

## Chapter NR 123

## WELL COMPENSATION PROGRAM

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Note: Chapter NR 123 was created by emergency rule effective January 1, 1985. Chapter NR 123 was repealed and created by emergency rules effective January 1, 1986. Chapter NR 123 as it existed March 31, 1986, was repealed and a new chapter NR 123 was created effective April 1, 1986.

**NR 123.01 Purpose and duties of the department.** (1) **PURPOSE.** The purpose of this chapter is to establish rules, under s. 144.027 Stats., for the implementation and administration of a financial assistance program for the replacement of contaminated private water supplies.

(2) **DUTIES.** The department shall:

(a) Establish, by rule, procedures for the submission, review and approval of claims under this chapter.

(b) Assist claimants in submitting applications for compensation under this chapter.

(c) Establish casing and liner depth and other construction requirements for a new or reconstructed private water supply.

(d) Issue awards under this chapter.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (1), Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.02 Applicability.** This chapter applies to contaminated private water supplies compensable under s. 144.027, Stats. Well compensation grants awarded prior to August 9, 1989 are governed by ss. 144.027 and 144.028, Stats., and this chapter as they existed on August 8, 1989. This chapter does not apply to contamination which is compensable under subch. II of ch. 107 or s. 144.855 (4), Stats.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.03 Definitions.** (1) "Advisory" means a written opinion, issued by the department, containing a specific descriptive reference to the well or private water supply and recommending that the well or private water supply not be used because of potential human health risks.

(2) "Alternate water supply" means a supply of potable water obtained in bottles, by tank truck or by other similar means, or a temporary connection to an existing private water supply, supplied at a capacity sufficient to satisfy water use functions impaired by the contaminated private water supply.

(3) "Approval" means a written approval of the department.

(4) "Connection to an existing private water supply" means a connection to an existing private water supply that tests free from coliform bacteria, and is not a contaminated private water supply.

(5) "Contaminated well" or "contaminated private water supply" means a well or a private water supply which:

(a) Produces water containing one or more substances of public health concern, other than bacteria or nitrates, in excess of a primary maximum contaminant level promulgated in the national drinking water standards in 40 C.F.R. 141 and 143; or

(b) Produces water containing one or more substances of public health concern, other than bacteria or nitrates, in excess of an enforcement standard established in ch. NR 140; or

(c) Is subject to an advisory for substances other than bacteria or nitrates; or

(d) Is a livestock water supply or is a residential water supply which is used as a source of potable water for livestock as well as for a residence, and;

1. Is used at least 3 months each year and while in use provides an estimated average of more than 100 gallons per day for consumption by livestock; and

2. Produces water containing nitrates in excess of 40 parts per million expressed as nitrate-nitrogen.

(6) "Department" means the department of natural resources.

(7) "Dwelling unit" means a principal or part-time residence such as a second home or vacation or recreation residence.

(9) "Lessee" means:

(a) A claimant who has a lease with a property owner with provisions for the lessee to perform property improvements; or

(b) A claimant who has a lease with a property owner and who has secured the property owner's permission for improvement of the private water supply through the owner's signature on the claim form or a letter from the owner.

(10) "Livestock" has the meaning specified in s. 95.80 (1) (b), Stats., and includes poultry.

(11) "Livestock water supply" means a well which is used as a source of potable water only for livestock and which is:

(a) Approved by the department of agriculture, trade and consumer protection for grade A milk production under s. 97.24, Stats.; or

(b) Constructed by boring or drilling.

(12) "Municipality" means a city, town, village, county, county or other utility district, or town sanitary district.

(13) "Municipal water supply" means a private or public water supply owned or operated by a municipality.

(14) "Not feasible" means not physically, mechanically or functionally possible.

(15) "Plumbing" means that portion of the water distribution piping extending from the well to the various distribution points of use.

(16) "Private water supply" means a residential water supply or a livestock water supply.

(17) "Public water supply" means a system used for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

(18) "Pump installer" has the meaning specified in ch. NR 112.

(19) "Records" means books, documents, papers, accounting records, other evidence relating to project work, and accounting procedures and practices.

(20) "Replacement water supply" means:

(a) Reconstruction of a contaminated private water supply;

(b) Construction of a new private water supply;

(c) Provision of a public water supply to replace the contaminated private water supply; or

(d) Connection to an existing private water supply.

(21) "Residential water supply" means a well which is used as a source of potable water for humans or humans and livestock and is connected to 14 or less dwelling units.

(22) "Sand point well" has the same meaning as a "driven point well" as defined in ch. NR 112.

