

SUBCHAPTER C: ALLOCATION OF AVAILABLE WATERS

§304.21

Effective May 3, 2006

§304.21. Allocation of Available Waters.

(a) The allocation of water between water rights holders shall be on the basis of seniority. The watermaster shall allocate waters in such a way as to maximize the beneficial utilization of state water, to minimize the potential impairment of senior water rights by the diversions of junior water rights holders, and to prevent waste or use in excess of quantities to which the holders of water rights are lawfully entitled.

(b) The executive director may request suspension of any or all special streamflow or minimum release requirements. Such a request will be considered under §297.57 of this title (relating to Emergency Suspension of Permit Conditions) or §297.61 of this title (relating to Amendments by Executive Director).

(c) When available flow is not sufficient to meet the demands of existing declarations of intent for downstream senior rights, demands for domestic and livestock purposes that are not included under any water right, or other minimum streamflow requirements that the commission determines necessary for purposes other than protection of downstream senior and superior water rights, the watermaster may:

(1) cancel or modify, as needed, any existing declaration of intent made under §304.15 of this title (relating to Declarations of Intent to Divert, Transport, or Release Water);

(2) order that water right holders with reservoir(s) allow inflows to pass through such reservoir(s) to the extent necessary to honor downstream senior water rights, demands for domestic and livestock purposes, minimum streamflow requirements, minimum release requirements, and other conditions;

(3) order that persons with reservoirs exempt from permitting under Texas Water Code, §11.142, allow inflows to pass through such reservoirs for the protection of downstream domestic and livestock users;

(4) order that diverters limit or cease diversions to the extent necessary to honor downstream senior water rights, demands for domestic and livestock purposes, minimum streamflow requirements, minimum release requirements, and other conditions; or

(5) take any other action necessary to ensure that downstream senior water rights, demands for domestic and livestock purposes, minimum streamflow requirements, minimum release requirements, and other conditions, are administered in accordance with the laws of Texas.