

Public Work Regulations

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS
OF THE STATE OF NEW YORK
TITLE 12. DEPARTMENT OF LABOR
CHAPTER III. BUREAU OF PUBLIC WORK
PART 220. SUPPLEMENTS; EFFECTIVE DATES OF ANNUAL DETERMINATIONS;
REST PERIODS

Section 220.1 Definition of supplements.

Supplements, as defined in subdivision 5(b) of section 220 of the Labor Law, may include, but are not necessarily limited to, medical, dental or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or training or other similar programs, but only where the contractor or subcontractor is not required by other Federal, State or local law to provide such benefits.

Section 220.2 Contribution and computation of supplements.

(a) For purposes of subdivision 3 of section 220 of the Labor Law, supplements shall include the amount of:

(1) any contribution irrevocably made by a contractor or subcontractor on behalf of laborers, workers and mechanics to a fund, plan or program to provide supplements;

and

(2) the cost to the contractor or subcontractor which is actually incurred in providing supplements not covered by paragraph (1) of this subdivision to laborers, workers and mechanics, provided such supplements are enumerated in the current annually determined prevailing wage rate schedule promulgated by the Commissioner of Labor for the applicable trade or occupation in the locality.

(b) Any portion or all of the supplement obligations of a contractor or subcontractor may be satisfied by paying to the laborers, workers and mechanics affected in cash with the regular weekly wages, the cost of such supplement(s) as contained in the current annually determined prevailing wage rate schedule.

(c) (1) An employer must furnish to the Commissioner of Labor, upon request, within 10 days, proof of any supplements provided or amounts paid to or on behalf of its employees in satisfaction of its obligation to provide prevailing supplements.

(2) If an employer provides any supplement which is part of a fund, plan or program as set forth in paragraph (a)(1) of this section, it must furnish to the Commissioner of Labor, upon

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request, within 10 days, proof that the supplement is provided through a fund, plan or program and the amount contributed on the employees' behalf to such fund, plan or program.

(3) The failure of an employer to provide the Commissioner of Labor with proof of any prevailing supplements paid or provided to or on behalf of its employees shall result in an investigatory finding that supplements were not paid or provided in violation of the second unnumbered paragraph of subdivision 3 of section 220 of the Labor Law.

(d) To determine the hourly cash equivalent of any applicable supplement provided to or on behalf of laborers, workers and mechanics employed upon public work projects in accordance with subdivision (a) of this section, the Commissioner of Labor will:

(1) divide the actual contribution or cost for providing such supplement by the total annual hours worked on both public and private work, where such proof is provided to the Commissioner of Labor by the employer;

(2) divide the actual annual contribution or cost for providing such supplement by 2080 hours (8 hours per day x 5 days per week x 52 weeks), where proof of the total annual hours worked by the employee on both public and private work is not provided to the Commissioner of Labor by the employer;

(3) divide the actual annual contribution or cost for providing such supplement by 1820 hour (7 hours per day x 5 days per week x 52 weeks), where proof of the total annual hours worked by the employee on both public and private work is not provided to the Commissioner of Labor by the employer but proof is provided establishing that the employee worked only 7 hours per day (excluding meal periods).

Section 220.3 Effective dates of annual determinations.

Updated schedules of prevailing rates of wages and supplements as annually promulgated by the Commissioner of Labor pursuant to paragraphs (a) and (c) of subdivision 5 of section 220 of the Labor Law, shall become effective on July first of each year, regardless of the date on which such prevailing wage rate schedule is received by the Department of Jurisdiction, the Contractor or any Subcontractor. The Contractor and /or any Subcontractor shall be responsible for paying all laborers, workers and mechanics employed upon new or ongoing public work projects the current prevailing rates of wages and supplements, as reflected in such updated schedules, effective July first of each year.

Section 220.4 Rest periods.

Rest periods of 20 consecutive minutes or less are considered as time worked upon a public work project and must be compensated as such in accordance with subdivision 3 of section 220 of the Labor Law. Rest periods include coffee breaks and time for snacks, but do not include bona fide meal periods.