Agriculture Stakeholders' Meeting Summary
Austin, Texas
February 2, 2004

Introduction & Opening Comments — **L'Oreal Stepney, Director, Water Quality Division**

Section by Section Discussion of Draft CAFO Rule — **Darrell Williams**

Changes to Draft Rule are as follows:

- 321.31 - Waste changed to manure, litter
- 321/32 Definitions
  - Definition for easement deleted
  - Other definitions renumbered
  - Added # 47 Significant CAFO expansion
- 321.33 Applicability and Required Authorizations
  - Changed 321.33(b)(1) Any CAFO located with one mile of Coastal Natural Resource Areas as defined by Texas Natural Resources Cod, 33.203 unless the CAFO was authorized by the Commission
  - Added 321.33(b)(4) Any CAFO where any part of the production area or land management units is located in a watershed of a segment listed on the current EPA approved 303(d) list of impaired water bodies as required by 33 USC §131(d) where a TMDL implementation plan has been adopted by the commission that established additional water quality protection measures for CAFOs which are not required by the CAFO general permit
  - 321.33(e) Added - An AFO that becomes defined as a CAFO after…
  - 321.33(g) Change - A CAFO currently authorized by registration must apply for an individual permit before July 27, 2004 in order to continue to operate. ….If such an application is timely filed, operation of the CAFO under the terms and conditions of the existing registration will continue to be authorized until final commission action on the permit application or until the CAFO qualifies for coverage under a general permit.
  - Change - 321.33(h)(1) increasing the maximum number of animals authorized for confinement
  - Change 321.33(j)(1) The runoff of manure, litter, or wastewater to water in the state from a CAFO as a result of the proper land application….
  - Change 321.33(n) Additional requirements. Authorization under this subchapter, a general permit or an individual permit do not release…
- 321.34. Permit Applications
  - Add - 321.34(b)(1) …or shall submit a notice of intent (NOI) seeking coverage under a CAFO permit…
  - Change - 321.34(b)(2) If an individual permit application or an NOI seeking coverage for a CAFO general permit has been submitted before the expiration date of the existing authorization, the terms and conditions of the existing permit continues in effect until final commission action on the permit application or until the CAFO qualifies for coverage under a general permit.
  - Add - 321.34(b)(3) A CAFO owner or operator who submits an NOI for a new operation or significant expansion of its operation for a general permit must comply with the public

participation process stipulated in the general permit.
  - Renumber (4) and (5)
  - Add 321.34©) …§321.33(b)(5)
  - Add 321.34(f)(2) information specified in 40 Code of Federal Regulations (CFR)…
  - Add 321.34(f)(3) …used as part of a CAFO or land management unit.
  - Change 321.34(f)(4) In preparing the recharge feature certification, the licensed professional engineer or professional geoscientist must conduct an on-site inspection and must review all pertinent records and maps maintained by the following entities or persons to locate any artificial recharge features
  - Add 321.34(f)(4)(A) Railroad Commission of Texas
  - 321.34(f)(4)(B) a Groundwater Conservation District
  - 321.34(f)(4)(D)Change The commission
  - Add 321.34.(f)(4)(E) Natural Resource Conservation Service (NRCS) and
  - Change 321.34(f)(4)(F) previous owner of site, if available
- 321.36. TPDES General Permit Requirements for CAFOs
  - 321.36(j) Add An annual report must be submitted to the executive director's Office of Compliance and Enforcement, Enforcement Division and the appropriate regional office …
  - 321.36(j)(9) soil testing laboratory analysis and soil…
  - 321.36(l) Carcass……Texas water Code Chapter 26
  - 321.36(m) The closure plan must be developed using standards contained in the Texas Cooperative Extension /NRCS technical guidance publication #B-6122(Closure of Lagoons and Earthen Manure Storage Structures). A CAFO shall maintain or renew its existing authorization and maintain compliance with the requirements of this subchapter until the facility has been closed.
- 321.38 Control Facility Design Requirements Applicable to CAFOs
  - Add 321.38 (e)(7)(A)(ii) …unless additional storage is required be the executive director
  - Change 321.38(e)(7)(B)(vi) Any other relevant volume needed in the water balance, including the air standard permit requirements.
  - Add 321.38(g))(3)(B) … professional engineer or a licensed professional geoscientist…
  - Change 321.38(h)Manure Storage. The AFO operator shall provide manure storage capacity based upon manure and waste production, land availability and NRCS Field Office Technical Guide or equivalent standards. When manure is stockpiled, it shall be stored in a well drained area with no ponding of water, and the top and sides of stockpiles shall be adequately sloped to ensure proper drainage. Runoff from manure storage piles must be retained on site.
- 321.39 Control Facility Operational Requirements Applicable to CAFOs Replace AFO with CAFO in all sections
  - 321.39(b)(2) …the CAFO operator shall irrigate until the water level…
  - 321.39(b)(3)Insert …§321.44(b)(1) of this title (relating to CAFO Notification Requirements)
  - 321.39(b)(5) The CAFO operator shall insure liners and embankments are protected from animals by fences or other protective devices. No tree shall be allowed to grow such that the root zone would intrude or compromise the structure of the liner.
  - 321.39(d) Spill prevention and Recovery. The CAFO operator shall develop written procedures…
- 321.40 CAFO Land Application Requirements
  - 321.40(c) Manure, letter, or wastewater may be applied to the areas in the 100-year flood plain at agronomic rates not to exceed the hydrologic needs of the crop.
  - 321.40(d) Add - Discharge of manure, litter, or wastewater from the application site is
  - prohibited and shall not cause or contribute to a violation of surface water quality standards,

