

567—54.7(455B) Settlement procedures.

54.7(1) Settlement options. At the same time as notification prescribed in subrule 54.6(2) or upon notice to the applicant of verified well interference according to 567—subrule 50.7(2), the department will also advise the permittee or applicant of available settlement options including:

- a. Permanent permit modifications (i.e., reduced pumping rate or scheduled pumping).
- b. Compensation to the complainant (see subrule 54.7(3) and guidelines in Bulletin No. 23).

In situations in which verified well interference has occurred due to an existing permitted use, the permittee shall notify the department of the selected option within 30 days of notification.

54.7(2) Compensation offer requirements. If the compensation option is selected, the applicant or permittee shall submit a notarized offer to the complainant and the department. This offer shall be submitted by a permittee within 30 days of the notification prescribed in subrules 54.6(2) and 54.7(1). An offer must include the following:

- a. Written comments by a certified well contractor or licensed professional engineer detailing well improvements needed in order to provide the complainant with a sufficient water supply.
- b. Itemized costs of the improvements by a certified well contractor with a breakdown of costs eligible for compensation (see subrule 54.7(3) and guidelines in Bulletin No. 23).
- c. A water quality analysis of the existing well water, if a new well is proposed. The analysis shall include, at minimum, determination of nitrate, bacteria, iron and hardness.
- d. A statement of what is being offered to the complainant and terms of the offer (timing, who will do the work, cash or completed work settlement, etc.).

54.7(3) General criteria for cost liability. The nonregulated well owner's cost for well inspection and test pumping are eligible for compensation. All costs for remedial work necessary to resolve a verified well interference problem are eligible for compensation, except as noted below. (Technical Bulletin No. 23 includes additional details on cost liability.)

- a. When the existing well does not comply with applicable well construction standards (567—Chapter 49), costs which are required to bring the well "up to standards" are not eligible for compensation.
- b. Costs for work requested by the nonregulated well owner which result in upgrading the nonregulated water supply are not eligible for compensation.
- c. Costs for legal fees are not eligible for compensation.
- d. Operation and maintenance costs of the water supply system are not eligible for compensation.
- e. Costs of the well rejuvenation, unless the well still fails to provide a sufficient water supply after well rejuvenation requested by the permittee is completed, are not eligible for compensation.
- f. Costs due to temporary loss of water for such things as hauling water and going to a laundromat are not eligible for compensation, unless the permittee refuses to comply with an emergency order by the department.

54.7(4) Complainant's response to the offer. The complainant shall respond in writing to the department within 15 days of receipt of the offer. The response shall indicate acceptance or rejection of the offer. If the offer is rejected, the complainant shall submit a counteroffer with the response. The counteroffer shall contain supporting information including an itemized cost estimate of needed improvements by a certified well contractor or licensed professional engineer, if appropriate.

54.7(5) Department review of offer and counteroffer. The department will review the offer and counteroffer and determine if the offer is reasonable in accordance with criteria given in Bulletin No. 23. If the offer is determined to be reasonable but is rejected by the complainant, the complainant will be given 15 days to reconsider the offer after which the complaint will be dismissed and any suspension or restrictions on withdrawals by the permittee will be removed or, in the case of an application, the permit process will be continued. A dismissal may be appealed by the complainant as provided in rule 54.10(455B).

If the offer is not found to be reasonable, the permittee will be given one opportunity to revise the offer in accordance with determinations of the department. If a revised offer is not received within 15 days or the revised offer is determined by the department not to be reasonable, the department will determine the amount of compensation or withdrawal restrictions to resolve the well interference. This determination

will be enforced through the imposition of permit conditions, or permit revocation or denial. In the case of an existing permit the department will modify or revoke the permit as provided in 567—subrule 52.7(1). For a pending permit application the department will render an initial decision pursuant to rule 567—50.8(455B) which denies the application or subjects the permit to appropriate conditions.