(24) "Well" means an excavation or opening in the ground made by boring, drilling or driving for the purpose of obtaining a supply of groundwater. "Well" does not include dug wells and springs.

(25) "Well driller" has the meaning specified in ch. NR 112.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; r. (8) and (23), Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.04 Determination of contamination.** Contamination of a private water supply, as defined in s. NR 123.03 (5), shall be established by:

(1) The test analyses of at least 2 samples of water, taken at least 2 weeks apart and not more than 2 years apart. All samples shall be taken within 2 years prior to the date that the claimant's application is received by the department. The department may reject test results which are not sufficiently recent. The samples shall be analyzed by the state laboratory of hygiene or by a laboratory certified under s. 144.95, Stats. Samples shall be analyzed using a methodology specified in ch. NR 109 or from a reference authorized by rules promulgated pursuant to s. 144.95 (7) (b), Stats.; or

(2) An advisory issued or reviewed by the department after July 1, 1984.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

**NR 123.05 Allocation of funds.** (1) The department shall allocate money for the payment of completed claims and amendments according to the order in which completed claims and amendments are received by the department. A list shall be compiled of completed claims and amendments in the order received. The department may conditionally approve a completed claim or amendment even if the appropriations are insufficient to pay the claim or amendment. The department shall allocate money for the payment of a claim or amendment which is conditionally approved as soon as funds become available. A claim or amendment shall be considered complete when:

(a) All eligibility requirements are met in s. NR 123.20;

(b) All forms required in s. NR 123.22 are submitted; and

(c) All information necessary for departmental evaluation and acceptance of the least costly feasible replacement water supply or the equipment to be used for treating the contaminated private water supply is provided. If the department does not approve the claimant's chosen solution, the reasons shall be communicated in writing to the claimant explaining why the solution is not acceptable. If the claim has been denied for reasons other than those specified in s. NR 123.06, the department shall assist the claimant in revising the claim to meet, if possible, the intent of s. 144.027, Stats.

(2) If any department approvals other than the award or proceed notice need to be obtained by the claimant or other parties before installation of the replacement water supply or the equipment to be used for treating the contaminated private water supply can proceed, the claimant shall be informed in writing that they have been placed on the list of completed claims and amendments subject to the following conditions:

(a) Within 60 days of the date of the written notice from the department, applications shall be submitted to receive any department approvals that need to be obtained.

(c) Within 60 days of the date of a public other than municipal water supply or private water supply approval by the department, the claimant shall submit bidding documents or finalized cost estimates. Any bidding documents shall include the tabulation of all bids, copies of the low bidder's proposals, and the claimant's proposed action on the bids.

(3) The department shall cancel the allocation of funds to a claimant if the claimant does not meet the requirements of sub. (2).

(4) If claim and amendment requests exceed funds available, the department shall determine those claims and amendments which will receive an award based on their ranking on the list. After claims and amendments are determined to be complete and eligible, awards shall be issued to the extent that funds are made available to the department. After funds become depleted, eligible completed claims and amendments shall be added to the list and conditionally approved. Proceed notices

shall be issued to notify claimants of conditional approval. Awards shall be issued if and when additional funds become available.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (1) (a), (b) and (c) and r. (2) (b), Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.06 Denial of claims.** (1) The department shall deny a claim if:

(a) The claim is not within the scope of this chapter as determined by the department.

(b) The claimant submits a fraudulent claim.

(c) The claim is for reimbursement of costs incurred before the date of issuance of an award or proceed notice except costs allowed under ss. NR 123.21 (1) (d) 3 and 123.27.

(d) One or more of the contaminants upon which the claim is based was introduced into the well through the plumbing connected to the well.

(e) One or more of the contaminants upon which the claim is based was introduced into the well intentionally by a claimant or a person who would be directly benefited by payment of the claim, or a person who aids and abets the introduction of the contaminant, or a person who is a party to a conspiracy with another to commit, advise, hire, counsel or procure another to introduce the contaminants into the well.

(f) All of the contaminants upon which the claim is based are naturally occurring substances and the concentration of contaminants in water produced by the well does not significantly exceed the background concentration of the contaminants in groundwater at that location.

(g) Except as provided in s. NR 123.26, an award has been made under this chapter within the previous 10 years for the private water supply.

(h) A residential water supply is contaminated by bacteria or nitrates or both and is not contaminated by any other substance.

(i) A livestock water supply is contaminated by bacteria and is not contaminated by any other substance.

(j) The claimant submits a claim to replace a contaminated public water supply that is connected to 15 or more dwelling units.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (1) (c) and r. (2), Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.07 Variances.** The department may approve variances from non-statutory requirements of this chapter upon the request of a claimant when it is determined that such variances are essential to effect necessary actions or department objectives, and where special circumstances make such variances in the best interests of the state. Before granting a variance, the department shall take into account such factors as good cause, circumstances beyond the control of the claimant, and financial hardship.

