



## Interpretive Notice & Formal Opinion (“INFO”) #12B:

### Agricultural Employee Rest Periods, Meal Periods, and Service Provider Access

This INFO describes, for agricultural employment, the required (1) rest and meal periods; (2) additional breaks in long workweeks; and (3) visitor, housing, and service provider access requirements. These requirements apply equally to piece-rate, hourly, and salaried workers. ([INFO #12D](#) details how these rights are enforced, and which employers, employees, and work they cover.)<sup>1</sup>

**REST & MEAL PERIODS:** Most rest/meal period rules aren’t agriculture-specific, and are covered in [INFO #4](#).

**1. Paid, Duty-Free, 10- or 15-Minute Rest Periods.** For each 4 hours of work, employers must let employees take paid 10-minute rest periods. As much as practical, rest periods should be in the middle of each 4-hour work period. Employees on rest periods must be completely relieved of duty, but do not need to be able to leave the worksite (unless necessary for communication access at those times, detailed below).<sup>2</sup>

Employees performing **hand-thinning and hand-weeding work must receive an additional 5 minutes of paid rest period time**, making their total paid rest period time 15 rather than 10 minutes,<sup>3</sup> as detailed below:

Work Hours / Shift Length	# of Rest Periods Required, Total	Total Length (Total Number) of Rest Periods Required:	
		With Hand-Weeding /-Thinning	Without Hand-Weeding/-Thinning
2 or fewer	0	0 minutes	0 minutes
Over 2, up to 6	1	15 minutes (1 rest period)	10 minutes (1 rest period)
Over 6, up to 10	2	30 minutes (over 2 rest periods)	20 minutes (over 2 rest periods)
Over 10, up to 14	3	45 minutes (over 3 rest periods)	30 minutes (over 3 rest periods)
Over 14, up to 18	4	60 minutes (over 4 rest periods)	40 minutes (over 4 rest periods)
Over 18, up to 22	5	75 minutes (over 5 rest periods)	50 minutes (over 5 rest periods)
Over 22	6	90 minutes (over 6 rest periods)	60 minutes (over 6 rest periods)

If any required rest period time isn’t provided, then the worker’s shift is effectively extended, and they are entitled to additional pay at their agreed-upon or legally-required rate (whichever is higher).<sup>4</sup>

**2. Uninterrupted, Duty-Free Meal Periods.** For shifts over 5 hours, employers must provide uninterrupted, duty-free meal periods of at least 30 minutes. For meal periods to be unpaid, workers must be completely relieved of duty, and allowed to leave the worksite and spend time on personal activities. As much as practical, meal periods must be at least 1 hour after starting, and 1 hour before ending, a shift. If the type of work makes uninterrupted, duty-free meal periods impractical, workers must be allowed to eat during paid work time.<sup>5</sup>

**Note:** The rest and meal break requirements described above do not apply to combine or harvester operators during harvesting, or to truck drivers whose sole and principal duty is to haul livestock.<sup>6</sup>

<sup>1</sup> These rights are stated in the [Agricultural Labor Rights and Responsibilities Act \(ALRRA\)](#) and various Division rules: the [Agricultural Labor Conditions Rules](#), 7 CCR 1103-15 (effective May 1, 2022); the Colorado Overtime and Minimum Pay Standards ([COMPS](#)) Order, 7 CCR 1103-1; and the Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules ([Colorado WARNING Rules](#)), 7 CCR 1103-11 (effective March 2, 2022).

<sup>2</sup> C.R.S. 8-6-101.5(2)(b); 8-13.5-203(3); COMPS Order, 7 CCR 1103-1, Rule 5.2.

<sup>3</sup> C.R.S. 8-13.5-203(3); COMPS Order, 7 CCR 1103-1, Rule 2.3.2(A).

<sup>4</sup> COMPS Order, 7 CCR 1103-1, Rule 5.2.4.

<sup>5</sup> C.R.S. 8-6-101.5(2)(a); COMPS Order, 7 CCR 1103-1, Rule 5.1.

<sup>6</sup> C.R.S. 8-6-101.5(2)(c); COMPS Order, 7 CCR 1103-1, Rule 2.3.2(B).

