

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.17.127, pertaining to)
prevailing wage rates for public works)
projects)

TO: All Concerned Persons

1. On November 16, 2018, the Department of Labor and Industry (department) published MAR Notice No. 24-17-342 regarding the public hearing on the proposed amendment of the above-stated rule on page 2280 of the 2018 Montana Administrative Register, Issue No. 22.

2. On December 7, 2018, a public hearing was held at which time members of the public made oral and written comments and submitted documents. Additional comments were received during the comment period.

3. The department has thoroughly considered the comments and testimony received from the public. The following is a summary of the public comments received and the department's response to those comments:

COMMENT 1: Three members of the Montana Roofers Association stated that metal roofing is incorrectly classified within the duties included under the sheet metal classification, and requested metal roofing be removed from the sheet metal classification and added to the roofer classification.

RESPONSE 1: The department reached out to the Montana chapter of the Sheet Metal and Air Conditioning Contractors' National Association (SMACNA 103), and asked if its members performed metal roofing installation. A representative of the Montana chapter stated the contractors who are members of SMACNA 103 do not perform metal roofing installation. Additionally, when the department receives data from sheet metal contractors who do perform metal roofing, those contractors classify those workers as roofers and at the appropriate roofer wage scale. The department agrees that the change is appropriate and has amended the wage rate publications accordingly as identified in paragraphs 4, 5, and 6.

COMMENT 2: The Montana Roofers Association stated that roofers have jurisdiction over metal wall panels. The commenter stated the same panel used on the roof is used on the wall, the roofing contractor supplies both the roofing and wall panels, and workers' compensation insurance views that work as included within the roofer classification.

RESPONSE 2: The department acknowledges while it may be reasonable to include wall panel installation in the roofer classification, the department's rate survey has not historically requested wage data for that work. Accordingly, the

department lacks data upon which to set a wage and benefit rate for that work. The department will seek that information during its next survey cycle, with the intention to include that work in the roofer classification. Inclusion of that work as being part of the roofer classification in the next survey will provide other trade classifications the opportunity to object if those other trades claim that work is not properly classified as falling under the roofer classification.

COMMENT 3: A commenter expressed concerns over the unpredictability of the wage and benefit rates for roofers in all districts, especially district 4.

RESPONSE 3: The rates for building construction were set correctly pursuant to ARM 24.17.119. The rates can go up or down depending on the quantity and quality of data received. However, the department has received additional data for the roofer classification for all districts. The department has incorporated the data as appropriate and has revised certain rates in line with the rate-setting standards. Revised rates are identified below in paragraph 4.

COMMENT 4: A commenter requested that "gravel conveyor" be added to the Operators Group 2 classification for building, heavy, and highway construction services.

RESPONSE 4: The department recognizes that because operating engineers are so specialized as to have no reasonable jurisdictional disputes over such work. The department has incorporated the gravel conveyor work as appropriate. Revised occupational descriptions are identified below in paragraphs 4, 5, and 6.

COMMENT 5: A commenter opposed the prevailing wage rates for all building Group 2 Laborers proposed in ARM 24.17.127(1)(e), especially the benefit amounts. The same commenter also opposed the wage and benefit rates for all groups in the heavy construction rate schedule proposed in ARM 24.17.127(1)(g).

RESPONSE 5: The department has reviewed the rates. The rates for building construction were correctly set pursuant to ARM 24.17.119. However, the department has received additional data for the Laborer Group 2 classification for all districts. The department has incorporated the data as appropriate and has revised certain rates in line with the rate-setting standards. Revised rates are identified below in paragraph 4. The rates for heavy construction were set correctly pursuant to ARM 24.17.120. No new data was presented to the department. The heavy construction rates for Laborer Group 2 in all districts remain the same.

COMMENT 6: Various individuals and entities submitted additional data or documents for inclusion in the rate-setting process during the comment period.

RESPONSE 6: The department has reviewed the information submitted. The department has incorporated the data as appropriate and has revised certain rates in line with the rate-setting standards. Revised rates are identified below in paragraphs 4 and 5.

4. The following occupational descriptions and rates in the "Montana Prevailing Wage Rates for Building Construction Services 2019" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Construction Equipment Operators Group 2

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batcher; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Gravel Conveyor; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant.

Construction Laborers Group 2

	Wage	Benefit
District 1	\$17.65 <u>19.11</u>	\$6.24 <u>6.92</u>
District 2	\$20.97 <u>22.35</u>	\$9.22
District 3	\$21.49 <u>22.67</u>	\$5.18
District 4	\$18.90 <u>20.87</u>	\$3.86 <u>4.93</u>

Heating and Air Conditioning

	Wage	Benefit
District 1	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 2	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 3	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 4	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>

Roofers

	Wage	Benefit
District 1	\$19.83 <u>20.23</u>	\$12.48 <u>8.63</u>
District 2	\$20.61 <u>16.00</u>	\$ 9.08
District 3	\$20.61 <u>19.33</u>	\$-9.08 <u>4.52</u>
District 4	\$23.71 <u>19.45</u>	\$-9.47 <u>4.31</u>

Duties Include:

Metal roofing.

Sheet Metal Workers

	Wage	Benefit
District 1	\$27.93 <u>29.62</u>	\$15.04 <u>18.00</u>
District 2	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 3	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>
District 4	\$28.51 <u>29.62</u>	\$17.91 <u>18.00</u>

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work. Manufacture, fabrication, assembling, installation, dismantling, and alteration of all HVAC systems, air veyer systems, and exhaust systems. All lagging over insulation and all duct lining. Metal roofing.

Tilelayers, Terrazzo and Marble Finishers

No Rate Established

Wage	Benefit
\$20.72	\$13.61
\$20.72	\$13.61
\$20.72	\$13.61
\$20.72	\$13.61

Tilelayers, Terrazzo and Marble Setters

No Rate Established

Wage	Benefit
\$28.59	\$13.62
\$28.59	\$13.62
\$28.59	\$13.62
\$28.59	\$13.62

Truck Drivers

No Rate Established

Wage	Benefit
\$25.07	\$7.06
\$24.56	\$8.01
\$25.07	\$7.06
\$25.07	\$7.06

5. The following occupational descriptions and rates in the "Montana Prevailing Wage Rates for Heavy Construction Services 2019" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Construction Equipment Operator Group 2

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batcher; Concrete Float & Spreader; Concrete

Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Gravel Conveyor; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepsfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant.

Heating and Air Conditioning

Wage	Benefit
\$28.54 <u>29.62</u>	\$17.94 <u>18.00</u>

Sheet Metal Workers

Wage	Benefit
\$28.54 <u>29.62</u>	\$17.94 <u>18.00</u>

Duties Include:

Testing and balancing, commissioning and retro-commissioning of all air-handling equipment and duct work. Manufacture, fabrication, assembling, installation, dismantling, and alteration of all HVAC systems, air conveyer systems, and exhaust systems. All lagging over insulation and all duct lining. Metal roofing.

6. The following occupational descriptions in the "Montana Prevailing Wage Rates for Highway Construction Services 2019" publication, incorporated by reference in the rule, have been amended as follows, stricken matter interlined, new matter underlined:

Construction Equipment Operator Group 2

This group includes but is not limited to:

Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batchter; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Gravel Conveyor; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepsfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant.

7. The department has amended ARM 24.17.127 as proposed, but with the changes to the various publications as noted above. The 2019 rates will be effective January 26, 2019, and are applicable to contracts noticed for bids on or after that date.

/s/ Mark Cadwallader
Mark Cadwallader
Alternate Rule Reviewer

/s/ Galen Hollenbaugh
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 15, 2019.