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Via E-Mail

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Office of Legal Affairs
Attention: Rulemaking Petitions
Department of Environmental Protection
Mail Code 401-04L
401 East State Street, 4th Floor
P.O. Box 402
Trenton, New Jersey 08625-0402
RulePetitions@dep.nj.gov

Re: Petition for Rulemaking Pursuant to N.J.S.A. 52:14B-4(f), N.J.A.C. 1:30-4.1, and N.J.A.C. 7:1D-1.1 to Amend N.J.A.C. 7:26A (Recycling Rules), Section 1.4 (Activities Exempt from General or Limited Approval) to include Composting Activities at a Community Garden

Dear Sir/Madam:

This firm represents Petitioner Planting Seeds of HOPE in connection with the below. Pursuant to N.J.S.A. 52:14B-4(f), N.J.A.C. 1:30-4.1, and N.J.A.C. 7:1D-1.1(a), Petitioner submits this Petition for Rulemaking to the New Jersey Department of Environmental Protection ("NJDEP") to add composting activities at a community garden to the list of activities exempt from the requirement to obtain a permit pursuant to N.J.A.C. 7:26A-1.4.

I. The Reasons for the Request

The *Manual on Composting Leaves and Management of Other Yard Trimmings* (the "Manual"), which the New Jersey Department of Environmental Protection published in 1994, recognizes the significant benefit provided by "backyard composting" (i.e., on-site composting of organic materials generated at a residence). The Manual also clearly states that New Jersey does not require a permit to conduct backyard composting.

However, many New Jersey residents, particularly, but not only, in low-income areas and communities of color are unable to take advantage of backyard composting because they lack a yard in which to do so. These residents often are served by a community garden where they can

plant and harvest fruits and vegetables, but New Jersey law does not allow members of a community garden to compost food waste generated within the community (i.e., outside the boundaries of the community garden) at the community garden without a permit. This severely limits the quantity and quality of composting activities allowed at a community garden without a permit. Frustratingly, the permit requirements associated with composting at a community garden are the same as those that apply to much larger solid waste facilities, and are too burdensome for a small scale community garden to navigate. As a result, the current requirement to obtain a permit effectively prevents community gardens from conducting the same type of small scale composting operations as are involved in backyard composting.

As suggested in the Manual, allowing a community garden to receive and process organic waste from the community has many benefits. For instance, a community garden provides many vital functions, including supplementing and subsidizing the nutritional options available in low-income areas and communities of color. On-site composting allows a community garden to create soil amendments that contain fewer or no chemical compounds, which in turn allows the garden to create healthier food at a lower cost.¹ A community garden also serves as an educational space, where the community learns how their food is grown, the science behind it and the benefits of a healthy diet. If a community garden is encouraged to perform composting, it can be used as an additional tool to educate the public on the science and environmental benefits of recycling and food waste reduction.

The centrally located nature of a community garden also allows it to serve as a perfect place to receive food waste within the locality. Current disposal methods take food waste out of the immediate area requiring companies to expend fuel picking it up and then driving it out of town. Composting within the community has the potential to greatly reduce the environmental impact of the waste pickup alone. Such a reduction would be consistent with the goal of reducing emissions in low-income communities and communities of color recited on page 5 of the *Report of the Environment and Energy Transition Advisory Committee* submitted to Governor Phil Murphy on January 1, 2018. Meaningful composting at a community garden also is consistent with Executive Order No. 23, which was signed by Governor Phil Murphy on April 20, 2018, and recognizes the importance of environmental justice and equal access to public programs that support a healthy and clean environment.

Community gardens have been used to receive and compost source separated organics in other states such as Georgia and Maryland with tremendous success and have become valuable parts of the waste diversion process in those states. Therefore, Petitioner submits this proposal to allow small scale composting at a community garden without a permit. Under this proposal, a community garden would still have significant obligations pursuant to New Jersey law to properly operate and maintain the area utilized for composting activities, but the permit requirement which bars a community garden from undertaking composting activities would be removed.

¹ It is anticipated that compost generated at a community garden will be utilized on-site. In the event that a community garden wishes to sell or give compost to its members, the community garden would only be able to do so in accordance with applicable legal requirements.

2. The Substance or Nature of the Rulemaking Which is Requested

Petitioner requests that N.J.A.C. 7:26A-1.4 be amended to allow a community garden to compost food waste that has been generated by members of the community without a general or limited approval from the New Jersey Department of Environmental Protection, as follows (with proposed amendments underlined):

7:26A-1.4 Exemptions

(a) The activities listed below in this subsection are exempted from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-3 and, unless otherwise specified, the solid waste planning requirements at N.J.A.C. 7:26-6.10 or 6.11. The specific criteria applicable to these activities are as follows:

* * * *

25. The receipt and composting of source separated food waste and other Class C recyclable material at a community garden where the activity meets the following criteria:

- i. The activity is conducted at a community garden;
- ii. The only feedstocks that are received are source separated food waste and other Class C recyclable material;
- iii. 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;
- iv. Daily monitoring and logging is kept to ensure odor is controlled; and
- v. Prior to the start-up of the compost operation, the composting operator shall attend a composting course sponsored by the 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.

Petitioner also proposes that composting at a community garden be exempt from the tonnage reporting requirement set forth at N.J.A.C. 7:26A-4.4(b) and the fee for inspection of exempt composting facilities referenced in N.J.A.C. 7:26A-2.1(c).

3. The Full Name and Address of the Petitioners

Planting Seeds of HOPE
58 Crawford Street #1
Newark, NJ 07102

4. The Petitioner's Interest in the Request, Including Any Relevant Organization Affiliation or Economic Interest

Planting Seeds of HOPE is a not-profit focused on developing community through urban agriculture and food justice programs. Planting Seeds of HOPE takes a collaborative approach, putting agriculturalists and food justice advocates in direct partnership with community organizations and local residents and especially teachers and students.

5. The Statutory Authority Under Which the Department of Environmental Protection may take the Requested Action

The New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq.

6. Existing Federal or State Statutes and Rules Which the Petitioner Believes May Be Pertinent to the Request

The New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq., and the regulations promulgated thereunder, including New Jersey's Recycling Rules, N.J.A.C. 7:26A-1.1 et seq.

7. Supporting Organizations

The organizations supporting this petition as of the date of this letter include:

South Orange Environmental Commission
South Orange Community Garden Group
Lower Raritan Watershed Partnership
Greener Bloomfield

Conclusion

For the reasons set forth above, Petitioner requests that the New Jersey Department of Environmental Protection amend N.J.A.C. 7:26A-1.4 to allow a community garden to compost food waste that has been generated by members of the community without a general or limited approval. Please act upon this petition in the time provided by N.J.A.C. 7:1D-1.1(f) and N.J.A.C. 1:30-4.2(a).

Very truly yours,



Matthew A. Karmel