

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

In the matter of the amendment of)
ARM 24.22.322, 24.22.327,)
24.22.331, and 24.22.335 and the)
repeal of ARM 24.22.338 pertaining to)
incumbent worker training (IWT))
program)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On June 9, 2022, 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 and repeal of 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/81010847021>, Meeting ID: 810 1084 7021, Passcode: 834382; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 810 1084 7021, Passcode: 834382.

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 June 2, 2022, to advise us of the nature of the accommodation that you need. Please contact Michelle Robinson, Workforce Services Division, P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-3351, facsimile (406) 444-4140, or Montana Relay Service at 711; or e-mail Michelle.Robinson@mt.gov.

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

24.22.322 DEFINITIONS For the purposes of this subchapter, the following definitions apply:

- (1) and (2) remain the same.
- ~~(3) "Department" means the Department of Labor and Industry.~~
- ~~(4) "Employer":~~
- ~~(a) means a for profit or non-profit business entity that:~~
- ~~(i) employs no more than 50 employees statewide; and~~

~~(ii) is properly registered with the secretary of state to conduct business as a sole proprietor, if required, or as a corporation, a partnership, a limited liability company, or an association; but~~

- ~~(b) does not include governmental entities.~~
(5) remains the same but is renumbered (3).

AUTH: 53-2-1220, MCA
IMP: 53-2-1217, 53-2-1218, MCA

REASON: There is reasonable necessity to repeal the definitions of "department" and "employer" because they are duplicative of the definitions set forth in statute.

24.22.327 GENERAL REQUIREMENTS REGARDING TRAINING

(1) through (2)(b) remain the same.

(c) an ~~other~~ entity or individual approved by the department, meeting the criteria contained in (3), to provide workforce training.

(3) An ~~other~~ entity or individual may be approved by the department to provide workforce training. The department may, in its discretion, reduce a grant or disapprove an individual or entity if the costs or rates are significantly in excess of costs or rates of similar training. The individual or entity may be approved based on one or more of the following criteria:

(a) through (6) remain the same.

AUTH: 53-2-1220, MCA
IMP: 53-2-1217, 53-2-1218, MCA

REASON: Reasonable necessity exists to amend the rule to clarify that a training provider may be rejected if the rates charged by the provider far exceed what appears to be reasonable and customary. The department retains the discretion to deny such trainers or award a lesser grant amount.

24.22.331 GRANT APPLICATION PROCESS (1) and (2) remain the same.

(3) The department shall verify that the applicant is an employer ~~that meets the definition in ARM 24.22.322~~ and that the information contained in the application is accurate and complete.

(4) through (10) remain the same.

AUTH: 53-2-1220, MCA
IMP: 53-2-1217, 53-2-1218, MCA

REASON: Reasonable necessity exists to amend this rule because the cross-referenced definition is proposed to be repealed in favor of the statutory definition of the term.

24.22.335 EVALUATION OF GRANT APPLICATIONS AND LIMITATIONS

(1) through (6)(a) remain the same.

(b) conferences, ~~or~~ except that training that occurs in conjunction with a conference may be permissible;

(c) and (d) remain the same.

(7) Grants are funded on the basis of the state fiscal year. Funding may not exceed:

(a) \$1,000 per incumbent worker working an average of 20 to 34 hours a week, predominantly year round; and

(b) \$2,000 per incumbent worker working an average of 35 or more hours a week, predominantly year round.

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: Reasonable necessity exists to amend this rule to permit trainings that take place with a conference to be funded in instances where they meet the requirements of the program. While conferences generally do not meet the requirements of the IWT program because they do not individually upskill a worker, conferences sometimes have associated, targeting programming which does meet the purposes of the IWT program. The department is expanding its present rule to ensure that such training may be funded. Reasonable necessity exists to adopt (7) because it is transferred from ARM 24.22.338, the remainder of which is unnecessary due to a new grant application process. As such, the section is not new from what has previously been required.

4. The rule proposed to be repealed is as follows:

24.22.338 AWARD OF GRANT

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: Reasonable necessity exists to repeal this rule because the new application process for the grant will include the fiscal agreement and require the various documentation required to complete the grant process. Section (4) remains important and is therefore proposed to be recodified in ARM 24.22.335.

5. 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 Michelle Robinson, Workforce Services Division, P.O. Box 1728, Helena, Montana 59624-1728; facsimile (406) 444-4140; or e-mail Michelle.Robinson@mt.gov, and must be received no later than 5:00 p.m., June 10, 2022.

6. 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 contact person in paragraph 2 above or may be made by completing a request form at any rules hearing held by the agency.

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 in that these changes are primarily to form. That said, the IWT program significantly benefits small business in Montana by providing a means to upskill employees—a benefit to the workers and the employers. Changes incorporated in this proposal additionally facilitate a new application system, which is expected to make easier the application process for users.

9. Department staff 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 May 3, 2022.