

Title 35 - Oklahoma Department of Agriculture, Food, and Forestry
Chapter 17 - Water Quality
Subchapter 9 – Agricultural Compost Facilities

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35:17-9-1. Purpose and applicability

This subchapter applies to any person who owns or operates any compost facility using source materials within the Department's areas of environmental jurisdiction pursuant to 2 O.S. § 2-4(A)(16). These rules shall not apply to any compost facility located on a facility permitted or licensed as a concentrated animal feeding operation or a registered poultry feeding operation so long as any portion of the source materials is from the concentrated animal feeding operation or registered poultry feeding operation, nor to any compost facility permitted or required to be permitted by the Oklahoma Department of Environmental Quality.

35:17-9-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Animal waste" means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

"Compost facility" means a facility where source material is converted, under thermophilic conditions, to a product with high humus content for use as a soil amendment or to prevent or remediate pollutants in soil, air, and storm water run-off.

"Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the handling, processing, storage, or disposal of compost and source materials or ingredients used in producing compost.

"Leachate" means liquid that has passed through or emerged from animal waste or materials being composted, and may contain soluble, suspended, or mixable materials removed from the source material.

"Operator" means the owner and person responsible for the management of each facility.

"Source material" means material used as the main organic source to be converted by the process into compost and may include but not be limited to manure and other animal waste.

35:17-9-3. Permit provisions and application

(a) Prior to operation, any person using any source materials within the Department's jurisdictional areas of environmental responsibility to produce compost shall obtain a permit to operate the facility from the Department, unless the person is producing compost solely for personal use and not for commercial purposes.

(b) The permit shall be renewed every five (5) years on October 1.

(c) The application for a compost facility shall contain, as a minimum, the following information:

(1) Name, address, and telephone number of the owner;

(2) Name, address, and county of the facility, including specific driving directions from the nearest municipality, and legal description of the facility to the nearest ten (10) acres;

- (3) Name, address, and telephone number of the operator, if other than the owner;
- (4) Narrative describing the proposed compost facility.
- (5) A composting plan that shall include but not be limited to the following:
 - (A) Source materials proposed for use and the estimated amount of compost produced per month or per year;
 - (B) Proposed type of composting process or processes to be used at the facility, including windrow, static pile, or in vessel composting method;
 - (C) Characterization of the physical and environmental setup of the facility, including but not limited to the following:
 - (i) Description of topography using a current 7.5 minutes topographic map highlighting the location of waters of the state within three (3) miles of the facility, an outline of the watershed drainage area with arrows indicating general direction of surface water drainage from the facility;
 - (ii) Soil map showing soil types at the facility; and
 - (iii) 100-year flood plain map.
 - (D) Laboratory test reports showing the amount of nitrogen as nitrate and total phosphorus contained in waters of the state at the facility, including but not limited to groundwater from all existing wells and surface impoundments located on the site.
 - (E) Design drawings and specifications for:
 - (i) receiving, processing, storage, disposal, or reuse areas;
 - (ii) leachate collection systems;
 - (iii) storage, treatment, and disposal of leachate;
 - (iv) storm water drainage;
 - (v) protection of groundwater from leachate;
 - (vi) any other design drawings and specifications necessary to describe the proposed operations of the facility.
 - (F) Proposed operational parameters.
 - (G) Site layout and construction.
 - (H) Best management practices used at the site for erosion control, water pollution control, odor control, storage of the source materials, storage of the finished compost, and aesthetic enhancement.
 - (I) A notarized sworn statement signed by the owner accepting full responsibility for properly closing the facility upon termination of operation at the facility.
 - (J) A notarized certification signed by the person applying for the permit, stating: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

- (K) Supporting documentation regarding composting method used, including compost mix design, selection of C:N ratio, determining bulking agent need, aeration method, and moisture content and temperature to be maintained.
 - (L) All other documentation deemed necessary and requested by the Department to assure the quality of waters of the state is not compromised, and any other information required by the Department directly related to the construction, installation and operation of the facility.
- (d) The application for a new facility or a renewal shall be accompanied by an application fee of Two Hundred Dollars (\$200.00).
 - (e) The operator of a facility shall notify the Department in writing that the facility is no longer in operation within thirty (30) days of the cessation of operation.
 - (f) The Department shall require closure of any facility under the following circumstances:
 - (1) The operator of the facility notifies the Department that the facility is no longer in operation.
 - (2) The facility has not accepted source material nor produced compost for a period of six (6) months.
 - (3) The facility is ordered to close by the Board due to failure to operate in compliance with any provision of the Agriculture Code or rules of the Board.

