

AMENDATORY SECTION (Amending WSR 22-01-022, filed 12/3/21, effective 7/1/22)

WAC 357-28-255 What constitutes overtime for an overtime eligible employee? (1) The following conditions constitute overtime for overtime eligible employees:

(a) Work in excess of 40 hours in one workweek, except for law enforcement positions or hospital personnel assigned to a 14-day schedule.

(i) For hospital personnel assigned to a 14-day schedule, work in excess of eight hours in any workday or 80 hours in a 14-day period constitutes overtime.

(ii) For law enforcement positions, work in excess of the 160-hour, 28-day work period constitutes overtime.

(b) Work on a holiday per WAC 357-28-200.

(c) For full-time employees, work on a scheduled day off when assigned by the employer.

(2) All paid holidays including the use of holiday credit during the employee's regular work schedule **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** considered time worked for purposes of determining overtime eligibility, except as provided in WAC 357-28-265.

(3) When an overtime eligible employee experiences a schedule change which causes an overlap in workweeks and requires work in excess of 40 hours in either the previous or current workweek, the employee must receive overtime compensation.

(4) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections and department of social and health services who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

AMENDATORY SECTION (Amending WSR 23-24-021, filed 11/28/23, effective 1/1/24)

WAC 357-28-265 For the purpose of computing eligibility for overtime compensation, are holidays and leave with pay considered time worked? For purposes of computing eligibility for overtime compensation, paid holidays during the employee's regular work schedule **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** considered time worked except for:

(1) When leave is taken to travel and receive each dose or booster of COVID-19 vaccine in accordance with WAC 357-31-325; (~~or~~)

(2) When leave is taken to receive each dose or booster of COVID-19 vaccine in accordance with WAC 357-31-326; or

(3) When leave is taken on the employee's regularly scheduled workday for the purpose of rest and recuperation in accordance with WAC 357-31-326. However, if leave falls on the employee's regularly scheduled day off, it is **not** considered hours worked for the calculation of the overtime rate.