



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Solid & Hazardous Waste

Bureau of Recycling & Hazardous Waste Management

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Summary of Stakeholder Meeting: Exemption Rulemaking

April 30, 2019 (9:00 AM – 12:00 PM)

Background

Facilitator: Tanya Oznovich, (E: Tanya.Oznovich@dep.nj.gov)

Presenters:

1. Karen Kloo – Opening Remarks, (E: Karen.Kloo@dep.nj.gov)
2. Paul Smith – Exemptions 13: (Receipt of Yard Trimmings for Composting) and 18: (Yard Trimmings Composting Conducted and Applied on Agricultural Land), (E: Paul.Smith@dep.nj.gov)
3. Rakesh Patel – Exemption 21: Class C Recycling, (E: Rakesh.Patel@dep.nj.gov)
4. Frank Piliere – Exemptions 23: (Farm Feedstock Recycling on Farms), and the Potential New Exemption (In-Vessel Composting), (E: Frank.Piliere@dep.nj.gov)
5. Judith Andrejko, Esq. - Closing Remarks, (E: Judith.Andrejko@dep.nj.gov)

Summary

The New Jersey Department of Environmental Protection (NJDEP) hosted an external stakeholder meeting on April 30, 2019. The purpose of this meeting was to inform external stakeholders of suggested changes to existing exemptions and listen to feedback on the same exemptions. The exemptions discussed were the following: #13 (Yard Trimmings Received for Composting), #18 (Yard Trimmings Composting for Horticultural and Agricultural Land), #21 (Class C Recycling), #23 (Farm Feedstock Recycling), and the Potential New Exemption (In-Vessel Composting).

The goal of proposing revisions to the exempt recycling rules is to minimize adverse impacts, create better enforceability, enhance coordination, remove problematic/unnecessary exemptions, combine, and add new exemptions as necessary. These suggested changes are intended to be advantageous, not detrimental, as they are designed to benefit NJDEP, exempt operators, local governments, and the communities in which these facilities operate, in many areas. One of the goals is to ensure that recycling centers (Class B, C, and D) and exempt recycling facilities are on a “level playing field” and every entity involved is treated fairly. NJDEP also recommends that best management practices are incorporated in the exempt recycling rulemaking. Because rulemaking is a multi-year process and the rules sunset on December 3, 2022, NJDEP intends to proceed with this process as soon as possible.

For all exemptions, the matters discussed included: limiting multiple exemptions of certain types, the need for NJDEP acknowledgement/approval before operations begin, county and municipal approval, and exemption expiration. For the certification statement, the goal is to make exemption regulations more consistent with the other rules and included: the certification statement itself, individual sign-off clarity, and an example of certifying in the new mobile shredding rule. Lastly, in order to cover NJDEP’s cost for administrative and enforcement activities, a \$500 annual fee was discussed. The following includes more details on the proposed revisions to exempt recycling rules that were discussed, stakeholder input, and where to obtain additional information.

The following subject matters regarding several exemptions were presented and discussed with the stakeholders in attendance:

1. Exemption #13 (Receipt of Yard Trimmings for Composting)
 - a. Volume limitations
 - b. Composting operation management
 - c. Setbacks and buffers
 - d. Recordkeeping
2. Exemption #18 (Yard Trimmings Composting Conducted & Applied on Agricultural Land)
 - a. Volume limitations
 - b. Placement of trimmings and setbacks
 - c. Fire control plan
 - d. Recordkeeping
3. Exemption #21 (Class C Recycling)
 - a. Expansion to on-site use
 - b. Creation of potential new exemption for food and animal waste
4. Exemption #23 (Farm Feedstock Recycling on Farms)

- a. Feedstock definition
 - b. Expansion to Class C recyclables
 - c. Setbacks and buffers
5. Potential New Exemption (In-Vessel Composting)
- a. Vessel types
 - b. Material throughout capacities
 - c. Operational criteria
 - d. Types of in-vessel compost material

Details

This section will expand on the information provided above and is formatted to explain the changes, include attendee and NJDEP communication, and the resolution for going forward.

