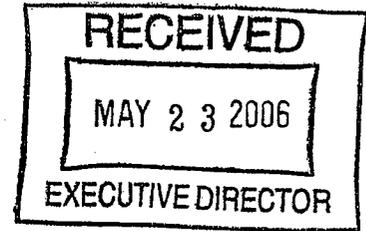




Enhancing Human Life

May 19, 2006

Executive Director  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087



*Water Supply*

Dear Sir,

Enclosed are seven (7) Petitions to Request the Adoption of a Rule.

These petitions are requests for modification of the following current rules:

- Rule §290.41(c) (3) (K)
- Rule §290.41(c) (3) (Q)
- Rule §290.42(b) (2) (C)
- Rule §290.42(b) (7)
- Rule §290.42(c) (1) (B)
- Rule §290.42(m)
- Rule §290.44(d) (1)

RECEIVED

MAY 25 2006

OFFICE OF PERMITTING, REMEDIATION & REGISTRATION

The proposed rules provide reasonable and prudent measures to prevent nuclear, chemical and biological contamination and system disruption of Texas' drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

As the water sector representative on Governor Perry's Critical Infrastructure/Key Resource Protection Council, I believe these proposed rule modifications will be instrumental in protecting our drinking water, complying with Federal and State law, and securing our drinking water systems.

Please contact me if I can provide additional information.

Sincerely,

Paul J. Pearce, PhD  
President

May 19, 2006

To:  
Office of Chief Clerk  
Texas Commission on Environmental Quality  
Park 35, Building F, 12015 North Interstate 35  
Mail Code 105, P.O. Box 13087  
Austin, Texas 78711-3087

From:  
Paul J. Pearce, PhD  
1775 East Loop 336, Suite 4  
Conroe, TX 77301  
ppearce@novatx.com

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.41(c)(3)(K)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.41(c)(3)(K)

**Brief Explanation of Proposed Rule**

Proposed rule is a modification of the current rule. The proposed rule provides comprehensive measures to prevent nuclear, chemical and biological contamination and system disruption of the drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

**Text of Proposed Rule**

Wellhead and pump bases shall be sealed by a gasket or sealing compound and properly vented to prevent the possibility of contaminating the well water. A well casing vent shall be provided with an opening that is covered with a corrosion-resistant, automatic casing-vent security device, facing downward, elevated and located so as to prevent the introduction of nuclear, chemical, and biological contaminants into the well. This device shall have the ability to immediately detect nuclear, chemical, and biological contaminants and notify appropriate authorities at the time of attempted contaminate introduction. This device shall have the ability to immediately stop water distribution at the time of attempted contaminate introduction. Wellheads and well vents shall be at least two feet above the highest known watermark or 100-year flood elevation, if available, or adequately protected from possible flood damage by levees.

*NOTE: Underline indicates proposed modifications to current rule*

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.41(c)(3)(K)

**Statement of Statutory Authority**

Statutory authority for modification of the current rule is found in: Texas Administrative Code, Title 30, Part 1, Chapter 290 – Public Drinking Water, Subchapter D: Rules and Regulations for Public Water Systems

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.41(c)(3)(K)

**Allegation of Injury That Could Result From Failure to Adopt Proposed Rule**

The current rule does not address prevention of nuclear, chemical, or biological contamination of ground water sources. Failure to adopt the proposed rule allows ground water sources for public drinking water to be easily contaminated with nuclear, chemical, and biological agents. Should the ground water source (aquifer) be so contaminated, the public's health, safety, and security is significantly compromised.

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May 19, 2006

To:  
Office of Chief Clerk  
Texas Commission on Environmental Quality  
Park 35, Building F, 12015 North Interstate 35  
Mail Code 105, P.O. Box 13087  
Austin, Texas 78711-3087

From:  
Paul J. Pearce, PhD  
1775 East Loop 336, Suite 4  
Conroe, TX 77301  
ppearce@novatx.com

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.41(c)(3)(Q)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.41(c)(3)(Q)

**Brief Explanation of Proposed Rule**

Proposed rule is a modification of the current rule. The proposed rule provides comprehensive measures to prevent nuclear, chemical and biological contamination and system disruption of the drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

**Text of Proposed Rule**

If an air release device is provided on the discharge piping, it shall be installed in such a manner as to preclude the possibility of submergence or possible entrance of contaminants. In this respect, all openings to the atmosphere shall be covered with a corrosion-resistant, automatic air release security device facing downward, elevated and located so as to prevent the introduction of nuclear, chemical, and biological contaminants into the discharge piping. This device shall have the ability to immediately detect nuclear, chemical, and biological contaminants and notify appropriate authorities at the time of contaminate introduction. This device shall have the ability to immediately stop water distribution at the time of contaminate introduction.