Note: Variances may not be obtained from statutory requirements.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

**NR 123.08 Termination of awards.** An award may be terminated in whole or in part by the department.

(1) The department and a claimant may enter into an agreement to terminate the award at any time pursuant to this section. The agreement shall establish the effective date of termination of the project and award, the basis for settlement of award termination costs, and the amount and date of payment of any sums due either party.

(2) A claimant may not unilaterally terminate the work authorized in the award, except for good cause. The claimant shall promptly give written notice to the department of any complete or partial termination of the project work by the claimant. If the department determines that there is good cause for the termination of all or any portion of the project work, the department may enter into a termination agreement or unilaterally terminate the award pursuant to sub. (3), effective on the date of cessation of the project work by the claimant. If the department determines that a claimant has ceased work on the project without good cause, the department may unilaterally terminate the award pursuant to sub. (3).

(3) Awards may be terminated by the department in accordance with the following procedure:

(a) The department shall give not less than 10 days written notice to the claimant of its intent to terminate an award in whole or in part. Notice shall be served on the claimant personally or by mail, certified mail — return receipt requested.

(b) The department shall consult with the claimant prior to any termination. After the department has received any views expressed by the claimant, the department may terminate the award in whole or in part. Any such termination shall be in writing and shall state the reasons for terminating the award. Notices of termination shall be served on the claimant personally or by mail, certified mail — return receipt requested.

(c) The department may terminate an award for good cause if negotiations and payment of appropriate termination settlement costs are offered to the claimant.

(4) Upon termination, the claimant shall refund or credit to the state of Wisconsin that portion of any funds paid or owed to the claimant and allocable to the terminated project work, except such an amount as may be required to meet commitments which had become enforceable prior to the termination. The claimant may not make any new commitments without department approval. The claimant shall reduce the amount of outstanding commitments insofar as possible and report to the department the uncommitted balance of funds awarded.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

**NR 123.09 Enforcement.** The following sanctions may be imposed for noncompliance with s. 144.027, Stats., the provisions of this chapter or any award made under this chapter:

(1) The award may be terminated under s. NR 123.08;

(2) Project costs directly related to the noncompliance may be declared ineligible;

(4) Other administrative or judicial remedies may be instituted as legally available and appropriate.

Register, February, 1991, No. 422

(5) The department may seek recovery of some or all payments.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (intro.) and r. (3), Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.20 Eligibility of claimant.** (1) (a) A claim may be submitted for the replacement of a contaminated private water supply which is contaminated at the time the claim is submitted under s. NR 123.04, irrespective of the time the contamination is or could have been discovered in the private water supply.

(b) A claim may be submitted for the replacement of a contaminated private water supply which does not comply with ch. NR 812 at the time of submission of the claim.

(c) 1. In order to be eligible for an award under this chapter, the annual family income of the landowner or lessee of the property on which a contaminated private water supply is located may not exceed \$65,000.

2. Except as provided under subd. 4., annual family income shall be based upon the adjusted gross income of the landowner or lessee and landowner's or lessee's spouse, if any, as computed for Wisconsin income tax purposes for the taxable year prior to the year in which the claim is made.

3. The department shall determine county median family income based on statistics provided by the federal department of housing and urban development for the taxable year prior to the year in which the claim is made.

4. The claimant shall submit a copy of the landowner's or lessee's joint Wisconsin income tax return for the year prior to the year in which the claim is made; or, if filing separately, the landowner's or lessee's separate Wisconsin income tax return and the separate Wisconsin income tax return of his or her spouse, if any, for the year prior to the year in which the claim is made. The department may disregard the Wisconsin income tax return for the year prior to the year in which the claim is made and may determine annual family income based on satisfactory evidence of income in the current year as provided under s. NR 123.22 (2) (g) 2. through 4.

(2) (a) Except as provided under sub. (4), a landowner or lessee of property on which a contaminated private water supply is located, or the spouse, dependent, heir, assignee or legal representative of the landowner or lessee may submit a claim under this chapter.

(b) The department shall consolidate claims if more than one claimant submits a claim to replace the same contaminated private water supply.

(c) The department may consolidate claims and recommend the replacement of several contaminated private water supply systems with a single water supply system if it deems the replacement to be the most cost effective solution and the claimants agree to a single system. Each original claimant shall be eligible for an award amount as established under s. NR 123.24 for their share of the cost of the replacement system.