Exemption #13 – Receipt of Yard Trimmings for Composting:

NJDEP’s presentation consisted of details relevant to the yard trimmings exemption. The areas of focus included: background, restrictions, volume limits, composting operation management, setbacks and buffers and recordkeeping. The following questions and matters were discussed:

- (NJDEP): Should the volume of yard trimmings handled be based on the total acreage of the facility?
 - (Attendees): Yes, the consensus was that the volume should be based on acreage. A ‘sliding scale’ approach should be considered.
- (NJDEP): Should the ten (10) percent by volume limit of grass clippings be changed?
 - (Attendees): Due to odors from grass clippings, volumes of grass clipping should be limited based on windrow management (types of equipment, carbon/nitrogen ratio, temperature) and proximity to residential neighborhoods/occupied structures. Consider imposing performance-based limits.
- (NJDEP): Should the current restrictive property uses be changed (currently not permitted on public open space)?
 - (Attendees): This activity may be appropriate on abandoned properties and in park settings, in certain circumstances, and could generate revenue. Also, could add an educational component to increase public awareness.

- (NJDEP): Are current property setbacks sufficient?
 - (Attendees): Some attendees stated that setbacks should be expanded to be effective. Other attendees stated that setbacks are not effective in cases where poor management is occurring. Also, it is not practical given the high-density population in the state of New Jersey.
- (NJDEP): Should additional controls besides grading be considered to address leachate?
 - (Attendees): Vegetative filter strips and silt socks can be effective.
 - (Attendees): Must coordinate with Soil Conservation Groups because some NJDEP regulations may conflict.
- (NJDEP): Should recycling rules require a control plan approved by local fire officials?
 - (Attendees): Proper management reduces risk of fire. Even though the likelihood of fire is low with just compost, Fire Marshall approval should be required for accessibility issues, especially if wood materials are included.
- (NJDEP): Is seven (7) days too long for storage of material prior to placement in windrows?
 - (Attendees): Because there is a low potential for fires, there is no problem with this timeframe. Limited volumes and proper management in the windrows are more critical to prevent fires. Also, because grass composting requires leaves and this is done seasonally, leaves must be available on-site.
- (NJDEP): Should current windrow management practices be changed?
 - (Attendees): Management practices should be performance-based. Recommend consulting with the US Composting Council for model regulations. Regulations are currently based on Rutgers University's Dr. Peter Strom's Leaf manual. Prescriptive rules are difficult to enforce, so performance-based requirements would lead to better enforceability.
- (NJDEP): Should a refresher composting course be required?
 - (Attendees): Some attendees felt that official refresher course is not necessary, if other effective communication is provided to ensure that current rules are understood. Others felt that operators should attend a composting course and have refreshers at some regular frequency (3-5 years). Some felt NJDEP personnel and inspectors should also be required to take the course.

- (NJDEP): Should the regulations require operators to keep records regarding daily volumes?
 - (Attendees): Although records are easily falsifiable, there is a recognition that recordkeeping is necessary to limit competition with permitted facilities. Recordkeeping should be based on throughput rather than storage capacity. Rules need to be made clear to reflect that.
- **Consensus:** Research and evaluation of the questions, comments, and concerns addressed during this portion of the meeting must be done to properly refine and improve these organic-material related exemptions, specifically concerning the receipt of yard trimmings. The general conclusion that the attendees came to was the following: the requirements for this exemption should be revised to be performance-based, rather than prescriptive. This is because these operations lack a standard and vary in size, equipment, vicinity to occupied structures, population density in area, etc.

Exemption #18 – Yard Trimmings Composting Conducted and Applied on Agricultural Land

NJDEP’s presentation consisted of details relevant to the yard trimmings usage on agricultural and horticultural land exemption. The areas of focus included: background, restrictions, volume limits, placement of trimmings and setbacks, fire control plans and recordkeeping. The following questions and matters were discussed:

- (NJDEP): Should a limit be set on the amount of trimmings that can be applied to agricultural and horticultural land?
 - (Attendees): Amounts should be dictated by farmable acreage and should not be allowed to be sold. It should be restricted to on-site use only.
- (NJDEP): Should there be a minimum amount of acreage to qualify for this exemption?
 - (Attendees): Some attendees felt that a five-acre limit is appropriate. Others felt that if the farm is commercial and tills in all material (none being sold), a five -acre limit is not necessary. A Five-acre limit would be enforceable, though, because the farm would need county agricultural board approval.
- (NJDEP): Should the time requirements for placing yard trimmings into windrows be changed? Should the regulations have a specific time-period (e.g. 7 days) for composting of the yard trimmings?
 - (Attendees): Conditions (e.g. excessive rainfall) may interfere with the ability to place the material in windrows within a time limit. Dedicated locations for compost operations should be considered.