*NOTE: Underline indicates proposed modifications to current rule*

**Statement of Statutory Authority**

Statutory authority for modification of the current rule is found in:  
Texas Administrative Code, Title 30, Part 1, Chapter 290 – Public Drinking Water,  
Subchapter D: Rules and Regulations for Public Water Systems

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.41(c)(3)(Q)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.41(c)(3)(Q)

**Allegation of Injury That Could Result From Failure to Adopt Proposed Rule**

The current rule does not address prevention of nuclear, chemical, or biological contamination of drinking water. Failure to adopt the proposed rule allows for public drinking water to easily be contaminated with nuclear, chemical, and biological agents. Should the drinking water be so contaminated, the public's health, safety, and security is significantly compromised.

CONFIDENTIAL

May 19, 2006

To:  
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Austin, Texas 78711-3087

From:  
Paul J. Pearce, PhD  
1775 East Loop 336, Suite 4  
Conroe, TX 77301  
ppearce@novatx.com

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(b)(2)(C)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.42(b)(2)(C)

**Brief Explanation of Proposed Rule**

Proposed rule is a modification of the current rule. The proposed rule provides comprehensive measures to prevent nuclear, chemical and biological contamination and system disruption of the drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

**Text of Proposed Rule**

All processes involving exposure of the water to atmospheric contamination shall provide for subsequent disinfection of the water ahead of the ground storage tanks. Likewise, all exposure of water to atmospheric contamination shall be accomplished in a manner such that insects, birds, and other foreign materials will be excluded from the water. Aerators and all other such openings shall be covered with a corrosion-resistant, automatic security device facing downward, elevated and located so as to prevent the introduction of nuclear, chemical, and biological contaminants into the discharge piping. This device shall have the ability to immediately detect nuclear, chemical, and biological contaminants and notify appropriate authorities at the time of contaminate introduction. This device shall have the ability to immediately stop water distribution at the time of contaminate introduction.

*NOTE: Underline indicates proposed modifications to current rule*

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(b)(2)(C)

**Statement of Statutory Authority**

Statutory authority for modification of the current rule is found in:

Texas Administrative Code, Title 30, Part 1, Chapter 290 – Public Drinking Water,  
Subchapter D: Rules and Regulations for Public Water Systems

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water

Subchapter D: Rules and Regulations for Public Water Systems

Rule §290.42(b)(2)(C)

**Allegation of Injury That Could Result From Failure to Adopt Proposed Rule**

The current rule does not address prevention of nuclear, chemical, or biological contamination of drinking water. Failure to adopt the proposed rule allows for public drinking water to easily be contaminated with nuclear, chemical, and biological agents. Should the drinking water be so contaminated, the public's health, safety, and security is significantly compromised.

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From:  
Paul J. Pearce, PhD  
1775 East Loop 336, Suite 4  
Conroe, TX 77301  
ppearce@novatx.com

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(b)(7)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.42(b)(7)

**Brief Explanation of Proposed Rule**

Proposed rule is a modification of the current rule. The proposed rule provides comprehensive measures to prevent nuclear, chemical and biological contamination and system disruption of the drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

**Text of Proposed Rule**

Air release devices shall be installed in such a manner as to preclude the possibility of submergence or entrance of contaminants. In this respect, all openings to the atmosphere shall be covered with a corrosion-resistant, automatic air release security device facing downward, elevated and located so as to prevent the introduction of nuclear, chemical, and biological contaminants. This device shall have the ability to immediately detect nuclear, chemical, and biological contaminants and notify appropriate authorities at the time of contaminate introduction. This device shall have the ability to immediately stop water distribution at the time of contaminate introduction.

*NOTE: Underline indicates proposed modifications to current rule*

**Statement of Statutory Authority**

Statutory authority for modification of the current rule is found in:  
Texas Administrative Code, Title 30, Part 1, Chapter 290 – Public Drinking Water,  
Subchapter D: Rules and Regulations for Public Water Systems

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(b)(7)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water

Subchapter D: Rules and Regulations for Public Water Systems

Rule §290.42(b)(7)

**Allegation of Injury That Could Result From Failure to Adopt Proposed Rule**

The current rule does not address prevention of nuclear, chemical, or biological contamination of drinking water. Failure to adopt the proposed rule allows for public drinking water to easily be contaminated with nuclear, chemical, and biological agents. Should the drinking water be so contaminated, the public's health, safety, and security is significantly compromised.

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To:  
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From:  
Paul J. Pearce, PhD  
1775 East Loop 336, Suite 4  
Conroe, TX 77301  
ppearce@novatx.com

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(c)(1)(B)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.42(c)(1)(B)

**Brief Explanation of Proposed Rule**

Proposed rule is a modification of the current rule. The proposed rule provides comprehensive measures to prevent nuclear, chemical and biological contamination and system disruption of the drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

**Text of Proposed Rule**

All processes involving exposure of the water to atmospheric contamination shall provide for subsequent disinfection of the water ahead of ground storage tanks. Likewise, all exposure of water to atmospheric contamination shall be accomplished in a manner such that insects, birds, and other foreign materials will be excluded from the water. Aerators and all other such openings shall be covered with a corrosion-resistant, automatic security device facing downward, elevated and located so as to prevent the introduction of nuclear, chemical, and biological contaminants. This device shall have the ability to immediately detect nuclear, chemical, and biological contaminants and notify appropriate authorities at the time of contaminate introduction. This device shall have the ability to immediately stop water distribution at the time of contaminate introduction.