(3) The department may delay approval of a claim if the department determines that a municipal water supply may be the most feasible solution to the problem of contaminated private water supplies in the area.

(4) The following may not submit a claim under this subchapter:

(a) The state;

(b) An office, department, independent agency, institution of higher education, association, society, or other body in state government;

(c) An authority created under ch. 231 or 234, Stats.;

(d) A city, village, town, county or special purpose district;

(e) A federal agency, department or instrumentality;

(f) An interstate agency.

**History:** Cr. Register, March, 1986, No. 363, eff. 4-1-86; cr. (1) (c), Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. (1) (c) 1., Register, April, 1995, No. 472, eff. 5-1-95; correction in (1) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1995, No. 472.

**NR 123.21 Eligible and ineligible costs.** (1) **ELIGIBLE COSTS.** Eligible costs include the following items:

(a) Obtaining an alternate water supply for a maximum period of one year after the date of issuance of a proceed notice or an award as provided in s. NR 123.23, or until the replacement water supply or equipment used for treating the contaminated private water supply has been installed and completed, whichever is earlier. If it is determined by the secretary of the department that the contamination in the private water supply can be expected to be remedied in 2 years or less, an award or proceed notice may be issued for an alternate water supply for up to a 2 year period or until the well is no longer contaminated, whichever is earlier. At the end of this period, the department shall review water quality data for this water supply to determine if contamination has been remedied. If the well is still contaminated, the department shall request the claimant to submit any information necessary to complete his or her claim application. Once the claim is complete, the application review process will resume.

(b) A replacement water supply which includes new or reconstructed wells, providing for a municipal water supply or providing a connection to an existing public or private water supply.

(c) Equipment used for treating the contaminated private water supply only if it is not feasible to remedy the contamination with a replacement water supply.

(d) Other costs as deemed necessary by the department. These may include but are not limited to the following:

1. Purchasing and installing a pump, if a new pump is necessary for the new or reconstructed private water supply.

2. The cost of abandoning a contaminated private water supply, if a new private water supply is constructed or if providing for a public water supply or if connection to an existing private water supply is obtained.

3. The cost of obtaining a maximum of 2 water sample analyses to show that the private water supply was contaminated if the cost of those tests was originally paid by the claimant. Payment will be made for analysis for additional parameters if these tests were requested by the department as part of the 2 tests demonstrating well contamination.



4. Replacement, relocation or installation of new piping, pitless adapters, pressure or booster tanks, or both, and any other appurtenances deemed necessary by the applicant and approved by the department to connect the replacement water supply to the buildings served by it.

5. Landscaping costs to restore the site to preconstruction conditions. Costs of improvement or decoration are not eligible. Landscaping costs include the costs of excavating and replacing portions of streets, sidewalks, driveways or other similar items to allow for the installation or relocation of piping.

(e) If the replacement water supply is to be provided by connection to a municipal water supply, the eligible costs include the costs listed under par. (d) 2., 3. and 5., and the following additional items:

1. The claimant's costs of obtaining an alternate water supply for a maximum period of 2 years after the date of issuance of a proceed notice or an award as provided in s. NR 123.23, or until the municipal water supply has been installed and completed, whichever is earlier.

2. The claimant's costs assessed by the municipality for the municipality's direct capital costs of providing a municipal water supply. These costs may include the direct capital costs for the installation of surface water inlet piping, treatment and appurtenances, new wells, pumps, pump controls, pumphouses, water storage facilities, distribution mains, water meters, auxiliary power, valves and other appurtenances, test wells and continuous chlorination. Eligible costs are limited to the minimum capacity necessary to provide a municipal water supply to the dwelling unit with a contaminated private water supply. The minimum capacity does not include capacity required for fire protection, residential and industrial growth, or dwelling units not having a contaminated private water supply.

3. The cost of installing the lateral connection from the distribution main to the dwelling unit with a contaminated private water supply.

4. The cost of connecting the lateral connection to the internal plumbing of the dwelling unit with a contaminated private water supply.

5. The cost of a water meter installed at the dwelling unit with a contaminated private water supply.

(2) **INELIGIBLE COSTS.** Payment may not be made for ineligible costs. Ineligible costs include the following items:

(a) The replacement of a sand point well with a drilled well unless:

1. The department determines that replacement with another sand point well is not feasible; and

2. The department determines that the claimant had no knowledge or reason to believe the sand point well would become contaminated at the time it was constructed.

(b) Any costs incurred prior to the date of issuance of the award or proceed notice except for the costs described in sub. (1) (d) 3. and s. NR 123.27.

(c) A replacement well greater than 7 inches in outside diameter (O.D.).

(d) A replacement well screen greater than 10 feet in length.

