



Interpretations for the Agricultural Production Standard, Version 1.0.0

Fair Trade USA

Version 1.1.0

A. Purpose

This document includes all interpretations for Fair Trade USA's Agricultural Production Standard (APS), version 1.0.0. These interpretations are intended to provide additional explanation of the intent of specific criterion and further clarification and guidance on implementation of the criterion.

B. Scope

These interpretations apply to all organizations working with the Fair Trade USA APS version 1.0.0. It shall be used by all applicants and Certificate Holders when implementing the APS, and by all Conformity Assessment Bodies when assessing against the APS.

1. Interpretation for 3.4.1.b

1.1. Date

November 13, 2017

1.2. Affected Standard Requirement

The APS Criterion 3.4.1.b states the following:

Compliance Criterion	SF	MF	LF	Intent and Clarification
Meal and rest breaks are stipulated and respected. Workers are given one unpaid, 30-minute meal break for every five hours worked, and an additional 15 minutes of paid rest time for every four hours worked.	P-3	C-Y0	C-Y0	<p>Breaks/rest time may either be planned and organized by management (i.e. all workers take a break at a designated time), or they may be informal (i.e. workers can go to the bathroom, get a drink of water, stretch, etc. for up to 30 minutes per eight-hour day).</p> <p>The required rest time (15-minute breaks for every four hours of work) must be paid even if workers choose not to take those breaks, i.e. if</p>



workers work through their break they must be paid for this time as a bonus.

For remuneration based on production, quotas, or piecework, payment for rest time must be calculated based on the workforces' average or typical piece rate earning for the equivalent time period.

In hot climates or workplaces, when the temperature exceeds 27 degrees Celsius (80 Fahrenheit), it is best practice to give short breaks more frequently to help mitigate the risk of heat stress.

1.3. Interpretation

1.3.1. Clarification of Intent

Fair Trade USA believes rest breaks are an important right for all workers. Rest breaks benefit workers and employers alike as they serve to protect workers against heat stress and repetitive motion injuries, help reduce workplace injuries, can reduce workers' stress related occupational conditions and accident rates, and help workers work more efficiently.

Fair Trade USA's intent for 3.4.1.b is to:

- Ensure all workers are informed of and understand their rights to take breaks/rest time;
- Ensure all workers take, based on working environment, necessary breaks to drink water, eat, stretch, access shade, rest, chat, or other non-work activities of their choosing; and,
- Taking a break does not negatively affect workers' earning potential.

1.3.2. Clarification of Implementation

Fair Trade USA considers an applicant or Certificate Holder to be in compliance with 3.4.1.b when Certificate Holders or applicants:

- 1) Communicate to workers the policy of taking breaks and how payment for a break is calculated. Workers must be aware of their right to take rest breaks, and employers must be able to demonstrate how they are encouraging workers to take rest time if breaks are not formalized.
 - a) Ways in which employers could encourage rest breaks include but are not limited to; offering easily accessible break locations with shade, water, or even food; periodically verbally reminding workers to take a few minutes break; incorporating education on rest breaks into annual health and safety trainings; posting signs; and, educating supervisors to encourage breaks.
- 2) Confirm that workers are taking 15 minutes of rest time during every 4 hours of work time in a day, in addition to a 30-minute lunch break when required;



- 3) Provide sufficient evidence that workers are compensated for 15 minutes of paid break per every 4 hours of work time in a day. The following list are examples of acceptable evidence to show remuneration for break time:
- a) For every 4 hours in a work day, directly remunerate workers for the equivalent of 4 hours work time (see point 4), during which workers actually work 3.75 hours plus take 15 minutes of formal or informal rest time.
 - i) Formal breaks may be organized by the employer as they see fit, but must equal at least 15 minutes within a 4-hour period. It is recommended to organize breaks in the middle of the 4-hour period. Formal rest breaks should not be combined with lunch breaks nor done at the end of the work day insofar as practicable, and only when the intent is to safeguard worker health and welfare. Workers must still be allowed to drink water and go to the restroom as needed outside formal break time.
 - ii) Informal breaks may be taken by workers at their discretion. This can be all at once in the middle or end of the day (leaving early), or shorter breaks dispersed throughout the day, up to 15 minutes in 4 hours. Employers must be able to demonstrate that workers are aware of their right to take informal breaks, and show how workers are encouraged to do so.
 - b) If the employer pays for workers' lunch break, for example, if paid lunch is required by law, there is evidence that 30-minute lunch breaks are paid in lieu of paying for two 15-minute breaks for 8 hours worked. The 15-minute rest breaks must still be provided and may be formal or informal. If informal, employers must be able to demonstrate that workers are aware of their right to take informal breaks, and show how workers are encouraged to do so.
 - c) It can be demonstrated a higher piece-rate wage has been negotiated into a Collective Bargaining Agreement explicitly to ensure workers can take as many breaks as needed without financial implications, and employers must show how workers are encouraged to take informal breaks.
- 4) Show that compensation for rest time is based on the average or typical income per piece of labor for the equivalent period.
- a) For workers being paid an hourly wage, this means they must receive half their hourly rate for 30 minutes of rest time.
 - b) For workers paid based on piece-rate, the employer must calculate the average or typical piece rate earning for the equivalent time period. This calculation must be transparent to workers, and demonstrable to auditors.
 - c) If workers are paid an hourly or daily wage plus production bonuses, production bonuses do not need to be included in the calculation of rest time payment. The hourly or daily rate must be comparable to the typical hourly or daily rate provided by the employer (i.e. the rate may not be substantially lower than typical hourly rates paid by the employer for similar work, even if it is above minimum wage).
 - d) In-kind payments are only allowed where they are legally permissible, agreed upon by workers, and documented, including a definition of the value of the goods. In-kind payments include e.g. phone cards, food, and grocery cards restricted to certain vendors.
 - e) If workers work 12 hours in a day (e.g. 8 regular hours plus 4 overtime hours), a third 15-minute rest break must be granted during the 4 hour overtime period. Calculation for rest break payment for this third break must include any applicable legally required or negotiated higher compensation rates for overtime.



