

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-005

AN ORDER to amend DWD 290.155 (1), relating to the annual adjustment of thresholds for application of prevailing wage rates.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

01-30-01 RECEIVED BY LEGISLATIVE COUNCIL.

02-19-01 REPORT SENT TO AGENCY.

RS:NZ:jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

LRB or Bill No./Adm. Rule No.
DWD 290.155(1)
Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R03/97)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

Subject
Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____
 - School Districts
 - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Under the proposed rule, a state agency or local governmental unit contracting for the construction of a single-trade public works project that costs more than \$34,000 but less than \$35,000 or a multi-trade project that costs more than \$168,000 but less than \$172,000 will not be covered by the prevailing wage requirement.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
Elaine Pridgen 267-9403

Authorized Signature/Telephone No.
[Signature] 267-9427

Date
1/30/01

FISCAL ESTIMATE WORKSHEET

2001 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. DWD 290.155(1)	Amendment No.
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Subject
Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
0

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$0	\$0 -
(FTE Position Changes)	0 (FTE)	(- FTE)
State Operations - Other Costs	0	0
Local Assistance	0	0
Aids to Individuals or Organizations	0	0
TOTAL State Costs by Category	\$0	\$ -
B. State Costs by Source of Funds		
GPR	\$0	\$0-
FED	0	-
PRO/PRS	0	-
SEG/SEG-S	0	-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$0	\$0-

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$0	\$0
NET CHANGE IN REVENUES	\$0	\$0

Agency/Prepared by: (Name & Phone No.)
DWD/ Elaine Pridgen 267-9403

Authorized Signature/Telephone No.

Elaine Pridgen 267-9403

Date
1/30/01

MAR 08 2001

Scott McCallum
Governor

Jennifer Reinert
Secretary



OFFICE OF THE SECRETARY

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P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

**State of Wisconsin
Department of Workforce Development**

March 7, 2001

President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Notice of Administrative Rules in Final Draft Form

Clearinghouse rule number: 01-005

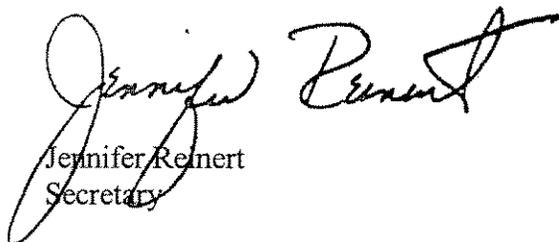
Rule number: DWD 290.155(1)

Relating to: Annual adjustment of thresholds for application of prevailing wage rates

Dear Senator Risser and Representative Jensen:

I have enclosed proposed rules in final draft form and a rule report as required by s. 227.19(3), Stats., for referral to the appropriate legislative standing committees. If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,


Jennifer Reinert
Secretary

Scott McCallum
Governor

Jennifer Reinert
Secretary



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State of Wisconsin
Department of Workforce Development

Rule Analysis for Legislative Review

**Proposed rule relating to the annual adjustment of thresholds
for application of the prevailing wage rates**

DWD 290.155(1)
CR 01-005

Need for rules

Pursuant to ss. 66.0903(5) and 103.49 (3g), Stats., and the current s. DWD 290.155(1), the state prevailing wage rate laws do not apply to any single-trade public works project with an estimated cost below \$34,000 or any multi-trade public works project with an estimated cost below \$168,000. DWD is required to adjust the dollar amounts of the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. The proposed rule increases the thresholds to \$35,000 for single-trade projects and \$172,000 for multi-trade projects based on a 2.6% increase in the construction cost index between December 1999 and December 2000.

Public hearing

A public hearing was held on February 27, 2001, and the record remained open until March 2 for the receipt of written comments. A comment in support of the proposed rule was received from Jeffrey J. Beiriger of the Plumbing and Mechanical Contractors Association of Milwaukee and Southeastern Wisconsin. A copy of his letter is attached.

Legislative Council staff recommendations

There were no Legislative Council staff recommendations.

Final regulatory flexibility analysis

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses.

Department contacts

Patricia Hewitt, Section Chief
Construction Wage Standards Section
Equal Rights Division
266-6469

Elaine Pridgen
Administrative Rules Coordinator
Office of Legal Counsel
267-9403



State of Wisconsin
Department of Workforce Development
Equal Rights Division

Annual Adjustment of Thresholds for Application of Prevailing Wage Rates

DWD 290.155(1)

The Wisconsin Department of Workforce Development proposes an order to amend DWD 290.155(1), relating to the annual adjustment of thresholds for application of prevailing wage rates.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 66.0903(5) and 103.49(3g), Stats.

Statutes interpreted: Sections 66.0903(5) and 103.49(3g), Stats.

The state prevailing wage laws require that when a state agency or local governmental unit contracts for the construction of a public works project it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under ss. 66.0903(5) and 103.49(3g), Stats., and the current s. DWD 290.155(1), the state prevailing wage rate laws do not apply to any single-trade public works project for which the estimated cost is below \$34,000, and it does not apply to any multi-trade public works project for which the estimated cost is below \$168,000.

