

Title 8—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

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 the objections in triplicate with the commission. If the objection is to a wage rate, 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 to an occupational title of work description, the objector shall set forth in writing the specific grounds of objection and not merely a conclusion that an occupational title of work description is incorrect, but shall set out in detail how the objector reaches the conclusion that the occupational title of work description is incorrect. 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.
 - (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. Any hearing may be adjourned or postponed or continued from time-to-time or place-to-place at the discretion of the commission or its designated representative.
- (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 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;
4. The prefiling of sworn, direct testimony and supporting documents; and
5. Such other matters as may aid in the disposition of the hearing.

(B) 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.

(4) Procedures.

(A) At the hearing, if the objection pertains to the wage rate in a locality, the Division of Labor Standards shall introduce in evidence the investigation and field surveys conducted, including copies of any appropriate collective bargaining agreements and any information received by the Division of Labor Standards which was considered by it at the time the wage order was issued.

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

1. Evidence on behalf of the objectors which is material to the issue(s) shall be introduced;
2. Evidence on behalf of the proponents or any other interested party which is material to the issue(s) shall be introduced;
3. Rebuttal or cumulative evidence shall be allowed at the discretion of the commission; and
4. No direct evidence, other than the testimony and documents filed at the prehearing conference, will be allowed at the hearing, except at the discretion of the commission.

(C) If the objection to the wage order pertains only to an occupational title of work description, the objector shall present its evidence first. Thereafter, the Division of Labor Standards and any intervenor may present evidence.

(D) The commission shall determine what evidence is material to the issue(s). The order or procedures set forth in subsection (4)(B) and (C) 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.

*AUTHORITY: section 286.060, RSMo (Cum. Supp. 1996). * 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.*

**Original authority 1945, amended 1947, 1980, 1995.*