1.4. Examples of Compliance

Compliance Through an Hourly Salary Plus Production Bonus

Cali Farms grows strawberries and has a labor force of 100 harvesters during peak time. Instead of paying harvesters a straight piece-rate wage, they have created a payment system that ensures workers receive a base hourly wage, while also rewarding workers with high production through bonuses. Cali pays harvesters an hourly wage, which is comparable to the hourly wage they typically pay workers and includes payment for the time taken for informal rest breaks. For example, in a 4-hour period, workers may take up to 15 minutes of rest time at any time, but they will still be paid the hourly wage for 4 full hours. Workers are aware of their right to take informal breaks, and Cali encourages them to take breaks by providing a shade structure with seating and water near the location where workers turn in their picked boxes.

The production bonus incentive is paid in addition to the base hourly wage, for every additional box harvested per hour above a minimum established quota. The quota is adjusted according to harvest and plant production, and workers are always aware of the current quota levels and bonus rates. All workers are guaranteed the hourly wage, regardless if they reach the minimum quota.

For example, during peak harvest, workers are expected to be able to harvest a minimum of 5.5 boxes per hour. Every additional box that workers harvest after 5.5 boxes is paid as a bonus. If a worker does not harvest the minimum, the worker is not penalized and they are compensated according to the base hourly wage. Workers are thus able to take time to rest and drink plenty of water, without losing any of their base hourly wage.

Compliance Through Remunerated Lunch

Baja Hermanos, a cucumber farm in Mexico, has a labor force of 150 workers divided across three crews. The farm is in a remote area of Baja California and workers are unable to leave the premises for their lunch break. A food truck comes every day at noon to the farm, at which time workers stop for 30 uninterrupted minutes to eat lunch, sit in the shade and rest, drink water, and use the restroom. Because the farm is in a remote area and workers therefore cannot easily leave the farm for lunch, Mexican law requires the farm to compensate workers for this 30-minute lunch break. Workers are paid their hourly rate for the 30-minute lunch break, in addition to the hours they spend working.

In order to ensure that workers are taking the needed rest breaks throughout the day to drink water, rest and relax under the shade, the farm has scheduled two breaks, one at 10:00 a.m. and one at 3:00 p.m. where all workers and supervisors take a 15-minute break. Workers do not receive any additional remuneration for these breaks because they are already being paid for the 30-minute lunch break.

Compliance for Piece-Rate Workers Through Additional Payment

The vineyard Uva Dulce, located in Chile, employs 1,200 temporary workers during peak harvest season to pick table grapes. The harvest workers are paid by piece-rate and work for 8 hours a day. Workers are paid the equivalent of \$5 for each box of grapes they pick during that time. Rest breaks are informal and workers are encouraged to take time to rest throughout the day, and the farm provides an easily accessible location to rest and drink water. To compensate workers for the rest time, the farm pays the harvest



workers an additional break payment on top of their earned piece-rate wage. As workers are expected to take half an hour of rest time during their 8 working hours, the amount for the break payment is based on the average amount workers could earn in half an hour. The farm calculates that during the peak harvest season, workers pick an average of 2.5 boxes per hour. This means that workers earn on average \$6.25 in half an hour (2.5 boxes x \$5 = \$12.50 an hour. $\$12.50/2 = \6.25 for half an hour). For each 8 working hours, workers are paid their production rate plus the break time bonus. Boxes picked x \$5.00 + \$6.25 break time.

