

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.17.119, 24.17.120,) PROPOSED AMENDMENT
24.17.121, and 24.17.122 pertaining)
to prevailing wage rate adoption)

TO: All Concerned Persons

1. On March 28, 2024, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/82078494546>
Meeting ID: 820 7849 4546, Passcode: 374986
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 820 7849 4546, Passcode: 374986

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on March 21, 2024, to advise us of the nature of the accommodation that you need. Please contact the department at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: There is reasonable necessity to update the rules pertaining to prevailing wage rate adoption to clarify that wage information must be submitted during the wage survey process. During recent years, significant wage information has been submitted during the adoption phase of the prevailed rate process. This has led to recalculations during the rulemaking process, which limits the ability of the public to review and ensure the accuracy of wage rate calculations. While the department will consider comments regarding the accuracy of calculations or comments regarding prevailing wage rates in general, the department has determined it is necessary to clarify the survey rules to specify, without ambiguity, that survey information must be submitted during the survey period—and not later.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

24.17.119 ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES AND FRINGE BENEFITS – BUILDING CONSTRUCTION SERVICES
(1) through (4) remain the same.

(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) and (b) remain the same.

(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) remains the same.

AUTH: 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-413, 18-2-419, MCA

24.17.120 ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES AND FRINGE BENEFITS – HEAVY CONSTRUCTION SERVICES

(1) through (4) remain the same.

(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) and (b) remain the same.

(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) remains the same.

AUTH: 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-414, 18-2-419, MCA

24.17.121 ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES AND FRINGE BENEFITS – HIGHWAY CONSTRUCTION SERVICES

(1) through (4) remain the same.

(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) and (b) remain the same.

(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 benefit 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) remains the same.

AUTH: 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-414, 18-2-419, MCA

24.17.122 ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES AND FRINGE BENEFITS – NONCONSTRUCTION SERVICES

(1) through (4) remain the same.

(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) and (b) remain the same.

(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) remains the same.

AUTH: 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-415, 18-2-419, MCA

5. 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 no later than 5:00 p.m., April 5, 2024.

6. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and sosmt.gov/ARM/register.

7. 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

10. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 27, 2024.