

**65-1,180. Required distances from water.** (a) The department shall not approve a permit for construction of a new swine facility or expansion of an existing swine facility unless the swine waste management system for the facility:

(1) Is located in such a manner as to prevent impairment of surface waters and groundwaters, except where consistent with the requirements of this section;

(2) is located outside any 100-year flood plain unless procedures and precautions are employed to flood-proof the facilities;

(3) except as provided by subsection (c), is located: (A) Not less than 500 feet from any surface water if the facility has an animal unit capacity of 3,725 or more; (B) not less than 250 feet from any surface water if the facility has an animal unit capacity of 1,000 to 3,724; or (C) not less than 100 feet from any surface water if the facility has an animal unit capacity of under 1,000;

(4) except as provided by subsection (d), is located not less than 250 feet from any private drinking water well that is in active use; and

(5) is located not less than 1,000 feet from any publicly owned drinking water well that is in active use.

(b) The separation distances required pursuant to subsection (a) shall not apply to:

(1) Any swine facility that, on the effective date of this act, holds a valid permit issued by the secretary;

(2) swine facilities for which an application has been received before the effective date of this act; or

(3) expansion of a swine facility if an application for the expansion has been received before the effective date of this act.

(c) The separation distances required by subsection (a)(3) shall not apply to any freshwater reservoir or farm pond that is privately owned if complete ownership of land bordering the reservoir or pond is under common private ownership. Such separation distances shall apply to any waters that flow from such reservoir or pond. The secretary shall have the authority provided by subsections (d) and (e) of K.S.A. 65-171d and amendments thereto with respect to any such reservoir or pond as necessary to protect the public health, the soils or waters of the state and wildlife.

(d) The separation distance required by subsection (a)(4) shall not apply to any private drinking water well that is located within the perimeter from which separation distances are determined pursuant to subsection (k) of K.S.A. 65-171d and amendments thereto but, if the facility has an animal unit capacity of 3,725 or more, the facility operator shall test waters from such well and annually report the test results to the department.

**History:** L. 1998, ch. 143, § 4; May 7.