

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.29.221 pertaining to use of) PROPOSED AMENDMENT
signatures when documents are being)
electronically transmitted)

TO: All Concerned Persons

1. On February 17, 2021, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the novel coronavirus, 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/98264309140>, Meeting ID: 982 6430 9140; or
- (b) Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 982 6430 9140.

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The 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 February 10, 2021, to advise us of the nature of the accommodation that you need. Please contact Cindy Zimmerman, Employment Relations Division, P.O. Box 8011, Helena, Montana 59604-8011; telephone (406) 444-1752; facsimile (406) 444-4140; Montana TTD (406) 444-5549; or e-mail cindy.zimmerman@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

24.29.221 USE OF SIGNATURES WHEN DOCUMENTS ARE BEING ELECTRONICALLY TRANSMITTED ~~(1) The department may accept signatures in an electronically reproduced format on claims filing forms and petitions for settlement. The document must bear an original, manual signature, but it may be transmitted to the department electronically. The document may be transmitted to the department by means of:~~

- ~~(a) a fax copy;~~
- ~~(b) a portable document format (.pdf copy), transmitted electronically;~~
- ~~(c) an electronic scan, transmitted electronically; or~~
- ~~(d) a photocopy.~~

(1) For purposes of Title 39, chapter 71, MCA, except those which require a signature under oath, the department accepts electronic signatures as follows:

(a) an electronic scan or photocopy of a manual signature for documents transmitted to the department by fax or attached to electronic mail or File Transfer Service in portable document format; or

(b) a signature properly authenticated and verified by an electronic signature for which appropriate auditable records are available. Audit reports or records supporting the signature must be produced to the department upon request.

~~(2) The department may, in its sole discretion, accept appropriately authenticated digital signatures on documents, except as provided in (4).~~

~~(3) remains the same but is renumbered (2).~~

~~(4) Electronically reproduced signatures are not accepted by the department for independent contractor exemption certificate applications or waivers, in order to ensure that all such signatures are genuine and made under oath as provided by law.~~

AUTH: 39-71-203, MCA

IMP: 39-71-203, 39-71-717, MCA

REASON: Reasonable necessity exists to amend this rule to facilitate the further utilization of electronic signature tools. The department has accepted some electronic signatures since initial adoption of this rule. However, due to the nature of current working environments further expansion of the rule will permit parties to take advantage of electronic tools available. Subsection (1)(b) is expressly intended to permit the use of such services as DocuSign, RightSignature, similarly auditable proprietary software, and the like. Requirements of audit records are satisfied by the submission of completion certificates, signature certificates, and similar, which support the appropriate authentication and verification of signatures.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Cindy Zimmerman, Employment Relations Division, P.O. Box 8011, Helena, Montana 59604-8011; or e-mail cindy.zimmerman@mt.gov, and must be received no later than 5:00 p.m., February 26, 2021.

5. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Laura Ducolon, P.O. Box 1728, Helena, Montana 59624-1728 or e-mailed to laura.ducolon@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

6. An electronic copy of this notice of public hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of

Events, Administrative Rules Hearings Section. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

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

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

9. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/s/ Quinlan L. O'Connor
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ Laurie Esau
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 5, 2021.