



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: March 05, 2024

TIME: 8:53 AM

WSR 24-06-070

**Agency:** Department of Labor and Industries (L&I)

**Title of rule and other identifying information:** (describe subject) Prevailing Wage – Housekeeping. WAC 296-127-010(9), Definitions for chapter 296-127 WAC; WAC 296-127-140, Investigation of complaint; WAC 296-127-160, Appeal of notice of violation; WAC 296-127-320, Payroll.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of this expedited rulemaking is to amend three rule sections to bring them into alignment with amendments to the statutes they help to interpret and enforce, and one that aligns with current L&I practice. The changes reflect requirements in law and do not affect the purpose of the rule sections.

This proposal includes amending the following sections in rule:

- WAC 296-127-010 Definitions for chapter 296-127 WAC: Update the “residential construction” definition to align with the definition for “residential construction” in RCW 39.12.017 which was created with the passage of House Bill 1743.
- WAC 296-127-140 Investigation of complaint: Update language related to L&I’s acceptance timeline of a complaint concerning the nonpayment of the prevailing rate of wage. Change the acceptance date from 30 to 60 days for public works projects. This change aligns the section with RCW 39.12.065, which was amended with the passage of Senate Bill 5088.
- WAC 296-127-160 Appeal of notice of violation: Eliminate the need to submit four copies of the request for a hearing. This aligns with current L&I practice and reduces paperwork.
- WAC 296-127-320 Payroll: Align section with RCW 39.12.120, which requires weekly certified payroll records be filed at least once a month using L&I’s online system. RCW 39.12.120 was created with the passage of Engrossed Substitute Senate Bill 5035.

**Reasons supporting proposal:**

House Bill 1743 (HB 1743), Chapter 29, Laws of 2019, created a new section in law, RCW 39.12.017, regarding residential construction. WAC 296-127-010 must be updated to adopt the language of the statute.

Senate Bill 5088 (SB 5088), Chapter 88, Laws of 2023, amended RCW 39.12.065 regarding the timeline for a complaint concerning nonpayment of the prevailing rate of wage. WAC 296-127-140 incorporates the statutory language that was amended and must be updated to match the amended language of the statute.

Engrossed Substitute Senate Bill 5035 (ESSB 5035), Chapter 242, Laws of 2019, created a new section in law, RCW 39.12.120, regarding payroll records and recordkeeping obligations. WAC 296-127-320 incorporates the statutory language of the statute.

L&I should update WAC 296-127-160 to match current internal government operations, which have reduced waste by eliminating unnecessary copies of the request for hearing documents. The update would also benefit filers.

**Statutory authority for adoption:** Chapter 39.12 RCW

**Statute being implemented:** N/A


<b>Is rule necessary because of a:</b>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Federal Law?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Federal Court Decision?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
State Court Decision?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, CITATION:		
<b>Name of proponent:</b> (person or organization) Department of Labor and Industries		<input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental
<b>Name of agency personnel responsible for:</b>		
	Name	Office Location
Drafting:	Reasa L Pearson	Tumwater, WA
Implementation:	Jody Robbins	Tumwater, WA
Enforcement:	Jody Robbins	Tumwater, WA
<b>Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:</b>		
<b>Expedited Adoption - Which of the following criteria was used by the agency to file this notice:</b>		
<input checked="" type="checkbox"/> Relates only to internal governmental operations that are not subject to violation by a person; <input checked="" type="checkbox"/> Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; <input type="checkbox"/> Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect; <input type="checkbox"/> Content is explicitly and specifically dictated by statute; <input type="checkbox"/> Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or <input type="checkbox"/> Is being amended after a review under RCW 34.05.328.		
<b>Expedited Repeal - Which of the following criteria was used by the agency to file notice:</b>		
<input type="checkbox"/> The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule; <input type="checkbox"/> The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute; <input type="checkbox"/> The rule is no longer necessary because of changed circumstances; or <input type="checkbox"/> Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.		
<b>Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):</b> Expedited rulemaking is necessary to align rule language with recent changes to the language of the source RCWs from which the WAC language is derived. Expedited rulemaking reducing unnecessary duplicates of requests for hearing is appropriate to match current internal agency operations, which also benefits stakeholders.		

NOTICE

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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**AND RECEIVED BY** (date) May 6, 2024

<b>Date:</b> March 5, 2024	<b>Signature:</b> 
<b>Name:</b> Joel Sacks	
<b>Title:</b> Director	