- (NJDEP): Are setback distances in the regulations adequate?
 - (Attendees): They should be performance-based.
- (NJDEP): Should additional setbacks be established?
 - (Attendees): Since permitted facilities have setback requirements, exempt facilities should have them as well. Stormwater management rules have required setbacks.
- (NJDEP): Do the regulations need to clarify what is an adequate water supply? Should it be readily available?
 - (Attendees): Permitted facilities are required to maintain one-thousand (1000) gallons of water on the property, but that is inadequate. They should have a fire control plan, rather than a minimum amount of water. Perhaps a general fire control plan should be required for all exempt activities.
- (NJDEP): What should the record keeping measures be?
 - (Attendees): Record keeping should be a general rule and maintained on-site, similar to how permitted facilities report their annual tonnage reports.
- (NJDEP): Should notifications to the NJDEP be required before starting composting activities?
 - (Attendees): All exemptions should require some standard reporting requirement.
 - (Attendees – *off topic*): Composting under exemption 18 should be allowed on green acres property.
- **Consensus:** Research and evaluation of the questions, comments, and concerns addressed during this portion of the meeting must be done to properly refine and improve these organic-material related exemptions, specifically concerning yard trimming composting on agricultural land. The general conclusion reached by the attendees during this part of the presentation was the following: the requirements for exempt facilities should mirror permitted facilities.

Exemption #21 (Class C Recycling):

NJDEP's presentation consisted of details relevant to the class C recycling exemption. The areas of focus included: background, expansion to on-site use, and the inception of potential new exemption specifically designed for food and animal waste. The following questions and matters were discussed:

- (NJDEP): Should the NJDEP create a separate exemption for food and animal waste composting?
 - (Attendees): In favor of expanding the exemption to allow composting of food waste received from both on and off-site. Also, in favor of possible expansion into tiers depending on size, volume, and throughput capacity of the operations taking place.
- (NJDEP): Should the NJDEP clarify the definition of biomass?
 - (Attendees): The definition should be refined and consistent with the national definition.
- (NJDEP): Should the NJDEP allow use of the products on-site and off-site?
 - (Attendees): Yes, agree with the expansion into on-site use as long as volumes are kept at an appropriate level (*to be decided*).
 - (Attendees): The need for testing and quality control standards to be established for finished compost end-products should also be considered.
- **Consensus:** Research and evaluation of the questions, comments, and concerns addressed during this portion of the meeting must be done to properly refine and improve these organic-material related exemptions, specifically concerning Class C Recycling. The general conclusion the attendees reached during this part of the presentation was the following: the need for an entirely new exemption focused on food waste composting, a refined biomass definition, establishing quality control standards, and expansion into on-site usage.

Exemptions #23 (Farm Feedstock Recycling on Farms):

NJDEP's presentation consisted of details relevant to the farm feedstock recycling on farms exemption. The areas of focus included: background, feedstock definition, expansion to class C recyclable materials, setbacks, and buffers. The following questions and matters were discussed:

- (NJDEP): Does feedstock need a proper definition? Is there one currently in existence?
 - (Attendees): Yes, the definition does need refinement. This definition may be available through the Composting Council.
- (NJDEP): Should the exemption be expanded to include all Class C recyclable material?
 - (Attendees): It should be performance-based, and the NJDEP should consider current practices employed by farmers as well.

- **Consensus:** Research and evaluation of the questions, comments, and concerns addressed during this portion of the meeting must be done to properly refine and improve these organic-material related exemptions, specifically concerning farm feedstock recycling on farmland. The general conclusion the attendees reached was the following: the definition of feedstock must be refined and clarified for use in applicable exemptions.

