

# RULE PROPOSALS

## INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## AGRICULTURE

### (a)

#### DIVISION OF AGRICULTURAL AND NATURAL RESOURCES

#### Criteria and Standards for Animal Waste Management

#### Proposed Readoption with Amendments N.J.A.C. 2:91

Authorized By: State Board of Agriculture and Douglas M. Fisher  
Secretary, Department of Agriculture.

Authority: N.J.S.A. 2A:58-10 et seq., 4:9-38, and 4:27-19.

Calendar Reference: See Summary below for explanation of  
exception to calendar requirement.

Proposal Number: PRN 2016-056.

Submit comments by June 17, 2016, to:

Monique Purcell  
Director, Division of Agricultural and Natural Resources  
New Jersey Department of Agriculture  
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The agency proposal follows:

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1, the Animal Waste Management rules, N.J.A.C. 2:91, were scheduled to expire on March 16, 2016. The Department of Agriculture has reviewed these rules, and proposes to readopt these rules with amendments as they have been found to be necessary, reasonable, and proper for the purposes for which they were promulgated. Since this notice of rules proposed for readoption with amendments has been filed with the Office of Administrative Law prior to March 16, 2016, the expiration date of this chapter is extended 180 days to September 12, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The rules proposed for readoption with amendments establish requirements for the development and implementation of Animal Waste Management Plans pursuant to N.J.S.A. 4:9-38 (Animal waste; criteria and standards for composting and handling) and 4:27-19 (the Aquaculture Development Act) which direct the Department, in consultation with the New Jersey Department of Environmental Protection (NJDEP), to adopt, pursuant to the Administrative Procedures Act, P.L. 1968, c. 410 (N.J.S.A. 52:14B-1 et seq.), a comprehensive animal waste management program that provides for the proper disposal of animal wastes, including wastes generated from aquaculture. The rules provide criteria and standards for the composting, handling, storage, processing, utilization, and disposal of animal wastes. These rules have been in place since 2009,

and provide definitive direction for the management of animal waste and have operated well since their initial adoption.

The rules proposed for readoption with amendments continue to maintain requirements based upon the number of animal units (AUs) and animal density (AD) per acre on farms with livestock.

Farms that receive or apply 142 tons or more of animal waste annually are required to follow N.J.A.C. 2:91-3.1, General requirements, develop and implement a self-certified AWMP in accordance with N.J.A.C. 2:91-3.4, and follow the hauling requirements outlined in N.J.A.C. 2:91-3.8.

All farms with livestock continue to be required to comply with the general requirements set forth at N.J.A.C. 2:91-3.1. To determine which plan is appropriate for each farm, first the owner must determine the number of animal units and the animal density on the farm.

Farms regulated by these rules, with the exception of aquatic farms deemed in compliance in accordance with N.J.A.C. 2:91-3.2, are required to develop and implement a self-certified AWMP, high-density AWMP, or CNMP as appropriate. New farms or farms changing uses shall follow the requirements outlined in N.J.A.C. 2:91-3.3 through 3.6 once the number of AUs and ADs on the farm meet the thresholds set forth in those respective sections. The farm shall follow the timeframes maintained in N.J.A.C. 2:91-3.3(d), 3.4(a)4, 3.5(f), and 3.6(g), as applicable. All plans developed in accordance with these rules shall be protected from disclosure under the Federal Freedom of Information Act and the New Jersey Open Public Records Act, subject to the limitations set forth in N.J.A.C. 2:91-3.10.

Persons that handle animal waste from specific types of animals as set forth in N.J.A.C. 2:91-3.9, such as dog kennels and game farms, which are regulated by the New Jersey Department of Health (N.J.A.C. 8:23A) and NJDEP Fish and Wildlife (N.J.A.C. 7:25-4), respectively, are, therefore, outside the scope of these rules. In addition, any person regulated by NJDEP pursuant to N.J.A.C. 7:26, Solid Waste Management Rules, 7:26A, Solid Waste Recycling Rules, and 7:14A, NJPDES regulations, and any person regulated by the Federal government pursuant to 40 CFR Part 451 are also exempt from the requirements of these rules. Agricultural fairs, veterinary hospitals and clinics, and temporary petting zoos are also not regulated under these rules due to the short duration in which animals are on site.

