



**Rules of
Department of Labor and Industrial
Relations**

**Division 20—Labor and Industrial Relations Commission
Chapter 5—Rules Relating to Objections to Wage Orders,
Including Prevailing Wage Determinations and
Occupational Title of Work Descriptions**

Title	Page
8 CSR 20-5.010 Objections and Hearing.....	3



**Title 8—DEPARTMENT OF
LABOR AND INDUSTRIAL
RELATIONS**

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**Chapter 5—Rules Relating to Objections
to Wage Orders, Including Prevailing
Wage Determinations and Occupational
Title of Work Descriptions**

8 CSR 20-5.010 Objections and Hearing

PURPOSE: This rule specifies procedures for filing objections to wage orders, including prevailing wage determinations and occupational title of work descriptions, and hearings on objections by the commission.

(1) Objections. Within thirty (30) days after the certified copy of a wage order has been filed with the secretary of state and the commission, any person who may be affected by the wage order may object, in writing, to the wage order, or any part thereof that the party considers objectionable by filing an objection with the commission. The objector shall set forth in writing, the specific grounds of objection and not merely a conclusion that the wage rate is too high or too low, but shall set out in detail how the objector reaches the conclusion that the rate is either too high or too low. If the objection is premised, in whole or in part, upon hours that were not previously reported to the Division of Labor Standards on or before January 31 of the year in which the objection is filed, the commission will consider the objection only if the objector is able to allege and prove a good cause why the hours were not previously reported to the Division of Labor Standards. If the objector fails to identify and allege such good cause in the written objection, the objection may be dismissed by the commission without a hearing. For purposes of this rule, “good cause” shall mean those circumstances in which the objector acted in good faith and reasonably under all the circumstances. At the time of filing the objection, a copy shall be furnished to the Division of Labor Standards. Within thirty (30) days of the receipt of the objection, the commission shall set a date for a hearing on the objection. The day for the hearing shall be within sixty (60) days of the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors, proponents, and other interested parties at least ten (10) days prior to the date set for the hearing.

(2) Hearings, generally.

(A) Hearings held by the commission under the Prevailing Wage Law shall be held

by the commission, any commissioner or a representative designated by the commission. If the hearing is conducted by one (1) of the commissioners or by a designated representative, a recommended order will be prepared by such commissioner or designated representative and such order will be subject to the approval of a majority of the commission qualified to review the recommended order.

(B) At the hearing, any party may be represented by an attorney-at-law. Only an attorney, licensed to practice in Missouri, may appear in a representative capacity. A person whose conduct is detrimental to the proper and orderly conduct of the hearings may be excluded from the hearing room by the commission or designated representative. The commission or its designated representative may examine any party or witness.

(C) In order for the commission to make its determination(s) within the statutory time periods for disposing of objections, a request to postpone or continue a prehearing conference or hearing will not be granted unless the commission determines that extraordinary circumstances are present and that the interests of justice require such a remedy. Alternatively, on its own motion, the commission may adjourn, postpone, or continue any hearing from time-to-time or place-to-place at its discretion.

(3) Prehearing Conference.

(A) Before any hearing, the commission, at its discretion, may direct the parties or their attorneys to appear before it for a prehearing conference to consider—

1. The simplification of the issues;
2. The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
3. The limitation of the number of witnesses; and
4. Such other matters as may aid in the disposition of the hearing.

(B) Immediately upon receipt of notice from the commission setting a date for the prehearing conference, all parties to an objection, including the Division of Labor Standards, shall arrange for an exchange of the following:

1. Copies of all exhibits the parties plan to offer into evidence at the hearing before the commission, which shall be certified as authentic via affidavit;

2. The sworn, direct testimony of all witnesses the parties plan to call at the hearing before the commission, to be provided in the form of a written affidavit, which may be in question and answer format, and which testimony shall be subject to cross-examination at a hearing before the commission;

3. For the Division of Labor Standards, the wage surveys, investigatory records, economic data, and all other materials or information considered in the course of preparing and issuing the wage order determination(s) at issue; and

4. All other materials the parties plan to offer as evidence at the hearing before the commission.

(C) The exchange of such materials shall be concluded at least seven (7) days before the date set for the prehearing conference. Failure on the part of any party to comply may be grounds for exclusion from evidence of all withheld materials.