Compliance Through a Higher Piece-Rate Based on a Collective Bargaining Agreement

The asparagus farm Green Tips, located in Oaxaca, Mexico, has a labor force of 35 workers. The farm has a very active union that engages regularly with the owners of the farm. The union began in 2012, after workers held a strike due to poor working conditions and a low piece-rate. After a year and a half of negotiation, the farm's owners and the union signed an agreement that set a piece-rate wage that was higher than the industry average, and explicitly states that workers' need to take breaks while harvesting was considered as part of setting the higher piece-rate, so workers would not have negative financial implications for taking breaks.

The owners of Green Tips want to continue improving working conditions for workers at the farm and are applying for Fair Trade Certification and have evidence to show that the piece rate is higher for workers at this farm due to the Collective Bargaining Agreement signed in 2014. Workers also expressed that they can take rest breaks throughout the day and still make adequate money, and Green Tips has encouraged them to take breaks throughout the day.

2. Interpretation for 3.2.1.b

2.1. Date

June 11, 2018

2.2. Affected Standard Requirement

The APS Criterion 3.2.1.b states the following:

Compliance Criterion	SF	MF	LF	Intent and Clarification
Workers are provided with acute medical care for all workplace injuries and illnesses, as well as lost wages during immediate recovery time.	NP	P-5	C-Y0	The intent of the Criterion is that employers ensure workers are provided and do not pay for acute medical care for any workplace injuries and illnesses, and do not lose wages during treatment. Covering costs of care and lost wages can be direct, for instance by providing transportation to a healthcare facility and paying for care and wages, or indirect, through the



provision of medical, accident, and/or disability or workers' compensation insurance that covers full costs of care and lost wages.

Wages lost during treatment and immediate recovery time must be paid in full, even if insurance does not fully reimburse the employer for this. Work missed due to work-related illnesses or injuries is not deducted from annual vacation leave.

Please note there are additional requirements regarding insurance for long-term care in 3.3.4.b.

2.3. Interpretation

2.3.1. Clarification of Intent

Fair Trade USA believes that when a workplace related injury or illness occurs, workers must receive adequate paid medical attention and wage replacement during treatment and immediate recovery time, also referred to in the standard as "short term care."

Fair Trade USA defines treatment and immediate recovery time as the time an injured or ill worker is under medical care immediately following an accident until they are considered to be stable by a qualified first aid provider or medical professional and/or discharged from the medical facility. The Certificate Holder is responsible for covering all lost wages, meaning the full wages a worker lost during the time that they were in transit to and receiving medical attention immediately after an injury or illness. Once the worker is discharged from a medical facility, or a medical professional or a qualified first aid provider deems the worker to be stable, they are considered to be in long-term medical care and recovery, meaning that all medical costs and wage compensations must be covered as described in 3.3.4.b.

2.3.2. Clarification of Implementation

Fair Trade USA considers an applicant or Certificate Holder to be in compliance with 3.2.1.b when Certificate Holders or applicants:

- 1) Provide evidence that medical care for all workplace injuries and illnesses was provided to workers in the direct aftermath of a work-related injury or illness as specified in criterion 3.2.4.b;
- 2) Provide evidence that the cost of all medical care for all workplace injuries and illnesses provided to workers in the direct aftermath of a work-related injury or illness was covered by the Certificate Holder or applicant; and,
- 3) Provide evidence of repayment of lost wages from the moment the injury or illness occurred to when the worker is discharged from a medical facility or a medical professional or a qualified first aid provider deems a worker to be stable. This can be evidenced through payroll records that should be available as required by 3.3.1.a.



2.4. Examples of Compliance

A worker in the asparagus farm Green Tips, injured herself while harvesting. She cut her finger quite deeply and she was bleeding profusely. She notified her supervisor, who followed her company's protocol, filed the needed reports and took her to the medical facility. The accident occurred at 10:00am. The doctor admitted the worker, stitched her finger and provided her with pain killers. She was released from the hospital at 5:00pm. She was taken home to rest. The company paid for all the expenses incurred during her medical visit.

The harvest continued until 6:00pm.

Green Tips had records of the injury and has evidence that she was paid for the remainder of the day she was injured. Because she was working on piece-rate, the farm decided to pay her the minimum wage derived from the established average number of pieces per hour for the number of hours she missed work. The farm provided her pay stub, which showed that the day she was injured she received payment for the boxes she harvested before the injury and hourly rate payment for the time she missed due to her injury and the immediate treatment and recovery (i.e. "Short-term care"). This means hourly payment from 10:00am to 6:00pm, when the harvest ended.

