The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts new §290.271, Purpose and Applicability; §290.272, Content of the Report; §290.273, Required Additional Health Information; §290.274, Report Delivery and Recordkeeping; and §290.275, Appendices A - D. The commission adopts these revisions to Chapter 290, Public Drinking Water, in order to implement a federal rule requiring community water systems to prepare and provide to their customers annual consumer confidence reports on the quality of the water delivered by the systems. These new sections are adopted by federal mandate of the 1996 amendments to the Safe Drinking Water Act which requires states, such as Texas, with primary enforcement responsibility of their safe drinking water program to adopt the federal consumer confidence report requirements by August 21, 2000. Sections 290.272, 290.273, 290.274, and 290.275 are adopted *with changes* to the text as published in the May 19, 2000 issue of the *Texas Register* (25 TexReg 4468). Section 290.271 is adopted *without changes* and the text will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

As part of the 1996 amendments to the Safe Drinking Water Act (SDWA), the United States Environmental Protection Agency (EPA) was required to develop rules requiring community water systems to develop reports on the quality of the water they provide to their customers. These reports provide valuable water quality information to customers of community water systems and allow the customers to make health-based decisions regarding their drinking water consumption.

Consumer confidence reports are the centerpiece of public right-to-know provisions under the SDWA. The information contained in the reports is intended to raise consumer awareness of where their

drinking water comes from, help them understand the process by which safe drinking water is delivered to their homes, and educate them on the importance of preventative measures, such as source water protection, that help to ensure a safe drinking water supply. Additionally, the reports provide information for consumers with special health needs and provide information and resources for accessing source water assessments and health effects data.

The federal rule was finalized on August 19, 1998. Community water systems were required to prepare and distribute the first report by October 19, 1999; the second report by July 1, 2000; and subsequent annual reports by July 1, thereafter. Most community water systems developed and distributed reports during 1999.

The federal rule requires states that have safe drinking water primary enforcement responsibilities to adopt the federal consumer confidence report provisions by August 21, 2000. States may adopt by rule, alternative requirements for the form and content of the report. The alternative requirements must provide the same type and amount of information as required by the federal rule and must be designed to achieve an equivalent level of public information and education as would be achieved under the federal rule. These alternative requirements must be submitted to the EPA for approval.

Program staff conducted a series of workgroup meetings with representatives of community water systems and interested parties to receive comment and suggestions on the development of the state rules and on the content of a report that would best inform consumers. Program staff also provided

assistance during the systems' development of the first report that was distributed by October 19, 1999, and has used information gathered from this assistance in the development of this proposal.

SECTION BY SECTION DISCUSSION

Section 290.271, relating to Purpose and Applicability, explains that the rules establish the minimum requirements for the content of annual reports community water systems must deliver to their customers.

Section 290.272, relating to Contents of the Reports, describes the information that must be included in the reports. The reports must include information on the source of the drinking water, including any information on source water assessments that have been conducted. The reports must provide explanations for definitions and references of technical and scientific terms used. At a minimum, the terms that need to be defined in the reports are maximum contaminant level goal (MCLG), maximum contaminant level (MCL), variances, exemptions, treatment techniques, action level (AL), parts per million (ppm), parts per billion (ppb), parts per trillion (ppt), parts per quadrillion (ppq), nepholometric turbidity units (NTU), million fibers per liter (mfl), millirems per year (mrem/year), and picocuries per liter (pCi/l).

The commission adopts §290.272(b)(2)(G) and (H) with clarifications to the units of measure, nanograms per liter "(ng/l)" and picograms per liter "(pg/l)". The abbreviations are part of the adopted rules.

Adopted new subsection (c) requires the inclusion of information on detected regulated and unregulated contaminants and disinfection by-products subject to mandatory monitoring by 30 TAC Chapter 290, Subchapter F state regulations. The adopted rules do not require reporting of secondary constituent levels listed in §290.113. This subsection provides instructions that the systems must use in preparing the required tables for the report. The provision sets out guidance on how to report the contaminants listed in §290.275. Appendix A, relating to Converting MCL Compliance Values for Consumer Confidence Reports, provides factors for converting scientific MCL values into units, such as ppm and ppb, that may be used in the consumer confidence report. Appendix B, relating to Regulated Contaminants, provides information on the likely sources of detected contaminants. Appendix C, relating to Health Effects Language, provides information on potential health effects of detected contaminants that must be included in the consumer confidence report. The commission adopts these rules with a change from the proposal to correct a typographical error in §290.272(c)(4)(D)(iii) to make the word "detection" plural.

