



ADMINISTRATIVE RULES OF MONTANA

24.17.119 ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES AND FRINGE BENEFITS – BUILDING CONSTRUCTION SERVICES

- (1) The commissioner shall establish the standard prevailing rate of wages and fringe benefits for the various occupations engaged in building construction services in each district. Although the commissioner establishes wage rates and fringe benefit rates including travel, zone pay, and per-diem allowance rates separately, an employer's obligation to pay the "prevailing rate of wages" includes paying the combined value of both wages and fringe benefits, including travel, zone pay, and per-diem.
- (2) The standard prevailing rate of wages is based upon an annual survey in each of the districts established in ARM 24.17.107, of licensed electrical contractors, licensed plumbers, and registered construction contractors engaged in work performed to commercial building codes, as provided for by 18-2-413, MCA, who are licensed or registered on February 1 of the year in which the survey is being conducted.
- (3) Based on survey data collected by the department for each district, the commissioner will compile wage rate information for a given occupation that reflects wage rates actually paid to workers engaged in public works or commercial projects. Where a wage rate is adopted from a collective bargaining agreement, applicable zone pay or travel pay, if any, shall be adopted from that same agreement. If the wage rate is adopted from collective bargaining agreements which have equal wage rates and different zone pay or travel pay, the zone pay or travel pay shall be adopted from the agreement covering more employees. Wage rates calculated through the survey for each occupation will be established using the following procedure:
 - (a) If a minimum of 10 or more workers is reported for the occupation within the district and 50 percent or more of those workers receive the same wage, then the higher of that wage or the highest applicable collectively bargained rate is the prevailing wage rate for that occupation in that district.
 - (b) If 10 or more workers are reported for the occupation within the district but 50 percent of those workers are not paid the same wage, the weighted average wage rate is the prevailing wage rate for that occupation in that district.
 - (c) If less than 10 workers are reported for the occupation within the district, the prevailing wage rate is the highest applicable collectively bargained rate for that occupation in that district.
 - (d) If less than 10 workers are reported for the occupation within the district and a collective bargaining agreement does not exist for the occupation in that district, a weighted average wage rate for the district will be computed using data submitted from that district and its contiguous districts.

- (e) If contiguous district data do not sum to a minimum of 10 workers, a statewide weighted average wage rate will be calculated for that occupation.
 - (f) If a minimum of 10 workers is not reported for the occupation statewide, no wage rate will be established for that occupation.
- (4) Based on survey data collected by the department for each district, the commissioner will compile fringe benefit information for a given occupation that reflects fringe benefits actually paid to workers engaged in public works or commercial projects. Where a fringe benefit is adopted from a collective bargaining agreement, applicable per diem, if any, must be adopted from that same agreement. If the fringe benefit is adopted from collective bargaining agreements which have equal fringe benefits and different per diem, the per diem shall be adopted from the agreement covering more employees. A single fringe benefit rate calculated through the survey for each occupation will be established for bona fide benefits paid or contributed to approved plans, funds, or programs for health insurance, life insurance, pension or retirement, vacations, holidays, and sick leave using the following procedure:
- (a) If a minimum of 10 or more workers is reported for the occupation within the district and 50 percent or more of those workers receive the same dollar value of fringe benefits, then the higher of that dollar value of fringe benefits, the highest applicable collectively bargained rate, or other predominate, established trade organization fringe benefit funds, plans, or programs is the prevailing fringe benefit rate for that occupation in that district.
 - (b) If 10 or more workers are reported for the occupation within the district but 50 percent of those workers are not paid the same fringe benefit rate, the weighted average fringe benefit rate is the prevailing fringe benefit rate for that occupation in that district.
 - (c) If less than 10 workers are reported for the occupation within the district, the district prevailing fringe benefit rate is the higher of the highest applicable collectively bargained fringe benefit rate or other predominate, established trade organization fringe benefit funds, plans, or programs for that occupation in that district.
 - (d) If less than 10 workers are reported for the occupation within the district and a collective bargaining agreement or other predominate, established trade organization funds, plans, or programs does not exist for the occupation in that district, a weighted average fringe benefit rate for the district will be computed using data submitted from that district and all contiguous districts.
 - (e) If contiguous district fringe benefit data do not sum to a minimum of 10 workers, a statewide weighted average fringe benefit rate will be calculated for that occupation.
 - (f) If a minimum of 10 workers are not reported for the occupation statewide, no fringe benefit rate will be established for that occupation.
- (5) The commissioner considers current wage rate information on file and as provided in survey responses when setting the standard prevailing rate of wages and fringe benefits for each craft, trade, occupation, or type of workers.
- (a) Wage information will be considered by the commissioner only if such information is received by the Department of Labor and Industry, P.O. Box 8011, Helena, Montana 59604, within the time set by the commissioner.
 - (b) The commissioner may request clarification, additional information, or independent verification of information submitted pursuant to this rule.

- (c) Wage information received during public comment for the update of prevailing wage rates or fringe benefits will not be considered.
- (6) In the event of an incorrect prevailing wage rate or fringe benefit rate being published, the commissioner will review additional data submitted to determine whether the rate is incorrect. If found to be incorrect, the prevailing wage and fringe benefit rates will revert to the last published wage and fringe benefits rate for that occupation that was adopted via the rulemaking and public hearing process. For purposes of this rule, wage information which was not submitted during the survey does not indicate that a rate is incorrect. For temporary rates which have not been adopted via the rulemaking and the public hearing process, a corrected rate will be calculated based on information collected and submitted.
- (7) It is the obligation of any person having possession or knowledge of wage rate information, including collective bargaining agreements that the commissioner should consider, or desires that the commissioner consider, to timely deliver such information to the commissioner.

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

Implementing statute(s): 18-2-401, 18-2-402, 18-2-403, 18-2-413, 18-2-419, MCA

History: NEW, 2013 MAR p. 1977, Eff. 11/1/13; AMD, 2014 MAR p. 3058, Eff. 1/2/15; AMD, 2024 MAR p. 966, Eff. 4/27/24.