

			
Section:	400 HOURS OF WORK	Revision Date:	12/2025
Policy:	WORK PERIODS	Policy No.	402
Approver:	COMMISSION	Resolution	No

**POLICY:** The Port of Olympia workweek is defined as Monday through Sunday. The Port may at times require employees to work beyond their normal work schedule due to workload peaks or unplanned circumstances. Human Resources determines if each position meets the provisions of the [Fair Labor Standards Act \(FLSA\)](#) and the [Washington Minimum Wage Act \(WMWA\)](#) and if the position is overtime eligible or exempt based on the criteria established by the U.S. Department of Labor and Washington State Department of Labor and Industries, respectively.

1. **Non-Exempt** - Non-exempt employees shall receive overtime compensation (in accordance with FLSA) if any of the conditions in "b" or "c" are met and may receive overtime compensation if condition "a" is met.
  - \*Union employees will follow the ILWU contract currently in effect.
  - a) Work in excess of a forty-hour workweek is paid at an overtime rate (all hours worked by an employee and time-off for holidays, qualify towards the 40-hour workweek threshold). However, time-off with pay including vacation, sick, bereavement leave, and/or any used compensatory time do not qualify as part of the 40-hour work week hours actually worked, and therefore any hours earned in excess of 40-hour work week will be compensated at either a straight time rate of pay or overtime rate of pay depending on total number of hours worked.
  - b) Work on a holiday.
  - c) Work on a scheduled day off; rate of pay at standard rate or overtime rate per FLSA guidelines.

Example:

In one week, you work 32 hours and take 8 hours of vacation. Then you work 10 hours on Saturday. All totaled, you worked 42 hours and took 8 hours vacation. How are you paid?

- 40 hours worked + 8 hours vacation = 48 hours straight time rate
- 2 hours worked in excess of 40 = 2 hours overtime rate

ILWU is paid overtime per their contract.


2. **Exempt Employees** - Employees in job classes that are EXEMPT from the overtime provisions of FLSA and are not required to be compensated beyond their regular rate of pay for work, which meets the conditions for overtime. Reduced hour exempt employees will be paid up to 40 hours per week for actual time worked; excess hours will follow the same guidelines as full-time exempt staff.

- 3. **Approval for Overtime - All overtime work must have prior approval by the supervisor at the time overtime is worked.** Overtime for non-exempt employees must be approved in advance by the respective supervisor. Such authorization may be verbal, written, specific, or general, as the needs of the department shall dictate; however, the details of the request and approval must be noted for the day the overtime occurred withing the electronic timesheet. An announcement that no overtime work will be permitted, or that overtime work will not be paid for unless authorized in advance will not impair the employee's right to compensation for compensable overtime hours that are worked. At the employee's discretion, the employee determines whether the overtime will be paid or earned as compensatory time via their request form per appropriate coding within their electronic timesheet.
- 4. **Overtime Policy May Not Be Waived** - The requirement that overtime compensation shall be paid (in accordance with numbers 1 and 2 above) may not be waived by agreement between employer and employee. Therefore, overtime compensation, in accordance with numbers 1 and 2 above, shall be compensated as overtime pay or compensatory time earned.
- 5. **Travel Time is Considered Work Time** - Travel time to and from your destination (after arriving at the regular office site) is considered time worked.
- 6. **Compensatory Time or Cash Compensation** - Once a decision has been made to approve overtime, the employee has the choice whether to receive compensatory time off in lieu of overtime pay. It is recommended (not required) that this decision be made at the time authorization for overtime work is approved. All unused compensatory time accrued as of December 31 of each year will be compensated prior to the year-end payroll. No compensatory time shall be carried over into a subsequent year.
- 7. **Compensatory Time Cash-Out** - All employee's accrued compensatory time shall be compensated in cash when the employee separates from service for any reason including death.
- 8. **Filing of Request Forms – Timely prepared/approved Request Forms** are the official record of overtime hours earned/used by an employee. A Request Form is considered to be timely as follows:
  - a. If it has been submitted by the employee to their supervisor within the pay period, the overtime is has been worked.
  - b. If an employee is unable to timely submit the Request Form through time tracker due to sickness, unplanned leave, travel status or similar cause, the employee must submit the Request Form as soon as he or she returns to work.


- 10. **Use of Compensatory Time** – The use of compensatory time is documented through the time and accounting system by filling out a request form that is submitted to the employee's supervisor and reflected on the time sheet for that pay period.

### **Rest Breaks for Overtime-Eligible Employees**

Overtime-eligible employees must be allowed a paid rest period, free from duties, of at least 10 minutes for every four hours worked. Additionally:

1. Overtime-eligible employees cannot be required to work more than three hours without a rest break.
2. Breaks must be scheduled as close to the midpoint of a work period as possible (i.e., cannot be combined with the meal period or used for late arrival or early departure).
3. Employers can require workers to stay on the job site during a rest break.
4. Rest breaks taken are considered "hours worked" when calculating paid sick leave and overtime.

Overtime-eligible employees cannot waive their rest breaks.

1. Supervisors of overtime-eligible employees must ensure employees are taking their rest breaks for every four hours worked, regardless of telework status. If a supervisor becomes aware that the rest breaks are not being taken, they must instruct the overtime-eligible employee to take their breaks and report the issue to the Workplace Culture and Development Manager.
2. Employees must be provided with reasonable access to bathroom facilities and may not be required to use the facilities only during their rest break.
3. In some jobs, "mini" rest breaks can be taken instead of a scheduled rest break. These "mini" rest breaks must total at least 10 minutes over a four-hour period. Overtime-eligible employees should work with their supervisor to determine if this is permissible.

### **Meal Periods for Overtime-Eligible Employees**

Overtime-eligible employees must be allowed a non-paid meal period when they work more than five hours in a shift. A meal period must be at least 30 minutes and start between the second and fifth hour of the shift.

Depending on the length of the shift and timing of the meal period provided, employees may also be entitled to additional non-paid meal periods.

Eligible overtime employees must be paid for meal breaks if:

- They are required to remain on duty.
- The employer requires them to remain on-call on the premises or worksite in the interest of the employer, even if they are not called back to duty.
- They are called back to work, interrupting the meal period.

Overtime-eligible employees who are required to work or remain on duty during a meal break are still entitled to 30 minutes total mealtimes, excluding interruptions. The entire meal period must be paid regardless of the number of interruptions. Work performed during meal breaks is considered "hours worked" when calculating paid sick leave and overtime.

### **Overtime Exempt Employees**

Overtime-exempt employees are not authorized to receive overtime compensation. Per FLSA and WMWA, an employee is considered exempt from overtime pay if the three following criteria are met:

- They are paid on a salary (not hourly) basis, except for certain IT workers. Being paid on a salary basis means that an employee is paid the same amount per workweek regardless of the hours the employee works.
- They are paid at least the current state salary threshold, regardless of the percentage of time worked. The same threshold applies to part-time employees and is not prorated for employees who are less than full-time.
- They meet the duties test for one or more of the exemption categories as regulated by FLSA and WMWA.