

# Emergency Rules

**Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
**Division 30—Division of Labor Standards**  
**Chapter 3—Prevailing Wage Law Rules**

**EMERGENCY AMENDMENT**

**8 CSR 30-3.010 [Prevailing] Applicable Wage Rates for Public Works Projects.** The division proposes to amend sections (1), (2), (4), and (5); renumber a portion of section (4) as section (5) and amend the section; and renumber the remaining sections.

*PURPOSE:* This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

*EMERGENCY STATEMENT:* This emergency amendment incorporates and implements changes to the Missouri Prevailing Wage Law effected by House Bill 1729 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to sections 290.210–290.340, RSMo made by House Bill 1729 (2018) regarding the applicable wage rates for public works within the state of Missouri and ensuring consistent implementation of law. Provisions of the existing rule are inconsistent with the provisions of sections 290.210–290.340, RSMo, effective August 28, 2018, and must be amended early to avoid confusion on the part of contractors, workers, and public entities. Emergency amendment of the rule will also assist contractors in avoiding potential civil liabilities and assist officers, officials, members, agents, and representatives of contractors and public entities in avoiding potential criminal penalties. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Labor and Industrial Relations believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 21, 2018, becomes effective December 1, 2018, and expires May 29, 2019.

*PURPOSE:* This rule sets forth [prevailing] applicable wage requirements relative to work performed by workers on public funded projects.

(1) All public bodies of Missouri contemplating construction work must obtain from the department an annual wage order which sets forth the [prevailing] applicable hourly rate of wages (the prevailing wage or the public works contracting minimum wage as provided in section 290.257, RSMo) in the locality. The rates so determined shall be incorporated in the contract specifications and made a part of those specifications, except that construction contracts of the State Highway and Transportation Commission need not list specific wage rates to apply, but may refer to the wage rates contained in the appropriate General Wage Orders issued by the department, as applicable.

(2) Request for annual wage orders shall be initiated at least ten (10) calendar days before advertisement of the specifications for the contract for which the determination is sought. An exception from this provision will be made by the department only upon a proper showing of extenuating circumstances. The department has prepared and printed Form No. PW-3 for use in making a request. The form may be secured by writing Division of Labor Standards, PO Box 449, Jefferson City, MO 65102 or by visiting the following website: [https://labor.mo.gov/sites/labor/files/pubs\\_forms/PW-3-AI.pdf](https://labor.mo.gov/sites/labor/files/pubs_forms/PW-3-AI.pdf).

(4) The annual wage order issued by the department contains the current applicable wage rates [prevailing] in the locality at the time the annual wage order is issued. Hours worked during the calendar year are used to set the prevailing wage rates in the annual wage order issued in March of the following year. The department will consider hours submitted for use in its initial determination of the prevailing wage rates to be included in a particular year's wage order only if those hours are received [by it] from a contractor, by either paper submission on a form provided by the department or in electronic format, no later than January 31 of that year. Handwritten submissions will not be accepted. For purposes of submitting reportable hours, the term "contractor" shall include a "subcontractor." The department will not include the following hours in the calculation of the annual wage order:

(A) Hours not readily identifiable as being submitted by a contractor;

(B) Hours submitted for construction of public works for which either the engineer's estimate or the bid accepted by the public body for the total project cost is in the amount of seventy-five thousand dollars (\$75,000) or less;

(C) Hours worked by federally-registered apprentices or entry-level workers;

(D) Hours worked on residential construction projects.

(5) Section 290.262.[9]8, RSMo, provides that the annual wage order for a particular occupational title may be altered once each year with an incremental increase. A public body shall specify in the call for bids for each contract the [prevailing] applicable hourly rate of wages in the locality for each type of worker as set forth in the annual wage order or any replacement page(s) identifying the annual incremental increase issued by the department for the prevailing hourly rate of wages. The wage rates attached to, and made a part of, the call for bids for a contract shall remain in effect for the duration of that particular contract.

[(5)](6) It should be understood by all interested parties that the certified [prevailing] applicable wage rates determined by the department are minimum wage rates. The contractor may not pay less than the [prevailing] applicable wage rates determined by the department for the project or contract awarded to him/her as set forth in the proposal on which s/he submitted his/her bid. Employees are free to bargain for a higher rate of pay and employers are free to pay a higher rate of pay.

[(6)](7) Each month the successful bid contractors shall submit certified copies of their current payrolls to the contracting public body. The public body, upon receipt of the payrolls on a project, shall keep the payrolls on file for a period of one (1) year from the date of submission of the final payrolls by the contractor. The payroll records shall set out accurately and completely the following: name and address of each worker, the class or type of worker, rate of pay, daily and weekly number of hours worked for each class or type of work performed, deduction made, and actual wages paid for each class or type of work performed by each worker. The payroll records shall be available at all times for inspection by authorized representatives of the Department of Labor and Industrial Relations.

[(7)](8) The public body shall make examinations of the payrolls and other records of each contractor or subcontractor as may be necessary to assure compliance with the provisions of the law. In connection with those examinations, particular attention should be given to the correctness of classifications and any disproportionate employment of any workers. The examinations shall be of a frequency that may be necessary to assure conformity with the provisions of the law. An examination shall be made after the project has been substantially completed, but prior to the acceptance of the affidavit as required by section 290.290, RSMo. If any violation of sections 290.210–290.580,

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RSMo, is discovered by the inspecting public body, it is their duty under section 290.250, RSMo, to withhold and retain from payments to the contractor all sums and amounts due and owing as a result of any violation. Any violation shall be immediately reported to the Division of Labor Standards at PO Box 449, Jefferson City, MO 65102 or by telephone.

*AUTHORITY: section 290.240.2, RSMo [2000] Supp. 2018. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. An emergency amendment and a proposed amendment covering this same material will be published in the January 2, 2019, issue of the **Missouri Register**.*