



**Ongoing Issues with  
CAFO Individual Permit  
Language:  
EPA Comments**

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- A herd of longhorn cattle is grazing in a lush green field. The cattle are of various colors, including white, brown, and black, and some have prominent horns. The background shows a line of trees under a clear sky.
- Two permits with Interim Objections from EPA
  - No comments received from the public. However, permits cannot be issued until EPA objections are addressed

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- Comments on both permits are similar
  - Permit language will play a key role in future rule development

# Summary of EPA Comments

- Nutrient Management Plan/Pollution Prevention Plan (NMP/PPP) language in the permit is too generic
- More site specific information should be stated in the permit to enhance enforceability

# Objection #1

- Section VII.A.2(a) of the permit relies on 40 Code of Federal Regulations (CFR) 412.13 but has since changed
- EPA requested that the section be modified to reflect the current requirement in 40 CFR 412.31

## Section VII.A.2(a)

“Discharge Restrictions. Wastewater may be discharged to waters in the state from a properly designed (25-year frequency 10 day duration), constructed, operated and maintained RCS whenever chronic or catastrophic rainfall events, or catastrophic conditions cause an overflow. There shall be no effluent limitations on discharges from RCSs which meet the above criteria.”

## “chronic or catastrophic rainfall event” :

A series of rainfall events that do not provide opportunity for dewatering a retention control structure and that are equivalent to or greater than the design rainfall event or any single rainfall event that is equivalent to or greater than the design rainfall event.

“catastrophic conditions” :

Conditions that cause structural or mechanical damage to the AFO from natural events including high winds, tornados, hurricanes, or other natural disasters, other than rainfall events.





# Objection #2

- The permits must be revised to include “Terms of the NMP” to comply with 40 CFR 122.42(e)
- Mortality management, clean water diversion, chemical handling, site-specific permit terms for manure and wastewater testing must be included in the permit

# Terms of the NMP

The following changes to the NMP are considered substantial:

- Increase in animal headcount
- Increase in LMU acreage or LMU location
- Change in crop and yield goal

[See Permit Attachments E & F](#)

# Objection #3

- EPA stated that changes to the NMP would trigger a requirement for public notice
- Permit modifications be included to meet the requirement of 40 CFR 122.42(e)(6)

# Permit Amendment

## Section V. Rule and Statute Applicability

### A. Definitions

B. Amendments, Renewals, transfers, corrections, revocation, and suspension of permit: Requirements in 30 TAC §§ 305.61–305.72 applies to this permit

# Objection #4

If the best management practices noted in Table 5 of the fact sheet are applicable to the facility, they should be included in the permit as terms of the NMP, addressing site-specific conservation practices.



# Section VII.A.7

“Site – Specific Conservation Practices” and a table titled “Soil limitations” have been added as Section VII.A.7(a)(2).



A herd of cattle is grazing in a field. In the background, there are rolling hills and mountains under a clear sky. The text is overlaid on the image.

Footnotes:

Soil limitation– \*or an equivalent protective measure identified in an NRCS Practice Standard.

Pollutant source management -\*or an alternative BMP as allowed by 30 TAC 321 Subchapter B or an equivalent protective measure identified in an NRCS Practice Standard