Adopted new subsection (d), information on *Cryptosporidium*, radon, and other constituents, explains that if the system has performed monitoring for *Cryptosporidium* and the monitoring detects the presence of *Cryptosporidium*, the report must include a summary of any detects and explain the significance of the results. If any monitoring for radon has occurred and it indicates the presence of radon in the finished water, the report must include the monitoring results and explain the significance of the results. If monitoring indicates the presence of other contaminants in finished water, systems are encouraged to report any results which may indicate a health concern. The provision provides guidance on how systems can make this determination. This provision is adopted with a change from the

proposal to §290.272(d)(1) to clarify that results of "detections" rather than results of the "monitoring" are what trigger reporting.

Adopted new subsection (e), compliance with National Primary Drinking Water Regulations (NPDWR), explains that any violation of the NPDWR requirements occurring over the year covered by the report must be noted in the report. NPDWR requirements include: monitoring and reporting of compliance data; filtration and disinfection equipment and processes; lead and copper controls; treatment techniques for Acrylamide and Epichlorohydrin; i.e., recordkeeping of compliance data; special monitoring requirements such as those prescribed by the NPDWR; and violation of the terms of a variance, exemption, administrative order, or judicial order. This provision is adopted with a change from the proposal to correct a cross-reference in §290.272(e) from (b)(6) to (c)(4)(I)(ii).

Adopted new subsection (f) requires the systems operating under the terms of a variance or exemption to explain the terms and status of the variance or exemption.

Adopted new subsection (g) details the following information that must be included in the report: a brief explanation regarding contaminants that may reasonably be expected to be found in drinking water; phone number of the owner/operator; a statement in Spanish explaining where to call for more information in Spanish and other languages as necessary; information on opportunities for public participation, such as the system's board meetings; and information on interconnected emergency sources of water used during the calendar year. In addition, the report may include additional information that is consistent with, but does not detract from, the report's intended purpose.

Adopted new §290.273, relating to Required Additional Health Information, provides required language that must appear in the report. Subsection (a) includes language on the vulnerability of the general population and certain populations to certain microbial contaminants. Subsection (b) explains that systems which detect arsenic levels above 25 micrograms per liter, but below the MCL, shall include the provided statement about arsenic. Subsection (c) explains that a system that detects nitrate levels above five mg/l but below the MCL, must include the provided statement about the impacts of nitrate on children. Subsection (d) provides a statement on the impacts of lead on children that shall be included by systems where the action level is greater than 5.0% of the homes sampled when 20 or more samples are gathered. Subsection (e) provides that any water system subject to this section may seek approval from the executive director to write its own alternative information statements. Subsection (f) provides that systems that detect total trihalomethanes above 0.080 mg/l as an annual average must include the health effects language referenced in §290.275(3). This provision is adopted with a change from the proposal to remove an incorrect reference to 40 CFR 141.154(e).

Section 290.274, relating to Report Delivery and Recordkeeping, explains that the reports must be delivered to customers by July 1 of each year. The system shall use adequate and appropriate means for delivering the report to its customers. Systems shall certify that the report has been distributed and provide a copy to the executive director by August 1 of each year. The report shall be made available upon request, and those systems serving 100,000 people or more shall post the report to a publicly accessible site on the Internet. Finally, any system that provides water to another community water system shall deliver the information contained in §290.272 to the community water system by April 1 or a date agreed upon by both systems.

Section 290.275 contains the appendices relevant to this subchapter. These tables appear in the Tables and Graphics section of this issue of the *Texas Register*.

FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Texas Government Code. The rules implement federal requirements related to community water systems' responsibility to develop and distribute an annual report on the quality of the water they provide to their customers. These reports, called consumer confidence reports, are required of all community water systems, whether these systems are publicly or privately owned. The adopted rules establish the minimum requirements for content in the report and for the distribution of and recordkeeping associated with the report. While the adopted rules are not intended to protect the environment, they may help in reducing human health risks by providing customers with information about their drinking water. The adopted rules will not adversely affect in a material way, the economy of the state, any sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state. Therefore, the adopted rules do not meet the definition of a "major environmental rule."

TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for these rules under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the

rulemaking is to implement SDWA provisions requiring community water systems to develop annual reports on the quality of the water they provide to their customers. These annual reports are known as consumer confidence reports. The federal regulations require states with safe drinking water primary enforcement responsibilities to adopt the federal consumer confidence report provisions by August 21, 2000. The adopted rules provide the requirements for the information that at a minimum shall be contained in the reports. This information shall include the source of the drinking water provided by the system, information on any source of water assessments conducted, explanations of the technical terms and references used, and information on regulated and unregulated contaminants. The report shall also include any results from monitoring that is done to determine the presence of *Cryptosporidium*. The adopted rules also provide language to be used in the report regarding health information, such as vulnerability by general and certain populations to contaminants. Finally, the rules provide that the reports will be delivered to customers by July 1 of each year and copies will be maintained for a designated period.

The adopted rulemaking does not impose a burden on private property as the subject of the rules is related to reporting information on the quality of water provided by community water systems. The adopted rulemaking implements SDWA requirements that states with safe drinking water primary enforcement responsibilities must adopt. The adopted rulemaking action is intended to fulfill an obligation mandated by federal law.

Therefore, this revision will not constitute a takings under Texas Government Code, Chapter 2007.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The executive director has reviewed the adopted rulemaking and found that the rules are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, relating to Actions and Rules Subject to the Texas Coastal Management Program (CMP), nor will they affect any action/authorization identified in Coastal Coordination Implementation Rules, 31 TAC §505.11. Therefore, the adopted rules are not subject to the CMP.

HEARINGS AND COMMENTERS

A public hearing was conducted on June 12, 2000 with one individual from the regulated community attending and providing comments. Additionally, four entities provided written comments during the public comment period. All comments were generally in favor of the rule and were concerned with specific wording clarifications. To address these comments, the staff examined the rule language and either deleted or modified the rule language as follows:

Commenter 1.

ECO Resources, Inc., attended the public hearing and commented that §290.272(g)(6) was unclear as to whether a water supplier must report on the quality of water that is potentially available from an interconnection with another water system, even if the water is not actually used or only minimally used during the reporting period.

The commission agrees that the mere existence of an interconnection between two water systems does not trigger a reporting of the water quality items listed in §290.272(c)(4). The commission

has clarified the rule language in §290.272(g)(6) by adding "to augment the drinking water supply" after the term "emergency source." The commission deems that compliance with this paragraph, regardless of the amount of water used, is not burdensome because §290.272(g)(6) does not require the reporting of water quality data as described in §290.272(c)(4).

ECO Resources also felt that language should be added to the rule which would require a water system that supplies water to another water system, as described in §290.274(g), to certify to the commission that all applicable information had been supplied to the customer system.

The commission agrees with this assertion and has modified §290.274(g) to include language requiring a water provider to certify to the executive director that the necessary information has been provided to the customer water system. The certification must be delivered to the executive director by May 1 of each year.

Commenter 2.

Written comments from San Antonio Water System provided general support for the rulemaking, but made no specific request for changes to the rule language.

The commission expresses thanks and appreciation that the commenter took time to provide the statement.

Commenter 3.

Written comments from Vinson and Elkins expressed similar concerns as in ECO Resources' first comment relative to §290.272(g)(6). The commenter sought clarification as to whether or not a water supplier must report on the quality of water that is potentially available from an interconnection with another water system if the water is not actually used.

The commission agrees, and makes the same response as made to ECO Resources' comment.

Vinson and Elkins expressed concern that no clear definition of "customer" versus "consumer" exists in §290.274(a) or (b).

The commission agrees that further clarification is necessary and has added the words "bill-paying" prior to the word "customer" in §290.274(a). The commission further responds that §290.274(b) adequately distinguishes between these terms and no wording change is deemed necessary. Further, §290.274(e) states that anyone, customer or otherwise, may request a report but the water system is not obligated to provide a report during its distribution process to a non-customer or a non-consumer unless such report is requested.

