

THIS IS A COURTESY COPY OF THIS NOTICE. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE DECEMBER 17, 2018, NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE NOTICE, THE OFFICIAL VERSION WILL GOVERN.

ENVIRONMENTAL PROTECTION

OFFICE OF LEGAL AFFAIRS

Notice of Action on Petition for Rulemaking

Recycling; Activities exempt from general or limited approval

N.J.A.C. 7:26A-1.4

Petitioner: Planting Seeds of HOPE.

Take notice that the Department of Environmental Protection (Department) is granting the petition of Planting Seeds of HOPE (petitioner). The Department will initiate rulemaking in accordance with the schedule and terms agreed to with the petitioner, as discussed below.

The Petition

The petitioner is a non-profit organization that focuses its work on community development, urban agriculture, and access to healthy and nutritious food. The petitioner contends that the Department's existing rules do not allow members of any community garden in the State to compost food waste generated outside the boundaries of a community garden at the community garden without prior general or limited approval from the Department. Specifically, the petitioner requests the Department amend the Recycling Rules at N.J.A.C. 7:26A-1.4 to allow for an exemption for community gardens receiving and composting source separated food waste and other Class C recyclable material, whose activity meets the following criteria:

1. The activity is conducted at a community garden;

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2. The only feedstocks that are received are source separated food waste and other Class C recyclable material;
3. No more than 1000 square feet is utilized in support of composting, including areas, whether contiguous or non-contiguous used for feedstock receiving and preparation, active composting, curing, and storage of compost, equipment or waste;
4. Daily monitoring and logging is kept ensuring odor is controlled; and
5. Prior to start-up of the compost operation, the compost operator shall attend a composting course sponsored by Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents, or any other similar course approved by the Department. Proof of timely attendance at such a course shall be retained by the composting operator and made available to the Department upon request.

The petitioner also requests that these activities be exempted from the fee for inspection of exempt composting facilities and the tonnage reporting requirement set forth at N.J.A.C. 7:26A-2.1(c) and 4.4(b), respectively.

The Department's Response to the Petition

The Department is in the process of evaluating the implications of exempting composting activities at community gardens from the requirement to obtain a general or limited approval from the Department.

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The Department and the petitioner have agreed that the Department will grant the petition, and that on or before August 1, 2019, the Department will begin the internal and external administrative procedures required for rulemaking. These procedures include identifying relevant stakeholders, assembling a rule team, scheduling stakeholder meetings, and beginning to draft a proposal of amendments to the Recycling Rules at N.J.A.C. 7:26A-1.4. In the interim, the Department will gather more information from the petitioner, food waste composting experts, and local and county government officials. Additionally, the Department will explore the development of a pilot program for community garden composting.

A copy of this notice has been mailed to the petitioner as required by N.J.A.C. 1:30-4.2. In accordance with N.J.A.C. 7:1D-1.1, the Department will subsequently mail to the petitioner and file with the Office of Administrative Law a notice of action on the petition.