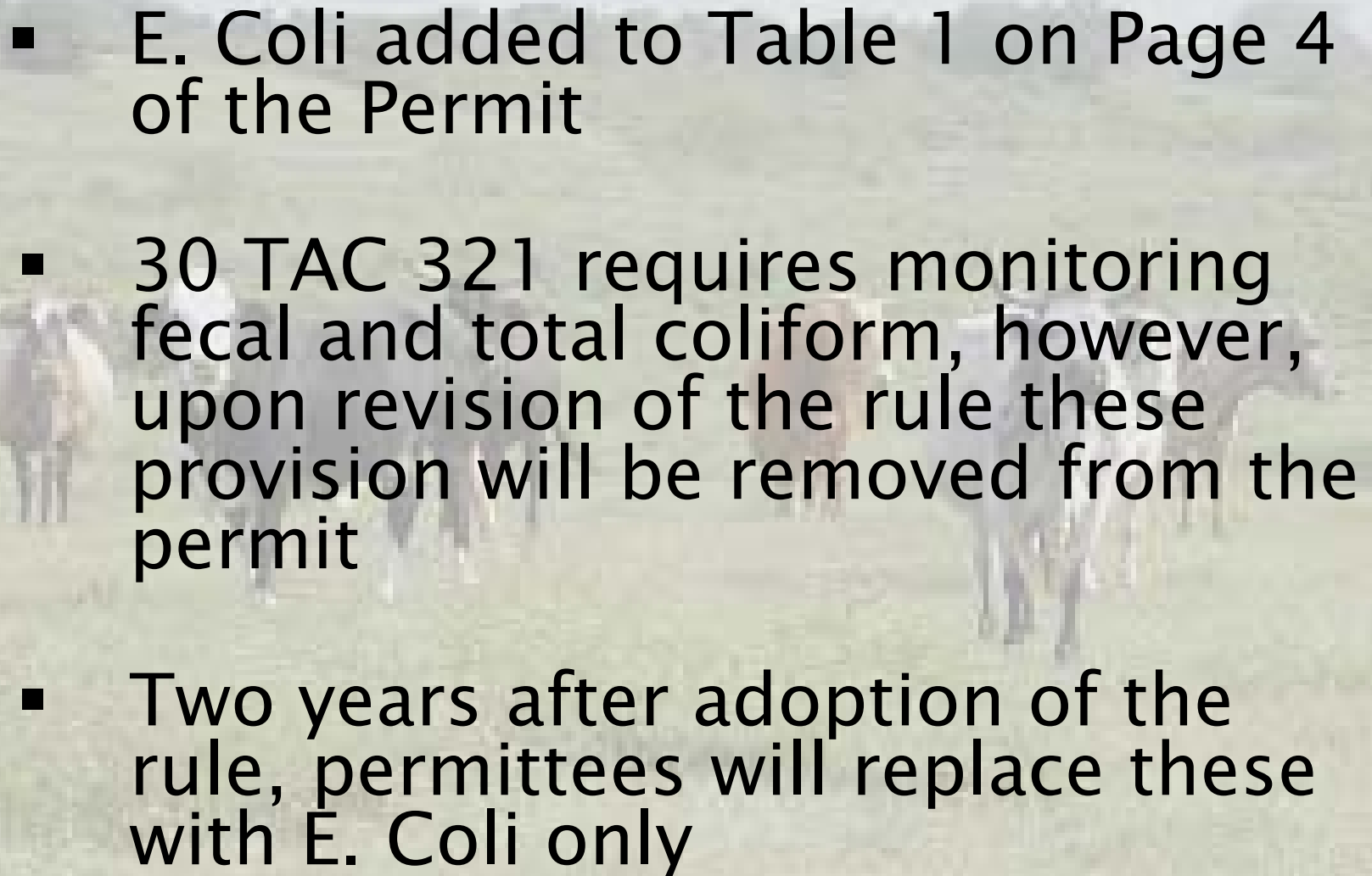


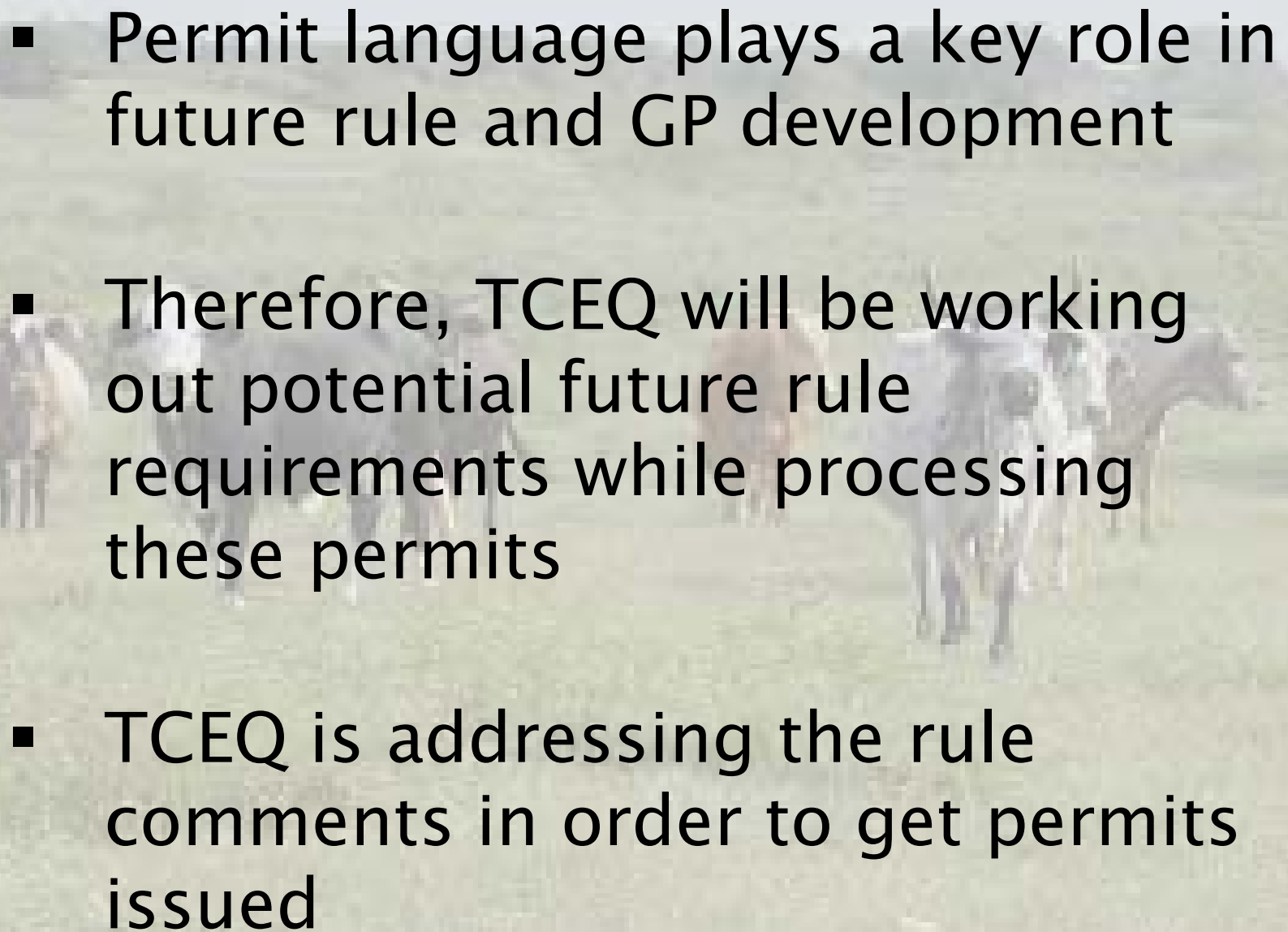


# Objection #5

Since *E. Coli* is the indicator bacteria used in the Texas Water Quality Standard, it should be added to the list of pollutants to be monitored



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- A background image showing a herd of horses grazing in a grassy field. The horses are scattered across the frame, some in the foreground and some further back. The field is green and appears to be a pasture. The overall scene is a natural, outdoor setting.
- E. Coli added to Table 1 on Page 4 of the Permit
  - 30 TAC 321 requires monitoring fecal and total coliform, however, upon revision of the rule these provision will be removed from the permit
  - Two years after adoption of the rule, permittees will replace these with E. Coli only

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- A background image showing a herd of horses of various colors (brown, grey, white) grazing in a green field. The horses are scattered across the frame, with some in the foreground and others further back. The overall scene is a natural, outdoor setting.
- Permit language plays a key role in future rule and GP development
  - Therefore, TCEQ will be working out potential future rule requirements while processing these permits
  - TCEQ is addressing the rule comments in order to get permits issued