contaminate groundwater, or create a nuisance condition.

- 321.40(e) Add - Irrigation practices shall be managed so as to minimize ponding or puddling of wastewater on the site, prevent tailwater discharges to waters in the state, and prevent the occurrence of nuisance conditions
- 321.40(g) An exception to the full well buffer zone for a private drinking water well or a water well used exclusively for agricultural irrigation may be approved by the executive director if a licensed professional engineer or licensed professional geoscientist provides accurate documentation showing that additional wellhead protective measure will be implemented…
- Renumber 341.40(h) to (j) Nighttime application of manure, litter, or wastewater by a CAFO shall be allowed only in areas with no occupied residence (s) within 0.25 mile fron the outer boundary of the actual area receiving waste application. In areas with an occupied residence within 0.25 mile from the outer boundary of the actual area receiving waste application, application shall only be allowed from one hour after sunrise until one hour before sunset, unless the current occupants of such residences have, in writing, agreed to such nighttime applications.
- 341.40(l) …Land application rates of manure, litter and wastewater shall be based on the total nutrient concentration on a dry weight basis. A permit or other authorization will establish the appropriate limits for phosphorus and the requirements to develop the nutrient utilization plan (NUP)

- 321.41. Special Requirements for Discharges to a Playa
  - Change - …and construction requirements specified in §321.38 of this title (relating to Control Facility Design Requirements Applicable to CAFOs)
- 321.42. Requirements Applicable to the Major Sole Source Impairment Zone
  - 321.42(b) The dairy operator must adhere to provisions of this section and the other requirements contained I this subchapter.
  - (c) The dairy CAFO operator must operate and maintain a margin of safety in the RCS to contain the volume
  - (c)(1) of runoff and direct precipitation from the 25-year, 10-day rainfall event, or
  - (c)2) necessary to prevent overflow resulting from a statistically determined probability of overflow resulting in a discharge frequency of no more than once in the past 25 years. The margin of safety using this method must be evaluated using the Soil Plant Air and Water (SPAW) Field Pond Hydrology Tool and certified by a Texas license professional engineer.
  - (d) The dairy is only authorized to discharge from a properly operated and maintained RCS when the volume of the rainfall runoff and direct precipitation exceed the volume for the margin of safety that must be maintained above the designated normal normal operating level as described in the RCS management plan.
  - (e) If construction of new or modified retention control structures is necessary to comply with subsections (c)and (d), a permit or other authorization will specify a schedule for compliance.
  - (f) The dairy operator shall install and maintain a permanent marker (measuring device) in the retention control structure visible from the top of the levee to show the following;
  - (f)(1) the volume for the margin of safety and
  - (f)(2) one-foot increments beginning from the predetermined minimum treatment volume of the RCS to the top of the embankment or spillway
  - (g) The dairy operator shall implement an RCS Management Plan incorporating the margin of safety developed by a Texas licensed professional engineer. The management plan shall become a component of the pollution prevention plan (PPP), shall be developed for the TCS system, and must describe or include:
  - (g)(1) RCS management controls appropriate for the CAFO and the methods and procedures for

implementing such controls;