Aquatic farms that comply with the aquaculture agricultural management practices (AMPs) set forth in N.J.A.C. 2:76-2A.11 shall be considered in compliance with the requirements of these rules pursuant to N.J.A.C. 2:91-3.2 because these AMPs provide standards and criteria for the proper handling of aquatic waste. In addition, aquatic farms are required to comply with the Aquatic Farmer licensing rules at N.J.A.C. 2:89.

Penalty provisions are established for any person in violation of the requirements of this rule at N.J.A.C. 2:91-4.1. The Department shall investigate alleged violations and take appropriate action. When non-compliance is determined, the Department may allow the operator up to 60 days to address or correct the non-compliance or face a civil

administrative penalty. The length of time allowed for corrective action will be based on a number of factors as set forth in the penalties section, such as inability to perform corrective action due to circumstances beyond the operator's control. The Department shall consider the seriousness of the violation, the conduct of the operator, compliance history, the type of plan required, and the impact on water quality when determining the penalty amount.

Subchapter 1 sets forth the purpose and scope of the rules.

Subchapter 2 sets forth the definitions of terms used throughout the rules.

Subchapter 3 sets forth the requirements for animal waste management based upon animal units, animal density, type of farm, and tonnage of animal waste received or applied on farms and establishes exemptions to the rules.

N.J.A.C. 2:91-3.1 sets forth the general requirements for all farms. The general requirements mandate that all farms prevent livestock in confined areas from having uncontrolled access to waters of the State and that all manure storage facilities be located at least 100 linear feet from waters of the State and the general requirements also mandate that land application must be done in accordance with the NJ-BMP Manual. The general requirements specify disposal requirements for animals that have died from a contagious or infectious disease and its accompanying animal waste. Finally, these general requirements set forth biosecurity protocols that must be followed for people entering farms on official business. All farms must comply with the general requirements of this section, unless specifically exempted pursuant to N.J.A.C. 2:91-3.2 or 3.9.

N.J.A.C. 2:91-3.2 sets forth the requirements for aquatic farms. Aquatic farms meeting these requirements shall be deemed in compliance with the requirements of this chapter.

N.J.A.C. 2:91-3.3 provides the requirements for farms with one to seven AUs. Farms with seven AUs or less, regardless of animal density, are encouraged, but not required, to develop a self-certified Animal Waste Management Plan (AWMP) in accordance with N.J.A.C. 2:91-3.4.

N.J.A.C. 2:91-3.4 provides the requirements for farms with eight to 299 AUs with animal density of less than or equal to one AU per acre. These farms are required to develop and implement a self-certified AWMP in accordance with N.J.A.C. 2:91-3.4.

N.J.A.C. 2:91-3.5 sets forth the requirements for farms having eight to 299 AUs with animal density greater than one AU per acre. These farms are required to develop and implement a high-density AWMP that meets the NJ-FOTG standards and NJ BMP Manual and must be approved by the local soil conservation district in accordance with N.J.A.C. 2:91-3.5.

N.J.A.C. 2:91-3.6 sets forth the requirements for farms with 300 AUs or more. Farms with 300 or more AUs, regardless of animal density, are required to develop and implement a CNMP in collaboration with the NRCS, a TSP or appropriate agent in accordance with N.J.A.C. 2:91-3.6. The farm must also receive Department certification.

N.J.A.C. 2:91-3.7 sets forth the requirements for farms receiving or applying less than 142 tons of animal waste annually. Farms receiving or applying less than 142 tons of animal waste per year are encouraged, but not required, to develop and implement a self-certified AWMP in accordance with N.J.A.C. 2:91-3.4.

