

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.33.121, 24.33.135,	)	PROPOSED AMENDMENT AND
24.33.142, and 24.33.151 and the	)	REPEAL
repeal of ARM 24.33.111 and	)	
24.33.131 pertaining to construction	)	
contractors	)	

TO: All Concerned Persons

1. On April 12, 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/89334113696>  
Meeting ID: 893 3411 3696, Passcode: 276282  
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656  
Meeting ID: 893 3411 3696, Passcode: 276282

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 April 5, 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](mailto:laborlegal@mt.gov).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: It is necessary to amend these rules in furtherance of Executive Order No. 1-2021, requiring agencies to review administrative rules for the purpose of reducing red tape. In general, the amendments proposed in this rulemaking are designed to shorten, simplify, and clarify the administrative rules pertaining to construction contractors.

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

24.33.121 CONSTRUCTION CONTRACTOR REGISTRATION  
APPLICATIONS AND FEES (1) The fee for the issuance, renewal, or reinstatement of a construction contractor certificate of registration is \$70. The fee is not refundable.

- ~~(a) The fee is nonrefundable for applicants.~~
- ~~(b) An applicant will have a maximum of six months to submit the required information for approval. After six months, the applicant must resubmit the \$70 fee and a new application.~~

~~(2) If a business changes, adds, or removes an FEIN structure changes to require an FEIN (or not require an FEIN), a new application and \$70 application fee must be submitted.~~

(2) An incomplete application will be deemed denied after 30 days. An applicant may submit required, missing information for consideration of the application within 180 days of initial application. After that time, the applicant must pay another application fee.

(3) The department may verify any application information, or other requirements of registration, as it deems necessary.

AUTH: 39-9-103, MCA

IMP: 39-9-206, MCA

REASON: There is reasonable necessity to amend this rule structurally to simplify readability. Provisions for incomplete applications are incorporated from ARM 24.33.111, which is proposed to be repealed. Section (3) is proposed to clarify that the department is able to verify any application information to ensure applicants meet the requirements of law. This new section eliminates the need for ARM 24.33.131, which had set forth various ways in which the department would conduct verifications. Verification will remain consistent with business practice.

24.33.135 SUSPENSION OF CONSTRUCTION CONTRACTOR REGISTRATION (1) through (1)(b) remain the same.

~~(c) failure to report a change in status as required by ARM 24.33.142; and comply with any law or rule pertaining to construction contractors, including compliance with the Workers' Compensation Act.~~

~~(d) failure to maintain workers' compensation coverage, if required.~~

~~(2) In addition to suspension, the department may assess penalties pursuant to the provisions of 39-9-301 and 39-9-401, MCA.~~

AUTH: 39-9-103, MCA

IMP: 39-9-204, 39-9-301, 39-9-401, MCA

REASON: Amendment to (1) is necessary to clarify that any violation of construction contractor law may result in a suspension of a contractor registration (CR). Reasonable necessity exists to strike (2) because it is not necessary to state in rule what is already in statute.

24.33.142 REPORTING CERTIFICATE CHANGES (1) through (1)(b) remain the same.

~~(c) FEIN;~~

~~(d) and (e) remain the same but are renumbered (c) and (d).~~

~~(f) (e) addition change to ownership;~~

~~(g) and (h) remain the same but are renumbered (f) and (g).~~

~~(i) (h) any change in principal(s) of the business business officers, members, or partners which has been or must be reported in filings with the Secretary of State.~~

~~(2) remains the same.~~

AUTH: 39-9-103, MCA

IMP: 39-9-201, 39-9-206, 39-9-301, 39-9-303, MCA

REASON: Reasonable necessity exists to strike FEIN from this rule because pursuant to ARM 24.33.121, a change in FEIN requires a new application for CR.

24.33.151 CERTIFICATES OF REGISTRATION (1) and (1)(a) remain the same.

(b) "~~EMPLOYEES ONLY~~ EMPLOYER" means the contractor carries workers' compensation coverage on employees and is registered to have employees.

(c) "LEASED EMPLOYEES ONLY" means the contractor uses employees of a professional employer organization, as defined at 39-8-102, MCA. ~~These employees are presumably covered with workers' compensation and unemployment insurance through the leasing company.~~

(d) remains the same.

(2) Along with a certificate, each certificate holder will receive a construction contractor registration wallet card ~~and a vehicle decal. The department shall review requests for more than one decal or card on an individual basis.~~

~~(3) To increase public visibility of the construction contractor registration program, the department may provide one participant gift per year to each registered contractor (i.e., baseball caps, flashlights, etc., as determined by the department).~~

AUTH: 39-9-103, MCA

IMP: 39-9-204, MCA

REASON: Reasonable necessity exists to amend terms for CR coverage to provide greater clarity as to workers' compensation coverage. Subsection (1)(c) is proposed to be amended to strike the presumption of coverage. CRs are required to ensure coverage for their employees. Professional employer organizations may provide that coverage, but the presumption set forth in the rule is superfluous. Section (2) is proposed to be amended and (3) removed because vehicle decals are no longer provided, and tracking of participant gifts by recipient is not required.

5. The rules proposed to be repealed are as follows:

24.33.111 ADDITIONAL APPLICATION INFORMATION

AUTH: 39-9-103, MCA

IMP: 39-9-201, MCA

REASON: There is reasonable necessity to repeal this rule because it is partially duplicative of ARM 24.33.121, and the remainder is more simply understood by incorporation into that rule.

24.33.131 EVIDENCE OF COMPLIANCE WITH LAWS

AUTH: 39-9-103, MCA  
IMP: 39-9-201, MCA

REASON: There is reasonable necessity to repeal this rule because its substance—departmental verification of applications—is included within ARM 24.33.121. While other verifications may be needed or submitted by applicants, it is not necessary to state these business processes within administrative rule. See also the REASON for ARM 24.33.121.

6. 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](http://dli.mt.gov/rules) or P.O. Box 1728; Helena, Montana 59624. Comments must be received no later than 5:00 p.m., April 19, 2024.

7. An electronic copy of this notice of public hearing is available at [dli.mt.gov/rules](http://dli.mt.gov/rules) and [sosmt.gov/ARM/register](http://sosmt.gov/ARM/register).

8. 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](http://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.

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

10. 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.

11. 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 March 12, 2024.