- (g)(2) the methods and procedures for proper operation and maintenance of the TCS consistent with the system design
- (g)(3) the appropriateness and priorities of any controls, reflecting the identified sources of pollutants at the facility
- (g)(4) a stage/storage table for each retention control structure with minimum depth increments of one-foot, including the storage volume provided at each depth
- (g)(5) a second table or sketch that included water level ranges containing incremental component volumes of total design storage, including the storage volume provided at each specified depth (or water level) range and the type of storage designated by that depth range; and
- (g)(6)the planned end of month, storage volume anticipated for each retention control structure for each month of the year must specify the corresponding operating depth expected at the end of each month of the year, based on the design assumptions.
- (h) The dairy operator must monitor and record wastewater levels daily in the RCS. A log must be kept in the PPP to document the level of wastewater observed each day. In circumstances where the RCS has a water level exceeding the expected end of the month depth, the operator shall document in the PPP why the level of water in the structure is not at or below the expected depth.
- (i) The dairy operator shall provide for management and disposal of waste as specified in TWC, §26.503 in accordance with the following:
- (i)(5)(B) …requirements of §321.40(k)(1)
- (i)(5)©) requirements of §321.40(k)(2)
- (j)…university located in the State of Texas to collect one or more representative composite soil sample from each land management unit, not less than once every 12 months
- (o) Add Comprehensive Nutrient Management Plan (CNMP) All dairy CAFOs in the major sole source impairment zone must develop and operate under a CNMP certified by the Texas State Soil and Water Conservation Board. This CNMP must be implemented not later than December 31, 2006.
- (p) … In the event of a discharge from the RCS or LMU during a chronic or catastrophic rainfall event or resulting from catastrophic conditions, the …
- (q) Any dairy CAFO operator to which this section applies that has an unauthorized discharge from the RCS which used the SPAW certification method for the margin of safety must within 90 days of written Any dairy CAFO operator to which this section applies that has an unauthorized discharge from the RCS which used the SPAW certification method for the margin of safety must within 90 days of written notification by the executive director develop and implement the capacity for a 25-year, 10-day margin of safety. A variance from 90-days may be granted by the executive director upon written request.
- (r) Any dairy CAFO operator to which this section applies shall in the event of a chronic rainfall discharge from an RCS or land management unit must submit a report to the regional office showing the facility records that substantiate the overflow was beyond control of the operator. After review of the report, if required by the executive director, the operator shall have an engineering evaluation by a Texas licensed professional engineer developed and submitted to the executive director. This requirement is in addition to the discharge notification requirement in this subchapter.

- 321.43 Air Standards Permit for Animal Feeding Operations (AFOs)
  - (a) Air quality authorization required. All animal feeding operations (AFOs), regardless of
  - size, are required to obtain air quality authorization under the Texas Clean Air Act, Texas

Health and Safety Code, Chapter 382, Subchapter C. AFOs may obtain air quality authorization in one of the following ways:

- (b) Applicability. The air standard permit requirements in this section and in §116.615 of this title are applicable to all portions of animal feeding operations including permanent odor sources, land management units, and associated operations. The air standard permit requirements are also applicable to associated feed handling or feed milling operations (including but not limited to natural gas fired boilers, milling equipment, and grain cleaners) located on the same site. This air standard permit may not be used to authorize the construction or operation of unassociated operations or equipment, including incinerators or emergency generators, located at the AFO.
- (d) and also satisfies the air quality requirements contained in this section qualifies for an air standard permit authorization in lieu of an individual air quality permit under Chapter 116 of this title .
- (g) Facilities not eligible. A CAFO or other AFO does not qualify for authorization under the air standard permit if:
- (i) Restriction on use of permit-by-rule. An AFO authorized under this air standard permit may not claim authorization under §106.532 of this title (relating to Water and Wastewater Treatment) to construct a new RCS.
- (j)(1)(A)Facilities shall be operated in such a manner as to prevent the creation of a nuisance as defined by Texas Health and Safety Code §341.011 and §321.32(32) of this title (relating to Definitions), and as prohibited by §101.4 of this title (relating to Nuisance). Facilities shall be operated in such a manner as to prevent ~~or~~ a condition of air pollution as defined by Texas Health and Safety Code, §382.003(3)