N.J.A.C. 2:91-3.8 provides the requirements for farms receiving or applying 142 tons or more of animal waste annually. Farms receiving or applying 142 tons or more of animal waste per year are required to develop and implement a self-certified AWMP and maintain records regarding the names and addresses of sources, dates of transfer, and quantities of animal waste in accordance with N.J.A.C. 2:91-3.5 and 3.8.

N.J.A.C. 2:91-3.9 identifies the exemptions to these rules.

N.J.A.C. 2:91-3.10 adds a confidentiality provision to protect proprietary commercial and financial information contained in a CNMP under the Federal Freedom of Information Act and the New Jersey Open Public Records Act, subject to the limitations set forth therein.

Subchapter 4 sets forth penalty provisions. Penalty provisions are established for any person in violation of the requirements of this rule at N.J.A.C. 2:91-4.1. The Department shall investigate alleged violations and take appropriate action. When non-compliance is determined, the Department may allow the operator up to 60 days to address or correct the non-compliance, or face a civil administrative penalty. The length of time allowed for corrective action will be based on a number of factors as

set forth in the penalties section, such as inability to perform corrective action due to circumstances beyond the operator's control. The Department shall consider the seriousness of the violation, the conduct of the operator, compliance history, the type of plan required, and the impact on water quality when determining the penalty amount.

Additional penalties may be assessed for persons failing to pay the administrative penalty assessed and an enhanced penalty of double the original fine imposed may be assessed where it is determined that there is an impairment to water quality as determined in accordance with N.J.A.C. 2:91-4.1(h). Persons aggrieved by a determination under this subchapter are afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

The Department incorporates Part 4 of the 2008 NJDA BMP Manual by reference as a chapter Appendix. The NJDA BMP Manual 2008 edition outlines best management practices to protect water quality on the farm including strategies for barnyard manure and waste management.

#### Proposed Amendments

Proposed amendment to N.J.A.C. 2:91-1.1 provide that all farms with a documented discharge to waters of the State are subject to the regulatory requirements found in N.J.A.C. 2:91-3.6. These regulatory requirements are necessary to protect the waters of the State from nonpoint source pollution that could come from agricultural activities. Previously this provision was located only in N.J.A.C. 2:91-3.3 because farms in N.J.A.C. 2:91-3.4 through 3.8 were required to do written plans where prevention of discharge to waters was to have been addressed. As there has seemed to be some confusion in the regulated community about this provision's applicability to all farms, even those not required to complete an Animal Waste Management Plan, this amendment is proposed to clarify this requirement is within the scope and purpose of the rules.

Proposed amendments to N.J.A.C. 2:91-2.1, Definitions, explain the meaning of "animal density" and more accurately address the meaning of "animal waste" to address issues that have arisen since this chapter was first adopted. "Animal density" is calculated using the number of AUs per acre of available farmland. An additional definition of the term "pasture" is proposed to better explain how the term relates to available farmland when calculating animal density. Studies have shown that land area with 70 percent vegetative cover provides for a sustainable pasture. As such only sustainable pastures can be counted toward acres of available farmland.

The definition of "animal waste" is proposed to be amended by removing "unconsumed feed." When the rules were originally drafted, the more typical feed stocks (grain, hay, corn, silage) were understood to be appropriately included as animal waste. It has become clear that sources of animal food have been broadly expanded and now include a number of food types that can be problematic when included in the animal waste stream and are likely to have separate rules or approvals that govern their disposal.

Proposed amendments to N.J.A.C. 2:91-3.1 clarify one of the general requirements of the rule by adding specific language requiring the avoidance of slopes five percent or greater when locating manure storage areas. Natural Resources Conservation Service conservation planners have found that a slope of five percent is typically the point at which materials move downhill. In addition, the BMP Manual (an Appendix to this chapter) outlines important considerations when locating manure storage areas, including, avoiding negative impacts to ground water, wetlands, sensitive areas, and neighbors. The five percent slope limit further clarifies sensitive areas, as locating manure storage areas on a slope increases the possibility of negative impacts to surface water.