(D) At the prehearing conference, the parties shall identify and file with the commission all evidence upon which they plan to rely at the hearing. If any party identifies, at the prehearing conference, evidence that was not previously provided to opposing parties as required by this rule, the evidence will not be entered into the record at the hearing unless the proponent is able to demonstrate that the evidence is newly discovered or could not, with the exercise of reasonable diligence, have been earlier identified and provided to opposing parties. The commission is opposed, as a matter of policy, to the introduction of any new evidence not previously identified and exchanged between the parties in advance of the prehearing conference.

(E) The commission favors, wherever possible, ruling upon the substantive merits of the dispute rather than issues of procedural formality or the technical rules of evidence. Accordingly, any objection to evidence identified and filed with the commission at the prehearing conference shall be made at the prehearing conference in order to permit opposing parties an opportunity to cure, in advance of the hearing, any technical deficiencies in the evidence. For purposes of this rule, “technical deficiency” refers to any complaint a party might raise concerning the form in which evidence is offered. If, in the discretion of the commission, offered evidence is material to any of the substantive issues involved in the parties’ dispute, it shall not be rejected solely because of some deficiency in the form in which the evidence is offered.

(F) The commission, or its designated representative, shall prepare an order which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered. The order will limit the issues for the hearing to those not disposed of by admissions or agreements of counsel. Such order, when entered, controls the subsequent course of the hearing, unless modified thereafter to prevent manifest injustice.



(G) If the parties determine that they are able to resolve their dispute in advance of the hearing, the parties shall file with the commission a joint stipulation that resolves each of the issues raised in the objection, and attach all relevant replacement pages making the agreed changes to the annual wage order prepared by the Division of Labor Standards. Alternatively, if the parties are able to agree that no such change to the annual wage order should be made, the objector shall file a request to withdraw the objection.

(4) Procedures for the hearing.

(A) At the outset of the hearing, the commission will identify all evidence filed at the prehearing conference. If any objection(s) were raised at the prehearing conference to the entry of said evidence into the record of hearing, the parties shall be permitted a chance to argue said objection(s), and the commission will either rule upon said objection(s) at the hearing, or take the issue under advisement. If no objections were raised at the prehearing conference, the evidence filed at the prehearing conference shall be entered into the record of the hearing by the commission, with the understanding that all direct testimony from witnesses shall be subject to cross-examination.

(B) Thereafter, the following procedure will be followed:

1. Witnesses, if any, on behalf of the Division of Labor Standards shall testify;
2. Witnesses, if any, on behalf of the objector shall testify;
3. Witnesses, if any, on behalf of any other interested party shall testify; and
4. Other than any new testimony provided by the witnesses upon cross-examination or redirect examination, no evidence, other than the testimony and documents filed at the prehearing conference, will be allowed at the hearing, unless the commission determines that the interests of justice so require.

(C) The commission shall determine what evidence is material to the issue(s). The order or procedures set forth in section (4) shall be followed unless, in the interest of conducting a fair hearing, the commission determines otherwise.

(5) Record of Proceedings. The commission may cause such proceedings before it to be suitably recorded as it considers necessary and expedient, the cost of which shall be borne by the commission. Any party desiring a copy of the transcript shall purchase its own copy from the reporter who transcribed the proceedings.

(6) Motions to Amend.

(A) In order to preserve the commission's

ability to provide due process to those interested parties who may have already completed their review of the initial annual wage order, if the Division of Labor Standards determines that it is necessary to file with the commission a motion to amend an annual wage order for the purpose of correcting any typographical or clerical errors set forth therein, said motion shall be filed with the commission at least seven (7) days prior to the thirtieth (30th) day following the date on which the Division of Labor Standards filed its annual wage order with the secretary of state. Failure to comply may result in denial of the motion to amend.

(B) Upon receipt of a motion to amend from the Division of Labor Standards, the commission will wait a minimum of ten (10) days before ruling upon said motion, to permit interested parties a chance to respond.

(C) The motion to amend shall contain, in the body of the motion, an identification of every locality and occupational title affected by the changes requested by the motion, and shall specifically identify and explain the nature of the asserted typographical or clerical error prompting the motion to amend, and how the asserted typographical or clerical error was discovered.

*AUTHORITY: section 286.060, RSMo 2016. * This version of rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed Sept. 22, 1995, effective Feb. 25, 1996. Amended: Filed Jan. 30, 1997, effective Sept. 30, 1997. Amended: Filed Aug. 15, 2019, effective Feb. 29, 2020.*

**Original authority: 286.060, RSMo 1945, amended 1947, 1980, 1995, 2011.*