

**RESOLUTION AUTHORIZING SUBMISSION OF COMMENTS IN PROPOSED RULEMAKING AT TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (“TCEQ”) REGARDING REVISED TOTAL COLIFORM RULE PLUS, TCEQ RULE PROJECT NO. 2015-035-290-OW, TO OPPOSE PROPOSED RULES THAT ALLOW DISCRETIONARY ISSUANCE OF BOIL WATER NOTICES AND REQUEST CLARIFICATION WITH REGARD TO OTHER PROPOSED AMENDMENTS**

**Whereas**, the City of Corpus Christi (City) water supply comes from four river basins and serves approximately 500,000 customers in several Coastal Bend counties;

**Whereas**, the State of Texas through the Texas Commission on Environmental Quality establishes rules and regulations regarding the public water supplies;

**Whereas**, the Texas Commission on Environmental Quality (TCEQ, agency, or commission) issued notice of proposed rules to amend Title 30 of the Texas Administrative Code, Environmental Quality, Chapter 290, Public Drinking Water, in particular the following sections: §§290.38 (*Definitions*), 290.42 (*Water Treatment*), 290.46 (*Minimum Acceptable Operating Practices for Public Drinking Water Systems*), 290.47 (*Appendices*), 290.102 (*General Applicability*), 290.103 (*Definitions*), 290.104 (*Summary of Maximum Contaminant Levels, Maximum Residual Disinfectant Levels, Treatment Techniques, and Action Levels*), 290.106 (*Inorganic Contaminants*), 290.107 (*Organic Contaminants*), 290.108 (*Radionuclides Other than Radon*), 290.109 (*Microbial Contaminants*), 290.110 (*Disinfectant Residuals*), 290.111 (*Surface Water Treatment*), 290.112 (*Total Organic Carbon (TOC)*), 290.113 (*Stage 1 Disinfection Byproducts (TTHM and HAA5)*), 290.114 (*Other Disinfection Byproducts (Chlorite and Bromate)*), 290.115 (*Stage 2 Disinfection Byproducts (TTHM and HAA5)*), 290.116 (*Groundwater Corrective Actions and Treatment Techniques*), 290.117 (*Regulation of Lead and Copper*), 290.118 (*Secondary Constituent Levels*), 290.119 (*Analytical Procedures*), 290.121 (*Monitoring Plans*), 290.122 (*Public Notification*), 290.272 (*Content of the Report*), and 290.275 (*Appendices A – D*); and

**Whereas**, as stated on the TCEQ notice of proposed rulemaking: “This rulemaking proposes to amend existing state rules in 30 Texas Administrative Code Chapter 290 for consistency with the Revised Total Coliform Rule, align current state rules with federal regulations and to clarify and streamline additional existing state rules”; and

**Whereas**, there must be predictability in the TCEQ rules and regulations allowing public water systems to respond promptly and mitigate potential problems which will insure consumer confidence in local and state officials in protection of the public health and welfare; and

**Whereas**, TCEQ proposed rules amending Section 290.46(q)(1) through (5) allowing for discretionary authority for the Executive Director to issue boil water notices for administrative non-compliance undermines predictability in the TCEQ rules and regulations; and

**Whereas**, the City generally opposes regulations that impose unfunded mandates that require expenditures by the City unless all costs are fully reimbursed by the mandating governmental entity;

**Whereas**, proposed rules may result in increased costs of compliance without a corresponding benefit to public water system operations or public health and welfare;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF CORPUS CHRISTI, TEXAS:**

**Section 1.** That the City of Corpus Christi generally opposes amendments to Section 290.46(q) that provide for discretionary issuance of boil water notices which would undermine predictability in the TCEQ rules and regulations.

**Section 2.** That the City of Corpus Christi requests that terms “special precautions” and “protective measures” that may be required to be instituted by a public water system by proposed amendment to Section 290.46(q)(5) be clearly defined to ensure predictability in the TCEQ rules and regulations.

**Section 3.** That the City of Corpus Christi opposes the amendments to Section 290.46(q)(5) (A) (i) that allows for discretionary authority for the Executive Director to issue boil water notices for administrative non-compliance and in lieu thereof, would propose that TCEQ consider alternative methods of enforcement for administrative non-compliance.

**Section 4.** That the City of Corpus Christi opposes the amendments to Section 290.46(q)(5)(A)(iii) that may provide for issuance of boil water notice based on a single failure to maintain disinfectant residuals and instead would propose consideration of less severe responses based on results of further investigations.

**Section 5.** That the City of Corpus Christi opposes the amendments to Section 290.46(q)(5)(B) which mandates that a public water system implement special precautions, protective measures, or issue boil water notices to customers “within 24 hours or within time period specified by the executive director” because there needs to be reasonable and clearly established time for the public water system to respond and implement such orders.

**Section 6.** That the City of Corpus Christi proposes that the word “may” be changed to “shall” in amendment to 290.46(q)(6) so that it would read as follows: “The executive director ~~may~~ shall provide written notification to the public water system once the public

water system has provided required [boil water notice] compliance documentation to the executive director.”

**Section 7.** That the City of Corpus Christi requests clarification to proposed amendments to Section 290.46(q)(6)(E) regarding water samples for microbiological analysis to clarify whether this requirement is only for boil water notice orders associated with microbial and disinfectant level related events and to clarify sample location determination.

**Section 8.** That the City of Corpus Christi proposes that the term “Certificate of Delivery” as used in proposed amendment to Section 290.46(q)(1) be defined to include email notification within 24 hours and documents with certificate of delivery to be provided within 3 business day.

**Section 9.** That the City of Corpus Christi proposes modifications to amendments to 290.106(e), 290.107(e), 290.108(e) , and 290.115 (e) to provide that the public water system should not be penalized for failure to timely provide the sampling reports when delay is caused by events outside control of the public water system.

**Section 10.** That the City Manager or designee is authorized to submit a copy of this Resolution along with the attached and incorporated Exhibit A as comments in TCEQ Rule Project No. 2015-035-290-OW.

**Attest:**

**City of Corpus Christi**

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Rebecca Huerta, City Secretary

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Nelda Martinez, Mayor

Corpus Christi, Texas

\_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_

The above resolution was passed by the following vote:

Nelda Martinez \_\_\_\_\_

Rudy Garza \_\_\_\_\_

Michael Hunter \_\_\_\_\_

Chad Magill \_\_\_\_\_

Colleen McIntyre \_\_\_\_\_

Brian Rosas \_\_\_\_\_

Lucy Rubio \_\_\_\_\_

Mark Scott

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Carolyn Vaughn

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