The proposed amendment to N.J.A.C. 2:91-3.3 deletes the language concerning documented discharge to waters of the State because this provision is proposed to be added to N.J.A.C. 2:91-1.1 as part of the scope and purpose.

As the Department has provided a 60-day comment period on this notice of readoption with amendments, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### Social Impact

The rules proposed for readoption with amendments will have a positive social impact as they will help ensure the protection of the water resources of the State. The amendment that requires avoiding slopes greater than five percent when locating manure storage areas enhances the requirements of self-certified AWMPs, high-density AWMPs, or CNMPs, that outline conservation practices to control non-point source pollution. Defining the term "pasture" helps to clarify the land area that can be identified as available farmland when calculating animal density when determining what type of plan is required under this chapter. At the same time, this chapter allows flexibility in the development and implementation of these plans in recognition of the fact that the livestock industry is a unique, vital, and necessary economic component of the agricultural industry.

Those impacted by the rules proposed for readoption with amendments will benefit by proactively managing animal waste and, therefore, minimize the possibility of neighbor complaints and/or enforcement actions by State, Federal, and local authorities. This chapter illustrates the animal agriculture industry's commitment to protecting the environment and assures that non-point source pollution from livestock farms and farms receiving or applying animal waste are minimized. There is further emphasis on water quality protection through the proposed amendment requiring the avoidance of slopes greater than five percent when locating manure storage areas. It is anticipated that these rules will reduce the potentially negative impacts of NJDEP's water impairment assessment during the TMDL development process, and point to the other possible sources of non-point source pollution. Citizens of New Jersey will benefit by knowing that animal agriculture is properly managing the manure generated on farms and protecting the quality of the State's waterways. Finally, New Jersey as a whole will benefit from the rules and amendments through the protection of its natural resources.

### Economic Impact

The rules proposed for readoption with amendments may have an economic impact on those persons who will be required to implement self-certified AWMPs, high-density AWMPs, or CNMPs. However, it is anticipated that there will be little or no costs associated with Plan development.

Recognizing the numerous livestock farms that are impacted by these rules, the Department has maintained an animal waste management program that partially relies on a self-certification planning process that will allow the owner/operator to develop a plan with minimal assistance.

The NJDA BMP Manual includes best management practices to protect water quality on the farm, including strategies for barnyard manure and waste management. It contains a model plan and template for a self-certified AWMP. The relevant parts are available in hard copy and electronic format at no cost and provide step-by-step instructions on how to develop a self-certified AWMP. Technical and cost-share assistance for plan development will be available to eligible farms through a variety of Federal and State programs, such as Environmental Quality Incentives Program (EQIP) and Conservation Reserve Program (CRP) and the other programs set forth in the Summary above. Development of a high density AWMP or a CNMP may be costly if an owner or operator chooses not to take advantage of the technical assistance provided by the NRCS and TSPs. It is anticipated that there will be little or no costs associated with the recordkeeping provisions associated with the hauling requirements as maintaining transfer records are essential good management practices that should already be performed.

There may be costs associated with the implementation of the required plans. Anticipated costs for conservation practices are based on cost estimates compiled by NRCS.

Some practices may be costly, depending on various factors, such as local costs for construction, size of the structure, topography, soil type, property location, property size, the complexity of the plan, the conservation practices implemented, amount of manure generated, availability of materials, and other local conditions. It is anticipated that the more extensive plans may qualify for cost-share assistance that is available through State and Federal conservation programs. However, because these plans are developed by the individual operator, it is anticipated that he or she will be able to develop an AWMP that meets

the financial and programmatic needs of the farm. Cost share assistance is also available for plans developed for eligible farms through both Federal and State programs.

Aquatic farms that currently follow appropriate waste management practices as a provision of the Aquaculture Management Practices at N.J.A.C. 2:76-2A.11 will be deemed to be in compliance with this chapter. As a result, it is anticipated that there will be little or no additional cost to these aquatic farmers.

