

**SUBCHAPTER D : ENFORCEMENT REGARDING
WATERMASTER OPERATIONS
§§303.31-303.34
Effective January 4, 1999**

§303.31. General.

For a violation of any statutes of the Texas Water Code, or of the terms of a water right, or commission order or rules, the watermaster or executive director may pursue appropriate enforcement action if voluntary compliance is not promptly achieved.

§303.32. Enforcement Actions.

(a) The watermaster may seek voluntary compliance by ordering that:

- (1) a violator cease and desist any unauthorized diversion, taking, impoundment, transfer, or use of state water;
- (2) the owner of a lawful dam on a tributary pass inflows sufficient to satisfy the needs of downstream senior and superior rights; or
- (3) any person in violation of the Texas Water Code, commission rules, permit, certificate of adjudication, or commission order take necessary actions to achieve compliance.

(b) In the absence of voluntary compliance in a timely manner, the watermaster may:

- (1) lock headgates or pumping facilities or take other necessary actions to effectively cease any unauthorized diversion or impoundment of state water;
- (2) refuse to issue a certification; or
- (3) refer the violation to the executive director.

(c) The executive director may:

- (1) seek voluntary compliance;
- (2) refer a case to the attorney general for any appropriate legal remedy in a court of competent jurisdiction, which may include a penalty assessment of not more than \$1,000 for each day the violator continues the taking, diversion, or appropriation as set forth in the Texas Water Code, §11.082;
- (3) seek an action before the commission culminating with the issuance of an appropriate order, which if subsequently violated, may be referred to the attorney general for appropriate action in a court of competent jurisdiction;

- (4) issue a field citation in accordance with §303.35 (relating to Field Citation by Watermaster); or
- (5) seek any other appropriate remedies or actions which are available at law.

All appeals from actions or decisions of the watermaster shall be in accordance with the Texas Water Code §11.326(f).

Adopted December 2, 1998

Effective January 4, 1999

§303.34. Violations.

- (a) It shall be a violation for any person to do the following:
 - (1) divert, impound, or use any water from the Rio Grande or its tributaries, either personally or through another, without proper authorization under the Texas Water Code, these sections and any applicable final judgment rendered by a court of competent jurisdiction;
 - (2) refuse to allow, or to interfere with, the inspection of any land, natural waterway, artificial waterway, or diversion facility by an agent or employee of the executive director that would assist the commission in the discharge of its duties;
 - (3) interfere with or refuse to comply with the execution of any order of the watermaster, executive director, or commission;
 - (4) break, tamper with, or mutilate any seal or other device used to enforce orders of the commission, executive director, court, or watermaster;
 - (5) make or send to the watermaster, executive director, or commission any false or misleading statement, or submit any untrue data in any pump operation report or surface water use report; or
 - (6) violate any statute, rule, or order of the commission or watermaster.
- (b) The list of violations in subsection (a) of this section is not exclusive.

§303.35. Field Citation by Watermaster.

- (a) Upon witnessing a violation set forth in subsection (d) of this section, the watermaster or the watermaster's deputy, may issue the alleged violator a field citation. The field citation will allege a violation has occurred and require that the alleged violator pay the administrative penalty and take remedial action as provided in the field citation.
- (b) The alleged violator may either pay the administrative penalty assessed by the field citation without admitting or denying the alleged violation or request a hearing on the alleged violation.

(c) If the alleged violator fails to either pay the administrative penalty or take remedial action pursuant to a field citation issued under subsection (a) of this section, the executive director may proceed with enforcement action in accordance with Chapters 70 and 80 of this title.

(d) Violations for which the watermaster may issue a field citation are as follows.

Figure : §303.35(d)

Violation	1st time noted within previous 24 months	2nd time noted with in previous 24 months	3rd time noted with in previous 24 months
1. Diversion without a watermaster approved diversion certification (applicable to water right holders only)	On-site inspection notice (warning)	Citation/fine of \$200 for minors*; \$500 for majors**	Initiation of formal enforcement action
2. Failure to provide a measuring device or alternative method of measurement	On-site inspection notice (warning)	Citation/fine of \$200 for minors; \$500 for majors unless corrected within 30 days	Initiation of formal enforcement action
3. Water right holder does not pass water which the holder is not entitled to hold or impound in accordance with special conditions of water rights or watermaster (applicable to water right holders located between Fort Quitman and Amistad reservoir and water right holders on tributaries of the Rio Grande only)	On-site inspection notice (warning)	Citation/fine of \$200 for minors; \$500 for majors	Initiation of formal enforcement action
4. Late pump operation reports	On-site inspection notice (warning)	Citation/fine of \$200 for minors; \$500 for majors	Initiation of formal enforcement action

*minor: A water right of 5000 acre-feet or less

**major: A water right of greater than 5000 acre-feet