

WSR 21-12-019
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed May 24, 2021, 9:23 a.m., effective July 1, 2021]

Effective Date of Rule: July 1, 2021.

Purpose: To align Title 357 WAC with the changes to the Washington Minimum Wage Act (chapter 49.46 RCW). The Washington state department of labor and industries (L&I) updated the minimum weekly standard salary level required to exempt executive, administrative or professional employees from Washington state's overtime pay requirements. The new state thresholds are more favorable than the current federal threshold, Washington employers must adhere to the state thresholds as of January 1, 2021. WAC 357-01-220 is amended to clarify an overtime eligible employee is an employee who is not exempt from the overtime provisions of either chapter 49.46 RCW (state law) or the Fair Labor Standards Act (federal law). WAC 357-01-225 is amended to clarify an overtime-exempt employee is an employee who is exempt from the overtime provisions of both chapter 49.46 RCW and the Fair Labor Standards Act. The amendments to chapter 357-01 WAC align with recent rule making by L&I modifying the state standards defining exempt employees. WAC 357-19-260 is amended to refer to "overtime eligibility" instead of "work period designation" to align with both federal and state law. The term "work period designation" is outdated terminology that is no longer relevant. WAC 357-58-120 is amended to clarify if a disciplinary demotion results in a salary decrease, the overtime status of the position may be impacted and must comply with the salary basis test of both the state and federal law. The amendment to WAC 357-58-120 clarifies the language and makes clear that the requirements of state law must also be followed.

Citation of Rules Affected by this Order: Amending WAC 357-01-220, 357-01-225, 357-19-260, and 357-58-120.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Other Authority: Chapter 49.46 RCW.

Adopted under notice filed as WSR 21-08-057 on April 5, 2021.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: May 24, 2021.

Roselyn Marcus
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OTS-2976.2

AMENDATORY SECTION (Amending WSR 05-01-204, filed 12/21/04, effective 7/1/05)

WAC 357-01-220 Overtime eligible employee. An employee who is ~~((covered by))~~ not exempt from the overtime provisions of either chapter 49.46 RCW or the Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-204, § 357-01-220, filed 12/21/04, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 05-01-204, filed 12/21/04, effective 7/1/05)

WAC 357-01-225 Overtime-exempt employee. An employee who is ~~((not covered by))~~ exempt from the overtime provisions of both chapter 49.46 RCW and the Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-204, § 357-01-225, filed 12/21/04, effective 7/1/05.]

OTS-2977.1

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-260 While an employee is in an in-training appointment, what class is used to determine the employee's salary, ~~((work period designation))~~ overtime eligibility, and performance evaluation? For each in-training step, the training plan must identify the job class to which the employee's work is being allocated. The employee's salary, ~~((work period designation))~~ overtime eligibility, and performance evaluation must be based upon the allocated class of the in-training step.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-206, § 357-19-260, filed 12/21/04, effective 7/1/05.]

OTS-2978.1

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

WAC 357-58-120 What is a disciplinary demotion and what changes may occur in salary? Demotion for cause is a disciplinary demotion. A disciplinary demotion results in the:

- (1) Assignment of responsibilities which results in a lower salary standard and/or lower evaluation points for the same position or results in the position being placed in the WGS with a lower base salary, or
- (2) Movement to a different position that has a lower salary standard and/or lower evaluation points or to a WGS position with a lower base salary.

A disciplinary demotion may result in a salary decrease. (~~Any~~) If a disciplinary demotion results in a salary decrease, the overtime status of the position may be impacted and must comply with the salary basis test of both chapter 49.46 RCW and the Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-12-069, § 357-58-120, filed 5/27/05, effective 7/1/05.]