



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

December 13, 2018 (9:00 AM – 12:00 PM)

Background

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

Presenters:

1. Karen Kloo - Opening and Closing Remarks, (E: Karen.Kloo@dep.nj.gov)
2. Tom Farrell – Exemptions 4 (Tire retreaders), 5 [Tire transfer (no processing)] and 6 (Tires for artificial reefs), (E: Thomas.Farrell@dep.nj.gov)
3. Paul Smith – Exemption 9 (Non-container plastics), (E: Paul.Smith@dep.nj.gov)
4. Frank Piliere – Exemptions 11 (Textiles) and 24 (Architectural Salvage), (E: Frank.Piliere@dep.nj.gov)
5. Zafar Billah – Potential New Exemption (Mobile Shredding), (E: Zafar.Billah@dep.nj.gov)

Summary

The New Jersey Department of Environmental Protection (NJDEP) hosted an external stakeholder meeting on December 13, 2018. The purpose of this meeting was to inform stakeholders of suggested changes to existing exemptions and listen to feedback on the same exemptions. The exemptions discussed were the following: 4 (Tire retreaders), 5 (Tire transfer - no processing), 6 (Tires for artificial reefs), 9 (Non-container plastics), 11 (Textiles), 24 (Architectural Salvage), and the potential new exemption (Mobile Shredding).

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 get more information.

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

1. Exemption #4 (Tire retreaders):
 - a. Storage Issues
 - b. Volume limits for both processed and unprocessed tires
 - c. Volume limit clarifications
2. Exemption #5: Tire transfer (no processing):
 - a. New definitions for cutting, bailing, shredding, and processing
 - b. Department is considering allowance of limited processing (cutting and baling)
3. Exemption #6: Tires for artificial reefs:
 - a. Existing exemption has been neither requested nor granted
 - b. Is this exemption necessary
4. Exemption #9: Non-container plastics
 - a. Clarification of “non-container plastics” definition
 - b. Storage concerns
 - c. Mosquito control
5. Exemption #11: Textiles
 - a. New definition for textiles to eliminate confusion
 - b. Exclude pollution control media from this exemption

6. Exemption #24: Architectural salvage items
 - a. Processing, transference, and storage procedures
 - b. Is there a need for this exemption?
7. Potential New Exemption: Mobile shredding
 - a. Statutory changes require regulation

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.

Exemptions 4, 5, and 6:

Tire Retreaders and Remolders (#4) – NJDEP’s presentation consisted of matters relevant to tire retreaders and remolders. The areas of focus included: exemption background, restrictions, processing, production logs, equipment, storage, unprocessed tires, and processed tires. The following questions and matters were discussed:

- (NJDEP): Is it easier to create logs or counters to see what is coming in or going out?
 - *No response recorded from attendees*
- (Attendees): Are tires allowed to be stored outside uncovered before being reprocessed? Does the regulation state that the tires must be covered? There are also storm water issues.
 - (NJDEP): the tires must be covered.
- (Attendees): Volume measurements are very difficult to do, inconsistent results have been found, but maybe some kind of method can be developed to eliminate these anomalies.
- **Consensus:** The regulation must be revised to address tire covering issues and make it easier to create logs/counters to measure volume of materials received and processed.

Tire Transfer Facilities (#5) – NJDEP’s presentation covered matters relevant to tire transfer facilities. The areas of focus included: storage, fire and mosquito control, outlets for scrap tires, and processing clarification. The following concerns were discussed:

- (Issues): Abandonment of sites, regulatory violations, tire rims (on vs. off), “enclosed structure” clarity, and processing redefined.