Vinson and Elkins requested that the commission provide a list of factors for determining what constitutes a "large proportion" of non-English or non-Spanish speaking residents as part of §290.272(g)(3). Such a statement would allow the water system to know exactly when foreign language notice statements must be included in the report.

The commission does not agree and deems that no additional clarification is necessary nor can a clearer definition of the term "large proportion" be made in the proposed rule without becoming over-prescriptive. The rules require that a Spanish language statement be included in each English language report and other foreign language statements may be included at the discretion of the water system. If complaints are received from residents of a water system, then the commission will investigate the level of non-English and non-Spanish speaking residents using United States Census Bureau or other available data to determine if additional language statements must be added to the report.

Vinson and Elkins wished to know if the placement of additional foreign language statements must also occur on page one of the report.

The commission regards the placement of all foreign language statements on the first page of the report as important and deems that the water system should make every effort to comply with this requirement. If extenuating circumstances make compliance impossible, the water system should include a justification statement as part of the certification document referred to in §290.274(c).

Vinson and Elkins requested that the commission expand the language of §290.272(a)(3) to more closely follow the federal language and allow the option of using statements written by a water system official as part of the summary of susceptibility to potential sources of contamination following the receipt of a source water assessment.

The commission agrees with this comment and has modified this paragraph accordingly.

Vinson and Elkins pointed out that in §290.272(b)(2)(E), the measurement for the term "ppb" should be "µg/l" and not "g/l."

The commission agrees with this comment and points out that the rule language is correctly written, but a printing error caused the confusion and therefore no modification of the rule language is necessary.

Vinson and Elkins wished to see a definition for the words "variance" and "exemption" as part of §290.272(b)(3).

The commission disagrees that further definition is needed and also points out that definitions for these terms are located in §290.103(4)(A) and (B). A cross-reference to §290.103(4)(A) and (B) has been placed in §290.272(b)(3).

Commenter 4.

Written comments from City of Fort Worth (Fort Worth), state that the word "Español" in §290.272(g)(3) should be written "español".

The commission agrees with this comment and has modified this subsection accordingly.

Fort Worth stated that it is not always possible to comply with the requirement to place a foreign language statement on page one of the document as required in §290.272(g)(3) because it is sometimes not easy to identify page one due to document folding requirements and the placement of address labels.

The commission agrees that the identification of what constitutes the first page of the document is sometimes not clear; however, the water system must ensure that the statement is on whichever page the water system deems to be the first page of the document. Therefore, no change to the rule language is necessary.

Fort Worth commented about the placement of the vulnerability language required by §290.273(a), and requested that the location of the statement be left up to the water system.

The commission does not agree that the placement of the vulnerability statement for the elderly, infants, cancer patients, and people with human immunodeficiency virus (HIV) should be at the discretion of the water system. People who are in these groups should immediately be able to see the caution statement. Additionally, the location of the vulnerability statement is mandated by federal rule. Therefore, no change to the rule language is necessary.

Fort Worth commented that the proposed rules should include a requirement for a specific type size so that readability will be insured.

The commission agrees that overall document readability can be greatly affected by the type size and font used for the report, but it does not wish to be over-prescriptive with regard to this issue and deems that the numerous references within the proposed rules are sufficient to convey the concept that this report must be easily readable. Further, if the commission receives complaints regarding readability, it will make recommendations to the water systems that closer attention must be paid to this issue. Therefore, no change to the rule language is necessary.

Commenter 5.

Written comments from City of Austin (Austin), stated that confusion exists between §290.272(d)(3) where it is recommended that results of additional monitoring be reported and §290.273(b), which requires the addition of mandatory language if arsenic is detected at levels greater than 25 micrograms per liter. Austin asserted that §290.273(b) can be eliminated.

The commission points out that the language in §290.272(d)(3) is a recommendation, while the language in §290.273(b) is a requirement. The commission does not agree that §290.273(b) can be eliminated because it is a federal requirement; therefore, no wording change is necessary.