*NOTE: Underline indicates proposed modifications to current rule*

**Statement of Statutory Authority**

Statutory authority for modification of the current rule is found in:  
Texas Administrative Code, Title 30, Part 1, Chapter 290 – Public Drinking Water,  
Subchapter D: Rules and Regulations for Public Water Systems

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(c)(1)(B)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.42(c)(1)(B)

**Allegation of Injury That Could Result From Failure to Adopt Proposed Rule**

The current rule does not address prevention of nuclear, chemical, or biological contamination of drinking water. Failure to adopt the proposed rule allows for public drinking water to easily be contaminated with nuclear, chemical, and biological agents. Should the drinking water be so contaminated, the public's health, safety, and security is significantly compromised.

CONFIDENTIAL

May 19, 2006

To:  
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From:  
Paul J. Pearce, PhD  
1775 East Loop 336, Suite 4  
Conroe, TX 77301  
ppearce@novatx.com

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(m)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.42(m)

**Brief Explanation of Proposed Rule**

Proposed rule is a modification of the current rule. The proposed rule provides comprehensive measures to prevent nuclear, chemical and biological contamination and system disruption of the drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

**Text of Proposed Rule**

Security. Each water treatment plant and all appurtenances thereof shall be secured in such a manner as to reduce the risks associated with the vulnerabilities identified by the water system's vulnerability assessment, conducted in accordance with The Bioterrorism Act of 2002. In this respect, treatment plant access, source water, treated water storage, and the distribution system must be properly secured to prevent nuclear, chemical and biological contamination and system disruption.

*NOTE: Underline indicates proposed modifications to current rule*

**Statement of Statutory Authority**

Statutory authority for modification of the current rule is found in:  
Texas Administrative Code, Title 30, Part 1, Chapter 290 – Public Drinking Water,  
Subchapter D: Rules and Regulations for Public Water Systems

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.42(m)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water

Subchapter D: Rules and Regulations for Public Water Systems

Rule §290.42(m) Security

**Allegation of Injury That Could Result From Failure to Adopt Proposed Rule**

The current rule inadequately addresses prevention of nuclear, chemical and biological contamination and system disruption of the drinking water supply. Failure to adopt the proposed rule allows for public drinking water to easily be contaminated with nuclear, chemical and biological agents and the system disrupted. Should the drinking water be so contaminated or disrupted, the public's health, safety, and security is significantly compromised.

CONFIDENTIAL

May 19, 2006

To:  
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From:  
Paul J. Pearce, PhD  
1775 East Loop 336, Suite 4  
Conroe, TX 77301  
[ppearce@novatx.com](mailto:ppearce@novatx.com)

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.44(d)(1)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water  
Subchapter D: Rules and Regulations for Public Water Systems  
Rule §290.44(d)(1)

**Brief Explanation of Proposed Rule**

Proposed rule is a modification of the current rule. The proposed rule provides comprehensive measures to prevent nuclear, chemical and biological contamination and system disruption of the drinking water supply, compliance with Public Law 107-188 (The Bioterrorism Act of 2002, Texas House Bill 9, Texas Senate Bill 9, and Texas' Homeland Security Strategic Plan 2005-2010.

**Text of Proposed Rule**

Air release devices shall be installed in the distribution system at all points where topography or other factors may create air locks in the lines. Air release devices shall be installed in such a manner as to preclude the possibility of submergence or possible entrance of contaminants. In this respect, all openings to the atmosphere shall be covered with a corrosion-resistant, automatic air release security device facing downward, elevated and located so as to prevent the introduction of nuclear, chemical, and biological contaminants into the distribution system. This device shall have the ability to immediately detect nuclear, chemical, and biological contaminants and notify appropriate authorities at the time of contaminate introduction. This device shall have the ability to immediately stop water distribution at the time of contaminate introduction.

*NOTE: Underline indicates proposed modifications to current rule*

**Statement of Statutory Authority**

Statutory authority for modification of the current rule is found in:  
Texas Administrative Code, Title 30, Part 1, Chapter 290 – Public Drinking Water,  
Subchapter D: Rules and Regulations for Public Water Systems

Re: Petition to Request the Adoption of a Rule – Modification of Rule §290.44(d)(1)

**Current Rule**

TCEQ Chapter 290 – Public Drinking Water

Subchapter D: Rules and Regulations for Public Water Systems

Rule §290.44(d)(1)

**Allegation of Injury That Could Result From Failure to Adopt Proposed Rule**

The current rule does not address prevention of nuclear, chemical, or biological contamination of drinking water. Failure to adopt the proposed rule allows for public drinking water to easily be contaminated with nuclear, chemical, and biological agents. Should the drinking water be so contaminated, the public's health, safety, and security is significantly compromised.

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