

SUBCHAPTER G: FINANCING WATERMASTER OPERATIONS

§§304.61 - 304.63

Effective May 3, 2006

§304.61. Costs of Administration.

Under Texas Water Code, §11.329, all holders of water rights that are administered by a watermaster shall reimburse the commission for the expense of watermaster operations. An assessment account shall be established for each water right holder for each water right authorization by category of use. The commission shall not assess costs against a holder of a non-priority hydroelectric right that owns or operates privately-owned facilities that collectively have a capacity of less than two megawatts. The assessment for each assessment account shall be the sum of a uniform base charge and, as applicable for that assessment account, either a use fee or a storage fee, or both. The executive director shall file with the commission a copy of the proposed budget. Following a public meeting, the commission shall issue an order for each water division or group of water divisions, as the commission may determine to be appropriate, approving the assessment income needed for the watermaster operations for the assessment period under consideration. The order shall also specify the base charge per assessment account and the reinstatement fee for delinquent assessment payment.

Adopted January 16, 2002

Effective February 6, 2002

§304.62. Determination of Assessment Rates.

(a) After a commission order is issued approving the assessment income needed for the watermaster operations for the assessment period under consideration, the executive director shall calculate assessment rates for water use, transport, and storage for each water division, or group of divisions, based on the following formula.

$$\begin{array}{l} \text{Municipal} \\ \text{Assessment} \\ \text{Rate} \end{array} \quad \begin{array}{l} \text{I-M(N)} \\ = \\ (\text{RF}_s)(\text{AF}_s) + (\text{AF}_1) + (\text{RF}_2)(\text{AF}_2) + (\text{RF}_3)(\text{AF}_3) \dots (\text{RF}_n)(\text{AF}_n) \end{array}$$

- I : Income needed to meet the adopted budget
- M : Base charge per account
- N : Total number of accounts to be assessed in the water division
- n, s : Code number corresponding to a category or type of use
- RF_n, RF_s : Rate factor for each of the following categories of use:

municipal and domestic	RF ₁ = 1.00
industrial - consumptive.....	RF ₂ = 1.00
irrigation.....	RF ₃ = 0.80
mining - consumptive	RF ₄ = 1.00
recreation and pleasure - consumptive.....	RF ₅ = 1.00
non - consumptive (industrial, mining, recreation).....	RF ₆ = 0.20
hydroelectric - priority	RF ₇ = 0.20

hydroelectric - non-priority.....	RF ₈ = 0.05
recharge for underground storage	RF ₉ = 0.50
salt water	RF ₁₀ = 0.05
spreader dam diversion.....	RF ₁₁ = 0.40
secondary use	RF ₁₂ = 0.50
on-channel storage	RF _{s13} = 0.40
stock raising.....	RF ₁₄ = 1.00
game preserves	RF ₁₅ = 1.00
ag-wetland.....	RF ₁₆ = 0.80
reuse	RF ₁₇ = 0.50
public parks	RF ₁₈ = 0.80
multi-use	RF ₁₉ = 1.00
bed and banks.....	RF ₂₁ = 0.05
other.....	RF ₂₀ = 1.00

AF_n, AF_n: Total diversion, or storage, authorization for all water rights to be assessed in each water division or group of water divisions, for each of the above categories of use, which are defined as follows:

Municipal and Domestic - The total amount of water authorized for diversion under a water right for this purpose, including non-exempt domestic and livestock uses.

Industrial, Mining, Recreation, or Salt Water Diversions - The total amount of water authorized for consumptive use for each of these categories of use under a water right. In the event there is no specific authorization for consumptive use, the assessment will be based on the total amount of water authorized for diversion under the water right. Diversions that do not conform to the definition for salt water diversion in §304.4 of this title (relating to Definitions) will be assessed at the rate for the category of use(s) authorized by the water right. For any diversion that would fit the salt water diversion definition except for the fact that the watermaster may be required to protect that water right against junior appropriators, the water right holder or agent may achieve conformity with the definition, and be assessed at the salt water rate, by providing to the executive director, at least 60 days in advance of assessment billing, an affidavit waiving such protection. Such an affidavit will be subject to approval by the executive director and must specify the duration for waiving such protection, but must not be for less than one assessment accounting period, and will be coterminous with assessment periods as establish by the commission.