- Figure 1:30 TAC§321.43(i)(2)(A)
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AFO Status and Proposed Action	Buffer Option 1	Buffer Option 2
Construction of an AFO that started or plans to start operations after August 19, 1998.	½ mile buffer	1/4 mile buffer and an odor control plan in accordance with §321.43(j)(2)(F)
Expansion of an AFO that started operations after August 19, 1998.	½ mile buffer	1/4 mile buffer and an odor control plan in accordance with §321.43(j)(2)(F)
Continued operation of an AFO that was in operation on or before August 19, 1998.	1/4 mile buffer	odor control plan in accordance with §321.43(j)(2)(F)
Expansion or modification of an AFO that was in operation on or before August 19, 1998.	1/4 mile buffer	odor control plan in accordance with §321.43(j)(2)(F)

- (B) The operator of an AFO shall document that the applicable buffer requirement is satisfied

in accordance with subparagraph 2(A). The operator of an AFO must maintain such documentation on-site and make it available on request by any representative of the commission.

- (D) Written, including a letter, easement, or lease agreement specifically consenting to location and operation of an AFO within the required minimum buffer distance in §321.43(j)(2)(A) from the owner of the land containing each occupied residence or business structure, school, place of worship, or public park located within the buffer distance may be obtained in lieu of satisfying the buffer distance requirements in Figure 1. An easement must be recorded with the county. The written consent must include the following information at the time the actions specified in subparagraph 2(A) occur:
- (E) An area land use map as defined by §321.32(5), an odor control plan, if required by §321.43(i)(2)(A), and documentation and copies of the written consent from landowners within the buffer distance shall be kept on-site and made available on request by the executive director.
- (F) The odor control plan, if required by §321.43(j)(2)(A), shall be developed and implemented to control and reduce odors, dust, and other air contaminants as defined by TCAA, §382.003(2) from the AFO. The plan shall identify all structural and management practices that the operator will employ to minimize odor and control air contaminants at the AFO. At a minimum, the plan must include , where applicable, procedures for manure/litter collection, manure, litter and wastewater storage and treatment, land application, dead animal handling, and dust control . If the executive director determines that the implementation and employment of these practices is not effective in controlling dust, odors, and other air contaminants, the operator shall include any necessary additional abatement measures in the odor control plan and implement those measures to control and reduce these contaminants within the time period specified by the executive director.
- (iii) Equivalent technology or design standards shall indicate how the design of the AFO minimizes odors equivalent to an aerobic or anaerobic lagoon. These designs shall be developed and certified by a Texas licensed professional engineer. An "as-built" certification in letter form shall be completed by a Texas licensed professional engineer before operation of the AFO. These documents must be maintained on site and made available within the time period specified by the executive director.
- (B) As necessary emissions from all in-plant roads, truck loading and unloading areas, parking areas, and other traffic areas shall be controlled with one or more of the following methods to minimize nuisance conditions and maintain compliance with all applicable commission requirements:
- (i) sprinkled with water,
- (iii) paved with a cohesive hard surface and cleaned.
- (E) If the executive director determines that the implementation and employment of these practices is not effective in controlling dust, the operator shall implement any necessary additional abatement measures to control and minimize this contaminant within the time period specified by the executive director.

- 321.44 CAFO Notification Requirements
  - (a) Discharge Notification. If for any reason there is a discharge to water in the state, the CAFO operator shall notify the executive director's Office of Compliance and Enforcement, Enforcement Division orally within 24 hours...
- 321.46 CAFO Pollution Prevention Plan, Site Evaluation, and Recordkeeping and Reporting.
  - Replace AFOs with CAFOs in all sections

- (b) Management Documentation. A permit or authorization will establish additional requirements for record keeping and documentation of facility management activities. At a minimum, these records must include:
- (d)(4) a log of all daily wastewater levels observed in the RCS, if applicable;
- Add - (e) Reporting Requirements.
- (1) The CAFO operator shall furnish to the executive director's Office of Compliance and Enforcement, Enforcement Division, soil testing analysis of all soil samples within 60 days of the date the samples were taken in accordance with the requirements of this subchapter.
- (2) CAFO operators shall provide all other reports required by this subchapter to the executive director's Office of Compliance and Enforcement, Enforcement Division.

