

NEBRASKA ADMINISTRATIVE CODE

TITLE 130 - NEBRASKA DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENTAL QUALITY

Chapter 9 - LOCATION RESTRICTIONS AND SETBACKS: WELLS, GROUND WATER, COLD WATER CLASS A STREAM WATERSHEDS

001 A livestock waste control facility shall not be constructed:

001.01 Within 100 feet of any well used for domestic purposes. For the purposes of these regulations, domestic water well means a water well providing water to any water supply system furnishing water for human consumption other than a public water supply system; for the watering of livestock, poultry, farm, and domestic animals; or for the irrigation of lands not exceeding an area of two acres;

001.02 Within 1000 feet of a public drinking water supply well, unless the applicant furnishes the Department with field-derived data giving estimates of the depth, velocity and flow direction of ground water which support the contention that the facility will not result in ground water contamination and after review, the Department concurs;

001.03 In an area or in such a manner that, in the Department's judgment, there is a substantial threat of beneficial use impairment to surface waters of the State as defined in Title 117 (Nebraska Administrative Code) – Nebraska Surface Water Quality Standards;

001.04 Where the Department determines that ground water may be contaminated; or

001.05 Less than four feet above the seasonal high ground water level. Except, that a facility for an existing animal feeding operation may, with Department approval, be located less than four feet above the seasonal high ground water level, if the design provides for structural stability, a maximum operating depth of six feet, and provisions are made to maintain the facility. In addition, for a facility located at or below the seasonal high ground water level a low permeability liner with saturated hydraulic conductivity of  $1 \times 10^{-7}$  cm/sec., or less, and at least one foot in thickness or equivalent shall be utilized.

002 The Department will not accept an application or issue a permit for an animal feeding operation with an existing livestock waste control facility if the facility is located within 100 feet of a domestic water well not owned by the operation. The Department may permit an existing livestock waste control facility, located within 100 feet of a well owned by the operation, based upon an evaluation of the following conditions:

Title 130  
Chapter 9

002.01 Depth to ground water;

002.02 Known flow direction of ground water;

002.03 Structural integrity of the facility and, if known, the well; and

002.04 Any other circumstance that may adversely affect ground water quality.

003 No new animal feeding operation shall be issued a National Pollutant Discharge Elimination System permit or a construction and operating permit in any part of a watershed that feeds directly or indirectly into a cold water class A stream, delineated pursuant to Neb. Rev. Stat. § 54-2421.

004 An existing animal feeding operation may not expand if its livestock waste control facility is located within one mile of a designated cold water class A stream segment delineated pursuant to Neb. Rev. Stat. § 54-2421, and in the same cold water class A stream watershed as the animal feeding operation, except that an existing animal feeding operation used for research sponsored by the University of Nebraska at a facility owned by the University of Nebraska may expand if the Department determines, based on scientific information provided in the application or other available scientific information, that the proposed expansion does not pose a potential threat to the stream.

005 Existing animal feeding operations may receive a new or modified National Pollutant Discharge Elimination System permit, a new or modified construction and operating permit, a modified operating permit, or a modified construction approval if:

005.01 The existing animal feeding operation does not currently have a NPDES permit or a construction and operating permit, and, upon inspection by the Department, a determination is made that one is necessary;

005.02 The existing animal feeding operation modifies its operation, but does not expand its approved livestock waste control facility;

005.03 The existing animal feeding operation's livestock waste control facility is located more than two miles from a designated cold water class A stream segment delineated pursuant to Neb. Rev. Stat. § 54-2421 and in the same cold water class A stream watershed as the animal feeding operation; or

Title 130  
Chapter 9

005.04 The existing animal feeding operation or livestock waste control facility is located less than two miles, but more than one mile, from a cold water Class A stream delineated pursuant to Neb. Rev. Stat § 54-2421, and the Department determines, based on scientific information provided in the application or other available scientific information that the proposed expansion does not pose a potential threat to the stream.

006 The Department may deny or restrict an application for a transfer or major modification of an existing NPDES permit or a construction and operating permit based upon the potential degradation of a cold water class A stream.

007 For large concentrated animal feeding operations, manure, litter, and process wastewater may not be stockpiled or applied closer than 100 feet to any down-gradient surface waters, open tile line intake structures, well heads, or other conduits to surface or ground water, except that one of the following two compliance alternatives may be substituted for the application setback requirement:

007.01 A 35-foot-wide vegetated buffer where the application of manure, litter, or process wastewater is prohibited. For the purposes of these regulations vegetated buffer means a permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching waters of the state; or

007.02 A satisfactory demonstration that a setback or buffer is not necessary because implementation of alternative conservation practices will provide pollutant reductions equal to or better than reductions that would be achieved by the 100-foot setback.

008 For small and medium concentrated animal feeding operations and animal feeding operations not required to seek permit coverage, manure, litter, and process wastewater may not be stockpiled or applied closer than 30 feet of any streams, lakes and impounded waters identified in Chapter 6 and Chapter 7 of Title 117 (Nebraska Administrative Code) – Nebraska Surface Water Quality Standards, unless in accordance with a Department approved nutrient management plan.

Title 130  
Chapter 9

Enabling Legislation: Neb. Rev. Stat. § 81-1504(10)(11)(12)(13)(20)(21);  
§ 81-1505(1)(2)(10)(11); §§ 54-2416 to 54-2438

Legal Citation: Title 130, Ch. 9, Nebraska Department of Water, Energy, and Environmental  
Quality