



MONTANA
ADMINISTRATIVE
REGISTER



DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2026-174.1

Summary

Updates to the processes and procedures for adopting Montana's prevailing wage rates for public works contracts

Hearing Date and Time

Monday, August 31, 2026, at 2:00 p.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: <https://mt-gov.zoom.us/j/83059123346>

Meeting ID: 830 5912 3346; Password: 4405219562

Dial by Telephone: +1 646 558 8656

Meeting ID: 830 5912 3346; Password: 4405219562

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, September 4, 2026, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, August 24, 2026, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

Rulemaking Actions

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 INSUFFICIENT DATA FOR ZONE PAY OR PER DIEM

- (1) If the department does not receive sufficient data to calculate zone pay or per diem for any trade classification per the procedures in the applicable statutes and rules, including ARM 24.17.119, 24.17.120, 24.17.121, and 24.17.122, the department may reasonably approximate an applicable average zone pay or per diem for a trade classification by considering the information in (2).
- (2) The information to reasonably approximate the applicable average zone pay or per diem in (1) includes, but is not limited to, the department's current or prior year zone pay or per diem rates in the same or a contiguous district; the federal government's current or prior year zone pay or per diem rates in the same or a comparable district; the current or prior year zone pay and travel rates for work of a similar character from the same or a contiguous district; and any other reasonable examples of zone pay and per diem rates adopted in a similar or comparable context.

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

Implementing statute(s): 18-2-402, 18-2-411, 18-2-413, 18-2-414, 18-2-415, 18-2-419, MCA

Reasonable Necessity Statement

The proposed new rule is necessary to effectuate 18-2-419, MCA, which states that if the department does not receive sufficient data to establish zone pay and per diem for a trade classification, “. . . the department may establish a zone pay or a per diem amount that reasonably approximates an applicable average zone pay or per diem rate that is payable for the trade classification.” In general, zone pay and per diem are calculated along with wages and fringe benefits according to the procedures in ARM 24.17.119, 24.17.120, 24.17.121, and 24.17.122. However, if the department does not receive sufficient data to calculate zone pay or per diem for any trade classification, the new rule clarifies what type of information will be considered for the department to “reasonably approximate” zone pay and per diem pursuant to the authority in 18-2-419, MCA.

NEW RULE 2 INFORMAL FEEDBACK ON PROPOSED PREVAILING WAGE RATES

- (1) The department, on behalf of the commissioner, shall seek informal feedback on the proposed prevailing wage rates (Proposed Rates) after the wage surveys are completed, but before the department files the Notice of Proposed Rulemaking (Notice) with the Secretary of State for publication pursuant to 2-4-306, MCA. The Proposed Rates shall be available to the public for informal feedback for a minimum of 14 days before the department files the Notice with the Secretary of State for publication.
- (2) For purposes of this rule, “informal feedback” means any communication from a person to the department regarding the proposed rates, if the communication is received by the department before the Notice is filed with the Secretary of State. Informal feedback may be received by the department in any reasonable communication format, including, but not limited to, emails, phone calls, and comments made during a virtual or in-person meeting.
- (3) For purposes of this rule, “interested person” includes, but is not limited to, individuals, survey participants, industry groups, labor organizations, professional licensing boards, government agencies, other stakeholders, and any other person who is interested in the subject of Montana’s prevailing wage rates.
- (4) To obtain informal feedback, the department shall provide the public with access to the Proposed Rates using typical business practices for disseminating information, and the department shall provide the public with reasonable means to provide any questions, comments, concerns, or additional information to the department. For example, the department may post the Proposed Rates on the department’s website and email all interested persons explaining how to access the Proposed Rates and how to communicate informal feedback to the department.
- (5) Neither the commissioner nor the department are required to provide a response to informal feedback received pursuant to this rule.

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

Implementing statute(s): 18-2-402, 18-2-411, 18-2-413, 18-2-414, 18-2-415, 18-2-419, MCA

Reasonable Necessity Statement

The proposed new rule is necessary to ensure that the commissioner consistently obtains informal feedback from interested persons regarding prevailing wage rates set pursuant to Montana's "Little Davis-Bacon Act" 18-2-401 through 18-2-432, MCA. The survey process for setting the prevailing wage rates requires the department to gather data from employers and calculate the appropriate prevailing wage rates according to procedures in applicable statutes and rules, 18-2-402, MCA. The new rule is necessary to ensure the department seeks informal feedback after the wage rates have been calculated, but before the formal rulemaking process begins pursuant to the Montana Administrative Procedure Act (MAPA), Title 2, chapter 4, part 3, MCA. The department saves both time and resources by seeking informal feedback because the department can correct errors and address stakeholder concerns quickly and more efficiently than after the formal start of MAPA rulemaking. Stakeholders are not required to submit informal feedback in any particular format, and the department is not required to provide formal responses to informal feedback received pursuant to 2-4-304, MCA. In contrast, the department is required to "fully consider," summarize, and provide a written response to all comments received on the published rules during the MAPA rulemaking process per 2-4-305, MCA. Furthermore, addressing any errors or issues before the MAPA rulemaking process generally results in fewer comments and less time and resources needed during the formal rulemaking process. The proposed new rule also ensures another opportunity for public participation in the department's process for setting Montana's prevailing wage rates.

Small Business Impact

Construction companies engaged in public works contracts and government entities will be impacted by this rulemaking. The small businesses impacted by this rule change also include independent service providers hired by construction companies such as plumbers, electricians, carpenters, and cement masons. There is not expected to be a significant or direct impact on small businesses based on these new rules. Prevailing wage rates are set based on statutorily required and specified survey processes to reflect the wages paid. As a result, the wages adopted are expected to align generally with wages previously paid. Documentation relating to the wage rates is available from the department on request.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner