



**MONTANA
ADMINISTRATIVE
REGISTER**



DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-239.1

Summary

Revising professional employer organization rules

Hearing Date and Time

Friday, November 28, 2025, at 1:00 p.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: <https://mt-gov.zoom.us/j/85301182673>

Meeting ID: 853 0118 2673; Password: 8730290484

Dial by Telephone: +1 646 558 8656

Meeting ID: 853 0118 2673; Password: 8730290484

Comments

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 or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, December 5, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, November 21, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.38.101 NEW APPLICATIONS - DENIALS

- (1) An applicant for initial licensure must submit all information and documentation required by statute and rule.
- (2) As contemplated by 39-8-202(8), MCA, an applicant accredited by the Employer Services Assurance Corporation, as shown by affidavit, fulfills the requirements of 39-8-202(6) and (7), MCA.
- ~~(2)~~(3) An application that does not contain all required information and documentation is incomplete. Upon receipt of an incomplete application from a newly applying PEO, the department will notify the applicant in writing that the PEO has 90 days six months from the date that the original application was received to submit a completed application. An application may be denied for incompleteness after six months.
 - ~~(a) If a complete application is not received within the 90-day deadline, the application will be denied.~~
 - ~~(b) An extension of the application process may be requested in writing by a controlling person and will be evaluated on a case-by-case basis.~~

Authorizing statute(s): 39-8-201, MCA

Implementing statute(s): 39-8-202, 39-8-203, 39-8-207, MCA

Reasonable Necessity Statement

There is reasonable necessity to amend this rule to recognize that certain paperwork is not necessary to be submitted to the department with an application when applying entities are accredited by the Employer Services Assurance Corporation (ESAC). The amendment proposes to simplify applications and limit the paperwork necessary to become a licensed PEO. Section (3) is proposed to be amended to simplify the rule and to clarify and extend the timelines for denial of an application based on incompleteness.

24.38.105 RENEWAL APPLICATIONS - DENIALS

- (1) ~~Except as set forth in (2),~~ A complete renewal application must be submitted to the department at least 30 days prior to the license expiration.
- (2) Waiver of specific documentation requirements set forth in ARM 24.38.101 apply to renewals in this rule.
- ~~(2) A renewal application submitted less than 30 days prior to license expiration must be accompanied by a request for extension. An incomplete renewal application submitted less than 30 days prior to license expiration is subject to summary denial.~~
- ~~(3) Request for extension will be considered on a case-by-case basis and will be granted in the department's sole discretion. At minimum, the request must contain:~~
 - ~~(a) the specific length of extension sought; and~~
 - ~~(b) the reason extension is necessary, including circumstances outside the requestor's control.~~

Authorizing statute(s): 39-8-201, MCA

Implementing statute(s): 39-8-202, 39-8-203, 39-8-204, 39-8-206, MCA

Reasonable Necessity Statement

There is reasonable necessity to strike (2) and (3) because they substantially duplicate 39-8-204, MCA. There is reasonable necessity to adopt new (2) to recognize that paperwork waivers recognized by the department in new applications apply equally to renewal applications.

24.38.111 SUSPENSION, REVOCATION, NONRENEWAL - APPEAL - IMMEDIATE CESSATION OF OPERATIONS

- (1) The PEO may appeal the suspension, revocation, or nonrenewal by submitting a written request within 30 days of receiving the notice of suspension, revocation, or denial by the means specified in the notice. ~~The appeal must be submitted to dlierdpeo@mt.gov.~~
- (2) When the suspension or revocation of a provisional or regular license is appealed, the department may order an immediate cessation of operations if:
 - (a) the PEO does not maintain a valid workers' compensation policy; or
 - (b) other circumstances determined by the department warrant immediate cessation of operations.

Authorizing statute(s): 39-8-201, MCA

Implementing statute(s): 39-8-203, 39-8-204, 39-8-206, MCA

Reasonable Necessity Statement

There is reasonable necessity to amend this rule to eliminate reference to an incorrect e-mail address. Instead, the rule proposes to recognize that the means to effectuate an appeal are set forth in the notice of action.

24.38.125 PROFESSIONAL EMPLOYER ORGANIZATIONS

- (1) PEOs must meet all recordkeeping and reporting obligations applicable to all other employers pursuant to the Unemployment Insurance Law.
- (2) Concurrent with the report required by ARM ~~24.11.2711~~ 24.40.1609, PEOs must submit quarterly to unemployment insurance a report detailing:
 - (a) for each client:
 - (i) client name; and
 - (ii) client federal employer identification number;
 - (b) for each leased employee:
 - (i) name;
 - (ii) social security number; and
 - (iii) for each client for which the leased employee worked, the wages paid.

- (3) Failure to submit filings pursuant to this rule may subject a PEO license to suspension, revocation, or refusal to renew.

Authorizing statute(s): 39-8-201, 39-51-301, MCA

Implementing statute(s): 39-8-207, 39-8-302, 39-51-1219, MCA

Reasonable Necessity Statement

There is reasonable necessity to amend this rule to include the correct cross reference to the unemployment insurance rules.

ADOPT

The rule proposed to be adopted is as follows:

NEW RULE 1 (24.38.107) QUARTERLY FILINGS

- (1) The department waives the requirement of quarterly filings set forth in 39-8-207(2)(b), MCA for those PEOs who have:
 - (a) submitted an affidavit from and are certified and in good standing with the Employer Services Assurance Corporation; or
 - (b) submitted an affidavit demonstrating that they are a certified PEO, as defined at 26 U.S.C. 7705.

Authorizing statute(s): 39-8-207, MCA

Implementing statute(s): 39-8-207, MCA

Reasonable Necessity Statement

Section 39-8-207, MCA, authorizes the department to waive quarterly filing requirements for PEOs who submit an affidavit from a certifying body which evaluates the same or similar criteria. In furtherance of efforts to eliminate burdensome paperwork, the department proposes to recognize ESAC and CPEO as to certifications meeting these requirements.

Small Business Impact

This rulemaking is expected to impact professional employer organizations licensed in Montana. The rulemaking is expected to reduce paperwork obligations and streamline licensing efforts for these PEOs. However, there is not expected to be a significant and direct monetary impact on PEOs.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

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 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.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner