

RULE 57 - CRITERIA AFFECTING WATER METER INSTALLATION REQUIREMENTS

A. CRITERIA TO REQUIRE WELL METER INSTALLATION BASED UPON QUANTITY OF WATER USE

To determine whether or not a Water Meter is required on a Well under Rule 54-D, the District shall use the following presumptions regarding quantity of water used by each Well for the 12 month period commencing on October 1 of the preceding calendar year, and concluding on September 30 of the current calendar year.

1. Burden of Proof When Permission to Inspect Has Been Granted

If a property owner grants permission to the District to inspect the property, and any Well on that property is unmetered, the District shall presume that water use on that property is less than 5 AFA unless the District can establish a preponderance of evidence to prove greater annual water use on that Site.

2. Burden of Proof When Permission to Inspect Has Been Denied

If a property owner refuses a reasonable request by the District to inspect the property made under the provisions of Rule 58, and any Well on that property is unmetered, the District shall presume that water use on that property exceeds 5 AFA unless that property owner can establish proof by clear and convincing evidence that the annual water use is less than 5 AFA.

3. Burden of Proof Regarding Location of Well

District staff shall make an initial determination regarding whether each Well is located within or outside the boundaries of the Monterey Peninsula Water Resource System (MPWRS) as defined by Rule 11. That determination shall be presumed correct, except as may be rebutted by a preponderance of evidence submitted by the Owner or Operator of that Well.

B. VARIANCE FROM WELL METER REQUIREMENTS

1. Written Application

For Wells that have been issued a well construction permit from the Monterey County Health Department on or before November 30, 2000, any property owner or Well operator may apply by written application for a variance from the requirement to meter Wells under Rules 54 and 56 of this Regulation V, except for Rule 54-D-5, transfer of title within the MPWRS. A variance shall be granted only upon clear and convincing evidence which proves the water production from all Wells serving that property does not equal or exceed 5 AF in any single Water Year (the 12 month period commencing on October 1 of the preceding calendar year, and concluding on September 30 of the current calendar year). The District shall not charge a fee for staff review and action on this variance.

The variance application shall be in the form and manner provided by the District, shall be signed by the property owner under penalty of perjury, and shall include the following: (1) data to verify the specific type, location, and character of the Applicant's water use, (2) the actual historical uses of water use at that Site, (3) data to verify limitations on production capacity on that Site, and (4) data substantiating any claimed change in water use.

2. Action by Staff on the Application

Staff shall expedite review and action on the application. The General Manager, or his delegated agent, is authorized to grant a variance from the Well meter requirements of Regulation V based upon clear and convincing evidence which proves the water production from all Wells serving that property does not equal or exceed 5 AF in any single reporting year. The General Manager, or his delegated agent, is authorized to conduct a field investigation pursuant to Rule 58 to verify facts surrounding any variance application. The presumptions set forth in paragraph A of this Rule shall apply, but those presumptions shall be rebuttable. The decision to grant or deny the variance shall be mailed to the Applicant, together with an explanation of the appeal process set forth in paragraph B-3 below.

3. Appeal of Staff's Decision to the Board of Directors

The decision under paragraph B-2 of this Rule shall be reviewed on appeal by the Board of Directors if a written request is received from the Applicant on or before fourteen (14) days from the date staff's decision under subparagraph 2 was mailed. The written request to appeal must include payment by the Applicant of the fee for an appeal set by Rule 60. The Board shall conduct the hearing as a de novo review in accord with Rule 70 "Appeals" and shall grant the variance from the Well meter requirements of Regulation V only upon clear and convincing evidence which proves the water production from all Wells serving that property does not equal or exceed 5 AF in any single reporting year. The presumptions set forth in paragraph A of this Rule shall apply, but those presumptions shall be rebuttable.

Rule added by Ordinance No. 3 (7/11/80); amended by Ordinance No. 6 (5/11/81); Ordinance No. 56 (11/25/91); Ordinance No. 56 (11/25/91); Ordinance No. 96 (3/19/2001); Ordinance No. 105 (2/16/2002); Ordinance No. 120 (3/21/2005); Ordinance No. 121 (8/15/2005); Ordinance No. 122 (8/15/2005); Ordinance No. 125 (9/18/2006); Ordinance No. 177 (9/18/2017)