Austin further asserted that to include a Spanish language statement, as required by §290.272(g)(3), in a Spanish language version of the report would be ludicrous.

The commission agrees with this comment and has modified this paragraph accordingly.

Austin pointed out that the MCL statements for total coliform bacteria included in §290.275, Appendix A and B are incorrect.

The commission agrees with this comment and has modified the section accordingly.

Austin pointed out that the MCLG listings for total trihalomethanes (TTHMs) in §290.275, Appendix A and B should be listed as n/a rather than “0" because this value does not presently exist in federal or state rule.

The commission agrees with this comment and has modified the section accordingly.

STATUTORY AUTHORITY

The new sections are adopted under Texas Water Code, §5.103, which provides the commission with authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state; Health and Safety Code, §341.031, which allows the commission to adopt rules to implement the SDWA, 42 United States Code, §§300 et seq.; and Health and Safety Code, §341.0315, which requires public water supply systems to meet the requirements of commission rules.

SUBCHAPTER H: CONSUMER CONFIDENCE REPORTS

§§290.271 - 290.275

§290.271. Purpose and Applicability.

(a) The purpose of the sections in this subchapter is to establish the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize any risk from exposure to contaminants detected in the drinking water in an accurate and understandable manner. This subchapter applies only to community water systems.

(b) Each community water system must provide to its customers an annual report that contains the information specified in this subchapter.

§290.272. Content of the Report.

(a) Information on the source of the water delivered must be included in the report.

(1) Each report must identify the source(s) of the water delivered by the community water system by providing information on the type of the water (such as surface water or groundwater) and any commonly used name and location of the body(ies) of water.

(2) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In the reports, systems should highlight significant sources of contamination in the source water area if they have readily available information.

(3) If a system has received a source water assessment from the executive director, the report must include a brief summary of the system's susceptibility to potential sources of contamination using language provided by the executive director or written by a water system official.

(b) The following explanations must be included in the annual report.

(1) Each report shall contain definitions of:

(A) **Maximum contaminant level goal (MCLG) -** the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety; and

(B) **Maximum contaminant level (MCL) -** the highest level of a contaminant that is allowed in drinking water. MCLs are set as close to MCLGs as feasible using the best available treatment technology.

(2) The following terms and their descriptions shall be included when they appear in the report:

(A) **MFL -** million fibers per liter (a measure of asbestos);

(B) **mrem/year -** millirems per year (a measure of radiation absorbed by the body);

(C) **NTU -** nephelometric turbidity units (a measure of turbidity);

(D) **pCi/l -** picocuries per liter (a measure of radioactivity);

(E) **ppb -** parts per billion, or micrograms per liter (μg/l);

(F) **ppm -** parts per million, or milligrams per liter (mg/l);

(G) **ppt -** parts per trillion, or nanograms per liter (ng/l); and

(H) **ppq -** parts per quadrillion, or picograms per liter (pg/l).

(3) A report for a community water system operating under a variance or an exemption of the Safe Drinking Water Act shall include a description of the variance or the exemption granted under §290.102(b)(4) of this title (relating to Variance and Exemptions).

(4) A report that contains data on a contaminant for which the EPA has set a treatment technique or an action level must include, depending on the contents of the report, the definitions for:

(A) **Treatment technique (TT)** - a required process intended to reduce the level of a contaminant in drinking water; and

(B) **Action level (AL)** - the concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(c) Information on detected contaminants.

(1) This subsection specifies the requirements for information to be included in each report for detected contaminants subject to mandatory monitoring, excluding *Cryptosporidium*. Mandatory monitoring is required for:

(A) regulated contaminants subject to an MCL, action level, or treatment technique;

(B) unregulated contaminants for which monitoring is required by 40 Code of Federal Regulations (CFR) §141.40, relating to Unregulated Contaminants and found in §290.275(4) of this title (relating to Appendices A - D); and

(C) disinfection by-products or microbial contaminants for which monitoring is required by 40 CFR §141.142, relating to Information Collection Requirements (ICR) for Public Water System - Disinfection by-product and related monitoring, and 40 CFR §141.143, relating to Microbial Monitoring Requirements.

