



Frequently Asked Questions & Their Answers

In order to inform horse farm owners of the recent agricultural workers wage order, we have reproduced below an outline of frequently asked questions from the California Department of Labor website. We are hopeful that this information is of value to the many farm owners in the state.

Overtime for Agricultural Workers - Frequently Asked Questions

DIR

1. Labor Commissioner's Office
2. Overtime for Agricultural Workers - Frequently Asked Questions

What changes began on January 1, 2019 related to overtime pay for agricultural workers?

Starting January 1, 2019, agricultural employees who work for large employers (with 26 or more employees) must receive overtime pay as highlighted in the schedule below.

This marks a decrease in the number of hours worked per day or per week before overtime pay is required (the "overtime threshold") for agricultural employees. Prior to January 1, 2019, [Wage Order 14](#) (Agricultural Occupations) generally required overtime pay for all hours worked over 10 hours in a day or more than 6 days in a workweek. This overtime threshold will continue to decrease, as explained below.

Why did the overtime threshold begin to change for agricultural workers?

Assembly Bill 1066, which was passed by the Legislature in 2016, created a timetable for agricultural workers to receive overtime pay so that they will gradually receive overtime pay on the same basis as workers in most other industries.

When will agricultural workers receive overtime pay on the same basis as all other industries?

Agricultural workers at large employers (26 or more employees) will receive overtime pay at a rate of one and one-half times the employee's regular rate of pay after 8 hours in a day or 40 hours in a workweek beginning January 1, 2022. Agricultural workers at small employers (25 or fewer employees) will receive overtime pay at that rate starting January 1, 2025. In addition, workers will begin to receive double the employee's regular rate of pay after 12 hours in any workday beginning January 1, 2022 (for large employers) and January 1, 2025 (for small employers).

What is the timetable for agricultural workers to receive overtime pay after January 1, 2019?

The daily and weekly thresholds at which agricultural workers receive overtime pay at a rate of one and one-half times the employee's regular rate of pay will phase-in according to the following schedule:

Schedule for Changes to Daily and Weekly Hours After Which Agricultural Workers Receive Overtime Pay		
Effective date for employers with 26 or more employees:	Effective date for employers with 25 or fewer employees	Overtime (1.5x regular rate of pay) required after the following hours per day / hours per workweek:
Jan. 1, 2019	Jan. 1, 2022	9.5 / 55
Jan. 1, 2020	Jan. 1, 2023	9 / 50
Jan. 1, 2021	Jan. 1, 2024	8.5 / 45
Jan. 1, 2022*	Jan. 1, 2025*	8 / 40

*Double the regular rate of pay required after 12 hours in a workday.

For pre-existing overtime requirements for agricultural workers, including on the 7th day of work in a workweek, please see [Wage Order 14](#).

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What protections other than overtime pay changed for agricultural workers?

Beginning January 1, 2017, agricultural workers are entitled to all *statutory* protections in the working hours and overtime requirements in Labor Code sections 500 through 556, and Labor Code section 558.1, from which they were previously excluded (but the daily and weekly overtime thresholds apply according to the timeline indicated above). This means that certain rights of agricultural employees and obligations of agricultural employers are now specifically set forth in the Labor Code, in addition to the protections available under the applicable Wage Order. This includes, for example, standards regarding meal periods, alternative workweek schedules, make-up work time, the collective bargaining agreement exemption, the one day's rest in seven requirement, and the administrative, executive, or professional overtime exemption standard.

Agricultural employees are also generally entitled to time and one-half pay for the first eight hours worked on the seventh consecutive day of work, and double-time pay for all work performed in excess of eight hours on the seventh consecutive day of work. These protections from [Wage Order 14](#) continue to apply, consistent with [Labor Code section 510](#), regardless of employer size.

What occupations are defined as agricultural work?

Agricultural workers are defined in [Wage Order 14](#) and include employees engaged in the preparation and treatment of farmland as well as the care and harvesting of crops. Agricultural workers include employees engaged in sheepherding, irrigation and licensed crew members on commercial fishing vessels.

How should an employer determine how many employees they have?

The same counting method used to determine the appropriate minimum wage rate under [SB 3 \(2016\)](#) will also apply to determining employer size under AB 1066's phase-in schedule. Please refer to the FAQs which discuss employer size and counting of employees under SB 3 located at: https://www.dir.ca.gov/dlse/SB3_FAQ.htm. The pay period basis for determining the applicable number of employees employed discussed in those FAQs is also consistent with [Wage Order 14](#) § 7(a)(5), which requires employers to keep records of the applicable rates of pay for agricultural employees in each pay period.

How does the overtime phase-in apply to agricultural workers who were previously excluded from overtime pay?

Starting on January 1, 2019, for employers with 26 or more employees (or January 1, 2022, for employers of 25 or fewer employees), irrigators, sheepherders, and licensed crew members on commercial fishing vessels who were previously excluded from overtime protections under [Wage Order 14](#) are entitled to receive overtime pay according to the same phase-in timetable.

Can agricultural employees work seven days in a week?

Labor Code sections 551 and 552 require employees to receive one day of rest in seven, unless one of the following exceptions applies:

- The work is performed to protect life or property from loss or destruction. (Labor Code section 554(a))
- When the nature of the employment reasonably requires that the employee work seven or more consecutive days, an employer may require its employees to work seven consecutive days, so long as each month the employees receive the equivalent of one day off in seven. (Labor Code section 554(a))
- Employers requiring their employees to work seven days a week based on one of the exceptions should document the specific circumstances or conditions for use of the exception, in the event a wage claim or other enforcement action is taken for violation of this standard.

What is the process for seeking an exemption from the prohibition against an employee working seven days in a week?

In addition to the exceptions stated above, the Labor Commissioner may also exempt an employer or employees from the "one day's rest in seven" requirement if hardship would otherwise result. Employers who wish to seek an exemption under this section prior to performance of the work should refer to [DLSE Form 104](#) and send an application to:

DIR/DLSE – IWC Exemptions
P.O. Box 420603
San Francisco, CA 94142