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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) has determined to refer for further deliberation the petition for rulemaking, filed by Planting Seeds of HOPE (petitioner) on July 3, 2018, requesting that the Department amend its recycling rules at N.J.A.C. 7:26A-1.4 to exempt composting activities conducted at a community garden from the requirement to obtain a general or limited approval from the Department pursuant to N.J.A.C. 7:26A-3.

The Petition

The petitioner is a non-profit organization that focuses its work on community development, urban agriculture, and access to healthy and nutritious foods. 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 exemption for community gardens receiving and

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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;
2. The only feedstocks that are received are source separated food waste and other Class C recyclable material;
3. No more than 1,000 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 currently evaluating the implications of exempting composting activities at community gardens from the requirement to attain a general or limited approval

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from the Department. Accordingly, the Department is referring the matter for further deliberation for a period not to exceed 90 days in order to gather more information from the petitioner, food waste composting experts, and local and county government officials to address these concerns and determine whether to grant or deny the petition.

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.