



ADMINISTRATIVE RULES OF MONTANA



24.17.316 WAGE AVERAGING PROHIBITED

- (1) A contractor, subcontractor or employer may not reduce an employee's regular rate of pay for work on projects not subject to the prevailing wage rate laws when the reduction in pay has the effect of the employee not receiving the prevailing rate of wage for work performed on the public works project.
- (2) As used in this rule, "regular rate" has the same meaning as that defined in ARM 24.16.3016, incorporating by reference 29 CFR 777.108, et seq.
- (3) When making a determination of whether a contractor, subcontractor or employer has reduced an employee's regular rate in violation of (1) of this rule, the department shall consider:
 - (a) the timing of the wage rate reduction;
 - (b) whether the wage rate reduction was made pursuant to an established plan;
 - (c) whether the wage rate reduction is applied equally to all employees in similar job classifications;
 - (d) whether the wage rate reductions are applied to employees employed on public works projects, but not to employees employed only on projects not subject to the prevailing wage rate laws; and
 - (e) other considerations as the facts and circumstances of a particular matter may reveal.

Authorizing statute(s): 18-2-431, MCA

Implementing statute(s): 18-2-412, MCA

History: NEW, 2002 MAR p. 2446, Eff. 9/13/02; AMD, 2026 MAR, Notice No. 2025-395, Eff. 3/7/26.