(e) Any consulting, engineering or cost estimating fees.

(f) Any state, county or local permit fees.

(g) Relocation, replacement or abandonment of sewer piping, buried gasoline or fuel oil tanks, or other similar items.

(h) Any costs incurred in the installation of a replacement water supply or equipment used for treating the contaminated private water supply that are not approved by the department.

(i) Any costs incurred in the installation of equipment used for treating a replacement water supply, except as provided in s. NR 123.26.

(j) Mileage, phone, postage, and other miscellaneous costs incurred by the claimant.

(k) Any land acquisitions, municipal administrative costs, laboratory facilities, fire protection and municipal water treatment facilities other than for continuous chlorination, or treatment of surface water supplies.

(l) The claimant's share of any assessment for distribution mains that are not necessary to provide a municipal water supply to dwelling units eligible under s. NR 123.20.

(3) **FLAT RATE COST TABLES.** The following tables establish costs for well construction, pump installation and other costs. The tables include costs for materials, labor and taxes. These tables are used to determine the eligible costs for grant award and payment amounts.

(a) *Well construction cost.*

	Drillhole Diameter						
	4"	5"	6"	7"	8"	9"	10"
1. Drillhole with temp. outer casing in unconsolidated formation - \$/Foot	\$8	\$9	\$10	\$12	\$13	\$14	\$16
2. Drillhole without temp. outer casing in unconsolidated formation - \$/Foot	\$7	8	9	10	12	13	14
3. Drillhole in Limestone (dolomite) formation - \$/Foot	\$8	9	12	13	14	16	19
4. Drillhole in Sandstone formation - \$/Foot	\$8	9	12	13	14	16	19
5. Drillhole in Shale formation - \$/Foot	\$8	9	12	13	14	16	19
6. Drillhole in Crystalline (granite, quartzite, etc.) formation - \$/Foot	\$13	15	20	22	25	28	32

	Casing, Screen or Shoe Diameter					
	2"	3"	4"	5"	6"	7"
7. Well Casing - Steel or Polyvinyl Chloride (PVC) - \$/Foot	\$6	7	9	11	13	16
8. Well Screen (with packer, etc.) - \$/Foot	\$100	160	165	195	240	250
9. Grout Shoe	\$200	250	300	450	500	550
10. Drive Shoe	\$35	45	55	65	75	85
	Drive Pipe or Screen Diameter					
	1¼"	1½"	2"	3"	4"	
11. Driven Point (Sand-Point) Wells						
a. Drive Pipe	\$6	\$7	\$8	\$9	\$10	
b. Point Screen	\$18	\$21	\$25	\$30	\$35	
12. Well Development - in unconsolidated formations only	\$150					
13. Test Pumping of Well	\$100					
14. Disinfection and flushing of well or plumbing or both	\$100					
15. Hydrofracturing	\$2000					
16. Neat cement grout - per 94 lb. sack	\$15					
17. Concrete grout - per 94 lb. sack	\$15					
18. Bentonite chips - per 50 lb. sack	\$15					
19. Setup and Administrative Cost:						
a. Well Construction	\$300					
b. Well Abandonment	\$100					
<i>(b) Pump installation cost.</i>						
1. Removal of existing well pump	\$150					
2. Re-installation of existing well pump	\$150					
3. Installation of new well pump	½ hp \$550	¾ hp \$700	1 hp \$775	1½ hp \$1150	2 hp \$1550	
4. Installation of pump wire and conduit pipe - \$/Foot	\$2.00					

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	Piping Diameter					
	¾"	1"	1¼"	1½"	2"	2½"
5. Installation of pump column and discharge piping - \$/Foot for:						
- Metal pipe	\$1.25	\$2.50	\$3.75	\$5.00	\$6.25	\$7.50
- Thermo-Plastic pipe	\$.75	\$1.50	\$2.50	\$3.75	\$5.00	\$6.25
6. Excavation cost for piping between well and pressure tank - \$/Foot	\$6.50					
7. Restoration of piping excavation - under each of the following circumstances:						
- soil restoration only	\$200					
- sidewalk restoration included	\$400					
- sidewalk and driveway included	\$600					
8. Installation of seal-cross or other approved pressure fitting	\$125					
9. Installation of an ejector in well:						
- Packer ejector unit	\$75					
- Two pipe ejector unit	\$100					
10. Installation of a pumphouse	\$500					
	Well Casing Diameter					
	2"	3"	4"	5"	6"	7"
11. Vermin proof Cap or Well Seal - installed	\$40	\$45	\$50	\$55	\$60	\$70
12. Pitless Adapter - installed:						
a. Factory Assembled Unit	\$300	\$350	\$375	\$400	\$450	\$475
b. Weld-on Adapter			\$125	\$150	\$200	\$225
c. Clamp-on Adapter			\$125	\$150	\$200	\$225
d. Bolt-on Adapter			\$100	\$125	\$150	\$150
13. Freeze-proof above ground discharge unit - installed			\$250	\$275	\$300	\$350

## Pressure Tank - Size in Gallons

	42 gal.	82 gal.	120 gal.	220 gal.
14. Above ground pressure tank wth pressure switch - \$ installed	\$300	\$500	\$600	\$800
15. Buried pressure tank with pressure switch and air unloader - \$ installed			\$700	\$900

## Tank size in gallons - cost installed

	40	60	95	145	260
16. Pitless receiver tank with pressure switch and air unloader					
- 4" well casing	\$750	\$800	\$1000	\$1125	\$1450
- 5" well casing	\$800	\$775	\$1050	\$1200	\$1500
- 6" well casing	\$875	\$950	\$1125	\$1250	\$1550
- 7" well casing	\$950	\$1000	\$1200	\$1300	\$1625
17. Installation of pump house - \$ Complete	\$500				
18. Installation of sampling faucet - \$ Complete	\$25				

## (c) Other Costs.

1. Sample collection and analysis - coliform bacteria	\$50
2. Sample collection and analysis - Organic analysis	\$150
3. Sample collection and analysis - Inorganic analysis	\$75
4. Bottled water - \$ - p/gal.	\$1.25
5. Trucked water - \$ p/gal.	\$0.25

(4) EXCEPTIONS TO THE COST TABLES. (a) The department may establish eligible costs for replacement water supplies which are not covered by the cost tables on a case-by-case basis.

(b) The maximum eligible cost for installation of the replacement water supply or equipment used for treating the contaminated private water supply done on property owned by a licensed well driller, licensed pump installer or other contractors shall be limited to two-thirds of the cost table amounts or \$8,000, whichever is less, for all work that the licensed well driller, licensed pump installer or other contractors may legally and practically perform on the project.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (1) (a), (b) and (c), cr. (1) (e), (2) (k) and (1), and (3) (c) 16, Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. (3), Register, April, 1995, No. 472, eff. 5-1-95.

**NR 123.22 Claim application.** (1) In order to be considered for an award or proceed notice, a claimant shall submit a completed claim in accordance with s. NR 123.05, to the department. The department shall assist claimants in completing claims and revising claims in order to fulfill the purpose of s. 144.027, Stats.

(2) The claim shall contain:

(a) A claim form available from the department.

(b) 1. Two water sample analyses results, analyzed by the state laboratory of hygiene or by a laboratory certified under s. 144.95, Stats., which show that the private water supply is contaminated as defined in s. NR 123.03 (5); or

2. An advisory issued by the department.

(c) A description of the proposed replacement water supply.

1. The description shall include an analysis of each of the following options:

a. Reconstruction of the contaminated private water supply;

b. Construction of a new private water supply;

c. Providing for a public water supply to replace the contaminated private water supply; or,

d. Providing a connection to an existing private water supply.

2. The analysis shall include a detailed description of each replacement water supply alternative or an explanation of why any of the replacement water supply alternatives are considered not feasible. The claimant shall propose the replacement water supply. If it is not feasible to remedy the problem of the contaminated private water supply with a replacement water supply, then a detailed description of the equipment to be used for treating the contaminated private water supply shall be supplied. The department shall approve the least costly feasible replacement water supply which will remedy the contamination.

(d) A copy of a plat map indicating the location of the well and the legal description of the property.

(e) A copy of an inspection report of the contaminated private water supply completed by the department.

(f) An affidavit by the claimant verifying that the information in the claim is true to the best of his or her knowledge.

(g) Evidence of annual family income of the landowner or lessee of property on which the contaminated private water supply is located. Evidence of annual family income shall consist of one of the following:

1. A copy of the landowner's or lessee's joint Wisconsin income tax return for the year prior to the year in which the claim is made; or, if filing separately, the landowner's or lessee's separate Wisconsin income tax return and the separate Wisconsin income tax return of his or her spouse, if any, for the year prior to the year in which the claim is made.

2. For low income residents of Wisconsin, an affidavit by the landowner or lessee stating that he or she did not have sufficient taxable in-

come in the prior year to be required to file a Wisconsin income tax return. The affidavit shall include the landowner's or lessee's estimate of projected gross income in the current year.

3. For part-year residents or non-residents of Wisconsin, a copy of the landowner's or lessee's federal income tax return for the taxable year prior to the year in which the claim is made, the separate federal income tax return for the prior year of his or her spouse, if any, and an affidavit by the landowner or lessee including the landowner's or lessee's estimate of projected gross income in the current year.

4. For landowners or lessees with a reduction of income in the current year, an affidavit by the landowner or lessee stating the reason that a reduction in adjusted gross income is expected in the current year, the estimated amount of the reduction in adjusted gross income, and a complete listing of income subject to taxation received since January 1 of the current year. In addition to this affidavit, the landowner or lessee shall provide copy of the documentation required under subd. 1 or 3.

Note: Claim forms are available from any Department of Natural Resources District Office or from the Department of Natural Resources, Bureau of Water Grants, P.O. Box 7921, Madison, Wisconsin 53707.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (2) (c) 2. and cr. (2) (g), Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.23 Issuance of an award or proceed notice.** (1) **ISSUANCE OF A PROCEED NOTICE.** (a) Upon receipt of a claim, the department shall issue a proceed notice if the department determines that the claim is complete in accordance with s. NR 123.05, the department concurs with the claimant's choice of replacement water supply or the equipment to be used for treating the contaminated private water supply and the funds left in the program appropriation are not sufficient to pay the claim. The proceed notice shall allow the claimant to begin incurring costs. The department shall issue an award as soon as funds become available.

(b) The proceed notice shall specify:

1. The department approved replacement water supply or the equipment to be used for treating the contaminated private water supply;
2. All eligible itemized costs; and
3. The conditions to which an award, when issued, will be subject.

(2) **ISSUANCE OF AN AWARD.** If the department determines that the claim is complete in accordance with s. NR 123.05, the department concurs with the claimant's choice of replacement water supply or the equipment to be used for treating the contaminated private water supply and funds are available, the department shall issue an award. The award shall specify:

- a. The department approved replacement water supply or the equipment to be used for treating the contaminated private water supply.
- b. The cost for each eligible item as set forth in s. NR 123.21 (3).
- c. The cost for any eligible items not set forth in s. NR 123.21 (3).

(3) **AWARD CONDITIONS.** Payment of a claim may be denied if award conditions are not met. The award will be subject to the following conditions:

(a) That all eligible work be completed in accordance with the award and a payment request, which includes items specified in s. NR 123.25 (1), be submitted within one year of the date of issuance of the award or within a project period extension approved by the department. This condition does not apply to cases where the secretary of the department has made a determination as provided in s. NR 123.21 (1) (a).

(b) That the claimant notify the department at least 48 hours prior to the commencement of the installation of the replacement water supply or equipment used for treating the contaminated private water supply.

(c) That the contaminated well shall be permanently abandoned in accordance with ch. NR 812 before any payment will be made. This condition is not applicable if the award is for the reconstruction of a contaminated private water supply, for the installation of equipment used for treating the contaminated private water supply or if the claimant is informed in writing by the department that the contaminated well is not to be abandoned so that it may be used for groundwater monitoring.

(d) That the replacement water supply up to and including any pressure tanks or reservoirs or the equipment to be used for treating the contaminated private water supply shall be in compliance with ch. NR 812 or chs. NR 811 and ILHR 84, whichever apply, before any payment may be made.

(e) That the claimant obtain any permits or approvals required by law to install the replacement water supply or to install any equipment to be used for treating the contaminated private water supply.

(f) That the department is not responsible if the replacement water supply or if the installation of equipment used to treat the contaminated private water supply is not acceptable to the well owner or operator.

(g) That the department is not responsible if the quality of the water from the replacement water supply or after installation of equipment used to treat the contaminated private water supply is not acceptable to the well owner or operator.

(h) That if the award is for reconstruction of a private water supply or construction of a new water supply, the well drilling work shall be performed by a well driller, except that a sand point well may be installed by a pump installer.

(i) That the installed system shall be inspected and approved by the department before payment is made.

(j) That the claimant shall request reimbursement only for work approved in the award.

(k) That the claimant shall provide copies of the award and proceed notice, if one was issued, to any well driller, pump installer or other contractors that are performing work on the replacement water supply or the equipment used to treat the contaminated private water supply.

(l) That no changes from the well location, construction specifications or pump installation specifications of the grant award shall be made without department approval.

(4) AWARD AMENDMENTS. The department may approve changes in the award amount from that established in the award when it deems such



changes are necessary to meet the objectives of this chapter. Any request for a change in the amount shall be made and fully documented by the claimant and reviewed and approved by the department. Approval of amendment requests shall be subject to the availability of funds.

**History:** Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (3) (a) and cr. (3) (1), Register, February, 1991, No. 422, eff. 3-1-91; corrections in (3) (c) and (d) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1995, No. 472.

**NR 123.24 Amount of award. (1) AWARD CALCULATION.** (a) The award shall pay up to 75% of the eligible costs.

(b) The award may not provide for payment of any portion of eligible costs in excess of \$12,000. Therefore, the maximum payment that can be made is \$9,000.

(c) If the annual family income of the claimant exceeds \$45,000, the amount of the award calculated under pars. (a) and (b) shall be reduced by \$.30 for each \$1.00 of income over \$45,000.

(2) The claimant shall be responsible for paying a minimum of \$250 of eligible costs and all eligible costs not paid under sub. (1) in excess of \$250.

(3) (a) The award shall specify a cost of each eligible item associated with the approved replacement water supply or the equipment to be used for treating the contaminated private water supply. The costs for each eligible item are established in the flat rate cost tables in s. NR 123.21 (3).

(b) If the contamination cannot be remedied by a new or reconstructed private water supply, the maximum award for connection to an existing private or public water supply may not exceed 150% of the cost of the construction of a new private water supply. If the new construction costs cannot be established as determined by the department, the maximum eligible costs will be the total cost of the project, not to exceed \$12,000. The maximum eligible costs for connection to an existing private or public water supply are subject to all other limitations in this section.

(c) The award shall specify a cost for each eligible item not specifically listed in s. NR 123.21 (3).

**History:** Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (1) (a) and (b), Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. (1), Register, April, 1995, No. 472, eff. 5-1-95.

**NR 123.25 Payment.** (1) After an award is made, and if all the conditions of the award are met, payment of the state share of the eligible costs shall be made by the department upon receipt, review and determination of completeness of the following:

(a) An itemized payment request worksheet available from the department for each well driller, pump installer, and other contractors to complete who performed eligible work. Each payment request worksheet shall list all quantities associated with the installation of the approved replacement water supply or the equipment used for treating the contaminated private water supply.

(b) A copy of the well constructor's report completed by the well driller or the pump installer if a pump installer constructed a sand point well if the award was for a new or reconstructed well.

(c) Copies of the water sample analysis reports for samples collected by the well driller and pump installer for bacteriological analysis.

(d) A copy of the well abandonment report if the award was for the construction of a new private water supply, providing for a public water supply to replace the contaminated private water supply or a connection to an existing private water supply.

(e) A copy of an inspection report of the replacement water supply or the equipment used for treating the contaminated private water supply completed by the department.

(f) Information identifying the amount and source of any funds received from other parties to defray the costs of installing the replacement water supply or the equipment used for treating the contaminated private water supply. The department may reduce the payment if other funds received exceed 40% of the eligible costs specified in the award.

(2) Costs based on s. NR 123.21 (3) shall be determined eligible and payment shall be made without review of receipts, invoices or cancelled checks to document that costs were incurred or paid.

(3) Payment shall be made within 30 days of receipt of the information specified in sub. (1).

**History:** Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (1) (f), Register, February, 1991, No. 422, eff. 3-1-91.

**NR 123.26 Additional claims.** (1) **FAILURE TO ELIMINATE CONTAMINATION.** A claimant who receives an award for the purpose of constructing or reconstructing a private water supply or connecting to an existing private water supply may submit a new claim if the contamination is not eliminated and, if the award was for a new or reconstructed private water supply, the well was constructed properly. Only one additional claim may be submitted under this subsection within 10 years after an award is made.

(2) **NEW CONTAMINATION.** If contamination from a new source occurs, a claimant who has received an award for the purpose of constructing or reconstructing a private water supply or connection to an existing private water supply may submit a new claim. If the previous award was for a new or reconstructed private water supply or connection to an existing private water supply, a new claim may be submitted only if the well was constructed properly.

**History:** Cr. Register, March, 1986, No. 363, eff. 4-1-86.

**NR 123.27 Emergency.** The department may authorize expenditures before a claim is submitted, if the department determines that an emergency situation exists. An emergency determination and expenditure authorization prior to submitting a claim does not waive the department's authority to evaluate and approve or deny the claim for other than the authorized emergency expenditures. An emergency determination only assures the claimant that their claim will not be denied due to incurring costs prior to claim submission. A claimant seeking to qualify for emergency status and approval to incur costs, shall contact the department to explain the situation and describe a proposed replacement water supply. The claimant's well shall be determined to be contaminated under s. NR 123.04 prior to incurring costs other than those allowed under s. NR 123.21 (1) (d) 3. The department shall confirm authorization to incur

**Register, April, 1995, No. 472**

expenditures in writing. A completed claim shall be submitted to the department within 30 days of such written authorization.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.