• 321.47 Requirements for AFOs Not Defined or Designated as CAFOs
- (a) Purpose. This section provides an AFO that is not defined or designated as a CAFO authorization to operate and identifies the operational requirements necessary to achieve the purposes of this subchapter.
- (b)(1) An AFO operator must locate, construct, and manage the control facility and land management unit (LMU) in a manner that will protect surface and groundwater quality.
- (b)(3) The AFO is allowed to discharge from the production area, if the discharge is the result of a rainfall event which exceeds the design capacity of a retention control structure that has been properly designed, constructed, operated and maintained. Retention control structures shall be designed in accordance with §321.38 of this title (relating to Control Facility Design Requirements Applicable to AFOs.
- (b)(5) As applicable to the operation, the production area of a new or expanding AFO must comply with the requirements of §321.41 of this title (relating to Special Requirements for Discharges to a Playa).
- (b)(6) All control facilities, including holding pens and retention control structures, must be located outside of the 100-year flood plain, as defined in Chapter 301 of this title (relating to Levee Improvement Districts, District Plans of Reclamation, and Levees and Other Improvements), unless the facility is protected from innundation and damage from a 100-year, 24-hour rainfall event.
- (b)(7) Where applicable, equivalent measures contained in a site specific plan which meet the requirements of this subchapter may be substituted for applicable BMPs and/or portions of the technical requirements in this subchapter. Equivalent measures may be contained in:
- (b)(7)(A) USDA-NRCS Field Office Technical Guide (FOTG) for Texas; and/or
- (b)(7)(B) Texas State Soil and Water Conservation Board (TSSWCB) regulations; and/or
- (b)(7)(C) Certified water quality management plan certified by the Texas State Soil and Water Conservation Board (TSSWCB); and/or
- (b)(7)(D) Comprehensive nutrient management plan certified by the Texas State Soil and Water Conservation Board (TSSWCB), the USDB-Natural Resource Conservation Service (NRCS), or their designee.
- (c)(2)Good pen drainage shall be maintained at all times. Earthen pen areas shall be maintained by scraping uncompacted manure and shaping pen surfaces as necessary to minimize odors and ponding and to maintain a packed pen surface.
- (c)(3)…the operator must ensure a Texas licensed professional engineer documents these variations and their appropriateness to the plan.
- (c)(5) RCS embankments and liners shall be designed and constructed in accordance with the requirements of §321.38 of this title (relating to Control Facility Design Requirements Applicable to AFOs)

- (c)(6)The AFO operator shall adhere to the well buffer requirements in §321.38 of this title.
- (c)(9) Sludge shall be removed from retention control structures in accordance with the design schedule for cleanout to prevent the accumulation of sludge from exceeding the designed sludge volume of the structure.
- (d)(2) The operator shall restore such capacity after each rainfall event or accumulation of manure, sludge, or process generated wastewater that reduces such capacity, when conditions are favorable for irrigation. Favorable conditions shall be when the soil moisture level decreases so that irrigation will not cause runoff.
- (d)(3) The normal operating wastewater level in the RCS shall be maintained within the design of the RCS. If the water level in the RCS encroaches into the storage volume reserved for the design rainfall event (25-year or 100-year) the operator must document the conditions that resulted in this occurrence. As soon as irrigation is not prohibited, the AFO operator shall irrigate until the water level is at or below the planned operating level expected during that month.
- (d)(7) The AFO operator shall insure liners are protected from animals by fences or other protective devices. No tree shall be allowed to grow such that the root zone would intrude or compromise the structure of the liner. Any mechanical or structural damage to the liner shall be evaluated by a NRCS engineer or a licensed professional engineer within 30 days of the damage.
- (d)(9) An AFO operator using a liquid manure handling system shall scrape or flush accumulated manure at least once per week or in accordance with proper design and maintenance of the facility
- (e)(1)The runoff of manure, litter or wastewater to water in the state as the result of the application of manure, litter, or wastewater from an AFO is authorized provided the land application activity is implemented in accordance with this section.
- (e)(3) The AFO operator must adhere to the following requirements and shall follow those requirements for land application unless a nutrient management plan (NMP) is developed and implemented. At that time, the NMP will replace the requirements of this subsection.
- (e)(4) Discharge of manure, litter or wastewater from the application site is prohibited and shall not cause or contribute to a violation of surface water quality standards, contaminate groundwater, or create a nuisance condition.
- (e)(7) Irrigation practices shall be managed so as to minimize ponding or puddling of wastewater on the site, prevent discharge of tailwater to waters in the state, pollution of waters in the state, and prevent the occurrence of nuisance conditions.
- (e)(8)The land application of manure, litter, and wastewater at agronomic rates shall not be considered surface disposal and is not prohibited.
- (e)(9) Manure, litter, or wastewater may be applied to the areas in the 100-year flood plain at agronomic rates not to exceed the hydrologic needs of the crop.
- (e)(14) Temporary storage of manure in the 100-year flood plain, near water courses or recharge features is prohibited unless protected by berms or other structures. Temporary storage of manure/litter shall not exceed 30 days and is only allowed in land management units. Polluted runoff from manure/litter storage piles must be retained on site.
- (e)(15) Any dairy AFO that is located in the major sole source impairment zone, as defined under §321.32, at a minimum must provide for management and disposal of waste in accordance with §321.42(I).
- (e)(17) AFOs introducing wastewater or chemicals to water wellheads for the purpose of irrigation shall install backflow prevention devices.
- (e)(18) Composting on-site at an AFO shall be performed in accordance with Chapter 332 of

