49.30</a> <a href="#">WAC 296-131</a>	<b>ISSUED:</b>	<b>1/2/2002</b>
		<b>REVISED:</b>	<b>5/7/2004</b>
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#### ADMINISTRATIVE POLICY DISCLAIMER

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 This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

**1. Recordkeeping requirements for agricultural employment.** Agricultural employers must keep records of employee name, address, occupation, dates of employment, applicable rate or rates of pay, the amount paid to each employee during each pay period, and the hours worked. See [WAC 296-131-017](#).

In addition to the [WAC 296-131-017](#) requirements, a Washington Supreme Court decision, *Carranza v. Dovex Fruit Company*, 190 Wn.2d 612, 416 P.3d 1205 (2018), clarified that agricultural employers must pay piece-rate workers for time spent performing activities outside of piece-rate work. This work and its associated pay rate are commonly referred to as “piece-rate down time” or “nonproductive time.” The piece-rate work and associated pay rate is referred to as “piece-rate active time” or “productive time.” Employers must keep records of all applicable rates of pay, including piece-rate active time, piece-rate down time, hourly rates, paid rest periods that an employee earns, and the amount of time they spend performing those duties. For more information on piece-rate active time and piece-rate down time duties, see Administrative Policy [ES.C.6.2](#).

Records must be made available to the department, upon request.

**2. Records must be made available to employees.** An agricultural employee who requests “their work record” may inspect the records that their employer is required to keep “at any reasonable time”. A best practice would be to have these records available in the employee’s preferred language.

**a. “Employee work record”** means the original records required by [WAC 296-131-015](#) and [-017](#) and are to include the name, address, and occupation of each employee; dates of employment; rate or rates of pay including regular and overtime rates; amount paid each pay period to each employee; all deductions from or additions to wages; and the hours and

dates worked including regular and overtime hours.

Such records shall be open upon request to inspection, review, transcription and/or photocopying by the employee and must be available at the employee's usual place of employment.

**b. "Upon request"** shall mean an oral or written request by the employee.

**c. "At any reasonable time"** shall mean within 10 business days from date of request by employee.

**3. Records must be kept for three years.** Agricultural employers must keep all records required for at least three years. For each employee, these records include the name, address, occupation, dates of employment, applicable rate or rates of pay, amount paid each pay period to each employee, and hours worked. See [WAC 296-131-017](#).

**The term "all records required"** shall include the original time records, including dates and hours worked, recorded on time sheets, time clocks, time cards, computer-generated time records, video camera (if used as a means of recordkeeping by the employer), or any other method of recording hours worked. Records transferred from such original records to a computer or other recordkeeping device do not satisfy the requirements of the Agricultural Employment Standards rules, [WAC 296-131](#).

**4. Agricultural employees are entitled to itemized pay statements.** At the time wages are paid, [RCW 49.30.020](#) requires that each agricultural employee receive an itemized statement. Because of requirements in [RCW 49.30.020](#) and guidance resulting from Washington Supreme Court decisions, employers must provide detailed itemized statements showing:

- Pay basis in hours or days worked;
- Applicable rate or rates of pay;
  - Piece-rate active time;
  - Piece-rate down time;
  - Hourly rates;
  - Overtime rates;
  - Rest periods;
- Gross pay;
- All deductions from the pay for the respective pay period.

See Administrative Policy [ES.C.6.2](#) for guidance on when an agricultural worker needs to be paid separately for their rest periods.

**5. Payment by direct deposit.** Employers may pay employees by direct deposit as long as there is no cost to the worker to withdraw their wages from the financial institution.

**6. Pay statements when paying by direct deposit.** When paying by direct deposit, employers must provide the pay statement on the established payday. The pay statement may be transmitted electronically, e.g., by e-mail, as long as each employee has access to receive the information and to copy it. If the employees do not have the means to receive an electronic pay statement, or to copy it, the employer shall provide a separate pay statement to employees with the pertinent information on the regular payday.

**7. "An itemized statement"** generally means a separate statement issued to employees on each payday. Pay periods shall be identified by month, day, year, and payment date. All applicable rates of pay (i.e. piece-rate active time, piece-rate down time, hourly rates, and rest periods) must be reflected on each pay statement. Best practice would also include documenting the time spent performing each rate of pay. If employers provide all of the information required on the pay statement on the face of the check, and there is access to a copier where the paycheck is received for the employees to make a copy of their paycheck, a separate pay statement is not necessary. An employee shall not be required to go to an outside vendor to copy the paycheck that contains the information required on the pay statement.

Because of requirements in [WAC 296-131-015](#) and guidance from Washington Supreme Court decisions, pay statements must also:

- Identify the employee;
- Show the number of hours worked or the number of days worked based on an eight-hour day;
- Show the number of piecework units earned if paid on a piecework basis.
- The applicable rate or rates of pay, including
  - Piece-rate active time,
  - Piece-rate down time,
  - Hourly rates,
  - Overtime rates, and
  - Rest periods;
- Identify the pay period;
- Identify the purpose of each deduction;
- State the employer's name, address and telephone number.

**8. Employment of minors (under age 18).** Additional recordkeeping requirements for minors working in agriculture are required under [WAC 296-131-130](#), specifically, proof of age and parent and school authorization.

