



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: November 28, 2023

TIME: 4:41 PM

WSR 23-24-020

**Agency:** Office of Financial Management (OFM)

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) January 1, 2024 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** Chapter 148, Laws of 2023 (Engrossed Substitute House Bill 1361) passed during the 2023 legislative session with an effective date of July 23, 2023. Section 3 of this bill amends RCW 41.06.070, Exemptions to chapter – Right of reversion, to add subsection 6 which suspends a person’s right to reversion during the pendency of a workplace investigation if the allegations being investigated could result in a finding of gross misconduct or malfeasance. The amendments align Title 357 WAC with the requirements of the new law. The amendments to WAC 357-04-030, 357-19-195 and 357-19-200 are to state that if a permanent employee exercises their right to return to classified service from exempt service, the right of return may not be exercised if the employee is terminated from the exempt position for gross misconduct or malfeasance, or during the pendency of an investigation if the employee has been given written notice that they are the subject of an active workplace investigation which may result in a finding of gross misconduct or malfeasance. The new section, WAC 357-19-197, is to address what information a receiving employer must verify when a permanent employee exercises their right to return to classified service from an exempt appointment. For purposes of these rules, “written notice” includes notice sent by email to the employee’s work email address; and “pendency of an investigation” lasts until the employer has taken final appropriate action based on the finding of the investigation.

**Citation of rules affected by this order:**

- New: 357-19-197
- Repealed:
- Amended: 357-04-030, 357-19-195, 357-19-200
- Suspended:

**Statutory authority for adoption:** RCW 41.06.150

**Other authority:** RCW 41.06.070

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 23-20-077 on September 29, 2023 (date).  
Describe any changes other than editing from proposed to adopted version: WAC 357-19-197(1)(a) was amended to remove inadvertent duplicative language (“or was not terminated from the exempt position for gross misconduct or malfeasance”) because that language is in WAC 357-19-197(1)(b).

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	1	Amended	3	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	1	Amended	3	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	1	Amended	3	Repealed	___

**Date Adopted:** 11-29-23

**Name:** Nathan Sherrard

**Title:** Assistant Legal Affairs Counsel  
Office of Financial Management

**Signature:**