The rules proposed for readoption with amendments may have an impact on the existing business associated with manure hauling and disposal, as the rules will require the development of AWMPs that identify how manure is managed. The rules may also create an incentive for the establishment of new business operations that provide solutions for farms that need to properly dispose of their animal waste.

### Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65, require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. There are no Federal laws or regulations governing waste management activities on farms encompassed in the rules except aquatic farms, which are subject to Concentrated Aquatic Animal Product Effluent Guidelines at 40 CFR Part 451. Under these guidelines, coldwater finfish facilities that feed more than 5,000 pounds of feed during the calendar month of maximum feeding and facilities that produce more than 20,000 pounds of coldwater finfish per year are regulated under the Federal statute. For warmwater finfish, facilities that are comprised of closed ponds with no discharge and facilities that produce more than 100,000 pounds per year are regulated. Operations that comply with the requirements of 40 CFR Part 451 are specifically exempt from the requirements of this chapter. As a result, only those operations not regulated by the Federal standards will be subject to this chapter.

While the Clean Water Act and the Clean Water Action Plan address the restoration and protection of the nation's waters from point sources, they direct individual states to address non-point sources of pollution. Confined animal feeding operations (CAFOs) are considered point sources of pollution and must comply with the Federal Effluent Limitation Guideline that prohibits discharges to state waters, except during chronic or catastrophic storm events. CAFOs are required to obtain permits in accordance with 40 CFR 122.23 and 122.24 and are regulated in New Jersey by the NJDEP pursuant to N.J.A.C. 7:14A-2.13. CAFOs are defined based upon the number of animals contained on the farm (generally 300 animals units or greater). This chapter regulates animal feeding operations that are not defined as CAFOs.

The USDA does provide for voluntary, incentive-based development and implementation of AWMPs using the Federal technical standards as contained in the NRCS Field Office Technical Guide (FOTG). Although the Federal FOTG standards are not currently mandatory under Federal law, the rules, nevertheless, incorporate standards that are recognized and encouraged by the NRCS. This chapter, therefore, meets, but does not exceed, the Federal standards. Thus, no Federal standards analysis is necessary.

### Jobs Impact

The rules proposed for readoption with amendments are not anticipated to result in the generation or loss of any jobs.

### Agriculture Industry Impact

The Department recognizes the livestock sector of the industry as vital to the economy of the agricultural industry and the State. Although the number of large livestock farms in New Jersey has declined over the last several decades, there has been an increase in the number of small livestock farms Statewide. A significant number of livestock farms are impacted by this chapter, the majority of which are equine farms. Impacts include the development of AWMPs and the associated costs of implementing such plans. It is anticipated that the costs for hauling manure will have the greatest impact on small farms that do not have the land resources necessary to properly land apply manure.

To date, USDA-NRCS has provided technical assistance to landowners on a voluntary basis when requested. However, field staff

technical assistance for manure management is limited, as USDA-NRCS is responsible for the implementation of all Federal Farm Bill programs. To avoid a backlog of technical assistance requests, the NJDA has established an animal waste management program that relies on animal unit thresholds and densities that will require the majority of livestock farms to develop and implement self-certified plans or high-density plans.

Livestock farms with more than 300 animal units will most likely have already developed and implemented a CNMP, although some may have to be updated. The goal of this approach is to ensure that livestock farms in the State are doing their part to protect water quality as mandated in the Clean Water Act and the Clean Water Action Plan and to minimize the regulatory burden on the State’s fragile livestock industry and to ensure that small livestock operations with limited resources are not overburdened with costly manure management mandates in accordance with the Regulatory Flexibility Act.

**Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments will have an impact on farmers who are primarily small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Except for Aquatic Farms who meet the requirements of N.J.A.C. 2:91-3.2, the rules continue to require the development and implementation of a self-certified AWMP, a high density AWMP or a CNMP when a farm has eight animal units or more. The rules provide flexibility according to the number of animal units and the animal densities of a livestock farm. All farms must follow the general requirements of the rules. Farms with less than eight AUs, regardless of animal density are encouraged, but not required, to develop a self-certified AWMP. Farms with eight or more AUs with densities less than or equal to one AU per acre are able to self-certify their plans. High density Plans must be reviewed by a nutrient management specialist to ensure conformance with the NJ-FOTG.

Farms with 300 or more AUs must develop and implement CNMPs regardless of animal density. The plans will be developed by the owner/operator or in consultation with NRCS, RCE, NJDA, or an appropriate agent. Plans will be implemented by the owner/operator. The development of CNMPs will most likely require technical assistance. However, it is anticipated that assistance will be available, when necessary, at no or minimal cost from either State or Federal sources. In most cases, plan implementation to date, has been completed without technical assistance and cost share money will likely be available to help finance plan implementation through a variety of State and Federal programs. Capital expenditures may be necessary depending upon the site-specific plan that is developed. It is anticipated that the more complex CNMPs may be eligible for cost-share assistance from State and Federal conservation programs. Since all required plans are site-specific, lesser or differing standards are applied based upon business size, operation, and local conditions.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed rules address development and implementation of animal waste management plans on farms.

**Smart Growth Development Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on smart growth development and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules address development and implementation of animal waste management plans on farms.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:91.

**Full text** of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PURPOSE AND SCOPE

2:91-1.1 Purpose and Scope

(a)-(d) (No change.)

**(e) Farms having documented evidence of a direct discharge of animal waste into waters of the State, as determined by NJDA following an evidentiary hearing, shall comply with the requirements set forth at N.J.A.C. 2:91-3.6.**

SUBCHAPTER 2. DEFINITIONS

2:91-2.1 Definitions

For the purpose of this chapter, the following words and terms shall have the meanings described below, unless the context clearly indicates otherwise.

...

“Animal waste” means livestock manure[, unconsumed feed] and associated bedding materials and animal carcasses from normal mortalities of livestock on a farm. For the purpose of [these rules] **this chapter**, animal waste shall be free of plastic, metal, glass, or other non-biodegradable materials with the exception of [de minimis] *de minimis* quantities [which] **that** result from agricultural activities. This definition specifically excludes Waste Class 5: Regulated Medical Waste, as found in N.J.A.C. 7:26-3A.6, which includes contaminated animal carcasses, body parts, and associated animal bedding materials that were known to have been exposed to infectious agents during research, including research at veterinary hospitals, production of biologicals, or testing of pharmaceuticals.

...

**“Pasture” means land where 70 percent or more of the area is in vegetative cover that is used as a source of nutrition and exercise for livestock.**

...

SUBCHAPTER 3. ANIMAL WASTE MANAGEMENT REQUIREMENTS

2:91-3.1 General requirements

(a) (No change.)

(b) Manure storage areas shall be located at least 100 linear feet from surface waters of the State, measured perpendicular to the watercourse from the top of bank outwards. Manure storage areas shall **avoid slopes five percent or greater** and be designed to eliminate direct point source discharges to waters of the State, except for stormwater discharges to surface water that occurs above a 25-year, 24-hour storm event.

(c)-(e) (No change.)

2:91-3.3 Farms with one to seven animal units (AUs)

(a)-(b) (No change.)

[(c) Farms with one to seven AUs having documented evidence of a direct discharge of animal waste into waters of the State, as determined by NJDA following an evidentiary hearing, shall comply with the requirements set forth N.J.A.C. 2:91-3.6. Anyone who is aggrieved by a determination pursuant to this section shall, upon written request transmitted to the Department within 20 days of that determination, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules N.J.A.C. 1:1.

1. Requests for hearing shall be sent to Director, Division of Agricultural and Natural Resources, N.J. Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625-0330.]

[(d)] (e) (No change in text.)