**9. Employer's failure to comply with recordkeeping requirements.** The department may issue a Notice of Infraction to agricultural employers for failure to comply with agricultural employment recordkeeping requirements, per [RCW 49.30.040](#). In the event of an investigation by the department, an employer's failure to keep and produce the required records may result in the department's acceptance of records kept by employees to determine back wages owed. Recordkeeping needs to address Washington Supreme Court decisions by appropriately listing the applicable rates of pay (i.e. piece-rate active time, piece-rate down time, hourly rates, and rest periods).

**10. Recordkeeping requirements of the Minimum Wage Act, [RCW 49.46](#).** Most agricultural employees are also covered under the Minimum Wage Act. The recordkeeping requirements of the Minimum Wage Act (MWA) are similar to those under [WAC 296-131](#). Employers who have employees subject to the MWA must keep a record of each employee's name, address, occupation, applicable rate or rates of pay (i.e. piece-rate active time, piece rate down time, hourly rates, and rest periods), amount paid in each pay period and hours worked each day and each workweek. See [RCW 49.46.070](#).

Under the provisions of the MWA and the recordkeeping regulations in [WAC 296-131-010](#), employers must also keep the following records:

- Employee's date of birth, if under the age of 18.
- Time of day and day of the week that each employee's workweek begins.
- Total daily or weekly earnings at straight-time rate.
- Total overtime earnings for weeks in which overtime was worked.
- Date of the wage payment and the dates of pay period covered.
- Total wages paid for each pay period.
- All additions or deductions to or from the wages for each pay period and a record of the additions or deductions from pay.
- Paid sick leave accruals each month, and any unused paid sick leave available for use by an employee.
- Paid sick leave reductions each month, including sick leave used, donated through a shared leave program, or not carried over to the following year.
- The date of commencement of the employee's employment.

For details on the recordkeeping requirements for non-agricultural employment, see Administrative Policy [ES.D.1](#).

**11. Time Clocks and Rounding Practices.** Employers may use time clocks, sign- in/out sheets, electronic swipe cards, time cards, or other method of keeping track of employee's dates and hours worked. Employees must be paid for all time worked, which includes all preparatory and concluding activities. Employers may pay for all minutes on the time card, or may use the rounding practices described below.

**a. Differences between clock records and actual hours worked when rounding is not used:** Time clocks are not required. When employer's use the time clock method, minor differences between the clock records and actual hours worked cannot ordinarily be avoided, but major discrepancies should be discouraged since they raise a doubt as to the accuracy of the records of the hours actually worked. The employer controls the workplace and to avoid potential pay issues surrounding time clock punches, should not allow employees to arrive and clock in early for their own convenience. Should employees arrive before their scheduled starting time and begin their work, or continue to work after their closing time, they must be paid for that time unless as described in the following paragraphs.

When a time clock is used, an employee must be allowed to punch in at the time they are required to report for work and must be allowed to punch out only when they are finished performing tasks at the end of their shift. If a written time card is used, an employee or their supervisor must be allowed to record the actual time they are required to report for work and the time when they are finished performing tasks at the end of their shift.

**b. Rounding practices:** It has been found that in some industries, particularly where time clocks are used, there has been the practice for many years of recording the employees' starting time and stopping time by rounding the time to the nearest 5 minutes, or to the nearest one-tenth or quarter of an hour. Employers may not utilize recordkeeping systems in which 15-minute segments of work time are not recorded or paid. When rounding to the nearest quarter-hour, employers must round based on the 7-minute rule, i.e., when employees are 1 to 7 minutes late, they must be paid for the entire quarter-hour; if they are 8 to 14 minutes late, payment may begin at the nearest quarter-hour. If they clock out 7

minutes before the end of their shift, they must be paid to the end of that shift; if they clock out 8 minutes prior to the end of their shift, their payment may stop at the nearest quarter-hour.

A system where it is always rounded down is not appropriate. The rounding practice must work both ways so that sometimes it is rounded up and sometimes it is rounded down. Presumably, this arrangement averages out so that the employees are fully compensated for all the time they actually work. For enforcement purposes, this practice of computing working time will be accepted, provided that it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.

Rounding practices may be used only with a time clock recordkeeping system or when a written recordkeeping system accurately reflects the actual time the employee signed in before and after the scheduled shift. Employers cannot round, deduct, or average any time from a meal or rest period.

**c. Examples of time clock rounding:**

The following chart is provided as an example of rounding practices based on the 7-minute rule.

<b>CLOCK IN TIME =</b>	7:52 a.m. / PAY AS	7:45 a.m.
	7:55 a.m. / PAY AS	8:00 a.m.
	8:07 a.m. / PAY AS	8:00 a.m.
	8:09 a.m. / PAY AS	8:15 a.m.
	8:21 a.m. / PAY AS	8:15 a.m.
	8:23 a.m. / PAY AS	8:30 a.m.
<b>CLOCK OUT TIME =</b>	4:51 p.m. / PAY AS	4:45 p.m.
	4:54 p.m. / PAY AS	5:00 p.m.
	5:07 p.m. / PAY AS	5:00 p.m.
	5:09 p.m. / PAY AS	5:15 p.m.
	5:22 p.m. / PAY AS	5:15 p.m.
	5:24 p.m. / PAY AS	5:30 p.m.