



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

September 18, 2015

Kurtz Brothers of Central Ohio, LLC
6279 Houchard Road
Dublin, Ohio 43016

**Re: Groveport Composting Facility
Non-permit Related Exemptions
Approval
Composting
Franklin County
CM010841**

Subject: Final Findings and Orders

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Kurtz Brothers of Central Ohio, LLC.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
77 South High St., 17th Floor
Columbus, Ohio 43215

If you have any questions, please contact Ohio EPA, Legal Services at (614) 644-3037.

Sincerely,

A handwritten signature in black ink that reads "D.H. Crumiell-Hagens".

Demitria Crumiell-Hagens, Administrative Professional II
Division of Materials & Waste Management

Enclosure

cc: Scott Hester, DMWM, CO
Jeremy Carroll, DMWM, CO
Phil Farnlacher, DMWM, CDO
Melissa Storch, DMWM, CDO

OHIO E.P.A.

SEP 18 2015

ENTERED DIRECTOR'S JOURNAL

Issuance Date: SEP 18 2015

Effective Date: SEP 18 2015

Expiration Date: December 31, 2015

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF

Kurtz Brothers of Central Ohio, LLC :
6279 Houchard Road :
Dublin, Ohio 43016 :

Director's Final
Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Kurtz Brothers of Central Ohio, LLC pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3734.02(G) and Ohio Administrative Code ("OAC") Rule 3745-500-220.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Kurtz Brothers of Central Ohio, LLC and successors in interest liable under Ohio law. No change in ownership of Kurtz Brothers of Central Ohio, LLC or of the Facility, as hereinafter defined, shall in any way alter Kurtz Brothers of Central Ohio, LLC's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA ("Director") has determined the following findings:

1. Kurtz Brothers of Central Ohio, LLC (Kurtz Brothers) is the "owner" or "operator" of the Groveport "Compost Facility" ("Facility") located at 2850 Rohr Road, in Groveport, Ohio as those terms are defined in OAC Rule 3745-500-02(C)(1), (O)(7) and (O)(6).

2. On January 20, 2009, Kurtz Brothers obtained a Class II Composting Facility Registration certificate, 25-C2R-1036 from Ohio EPA which approved the following feedstock types for composting at the Facility: yard waste, agricultural waste, animal waste, and food scraps.
3. On March 17, 2009, Ohio EPA issued an approval to Kurtz Brothers to accept sewage sludge incinerator ash, generated at the City of Columbus' Southerly and Jackson Pike wastewater treatment plants, as an alternative additive into the composting process, subject to the conditions contained therein. Condition Number 12 provided in relevant part, "No sewage sludge incinerator ash shall be accepted for composting until a solid waste facility annual license is obtained ... and Kurtz Bros. has met the financial assurance requirements for the Facility located at 2850 Rohr Road in Groveport, Franklin County, Ohio."
4. On December 23, 2013, the Franklin County Public Health Department renewed and issued a Solid Waste Facility License to Kurtz Brothers for the Class II Composting Facility located in Groveport, effective January 1, 2014. The 2014 license for the Class II Composting Facility expired on December 31, 2014.
5. Kurtz Brothers did not submit an application for a 2015 license for the Class II Composting Facility prior to December 31, 2014.
6. OAC Rule 3745-560-201 provides: "A class II composting facility registration shall expire upon receipt by Ohio EPA of written request from the owner or operator that the composting facility registration be terminated." Ohio EPA has not received a written request from the Kurtz Brothers that the Class II composting facility registration number 25-C2R-1036 be terminated.
7. OAC Rule 3745-560-200 (G) provides in relevant part: "Amendments to an existing registration. The registrant shall ensure that changes to the composting facility are in compliance with applicable regulations and all information contained on the plan view drawing and registration application is current by submitting an amended registration application."
8. On July 20, 2015, Kurtz Brothers requested an exemption from the provisions of OAC Rules 3745-560-200 and 3745-560-201, which specify that no person shall establish and operate a Class II composting facility without first submitting a registration application and obtaining a solid waste license pursuant to OAC Chapter 3745-501, in order to accept approximately 20,000 tons of sewage sludge incinerator ash from the City of Columbus' Southerly wastewater treatment plant.
9. Kurtz Brothers continues to maintain a performance bond for the Class II composting facility in Groveport, OH.

10. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-500-220, the Director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a permit or license or comply with other requirements of ORC Chapter 3734 and any rules adopted thereunder.
11. Ohio EPA has reviewed Kurtz Brothers' request and has determined that granting Kurtz Brothers an exemption from the requirement to submit a new Class II compost facility registration or amendment to the existing registration, and to obtain a solid waste facility license, in order to accept the City of Columbus' sewage sludge incinerator ash, is unlikely to adversely affect the public health or safety or the environment.

V. ORDERS

1. Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-500-220, Kurtz Bros. is hereby granted an exemption from the requirements in OAC Rule 3745-560-200 to submit a new Class II compost facility registration or amendment to the existing Class II Compost Facility Registration certificate, 25-C2R-1036 and to obtain a solid waste license in order to accept sewage sludge incinerator ash from the City of Columbus' Southerly wastewater treatment plant at the Groveport Compost Facility, in accordance with their July 20, 2015 request, and the conditions set forth below.
2. The exemption granted herein is issued solely to Kurtz Bros., for the Groveport Class II Composting Facility, and is not transferable upon change of ownership of the business or the property, nor transferable to any other property location owned or operated by Kurtz Bros.
3. Prior to acceptance of sewage sludge incinerator ash at the Groveport Composting Facility, Kurtz Bros. shall obtain representative samples of the sewage sludge incinerator ash, and shall obtain test results demonstrating that all sewage sludge incinerator ash to be accepted does not exceed the limits for the parameters listed in Table I of OAC Rule 3745-560-230.
4. Kurtz Bros. may mix sewage sludge incinerator ash from the City of Columbus' Southerly wastewater treatment plant at the Groveport Composting Facility with finished compost product and blend topsoil only if the results of testing demonstrate that the sewage sludge incinerator ash does not exceed any of the concentration limits specified in Table I of OAC Rule 3745-560-230, and the sewage sludge incinerator ash shall compromise no more than twenty-five percent of the compost mixture.

5. The mixing shall be conducted on a surface that prevents the infiltration of leachate and is constructed to prevent any unauthorized discharge of leachate from the Facility.
6. Kurtz Bros. shall ensure that the final mixed compost product does not exceed any of the concentration limits specified in Table I of OAC Rule 3745-560-230.
7. Kurtz Bros. shall document the methods of testing performed, test results, and specific mixing ratios in a daily log of operations.
8. Kurtz Bros. shall only distribute compost product that meets the compost quality standards of rule 3745-560-230 of the Administrative Code, and such distribution shall be in accordance with accepted agricultural, silvicultural, or horticultural practices.
9. Compost product or sewage sludge incinerator ash that does not meet the quality standards established in OAC Rule 3745-560-230 shall be taken to another appropriate class of composting facility authorized to accept the material for further composting, or shall be disposed in a licensed solid waste disposal facility.
10. On or before December 31, 2015, Kurtz Bros. shall provide written notification to both Ohio EPA and Franklin County Public Health of the date that the last load of sewage sludge incinerator ash was accepted at the Groveport Composting Facility.
11. These Orders shall not be construed to release Kurtz Bros. from their responsibilities under ORC Chapter 3734 and OAC Chapter 3745-560, as an owner or operator of a composting facility, except as specified herein, including but not limited to the requirement to maintain financial assurance in accordance with OAC Rule 3745-560-200, and to conduct closure in accordance with OAC Rule 3745-560-235.
12. The Facility shall be operated in compliance with OAC Rule 3745-15-07, "Air Pollution Nuisances Prohibited", and Chapter 6111. of the Revised Code, "Water Pollution Control," and the rules promulgated thereunder.
13. Authorized representatives from the Franklin County Health Department and Ohio EPA may enter the facility during reasonable times [in accordance with ORC 3734.07(C)] to inspect, conduct tests, or examine records and reports concerning compliance with these conditions.
14. These Orders do not exempt Kurtz Bros. from any other local, state, or federal laws or regulations which are otherwise applicable

VI. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to Kurtz Bros., and/or related to the Groveport Composting Facility.

VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Kurtz Bros. and/or the Groveport Composting Facility.

VIII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Kurtz Bros. to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of Kurtz Bros. to raise any administrative, legal, or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Kurtz Bros. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations which may occur at the Groveport Composting Facility.

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Craig W. Butler
Director

*By CAH
via authorization*