(2) The data relating to these detected contaminants shall be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its reports must be displayed separately.

(3) The data shall be derived from data collected to comply with EPA and the commission monitoring and analytical requirements during the previous calendar year, except when a system is allowed to monitor for regulated contaminants less often than once per year. In that case, the table(s) must include the date and results of the most recent sampling, and the report must include a brief statement indicating that the data presented in the report is from the most recent testing done in accordance with the regulations. The report does not need to include data that is older than five years. Furthermore, results of monitoring in compliance with the 40 CFR §141.142, relating to ICR Disinfection by-product and related monitoring, and 40 CFR §141.143, relating to ICR Microbial Monitoring Requirements, need only be included for five years from the date of the last sample or until

any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(4) For detected regulated contaminants listed under §290.275 of this title, the table(s) shall contain:

(A) the MCLs for those contaminants expressed as a number equal to or greater than 1.0 (as provided under §290.275 of this title);

(B) the MCLGs for those contaminants expressed in the same units as the MCLs (as provided for under §290.275 of this title);

(C) if there is no MCL for a detected contaminant, the treatment technique or specific action level applicable to that contaminant; and

(D) for contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with National Primary Drinking Water Regulations and the range of detected levels.

(i) For contaminants subject to MCLs, except turbidity and total coliforms, when sampling takes place once per year or less often, the table(s) must contain the highest

detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(ii) If sampling takes place more than once per year at each sampling point, the table(s) must contain the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL.

(iii) If compliance with any MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points, the table(s) must include the average and range of detections expressed in the same units as the MCL.

(iv) If the executive director allows the rounding of results to determine compliance with the MCL, rounding should be done prior to multiplying the results by the factor listed under §290.275 of this title.

(E) When turbidity is reported under §290.111 of this title (relating to Turbidity), the table(s) must contain the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in that section for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(F) When lead and copper are reported, the table(s) must contain the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.

(G) When total coliform is reported, the table(s) must contain either the highest monthly number of positive samples for systems collecting fewer than 40 samples per month or the highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(H) When fecal coliform is reported, the table(s) must contain the total number of positive samples.

(I) The table(s) must contain information on the likely source(s) of detected contaminants based on the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys or source water assessments and should be used when available. If the operator lacks specific information on the likely source, the report must include one or more typical sources most applicable to the system for any particular contaminant listed under §290.275 of this title.

(i) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table(s) must contain a separate column for each service area, and the report must identify each separate distribution system. Systems may produce separate reports tailored to include data for each service area.

(ii) The table(s) must clearly identify any data indicating violations of MCLs or treatment techniques. The report must contain a clear and readily understandable explanation of the violation. The explanation must include the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language contained under §290.275 of this title.

(5) For detected unregulated contaminants found under §290.275 of this title, for which monitoring is required (except *Cryptosporidium)*, the table(s) must contain the average and range of concentrations at which the contaminant was detected. The report must include the following explanation: "Unregulated contaminants are those for which EPA has not established drinking water standards. The purpose of unregulated contaminant monitoring is to assist EPA in determining the occurrence of unregulated contaminants in drinking water and whether future regulation is warranted."

(d) Information on *Cryptosporidium*, radon, and other contaminants.

(1) If the system has performed any monitoring for *Cryptosporidium*, the report must include a summary of the results of any detections and an explanation of the significance of the results.

(2) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include the results of the monitoring and an explanation of the significance of the results.

(3) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the executive director strongly encourages systems to report any results which may indicate a health concern. To determine if the results may indicate a health concern, the executive director recommends that systems find out if the EPA has proposed a standard in the *National Primary Drinking Water Regulations* (NPDWR) or issued a health advisory for any particular contaminant. This information may be obtained by calling the Safe Drinking Water Hotline at (800) 426-4791. The executive director considers detections that are above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, the executive director recommends that the report include the results of the monitoring and an explanation of the significance of the results. The explanation should note the existence of a health advisory or a proposed regulation.

(e) Compliance with NPDWR. In addition to the requirements in (c)(4)(I)(ii) of this section, the report must note any violation that occurred during the year covered by the report of a requirement listed in paragraphs (1)-(7) of this subsection.

(1) The report must include a clear and readily understandable explanation of each violation of monitoring and reporting of compliance data and explain any adverse health effects and steps the system has taken to correct the violation.

(2) The report must include a clear and readily understandable explanation of each violation of filtration and disinfection prescribed by Subchapter F of this chapter (relating to Drinking

Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems) and explain any adverse health effects and steps the system has taken to correct the violation. This applies both to systems which have failed to install adequate filtration, disinfection equipment or processes, and to systems that have had a failure of such equipment or processes, each of which constitutes a violation. In either case, the report must include the following language as part of the explanation of potential adverse health effects: "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses and parasites which can cause symptoms such as nausea, cramps, diarrhea and associated headaches."

(3) The report must include a clear and readily understandable explanation of each violation of the lead and copper control requirements prescribed by §290.117 of this title (relating to Regulation of Lead and Copper). For systems which fail to take one or more actions prescribed by §290.117(g), (h), and (i) of this title, the report must include the applicable health effects language of §290.275 of this title for lead, copper, or both and the steps the system has taken to correct the violation.

(4) The report must include a clear and readily understandable explanation of each violation of treatment techniques for Acrylamide and Epichlorohydrin prescribed by §290.107 of this title (relating to Organic Contaminants). If a system violates these requirements, the report shall include the relevant health effects language from §290.275 of this title and the steps the system has taken to correct the violation.

(5) The report must include a clear and readily understandable explanation of each violation of recordkeeping of compliance data and explain any adverse health effects and steps the system has taken to correct the violation.

(6) The report must include a clear and readily understandable explanation of each violation of special monitoring requirements for unregulated contaminants and special monitoring for sodium as prescribed by 40 CFR §141.40 and §141.41 and explain any adverse health effects and steps the system has taken to correct the violation.

(7) The report must include a clear and readily understandable explanation of each violation of the terms of a variance, exemption, administrative order, or judicial order and explain any adverse health effects and steps the system has taken to correct the violation.

(f) Variances and exemptions. If a system is operating under the terms of a variance or exemption issued under §290.102(b) of this title (relating to General Applicability), the report must contain:

(1) an explanation of the variance or exemption;

(2) the date on which the variance or exemption was issued and on which it expires;

(3) a brief status report on the steps the system is taking, such as installing treatment processes or finding alternative sources of water, to comply with the terms and schedules of the variance or exemption; and

(4) a notice of any opportunity for public input as the review or renewal of the variance or exemption.

(g) Additional information.

(1) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water (including bottled water). This explanation may include the language contained within subparagraphs (A) - (C) of this paragraph, or systems may include their own comparable language. The report must include the language of subparagraphs (D) and (E) of this paragraph.

(A) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(B) Contaminants that may be present in source water include:

(i) microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;

(ii) inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;

(iii) pesticides and herbicides, which might have a variety of sources such as agriculture, urban stormwater runoff, and residential uses;

(iv) organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems; and

(v) radioactive contaminants, which can be naturally-occurring or the result of oil and gas production and mining activities.

(C) In order to ensure that tap water is safe to drink, the EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. Food and Drug Administration (FDA) regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(D) Contaminants may be found in drinking water that may cause taste, color, or odor problems. These types of problems are not necessarily causes for health concerns. For more information on taste, odor, or color of drinking water, please contact the system's business office.

(E) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the EPA's Safe Drinking Water Hotline at (800) 426-4791.

(2) The report must include the telephone number of the owner, operator, or designee of the community water system as an additional source of information concerning the report.

(3) Each English language report must include the following statement in a prominent place on the first page: "Este reporte incluye informacion importante sobre el agua para tomar. Para asistancia en español, favor de llamar al telefono (XXX) XXX-XXXX." In addition to this statement in Spanish, for communities with a large proportion of non-English and non-Spanish speaking residents, as determined by the executive director, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(4) The report must include information about opportunities for public participation in decisions that may affect the quality of the water (e.g., time and place of regularly scheduled board meetings). Investor-owned utilities are encouraged to conduct public meetings, but must include a phone number for public input.

(5) The systems may include such additional information for public education consistent with, and not detracting from, the purposes of the report.

