

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

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

35:17-9-1. Purpose and applicability

(a) 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).

(b) These rules shall not apply to any compost facility:

- (1) Located on a facility permitted or licensed as a concentrated animal feeding operation or a registered poultry feeding operation if any portion of the source materials is from the concentrated animal feeding operation or registered poultry feeding operation;
- (2) Permitted or required to be permitted by the Oklahoma Department of Environmental Quality or
- (3) Producing compost volume of fewer than two hundred (200) cubic yards annually if production does not create a public nuisance or impair local water quality standards.

[Source: Added at 23 Ok Reg 876, eff 5-11-06; Amended at 24 Ok Reg 1766, eff 6-25-07; Amended at 33 Ok Reg 1164, eff 9-11-16; Amended at 37 Ok Reg 957, eff 9-14-20]

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" or **"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. This includes 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 the facility.

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

[Source: Added at 23 Ok Reg 876, eff 5-11-06; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

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.

(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, telephone number, and email address of the owner;
- (2) Name, address, and county of the facility, including the Global Positioning System (GPS) coordinates to the entry of the facility;
- (3) Name, address, and telephone number of the operator, if other than the owner;
- (4) A description of the proposed compost facility purpose of the 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 year;
 - (B) Proposed type of composting process or processes to be used at the facility, which may include 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 and sludge;
 - (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. Best management practices shall be utilized to ensure environmental hazards are avoided and operations do not create nuisance conditions, including blowing of dust or waste, odor, pest, or attraction of vermin creating public health concerns or erosion.
 - (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.

(g) A compost permit shall not be transferred.

(1) Upon sale of a compost facility, the new owner shall submit a new application and fee within thirty (30) days of the final sale.

(2) The former owner shall provide written notice of sale at least ten (10) days prior to finalization of the sale along with a written statement identifying plans to close or transfer the total retention storage structure.

(3) If the new owner agrees to take over responsibility of the total retention storage structure, as outlined in OAC 17-9-9(d), a signed, notarized agreement by both parties shall be submitted to the Department prior to the sale.

[Source: Added at 23 Ok Reg 876, eff 5-11-06; Amended at 24 Ok Reg 1766, eff 6-25-07; Amended at 37 Ok Reg 957, eff 9-14-20; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

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

(3) Ground and surface water protection.

(b) The Department may conduct a presite 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.

(d) The compost facility shall not be located within the 100-year flood plain.

(e) The composting and storage areas shall not be located with fifty (50) feet of the property boundaries.

(f) The compost facility shall not be located within 100 feet of a downgradient perennial stream as defined on a current 7.5 minute topographic map.

(g) The compost facility shall not be located with fifty (50) feet of a downgradient intermittent stream as defined on a current 7.5 minute topographic map.

[Source: Added at 23 Ok Reg 876, eff 5-11-06; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

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.

[Source: Added at 23 Ok Reg 876, eff 5-11-06]

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

(a) The owner or operator shall provide a total retention storage structure or vegetative filter that is of sufficient size to contain or filter all leachate and contaminated storm water.

(b) If a total retention storage structure is required by the Department, the owner shall ensure:

- (1) The waste retention structure shall have the volume to store runoff from a 100 year/ 24 hour storm event,
- (2) One foot of freeboard is maintained, and
- (3) 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 is constructed.

(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.

[Source: Added at 23 Ok Reg 876, eff 5-11-06; Amended at 33 Ok Reg 1164, eff 9-11-16; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-9-7. Inspections

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

[Source: Added at 23 Ok Reg 876, eff 5-11-06]

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.

[Source: Added at 23 Ok Reg 876, eff 5-11-06; Amended at 24 Ok Reg 1766, eff 6-25-07]

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

(a) The owner of a facility shall notify the Department at least thirty (30) days in advance in writing if they intend to permanently cease operations of the facility for any reason, including but not limited to, compliance with orders of the Board of Agriculture.

(b) A facility that temporarily ceases operations for longer than six (6) months but otherwise remains in full compliance with these rules shall not be considered permanently closed if written notice is provided to the Department prior to six (6) months of ceasing operations.

(c) In the event of permanently ceasing operations or abandonment of the facility, the owner shall still be responsible for closure of any waste retention structure by ensuring the following:

- (1) Liquid contents of total retention storage structure shall be pumped out and land applied according to Department requirements.
 - (2) Solids from the total retention storage structure shall be removed and disposed of in an environmentally safe manner.
 - (3) Sludge from the bottom of the total retention storage structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department requirements.
 - (4) 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.
 - (5) The owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.
 - (6) If soil is to be removed from the bottom of the total retention storage 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.
 - (7) If evidence indicates that contamination has migrated to the groundwater based on site specific conditions, monitoring wells shall be installed as required by the Department.
 - (8) In the event a total retention storage structure requires closure or replacement in other than a permanently ceasing operations event, written notice shall be submitted to the Department prior to closure and shall follow the requirements of this section.
- (d) An owner may seek an exemption from the closure obligations of this subsection or transfer the responsibility for a total retention storage 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 total retention storage structure to any other party.
- [Source: Added at 33 Ok Reg 1164, eff 9-11-16; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

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.

[Source: Added at 33 Ok Reg 1164, eff 9-11-16]