



ADMINISTRATIVE RULES OF MONTANA

24.17.103 DEFINITIONS

As used in this subchapter, the following definitions apply, unless the context of the rule clearly indicates otherwise:

- (1) "Act" means 18-2-401 through 18-2-432, MCA.
- (2) "Adverse decision" means a decision by the department that is not favorable to the party requesting review.
- (3) "Apprentice" means a worker employed to learn a skilled trade under a written apprenticeship agreement registered with the department or the U.S. Bureau of Apprenticeship and Training.
- (4) "Bona fide resident of Montana" is defined at 18-2-401, MCA.
- (5) "Commissioner" has the same meaning as provided by 2-15-1701, MCA.
- (6) "Certified payroll records" mean payroll records of an employer which show the rates and hours paid and any deductions therefrom, made by the employer on a public works contract job and which have been verified by or on behalf of the employer as being complete and accurate.
- (7) "Claim or "complaint" means:
 - (a) a complaint alleging non-payment of the standard prevailing wage on a public works contract job;
 - (b) a request for an audit of an employer's payroll on a public works contract job; or
 - (c) a field investigation by the department of an employer's payroll on a public works contract job.
- (8) "Day" means a calendar day.
- (9) "Department" has the same meaning as provided by 2-15-1701, MCA.
- (10) "Determination" means a decision by the department on the merits of a claim, providing the amount of wages and penalty owed for labor performed on a public works contract job.
- (11) "Dispatch city" is the courthouse in the city from the following list which is closest to the center of the job and within the same prevailing wage district, if any: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, Miles City, Missoula, and Sidney.
- (12) "District" means a prevailing wage district as established under 18-2-411, MCA.
- (13) "Employ" has the same meaning as provided by 39-3-201, MCA.

- (14) "Employee" has the same meaning as provided by 39-3-201, MCA, and includes any laborer, mechanic, skilled, unskilled and semiskilled laborer and apprentices employed by a contractor, subcontractor or employer and engaged in the performance of services directly upon or immediately adjacent to the job site. The term does not include material suppliers or their employees who do not perform services at the job site.
- (15) "Employer" has the same meaning as provided by 39-3-201, MCA, and includes contractors and subcontractors.
- (16) "Hearing" means a contested case per Title 2, chapter 4, part 6, MCA.
- (17) "Mediation" is the process described by 26-1-813, MCA.
- (18) "Penalty" means the statutory penalty provided by 18-2-407, MCA, assessed by the department against the employer and paid to the employee in addition to any wages owed.
- (19) "Per diem" typically covers costs associated with board and lodging expenses. Per diem is paid when an employee is required to work at a location outside the daily commuting distance and is required to stay at that location overnight or longer.
- (20) "Public contracting agency" includes:
 - (a) the state of Montana or any political subdivision thereof;
 - (b) the Montana university system;
 - (c) any local government or political subdivision thereof;
 - (d) school districts, irrigation districts, or other public authorities organized under the laws of the state of Montana; or
 - (e) any board, council, commission, trustees or other public body acting as or on behalf of a public agency.
- (21) "Prevailing wage" or "standard prevailing rate of wages" means the standard prevailing rate of wages, as provided by 18-2-401, MCA, and as adopted by the department for work on public works contract jobs. The standard prevailing rate of wages determined according to these rules is not a prescribed wage rate, but is rather a minimum, at or above which an individual performing labor on a public works project must be compensated.
- (22) "Redetermination" means an informal review by the department, based upon new or additional information supplied by a party receiving an adverse determination.
- (23) "Travel pay," also referred to as "travel allowance," is and must be paid for travel both to and from the job site, except those with special provisions listed under the classification. The rate is determined by measuring the road miles one direction over the shortest practical maintained route from the dispatch city or the employee's home, whichever is closer, to the center of the job.
- (24) "Wages" have the same meaning as provided by 18-2-401, 18-2-412, 39-3-201, MCA.
- (25) "Zone pay" is an amount added to the base pay; the combined sum then becomes the new base wage rate to be paid for all hours worked on the project. Zone pay must be determined by measuring the road miles one way over the shortest practical maintained route from the dispatch city to the center of the job.

Authorizing statute(s): 18-2-409, 18-2-431, 39-3-202, MCA

Implementing statute(s): 18-2-402, 18-2-403, 18-2-409, 18-2-411, 18-2-422, 39-3-201, 39-3-203, 39-3-204, 39-3-205, 39-3-206, 39-3-207, 39-3-208, 39-3-209, 39-3-210, 39-3-211, 39-3-212, 39-3-213, 39-3-214, 39-3-215, 39-3-216, MCA

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