Nonconsumptive Industrial, Mining, or Recreation - under a given water right where part of the authorization for one of these uses is specified as being consumptive, the remainder will be considered nonconsumptive.

Irrigation, Hydroelectric (Priority and Non-priority), Recharge, Spreader Dam Diversions, Stock Raising, Game Preserves, Public Parks or Secondary Use - the total amount of water authorized for diversion for each of these categories of use under a water right.

On-channel Storage - the total conservation storage authorized for impoundment under a water right. This category includes only on-channel reservoirs authorized under the Texas Water Code, except those reservoirs exempted in accordance with Texas Water Code, §11.142.

Ag-wetland - the total amount of water authorized in a water right for diversion for this use. This term also includes the total amount of water authorized in a water right for the diversion for “wetland” use.

Reuse - the amount of water authorized in a water right for diversion for reuse. This assessment will be in addition to the assessment for the other uses authorized in the water right.

Multi-use - the total amount of water authorized under a water right for more than one use where the amount of water is not allocated to each individual use.

Bed and Banks - the total amount authorized for the transportation of water without the reuse of return flows. This term also includes the total amount authorized for the transportation of privately owned groundwater and groundwater based effluent.

Other - the total amount of water authorized for diversion in a water right for a use not otherwise listed.

(b) After the assessment rate for municipal use has been determined, the assessment rates for the other uses or for storage must be calculated as the mathematical product of the municipal assessment rate and the rate factor for each use or for storage.

Adopted April 12, 2006

Effective May 3, 2006

§304.63. Assessment of Cost.

(a) To determine the amount of assessment for each assessment account, computations will be made by adding together a base charge as specified in the commission order adopted in accordance with §304.61 of this title (relating to Costs of Administration) and, as applicable, either or both of the following:

(1) a user fee, which is the mathematical product of the total assessment account and the appropriate assessment rate as determined by §304.62 of this title (relating to Determination of Assessment Rates); provided, however, that if the water right authorizes more than one type of use, and if the maximum amount of water authorized to be used annually for all uses (the maximum total authorization) is less than the sum of the maximum amounts authorized to be used annually for each use (the sum of all authorizations), then, in calculating the fee for each account the number to be used for the authorized amount must be the product of the maximum total authorization and a fraction whose numerator is the amount of water authorized for that use, and whose denominator is the sum of all authorizations; and also provided that the water right holder or the executive director may apply to the commission for, and the commission may grant, an order providing, for assessment purposes only, that different portions of the total amount of water authorized be applied to the various authorized uses; and

(2) a storage fee for on-channel storage, which is calculated by multiplying the total amount of water authorized for conservation storage under that assessment account by the storage assessment rate as determined by §304.62 of this title. For any water right authorizing storage and more than one type of use for the same owner, the storage fee for that owner's total storage authorization must be applied to the assessment account for any one of the uses associated with that owner.

(b) The assessment must be paid to the executive director in advance of expenditures. The executive director shall specify the dates by which payments will be due, and may provide for payments in installments. Penalties and interest for the late payment of fees will be assessed in accordance with Chapter 12 of this title (relating to Payment of Fees). If fees are paid in installments, penalties and interest for late payment will be computed on the amount of the installment due. The executive director shall transmit all collections to the state treasurer to be held in a special fund to provide for the cost of the watermaster operation.

(c) Water may not be diverted, taken, stored, transported, or used by any diverter or agent while any assessment payment is delinquent.

(d) Either the water right owner or agent shall pay the assessment, but only one person per assessment account shall be authorized to pay assessments.

Adopted April 12, 2006

Effective May 3, 2006