Pursuant to ss. 66.0903(5) and 103.49(3g), Stats., and s. DWD 290.15, the Department is required to adjust the dollar amounts of the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. The threshold adjustment is based on changes in the construction cost index published in the *Engineering News-Record*, a construction trade publication. The proposed rule adjusts the thresholds from \$34,000 to \$35,000 for single-trade projects and from \$168,000 to \$172,000 for multi-trade projects based on a 2.6% increase in the construction cost index between December 1999 and December 2000.

SECTION 1. DWD 290.155(1) is amended to read:

DWD 290.155(1) This chapter does not apply to any single-trade public works project for which the estimated cost of completion is below \$34,000 \$35,000, and any multi-trade public works project for which the estimated cost of completion is below ~~\$168,000~~ \$172,000.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.



Plumbing and Mechanical Contractors Association
of Milwaukee and Southeastern Wisconsin
10427 W. Lincoln Avenue • Suite 1600
Milwaukee, Wisconsin 53227-1201
Phone (414) 543-PMCA (7622) • Fax (414) 543-7626
e-mail: mail@pmsmca.com

February 20, 2001

Elaine Pridgen
Office of Legal Counsel
Department of Workforce Development
P.O. Box 7946
Madison, Wisconsin 53707-7946

Dear Ms. Pridgen,

On behalf of the Plumbing and Mechanical Contractors Association of Milwaukee and Southeastern Wisconsin (PMCA), I am writing to support the use of the *Engineering News-Record* cost index to adjust the prevailing wage rate thresholds for the coming year.

In cooperation with the Department and other interested parties, PMCA was a participant in the development of the "agreed bill" on prevailing wage law modifications developed several years ago. We recognize this proposal as being consistent with the agreements reached by all parties at that time.

If you have any questions, please contact me at 414/543-7622 or by e-mail at jeff@pmsmca.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey J. Beiriger". The signature is stylized and cursive.

Jeffrey J. Beiriger



State of Wisconsin
Department of Workforce Development
Equal Rights Division

NOTICE OF PUBLIC HEARING

Annual Adjustment of Thresholds for Application of Prevailing Wage Rates

NOTICE IS HEREBY GIVEN that pursuant to ss. 66.0903(5) and 103.49(3g), Stats., the Department of Workforce Development proposes to hold a public hearing to consider the amendment of s. DWD 290.155(1), relating to the annual adjustment of thresholds for application of prevailing wage rates.

Hearing Information

February 27, 2001
Tuesday
1:30 p.m.

MADISON
G.E.F. 1 Building, Room 400X
201 E. Washington Avenue

Interested persons are invited to appear at the hearings and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

An accessible entrance to the building is available via a ramp from the corner of Washington Avenue and Webster Street to the Webster Street door. If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 66.0903(5) and 103.49(3g), Stats.
Statutes interpreted: Sections 66.0903(5) and 103.49(3g), Stats.

The state prevailing wage laws require that when a state agency or local governmental unit contracts for the construction of a public works project it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under ss. 66.0903(5) and 103.49(3g), Stats., and the current s. DWD 290.155(1), the state prevailing wage rate laws do not apply to any single-trade public works project for which the estimated cost is below \$34,000, and it does not apply to any multi-trade public works project for which the estimated cost is below \$168,000.

Pursuant to ss. 66.0903(5) and 103.49(3g), Stats., and s. DWD 290.15, the Department is required to adjust the dollar amounts of the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. The threshold adjustment is based on changes in the construction cost index published in the *Engineering News-Record*, a construction trade publication. The proposed rule adjusts the thresholds from \$34,000 to \$35,000 for single-trade projects and from \$168,000 to \$172,000 for multi-trade projects based on a 2.6% increase in the construction cost index between December 1999 and December 2000.

Rule Text

SECTION 1. DWD 290.155(1) is amended to read:

DWD 290.155(1) This chapter does not apply to any single-trade public works project for which the estimated cost of completion is below ~~\$34,000~~ \$35,000, and any multi-trade public works project for which the estimated cost of completion is below ~~\$168,000~~ \$172,000.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Initial Regulatory Flexibility Analysis

The proposed rule does not affect small business.

Fiscal Impact

Under the proposed rule, a state agency or local governmental unit contracting for the construction of a single-trade public works project that costs more than \$34,000 but less than \$35,000 or a multi-trade project that costs more than \$168,000 but less than \$172,000 will not be covered by the prevailing wage requirement.

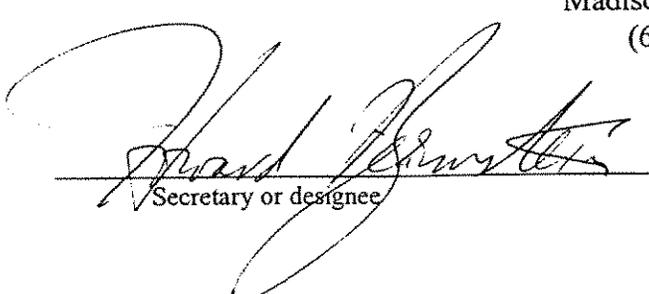
Contact Information

For substantive questions concerning the proposed rule, call Patricia Hewitt, Construction Wage Standards Section Chief, at (608) 266-6469.

Written Comments

Written comments on the proposed rules received at the following address no later than **March 2, 2000**, will be given the same consideration as testimony presented at the hearing.

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403


Secretary or designee

1/30/01
Date