Potential New Exemption (In-Vessel Composting):

NJDEP's presentation consisted of details relevant to the potential new exemption concerning the in-vessel composting operation. The areas of focus included: background, vessel types, throughput capacity for material, criteria for operation, and types of in-vessel compost material. The following questions and matters were discussed:

- (NJDEP): How should the NJDEP define the term 'in-vessel?'
 - (Attendees): Yes, many definitions were raised, and standards should be made because there are many different technologies and processes available.
- (NJDEP): Should NJDEP limit the throughput capacity for material for in-vessel composting?
 - (Attendees): Yes, a performance-based tiered approach should be created.
- (NJDEP): What types/sizes of in-vessels should be included in this exemption?
 - (Attendees): Many different approaches were mentioned and will be considered before going forward to devise a standard for this exemption.
- (NJDEP): Should compost material and operating criteria be considered?
 - (Attendees): Yes, many types of materials were discussed, and the proper carbon-nitrogen ratio must be maintained in order to sustain proper in-vessel composting operations. Expertise and training of the operators must be strongly considered.
- **Consensus:** Research and evaluation of the questions, comments, and concerns addressed during this portion of the meeting must be done to properly refine and improve this potential new exemption for in-vessel composting technology. The general conclusion reached by the attendees during this portion of the presentation was the following: support for this exemption is overwhelmingly positive, but considerations must be given with regards to the types of feed stocks allowed, types of vessels, and operator level of experience before this exemption is officially proposed.

General:

Broad questions, comments, and concerns from the meeting that do not fall under the umbrella of a singular exemption. The following questions and matters were discussed:

- (NJDEP): Should exempt facilities be in the county plan?
 - (Attendees): Class C-related exemptions are not required to be included in the county plan, with the exception of exemption 13, which requires inclusion through an administrative action. If county plan inclusion is required, the county will not have any future Class C related exemptions due to the length of time required for county plan inclusion, for certain counties.
- (NJDEP): An advantage of being in the county plan is that the facility is exempt from local zoning requirements. But, county plan inclusion could be viewed as a disincentive and another administrative burden to go through before approval. How does everyone all feel about this?
 - (Attendees): If a facility is in a County plan as a Class C facility, how do zoning exemptions apply? Is the NJDEP removing zoning requirements?
 - (NJDEP): Exemption 13 currently requires county plan inclusion. None of the other exemptions do.
- (NJDEP): How can the NJDEP improve communication/notification to municipalities and counties before exempt operations commence?
 - (Attendees): There must be a response from the municipalities before operations can commence.
 - (Attendees): The facilities should get local zoning approvals before they can operate.
 - (NJDEP): Communication between the NJDEP, counties, municipalities, and facilities should be improved. However, the NJDEP cannot regulate a municipality's response time for exempt operations.
- (NJDEP): Inclusion of a \$500 annual fee to cover cost of processing and enforcement-related activities?
 - (Attendees): *No audible opposition from the audience in attendance.*
- (NJDEP): Any other comments, questions, issues that need to be addressed?
 - (Attendees): All compost inspectors should be certified.
- **Consensus:** Research and evaluation of the questions, comments, and concerns addressed during this portion of the meeting must be done to properly refine and improve all of the exemptions discussed during these meetings, including the administrative-type changes.

Other Supporting Documents:

1. Stakeholder Information:

Please click on the below link to be redirected to all the details from this meeting. Below, within the first row on the page, where it states 1/15/2019 - Stakeholder Meeting for Proposed Amendments to N.J.A.C. 7:26A-1.4-Recycling Rules-Invitation Only' one may find the following four documents: Invitation, Presentation, Agenda, and the Sign-in sheet.

Link: <https://www.nj.gov/dep/workgroups/past.html>

2. NJDEP - Exemptions Rules

Please click on the below link, then click on the pdf document in the first tab that states 'RECYCLING REGULATIONS - N.J.A.C. 7:26A-1.' Once in the document, the exemptions start at the top of page 11 after the '7:26A-1.4 Activities exempt from general or limited approval' text and continue until page 17 and end right before the '7:26A-1.5 Burden of proof' section begins.

Link: <https://www.state.nj.us/dep/dshw/resource/rules.html>

3. NJDEP - State Website

Please click on the below link to be redirected to the NJDEP's state website for more general recycling information.

Link: <https://www.state.nj.us/dep/>