(6) Systems that use an interconnect or emergency source to augment the drinking water supply during the calendar year of the report must provide the source of the water, the length of time used, an explanation of why it was used, and whom to call for the water quality information.

§290.273. Required Additional Health Information.

(a) All reports must prominently display the following language on the first page of the consumer confidence report or in bold print on the second page of the report: *"You may be more vulnerable than the general population to certain microbial contaminants, such as Cryptosporidium, in drinking water. Infants, some elderly, or Immuno-compromised persons such as those undergoing chemotherapy for cancer; those who have undergone organ transplants; those who are undergoing treatment with steroids; and people with HIV/AIDS or other immune system disorders can be particularly at risk from infections. You should seek advice about drinking water from your physician*

or health care provider. Additional guidelines on appropriate means to lessen the risk of infection by Cryptosporidium are available from the Safe Drinking Water Hotline (800-426-4791)."

(b) A system which detects arsenic levels above 25 micrograms per liter but below the maximum contaminant level (MCL) shall include in its report a short informational statement about arsenic using the following language: *"EPA is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally-occurring mineral known to cause cancer in humans at high concentrations."*

(c) A system which detects nitrate at levels above five milligrams per liter (mg/l), but below the MCL shall include a short informational statement about the impacts of nitrate on children using the following language: *"Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant, you should ask advice from your health care provider."*

(d) Systems collecting 20 or more samples which detect lead above the action level in greater than 5.0% of homes sampled shall include a short informational statement about the special impact of lead on children using the following language: *"Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at the homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have*

your water tested and flush your tap for 30 seconds to two minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline at (800) 426-4791."

(e) Any water system subject to any or all of subsections (b)-(d) of this section may seek approval from the executive director to write its own alternative educational informational statement.

(f) Public water systems that detect total trihalomethanes above 0.080 mg/l as an annual average must include health effects language provided in §290.275(3) of this title (relating to Appendices A-D), Appendix C, paragraph (73).

§290.274. Report Delivery and Recordkeeping.

(a) Each community water system must mail or otherwise directly deliver one copy of the report to each bill paying customer by July 1 of each year. Each report must contain data collected during the previous calendar year. For tests not performed each year, data used shall not be older than five years. Each new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter. In addition, each community water system must provide a copy of the report to each new customer upon request.

(b) In addition to delivering a report to each customer, the system must make a good-faith effort to reach consumers who do not get water bills, using means recommended by the executive director. An adequate good-faith effort should be tailored to the consumers who are served by the

system but are not bill-paying customers, such as renters or workers. A good-faith effort to reach such consumers should include a mix of methods appropriate to the particular system such as: posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunchrooms of public buildings; delivery of multiple copies for distribution for single-billed customers such as apartment buildings or large private employers; and delivery to community organizations.

(c) Each community water system shall certify to the executive director that the report has been distributed and that the information in the report is correct and consistent with the compliance monitoring data previously submitted to the executive director. This certification and a copy of the report must be mailed to the executive director by August 1 of each year.

(d) Each community water system shall deliver the report to any other agency or clearinghouse identified by the executive director no later than the date the system is required to distribute the report to its customers.

(e) Each community water system shall make its report available to the public upon request.

(f) Each community water system serving 100,000 or more people shall post its current year's report to a publicly accessible site on the Internet.

(g) Any system providing water to a community water system shall deliver the applicable information required by §290.272 of this title (relating to the Content of the Report) to the receiving systems by April 1 and must certify to the executive director that the required information has been delivered. This certification must be delivered to the executive director by May 1 of each year.

(h) Any system subject to this subchapter must retain copies of its consumer confidence reports for no less than five years.

§290.275. Appendices A - D.

The following appendices are integral components of the subchapter:

(1) Appendix A--Converting MCL Compliance Values for Consumer Confidence Reports;

Figure: 30 TAC §290.275(1)

(2) Appendix B--Sources of Regulated Contaminants;

Figure: 30 TAC §290.275(2)

(3) Appendix C--Health Effects Language;

Figure: 30 TAC §290.275 (3)

(4) Appendix D--Unregulated Contaminants.

Figure: 30 TAC §290.275(4)