## **SERVICE PROVIDER ACCESS REQUIREMENTS**

### **1. Reasonable Access to Key Service Providers.** “Key service providers” include:

- health and medical service providers, including community health providers and promotoras
- government officials, including consular representatives
- any other service provider a worker needs to access.<sup>7</sup>
- education providers
- members of the clergy
- attorneys or other legal advocates

The Act’s listed “key service providers” all relate to worker health or safety, in varied ways. The Act lists several types of health care providers, but also others whose services all are key to protecting the health or safety of the predominantly non-English-fluent immigrant workers the Act was enacted to protect:

- “government officials, including consular representatives,” who protect their countrymen abroad;
- “attorneys” or “legal advocates” are commonly public interest advocates for vulnerable immigrants; or
- “education providers” or “members of the clergy,” who can be key to the mental well-being of immigrants logging long workweeks, far from home, on farms where they also live.

Because the Division interprets the Act’s “key service providers” list as focusing on health or safety needs, it interprets the catch-all, “other service provider a worker needs,” as also limited to health or safety needs, *e.g.*:

- a *social worker* providing *counseling*, or connecting workers to important *social services* (help with their immigration status, or showing them how to obtain health care) *would* qualify; but
- a *political campaign organizer*, or a provider of purely *recreational* services, would *not* qualify.

Agricultural workers must be allowed access to medical service providers at any time, and to other key service providers at times when and where they are not performing work, including on rest or meal breaks.<sup>8</sup> Key service providers may be required to follow any worksite safety rules that other third parties must follow.<sup>9</sup> More generally, because the Act mandates “reasonable” rather than unrestricted access, it does not support other forms of access that risk harm, or that demand more access than genuinely needed for worker health or safety needs -- for example, non-emergency dental care may justify site access, but not *daily or weekly* site access.

**2. No Employer Interference with Access to Housing.** Employers cannot interfere with a person’s access to or from an agricultural worker’s residence, including with barriers, physical force, violence, or threats.<sup>10</sup>

**3. Communication Access** (*starting May 1, 2022*). During breaks, agricultural employees must be allowed to use a quiet, private place with phone service and internet access, at no cost. If the worksite lacks phone or internet access, employers must let employees with their own transportation travel to a site with such access, and must provide transportation to employees living in employer-provided housing without their own vehicles, as detailed below. If an employer can’t provide this communication access, it must allow employees another way to meaningfully access service providers, such as by allowing additional on-site access to services.<sup>11</sup>

**4. Prompt Delivery of Messages** (*starting May 1, 2022*). If an employer receives a letter, voicemail, or other communication for an employee, it must give the employee the message as soon as possible.<sup>12</sup>

<sup>7</sup> C.R.S. 8-13.5-201(7).

<sup>8</sup> C.R.S. 8-13.5-202(1)(b).

<sup>9</sup> C.R.S. 8-13.5-202(1)(d).

<sup>10</sup> C.R.S. 8-13.5-202(2).

<sup>11</sup> [Agricultural Labor Conditions Rules](#), 7 CCR 1103-15, Rule 4.2.1.

<sup>12</sup> [Agricultural Labor Conditions Rules](#), 7 CCR 1103-15, Rule 4.2.3.

**ADDITIONAL REQUIREMENTS IN LONG WORKWEEKS** (starting May 1, 2022)

In addition to other required breaks (for rest, meals, heat, and 12-hour days — see above, and [INFOS #12A & #12C](#)), additional opportunities for service provider access must be provided during long workweeks.

**1. Extended Breaks in Workweeks of 40 Hours or More.** In workweeks of 40 hours or more, any employee who makes a request at least 24 hours in advance (or 72 hours for range workers, except in a medical emergency) must be allowed to extend one 30-minute break to up to 60 minutes each week, to communicate with a service provider during their hours of operation. This additional break time does not need to be paid. Employers do not have to require the advance notice that these rules provide, but cannot deny a request made with enough advance notice. If an employer denies a request made with less than 24 (or 72) hours' notice, it must allow the employee to extend a different break during that workweek, or the next workweek.<sup>13</sup>

