

CONCISE EXPLANATORY STATEMENT (CES)

Prevailing Wage Housekeeping Rules

Chapter 296-127 WAC, Prevailing Wage

The date of adoption for this rule: July 23, 2019

The effective date for this rule: August 23, 2019

I. Purpose of rulemaking:

The Prevailing Wage Program notified interested parties by letter of its intention to proceed with a housekeeping rulemaking process and invited them to participate through Prevailing Wage Advisory Committee (PWAC) meetings or their independent communications with L&I. The program worked with the Prevailing Wage Advisory Committee, and its representation from business, labor, public agencies, as well as members of the public to develop these housekeeping rule changes. Consensus was obtained and the resulting proposed language does not conflict with existing rules or statutes administered and enforced by other divisions in the agency.

The adopted rules amend existing rules to clarify and reorganize the rules for ease of use by regulated parties. The housekeeping changes include updates to make references to statutes and addresses current, changes to gender neutral language, and replacement of archaic terminology.

2. Differences between the rule as adopted and the proposed rule:

The adopted rule is not different from the text of the proposed rule as published in the CR 102.

3. Comments on proposed rule:

The public comment period for this rulemaking ended on July 12, 2019 at 5 p.m. No written comments were received before the deadline.

The hearing for this rule took place on July 9, 2019 in Tumwater, Washington. Two people attended the hearing and one provided oral testimony.

The oral testimony given was in support of the rules as written. The comments were specific to WAC 296-127-019, survey methodology process. The suggestion was to make a change to conform the rule to SSB 5493 which passed during the 2018

legislative session. The bill established that collective bargaining agreements will be used to set prevailing wage rates when they exist. The testimony was that some minor changes to section 019 to recognize the legislative changes from 2019 would ensure clarity for those that have to review and conform to these standards.

These housekeeping updates to chapter 296-127 WAC are limited in scope. The CR-102 included this description: “The Prevailing Wage Program reviewed the prevailing wage rules for housekeeping changes in order to further clarify the language without changing their effect of any rule except where necessary to align with statute or case law. No substantive changes are considered in this rule.”

In WAC 296-127-019, the housekeeping updates delete a subsection that is outdated because it is contrary to law enacted in 2003, RCW 39.12.026(1). The deleted language contemplated a limited use of data from adjacent counties. Such use of data from another county is now prohibited by RCW 39.12.026(1).

The suggestion made in oral testimony would add new language consistent with SSB 5493 (2018). Such substantive changes to the language are beyond the scope of the housekeeping updates even if they were identical to the law as written in SSB 5493. The department will continue stakeholder discussions and consultation with the Prevailing Wage Advisory Committee (PWAC) prior to proposing any such substantive prevailing wage rule changes. The department declines to add such changes to the housekeeping updates.

Given the supportive testimony, the department will proceed to adopt the housekeeping rules updates as proposed in the CR-102.