this title (relating to Composting). AFOs may compost waste generated on-site, including manures, litters, bedding, feed, and dead animals. Pursuant to Chapter 332 of this title (relating to Composting), an AFO operator may add agricultural products to provide an additional carbon source or bulking agent to aid in the composting process. If the compost areas are not roofed or covered with impermeable material, protected from external rainfall, or bermed to protect from runoff in the case of the design rainfall event, the compost areas.

- (e)(19)Maintenance of animals.
- (e)(19)(A) Animals confined at the AFO shall be restricted from coming into direct contact with surface water in the state through the use of fences or other controls.
- (e)(19)(B)An AFO that maintains animals in pastures must maintain crops, vegetation, forage growth, or postharvest residues in the normal growing season, excluding the feed and water trough areas and open lots designated on the site map.
- (f)(1) Land management units where manure, litter, or wastewater is not applied during the preceding year(s), soil samples are not required to be collected. However, provisions of this section must be followed prior to re-starting land application to the un-used LMU.
- (f)(2) Prior to commencing wastewater irrigation or manure, litter application on land owned or operated by the CAFO operator, and annually thereafter, the operator shall collect and analyze representative soil samples from each of the land management units according to the following procedures.
- (f)(6)(A) Zone 1: 0 - 6 inches for land management units where the manure or litter is incorporated directly into the soil or 0 - 2 inches for land management units where the waste…
- (g)(1) When results of the annual soil analysis for extractable phosphorus indicate a level greater than 200 ppm of extractable phosphorus (reported as P) in Zone 1 for a particular land management unit or a level greater than 350 ppm of extractable phosphorus in Zone 1 (0-6 inch depth) for a LMU where the average annual rainfall is 25 inches or less, erosion control is adequate to keep erosion at the soil loss tolerance (T) or less, and the closest edge of the field is more than one mile from a named stream, if ordered by the commission
- (g)(2) A certified NRCS Nutrient Management Plan (NMP) (NRCS Practice Standard Code 590) complies with the requirements of a complete and effective NUP.
- (h)(1)(E) a copy of the results of initial and annual soils, manure, litter, and wastewater analyses;
- (h)(1)(G) records of all manure, litter, and wastewater either utilized at the facility or removed from the facility;
- (h)(1)(H) the groundwater monitoring plan associated with the use of a playa;
- (h)(1)(I) a copy of the NUP, if required;
- (h)(1)(J)site-specific documentation that no significant hydrologic connection exists between the contained wastewater and water in the state;
- (h)(1)(K) any written agreement with a landowner which documents the allowance of nighttime irrigation of manure, litter or wastewater; and
- (h)(1)(L)the odor control plan requirements established in §321.43 of this title (relating to Air Standard Permit for Animal Feeding Operations).
- (h)(2)For facilities where manure, litter, or wastewater is applied on property owned, operated, or controlled by the AFO owner or operator, such records shall include the following information:
- (h)(2)A) date of manure, litter, or wastewater application to each field;
- (h)(2)(C) acreage of each individual crop on which manure, litter, or wastewater is applied;
- (h)(2)(D)basis for and the total amount of nitrogen and phosphorus applied per acre to each field, including sources of nutrients other than manure, litter, and wastewater, number of dry

tons, percent nitrogen/phosphorus based on a dry basis;

