

**SUBCHAPTER D: ENFORCEMENT REGARDING  
WATERMASTER OPERATIONS**

**§§304.31 - 304.34  
Effective May 3, 2006**

**§304.31. General.**

The watermaster or executive director may pursue appropriate enforcement action when there is a violation of or failure to comply with the Texas Water Code, the commission's rules, the terms of a water right, authorization, or the orders issued by the commission or watermaster.

Adopted April 12, 2006

Effective May 3, 2006

**§304.32. Violations.**

(a) It is a violation for any person to do the following:

(1) divert, transport, use, or make a dedicated release of state water, either personally or through another, without proper authorization under the Texas Water Code or any applicable final judgment rendered by a court of competent jurisdiction, or without submitting to the watermaster a declaration of intent in accordance with §304.15(a) or (g) of this title (relating to Declarations of Intent to Divert, Transport, or Release Water);

(2) impound without proper authorization under the Texas Water Code or any applicable final judgment rendered by a court of competent jurisdiction;

(3) fail to modify a declaration of intent in advance of a desired change as provided in §304.15(f) of this title;

(4) fail to provide a measuring device as required in §304.13 of this title (relating to Requirement for Measurement Devices);

(5) fail to provide an outlet as required in §304.14 of this title (relating to Requirement for Outlets for Passage of Water);

(6) refuse to allow, or to interfere with, the inspection of any land, natural watercourse, artificial waterway, impoundment, return flow point, or diversion facility by an employee of the commission that would assist the commission in the discharge of its duties;

(7) break, tamper with, or mutilate any seal or other device used to enforce orders of the commission, executive director, court, or watermaster; or

(8) fail to comply with any statute, rule, or commission or watermaster order.

(b) The list of violations in subsection (a) of this section is not exclusive. In addition to other violations of Texas Water Code, Chapter 11, and the commission's rules, a failure to comply with a commission or watermaster order under this section is a violation of Texas Water Code, §11.081.

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**§304.33. Enforcement Actions.**

When a violation under §304.32 of this title (relating to Violations) occurs, the watermaster or the executive director may seek voluntary compliance, or may pursue appropriate enforcement action. In the absence of voluntary compliance:

- (1) the watermaster may refuse to recognize a declaration of intent;
- (2) the watermaster may lock headgates or pumping facilities or take other necessary actions to effectively cease diversion, impoundment, transport, or release of state water under the account associated with the violation; provided, however, that for violations of §304.32(a)(4) or (5) of this title, the diverter will be given at least ten days notice prior to any such action by the watermaster;
- (3) the executive director may seek a hearing before the commission culminating with the issuance of an appropriate order; if such an order is subsequently violated, the matter may be referred to the attorney general for appropriate action in a court of competent jurisdiction;
- (4) the executive director may refer the violation to the attorney general for appropriate legal remedy in a court of competent jurisdiction, which may include a penalty assessment to the maximum extent allowed by law;
- (5) the watermaster may issue a field citation in accordance with §304.34 of this title (relating to Field Citation by Watermaster); or
- (6) the executive director may seek any other appropriate remedies or action available at law.

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**§304.34. 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 that a violation has occurred and require that the alleged violator pay the administrative penalty and take remedial action as provided in the 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 under 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 (relating to Enforcement and Contested Case Hearings).

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

Violation	1st time noted within previous 24 months	2nd time noted within previous 24 months	3rd time noted within previous 24 months
1. Diversion, use, or transport without a watermaster approved declaration of intent (applicable to water right holders only)	On-site inspection notice (warning)	Citation/fine of \$200 for minors*; \$500 for majors**	Referral for 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	Referral for 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	On-site inspection notice (warning)	Citation/fine of \$200 for minors*; \$500 for majors**	Referral for formal enforcement action
4. Late report of diversion, transport, use, release, or impoundment	On-site inspection notice (warning)	Citation/fine of 4200 for minors*; \$500 for majors**	Referral for formal enforcement action

\*minor: A water right of 5,000 acre-feet or less

\*\*major: A water right of greater than 5,000 acre-feet

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