



State of Montana
Department of Natural Resources and Conservation
Small Business Impact Analysis (2-4-111, MCA)

In the matter of the amendment of ARM 36.21.415, 36.21.661 and the repeal of ARM 32.21.413 pertaining to water well licensing and construction standards

Montana Administrative Register No. 36-22-213

April 15, 2022

Definitions:

Significant and Direct Impact: The Governor's Office Economic Development (GOED) defines that a "significant" impact means a proposed rule which will result in significant operational changes, costs, or advantages/disadvantages for small businesses. GOED interprets the term "directly" to mean impacts that result from the application of a proposed rule directly to small businesses. If a proposed rule does not and cannot be applied directly to small businesses, the requirements of § 2-4-111, MCA, do not apply.

Small Business: "Small business" means a business entity, including its affiliates, which is independently owned and operated and employs fewer than 50 full-time employees (§ 2-4-102(13), MCA). GOED interprets small business to apply to privately owned, for profit entities that may be identified by class or group.

In order to accurately predict the impact the adoption, amendment, or repeal a rule will have on Montana small businesses, a determination regarding whether the rule will or will not significantly and directly impact Montana small businesses must be made. This determination not only considers the potential effects of the action, but also quantifies the costs, if any, associated with each.

Agency Submitting Rules: Department of Natural Resources and Conservation; Board of Water Well Contractors.

Subject Matter of Rules: Water Well Drilling and Monitoring Well Constructor's license fees increase.

- MCA 37-43-202 authorizes the board to collect funds that are to be deposited in the states special revenue fund.
- The fee increase will allow the board of water well contractors to operate with a positive cash balance. The last license fee increase was in 2013
- The exam fees and the three (3) active license fees will be increased \$200. All other fees will not be increased.

Rules Proposed to be Amended. Admin. R. Mont. 36.21.415; 36.21.661

Rule Proposed to be Repealed. Admin. R. Mont. 36.21.413

Authority: 37-43-101, 37-43-202, MCA

Other Agencies Affected: None

Other Rules That May Duplicate or Conflict with the Rules: None.

Describe the Scope and Objectives of the Rule: The Board of Water Well Contractors is required to set fees commensurate with program costs (37-43-202, MCA). Based on an evaluation of program cost and revenues, an increase in fees is necessary. The active license fees would be increased \$200 per license. 214 people will be affected with a total increase in revenue of \$42,800 annually. Current license fees are as follows: Water Well Contractor: \$375, Water Well Driller: \$275, Monitoring Well Constructor: \$375, and combination Water Well Driller/Monitoring Well Constructor: \$375. The fee for apprentice water well driller registration has been removed because it is obsolete. The price increase of copies of the law and rule books is increase due to increase in cost of printing and mailing.

Business Industries Affected by the Rule: Water well drilling companies and businesses that have licensed monitoring well constructors, which are mostly engineering companies.

Types of Businesses Included in the Industries: Water well drilling, engineering companies, and any company with groundwater interests.

Total Number of Small Businesses Included in the Regulated Industries: Approximately 127 businesses

Number of Small Businesses Potentially Subject to the Proposed Rule: Any small business in the State of Montana with current licensed water well drillers and monitoring well constructors

Effective Date Used in Cost Estimate: When rules will be effective

Will small businesses have to create, file, or issue additional reports? No

Will small businesses have to implement additional recordkeeping procedures? No.

Will small businesses have to provide additional administrative oversight? No. The administrative requirements of the proposed rules are of the type necessary for the normal operation of business.

Will small businesses have to hire additional employees in order to comply with the proposed rule? No. The proposed rules will not require additional employees.

Does compliance with the rule require small businesses to hire other professionals?

No. Small businesses will be able to comply with current staff.

Does the rule require small businesses to purchase a product or make any other capital investments in order to comply with the rule? No.

Does the rule require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities? No.

Will the rule have the effect of creating additional fees and/or costs for small businesses? Yes, the increase of license fees from \$375 a year to \$575 a year for a water well contractor's license, a monitoring well constructor's license, and a combination license of water well driller and monitoring well constructor's licenses. Increase of license fees for a water well driller's license from \$275 to \$475 per year.

If fees and/or costs will be imposed, what is the dollar value of direct costs for affected small businesses? The increase of license fees from \$375 a year to \$575 a year for a water well contractor's license, a monitoring well constructor's license, and a combination license of water well driller and monitoring well constructor's licenses. Increase of license fees for a water well driller's license from \$275 to \$475 per year.

Does the rule require small businesses to provide educational services to keep up to date with rule requirements? No.

Is the rule likely to deter the formation of small businesses in Montana? No.

Is the rule likely to encourage the formation of small businesses in Montana? No.

Can the rule provide for less stringent compliance or reporting requirements for small businesses? No.

Can the rule establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. There are no reporting requirements for the proposed rules.

Can the compliance or reporting requirements be consolidated or simplified for small businesses? No. There are no reporting requirements for the proposed rules.

Are there alternative regulatory methods that would minimize the significant and direct impact on small businesses? No. The proposed license fee increase is limited to the water well drilling industry.

Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe. Yes. The Montana Water Well Drillers Association was contacted. The Association is in full support of the license fee increase.