- (h)(3)Where manure, litter, or wastewater is removed from the facility, records must be maintained in accordance with §321.46(d)(8) of this title (relating to CAFO Pollution Prevention Plan, Site Evaluation, and Recordkeeping and Reporting). If manure is sold or given to other persons for off-site land application or disposal, the operator must maintain a log of: date of removal from the CAFO; name of hauler; and amount, in wet tons, dry tons, or cubic yards, of waste removed from the CAFO. (Incidental amounts, given away by the pick-up truck load, need not be recorded.) Where the wastes are to be land applied by the hauler, the operator must make available to the hauler any nutrient sample analysis of the manure from that year.
- (h)(3)(i) Documentation of liner maintenance. The operator shall have a NRCS engineer, Texas licensed professional engineer, or qualified groundwater scientist review the documentation and do a site evaluation every five years.
- (h)(3)(j) Groundwater Monitoring. In the event that one or more groundwater monitoring wells are ~~is~~ required, the operator must sample each monitor well according to the groundwater monitoring plan annually for nitrate as nitrogen, chloride, and total dissolved solids using the methods outlined in the pollution prevention plan, and compare the analytical results to the baseline data. Data from any required monitoring wells must be submitted to the executive director and kept on site for five years. The first year's sampling shall be considered the baseline data and must be retained on site for the life of the facility unless otherwise provided by the executive director. If a 10% deviation in concentration of any of the sampled constituents is found, the operator must notify the executive director within 30 days of receiving the analytical results.

Stakeholder Comments:
321.32 Definitions

- When does "significant CAFO expansion" apply to CAFO authorizations?
- Suggested adding definition for "CNMP."

Suggested adding language to state that application to renew registration will be treated as application for an individual permit.

Why did staff delete requirement for new or expanding CAFOs to submit NMP with application now instead of requiring it by 2006?

Suggested requiring name and address of manure receiptant instead of hauler.

Suggested modifying rules to require weekly inspection of equipment currently in use and not inactive equipment.

Asked if there is conflict in rules between submit annual soil reports by 2/15, but rules also require analysis and information within 60 days.

Recommended change Texas Cooperative Extension/NRCS technical guidance document #B-6122 to Document for closure of CAFOs.

Asked about liner certification because old ponds did not have construction standards. If no documentation, then need to have PE certify.

Suggested adding language to rules to clarify when margin of safety applies to CAFOs and for when RCS design requirements apply to just Bosque. Asked if need to retrofit RCS so meet new standards.

Asked why sample from RCS if imminent overflow cause discharge from LMU.

Asked what does "regularly monitor" sludge accumulation mean?

Suggested allowing manure storage area to be treated as composting pile in drainage area of RCS as stated in 321.47.

Suggested clarifying rules when discharge and runoff and imminent overflow appropriate for runoff from CAFO.

Suggested referencing Department of Licensing's waterwell driller's rules for well head protection.

Asked about difference between sinkhole buffer and vegetative buffers

Asked if NUP and NMP are the same based on language in rules. Suggested that NUP should take precedence over NMP because it is for corrective measures.

Asked where in rule is 200 ppm phosphorus? Asked what is guidance for standards to prepare NMP.

Asked where in rules are requirements for NUPs for CAFOs like language in 321.47.

Asked why staff deleted prohibition of overspray and drift with irrigation.

Asked if SPAW model uses once in 25 years or period of record for calculation.

Asked if discharge is authorized or not if SPAW model used.

Asked how to define chronic rainfall without specific days if SPAW model used. Suggested define "chronic rainfall" for Bosque area. Asked about monitoring SPAW and margin of safety.

Asked if language should be owned, operated, or controlled?

Suggested clear definition of difference between CNMP and NMP and why different deadlines.

Suggested adding phosphorus to list of parameters to sample in wastewater.

Concerned about staff looking at records and SPAW to determine if discharge authorized.

Suggested definition for chronic rainfall as 25 year/10 day for Bosque and 25 year/24 hour for rest of state.

Asked how rules are more protective? CNMP for Bosque area.

Asked how CNMP with 590 Plan can reduce phosphorus in soil. What are assumptions and goals for phosphorus in fields. What are expectations with fields over 200 ppm.

Suggested change to rules becuase NRCS can't contract with folks.

Asked why air permit table removed grandfather language regarding buffers.

Recommended including phosphorus with listed parameters to sample with discharge notification section.

Asked staff to clarify when documentation showing RCS inspection is required in 321.46. Also, asked if inspections should be weekly or quarterly based on other rule. Also look at reporting requirement with 60 days.

Asked if rules include all information from TMDL and Implementation Plan. Amount of haul out from Bosque area.

Asked if third party manure application should be allowed in Bosque and/or other areas of the state. Arguments for and against.