**2. One-Hour Paid Breaks in Long Workweeks: One for 60-Hour Weeks; Two for 70-Hour Weeks.** Employers must provide workers a one-hour paid break in workweeks of 60 hours or more, and two such breaks in workweeks of 70 hours or more. These breaks are paid, like ordinary rest breaks, at the same rate as the employee's ordinary time worked. If an employee worked over 60 (or 70) hours, but an employer reasonably didn't expect that would happen, the break(s) may instead be provided during the next workweek. During these additional breaks, employees must be allowed to leave the worksite, and may use this time for direct service provider access (e.g., a doctor visit) or to make it easier to see service providers at other times (e.g., by running errands), so employees can't be required to document or prove how they use the time.<sup>14</sup>

**Example:** A farmworker is scheduled for a 50-hour workweek. At 3:00 p.m. on Monday, the worker requests to take a one-hour lunch the following day (Tuesday), starting at 1:00 p.m. (during the hours of a service provider) — later and longer than their usual 30-minute lunch at 12:00 p.m. Because the employee did not give more than 24 hours' notice, the employer may, but is not required to, deny the request. If the employer denies the request, it must let the employee extend another 30-minute break that week, or next, to one hour. The extra 30 minutes need not be paid.

**Example:** The next week, the same worker is scheduled for a 65-hour workweek. At 3:00 p.m. on Monday, the worker requests to take a one-hour lunch on Thursday, starting at 1:00 (during the hours of a service provider). The employer must allow the employee to extend this break because they gave more than 24 hours' notice. The employee must also be given a separate, one-hour paid break for service provider access during the workweek, because they are working more than 60 hours.

**Example:** During the same workweek, the worker ends up working an extra shift on Sunday because a co-worker called in sick. The employee is now entitled to another one-hour paid break because they worked over 70 hours in the workweek. Because the employer did not know the employee would work more than 70 hours, it may provide the break, which must be paid, the following week.

**ADDITIONAL REQUIREMENTS IN EMPLOYER-PROVIDED HOUSING**

**1. Employer-Provided Transportation to Services.** If an employer provides housing and transportation to employees, it must provide those employees transportation, at least weekly, to a location where the employees can access: (1) basic necessities like food, medical supplies, or clothing; (2) key service providers (defined above); and (3) financial providers (e.g., visiting banks or other places to cash paychecks). Employers must provide this transportation to range workers at least once every three weeks.<sup>15</sup>

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<sup>13</sup> Agricultural Labor Conditions Rules, 7 CCR 1103-15, Rule 4.2.2.

<sup>14</sup> Agricultural Labor Conditions Rules, 7 CCR 1103-15, Rule 4.3.

<sup>15</sup> C.R.S. 8-13.5-202(1)(e).

Employees must have reasonable access to their own means of transportation, and if they have their own vehicle parked on the employer's property, the employer need not provide transportation as described above.<sup>16</sup>

The requirement to "provide" transportation means employers must make transportation available, and offer it to employees without cost, as frequently as the ALRRA requires, without imposing consequences on employees who use it. Employees may choose, voluntarily and without coercion, not to use employer transportation, or to use it less frequently.

**2. Reasonable Visitor Access.** Employers must allow workers in employer-provided housing to have reasonable access to visitors. Employers may require visitors to follow general safety or health rules that other third parties are also required to follow.<sup>17</sup>

**3. Access to Phone and Internet Service** (*starting May 1, 2022*). If an employee living in employer-provided housing lacks a phone or device with internet access, the employer must provide a device for use when the employee needs it. If the worksite lacks phone and internet access, employers must provide employees who lack their own vehicle on the property with transportation to a site with such access, within 24 hours of a request. This transportation can be the same as the required weekly (or once per three weeks) transportation, as long as it allows employees to access the services required by that rule too (i.e., basic necessities, key service providers, and financial providers).<sup>18</sup>

### **For Additional Information**

Visit the Division's [website](#), call 303-318-8441, or email [cdle\\_labor\\_standards@state.co.us](mailto:cdle_labor_standards@state.co.us).

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<sup>16</sup> C.R.S. 8-13.5-202(1)(f).

<sup>17</sup> C.R.S. 8-13.5-202(1)(a),(d).

<sup>18</sup> [Agricultural Labor Conditions Rules](#), 7 CCR 1103-15, Rule 4.2.1.