35:17-9-4. Siting of composting facility

- (a) The following factors shall be considered in the selection of a site for the facility:
 - (1) Prevailing wind direction and proximity to occupied residences;
 - (2) Topography of the facility location, including avoiding locating the facility on steep slopes or within the 100-year flood plain; or
 - (3) Ground and surface water protection.
- (b) The Department may conduct a pre-site inspection of the proposed facility prior to issuing any permit for operation.
- (c) The compost facility shall not be located within three hundred (300) feet of a public or private drinking water well.

35:17-9-5. No discharge; endangered and threatened species

- (a) There shall be no discharge of wastewater, leachate, contaminated storm water, animal waste, or other pollutant resulting from the operation of the facility to waters of the state.
- (b) If, for any reason, there is a discharge, the owner or operator shall make immediate notification to the Department. The report of the discharge shall include:
 - (1) a description and cause of the discharge, including a description of the flow path to the receiving water body,
 - (2) an estimation of the flow rate and volume discharged,
 - (3) the period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue,
 - (4) steps taken to reduce, eliminate and prevent recurrence of the discharge, and

- (5) test results for fecal coliform bacteria, five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), ammonia nitrogen, total Kjeldahl nitrogen (TKN), any pesticides which the operator has reason to believe could be in the discharge, or any other parameters required by the Department that the Department has reason to believe could be in the discharge.
- (c) Construction and operation of the facility shall not result in the destruction of endangered or threatened species nor contribute to the taking of any federally endangered or threatened species of plant, fish or wildlife, nor interfere with or cause harm to migratory birds.

35:17-9-6. Leachate and storm water control

- (a) The owner or operator shall provide a total retention storage structure that is of sufficient size to contain all leachate and contaminated storm water, the 100 year/24 hour storm event, and maintain one foot of free board.
- (b) The owner or operator shall construct a permanent marker that identifies the levels of the 100 year/24 hour storm event volume, the one foot of free board, and the bottom of spillway.
- (c) The owner or operator shall provide a drainage system for storm water that prevents erosion at the facility.
- (d) The owner or operator shall prevent contact between uncontaminated storm water and source material, composting amendment, composting mix, and final product isolating the material from surface drainage through the use of covers, ditches, dikes, berms, terraces, or other control structures.

35:17-9-7. Inspections

The Department may inspect the compost facility at any reasonable time.

35:17-9-8. Existing facilities

- (a) Any facility in existence on the effective date of these rules shall apply for a permit and comply with all operational requirements.
- (b) Any facility in existence on the effective date of these rules shall comply with all structural requirements no later than May 11, 2016.
- (c) In no case shall an existing facility discharge to waters of the state.

35:17-9-9. Closure of licensed compost facility retention structures

- (a) The owner of a leachate retention structure shall notify the Department if the owner intends to permanently cease operations of the structure for any reason, including but not limited to, compliance with orders of the Board of Agriculture. A leachate retention structure that temporarily ceases operations but otherwise remains in full compliance with its license shall not be considered permanently closed.
- (b) Closure requirements of leachate retention structures shall be based on site specific conditions, as follows:

- (1) The owner shall notify the Department in writing whenever a leachate retention structure is abandoned or permanently ceases operations for any reason. The Department shall consider a leachate retention structure is abandoned or has permanently ceased operations if:
 - (A) The leachate retention structure is closed by order of the Department; or
 - (B) The owner is unable to furnish documents showing receipt of compost material into the leachate retention structure during the previous twenty-four (24) months and the owner is not maintaining the retention structure in compliance with the applicable rules or plans approved by the Department.
- (2) Liquid contents of a leachate retention structure may be pumped out and land applied according to Department rules.
- (3) Solids from the leachate retention structure shall be removed and disposed of in an environmentally safe manner.
- (4) Sludge from the bottom of the leachate retention structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department rules.
- (5) The owner shall grid sample soil from the bottom of the leachate retention structure and have the samples analyzed in a State certified laboratory for nitrate-nitrogen, total phosphorous, and electrical conductance.
- (6) The owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.
- (7) If soil is to be removed from the bottom of the leachate retention structure, it shall be managed in an environmentally safe manner approved by the Department. Management options may include, but are not limited to, land application, disposal, and reuse.
- (8) The Department may require monitoring wells if evidence indicates that contamination has migrated to the groundwater based on site specific conditions.
- (9) An owner may seek an exemption from the closure obligations of this subsection or transfer the responsibility for a leachate waste retention structure to another party. A written request and approval by the Department are required for an owner to be exempt from closure obligations of this subsection or to transfer the responsibility for a leachate waste retention structure to any other party.

35:17-9-10. Variances

Variances from these rules shall only be granted on a case by case basis and the granting of a variance shall not act as a precedent for any other case, whether similar or not. In each case where a variance is granted, the decision shall be thoroughly documented.