- (Attendees): Include language that clarifies storage requirements (i.e. storage on surfaces such as concrete, which is covered).
 - (NJDEP): needs to be easily enforceable.
- (Attendees): The financial incentive is huge.
- (Attendees): Exempt facilities need to be treated like regulated Class B facilities with regard to fees and NJDEP review and processing.
- (NJDEP): For consistency purposes with processing, if compressing remains in the language, bailing must be included as well.
- (NJDEP): For tire cutting operations, there should not be an issue with covering the tire pieces during non-working hours or inclement weather.
- **Consensus:** The regulations should be revised to increase clarity for the following matters: tire rim removal, enclosed structures, and processing.

Tires for Artificial Reefs (#6) – NJDEP’s presentation consisted of all details relevant to tires associated with artificial reef construction. The areas of focus included: removing the exemption because this exemption has not been requested or used in NJ in many years. The following questions and matters are discussed:

- (NJDEP): One of the reasons behind eliminating this exemption is that salt water dissolves the concrete which submerges the tires and holds them together. When the concrete dissolves, the tires may be moved by natural forces.
- **Consensus:** This exemption should be deleted.

Exemption 9:

Non-container Plastics (#9) – NJDEP’s presentation consisted of matters relevant to non-container plastics including: increase of recycling measures, current requirements, definitions, storage and general concerns. The following questions and matters were discussed:

- (Attendees): Currently the exemption uses processing, but is it defined? Can it be changed? Will that make it easier to recycle the material? End markets for the material are a big issue.

Storage could help with the end markets to make the material “cleaner” and more marketable.

- (NJDEP): Future rule changes may include clarification of definitions and expansion of acceptable materials, with recycling as the paramount goal.
- (Attendees): Minimal storage requirements, outdoor storage is problematic.
- (NJDEP): Record keeping is important, and language is being refined for storage periods.
- **Consensus:** Properly define processing, refine storage requirements, expand list of acceptable materials, and resolve the end-markets issues.

Exemptions 11 and 24:

Textiles (#11) – NJDEP’s presentation consisted of all matters relevant to textiles including: definitions, suggested changes, and pollution control media. The following questions and matters were discussed:

- (Attendees): What items would be included (e.g. shoes, stuffed animals, etc.?) Refine the list of the current materials included (e.g. vinyl).
- **Consensus:** Ask towns for input on types of textile materials received.

Architectural Salvage Items (#24) – NJDEP’s presentation consisted of matters relevant to architectural salvage including: definitions, suggested changes, and processing. The following resolution was reached:

- **Consensus:** Due to the fact that certain entities already conduct the type of activity specified by this exemption without having an NJDEP permit (only two currently active from NJDEP), there are other local permits that cover this activity (e.g. demolition permit). This exemption should be deleted.

Potential New Exemption:

Mobile Shredding – NJDEP’s presentation consisted of matters relevant to the proposed new mobile shredding exemption including: the statute and regulatory language. The following questions and matters were discussed:

- (Issues): Mobile vs. stationary shredding operations, inspections, training, data security, electronic storage definition refining, transportation, air permits, and National Association for Information Destruction (NAID) requirements.
- **Consensus:** Training and certification must be instituted, e-storage devices must be better defined, the need for air permits must be evaluated, there must be an NAID requirement, and data security must be held to the highest standard at all times to prevent data breaches.

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:

Annual Reporting Forms/Fees:

- (Issues/Comments): Exemption list should be made available.
- (Attendees): Permitted recycling facilities are being charged more through the permitting fee structure and monitoring and inspection fees. Therefore, the exemption fee should be more than \$500.
- (Attendees): NJDEP should impose fees for exemptions to level the playing field with permitted recycling facilities.
- **Consensus:** Make the lists of exempt facilities available for the counties to check on operational status and possibly impose an exemption fee to cover NJDEP administrative and enforcement costs.

Conclusion:

- (Issues/Comments): Phase in-period timeframe, duration of exemption (three or five years), and administrative requirements.
- **Consensus:** Must decide on a proper way to implement phase-in period for current exemptions subject to the changes and have permittees notify NJDEP upon changes in personnel for recordkeeping.

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 *12/13/2018 - 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/>