

**SUBCHAPTER E: AMENDMENTS TO AND SALES OF WATER RIGHTS**  
**§§303.40 - 303.44**  
**Effective October 26, 2006**

**§303.40. Applicability.**

This subchapter does not apply to water-in-transit permits. These permits are regulated under Subchapter I of this chapter (relating to Rio Grande Bed and Banks Permits for Water-in-Transit) and Subchapter J of this chapter (relating to Administration of Rio Grande Bed and Banks Permits for Water-in-Transit).

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**§303.41. Sale of Water Rights.**

(a) The owner of a water right may convey his water right as provided by §297.81 of this title (relating to General Rules of Conveyance) and §297.82 of this title (relating to Duty to Inform Executive Director), after all outstanding fees, penalties, and interest, if any, as provided by §303.71 and §303.73 of this title (relating to Costs of Administration; and Assessment of Costs) are paid. The purpose and place of use shall not be changed without authorization from the commission. Owners of water rights shall promptly inform both the executive director and the watermaster of any transfers of water rights. The new owner must file with the executive director all required documents as identified in §297.83 of this title (relating to Recording Conveyances of Water Rights).

(b) If a tract of land to which a smaller water right acreage is appurtenant is owned by more than one person in divided interests, a water right partition agreement is required among all the owners of said tract of land before any one of the owners can be authorized by the watermaster to divert water. However, if the owners fail to submit a water right partition agreement within one month after being notified by the executive director that such an agreement is needed, the executive director shall administratively divide the water rights among the owners on a prorata basis by acreage. The owners involved may request that the executive director grant an extension of the one-month deadline, not to exceed six months, if extenuating circumstances exist. If the executive director does not grant the extension, the division will be made on a prorata basis. The executive director will recognize the prorata shares until changes are made by valid partition agreement.

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**§303.42. Amendments.**

The commission will consider applications to amend water rights.

(1) An applicant shall submit to the executive director an application prepared to reflect the desired change(s) and executed as provided in these sections. Applications must meet all of the

requirements for an original water permit as set out in Chapter 295 of this title (relating to Water Rights, Procedural) and Chapter 297 of this title (relating to Water Rights, Substantive).

(2) Determination of the type of notice required will be made by evaluating the applications according to §295.158 of this title (relating to Notice of Amendments to Water Rights). One exception to this is that changes in the purpose of use, rate of diversion, point of diversion, and place of use for water rights held in and transferred within and between the mainstems of the Lower Rio Grande, Middle Rio Grande, and Amistad Reservoir will not require mailed and published notice.

(3) Transfer of the point of diversion or place of use of water rights from the Lower and Middle Rio Grande to above International Amistad Reservoir are prohibited; however, transfers may be made between the mainstem of the Lower Rio Grande and the mainstem of the Middle Rio Grande.

(4) Transfers of the point of diversion or place of use of water rights from the Upper Rio Grande into the Middle and Lower Rio Grande below International Amistad Reservoir will be prohibited unless:

(A) an applicable conversion factor has been approved by the commission;

(B) the commission finds that the transfer would not impair other water rights within the Middle and Lower Rio Grande; and

(C) the commission finds that the transfer would not reduce the amount of water available for allocation.

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### **§303.43. Conversion of Water Rights.**

The purposes of use included in municipal priority rights are domestic, municipal, and industrial. The purposes of use included in the Class A and B priority rights are irrigation and other purposes of use, excluding domestic, municipal, industrial, nonconsumptive recreation, and hydro-electric. Unless otherwise stated in a certificate of adjudication, one acre of irrigation water right in the Lower Rio Grande will be equivalent to 2.5 acre-feet of water per annum. All Class A and B priority rights in the Lower and Middle Rio Grande which have been or will be acquired for domestic, municipal, or industrial use shall be amended to authorize the change in purpose of use and converted to receive a definite quantity of water in acre-feet per annum.

(1) One acre-foot of Class A irrigation water right shall be converted to 0.5 acre-feet of water per annum for either domestic, municipal, or industrial purposes; one acre-foot of Class B irrigation water right shall be converted to 0.4 acre-feet of water per annum for either domestic, municipal, or industrial purposes.

(2) An irrigation or mining water right which has been amended and converted to a municipal priority shall be allocated water on an equal basis with stipulated domestic, municipal, and industrial water rights recognized in the final judgment rendered in the Lower Rio Grande Valley water case and the final judgment in the adjudication of water rights on the Middle Rio Grande.

**§303.44. Administration by Watermaster.**

Owners of water rights shall promptly inform the executive director of any change of ownership of water rights. Thereafter, if the new ownership record is not complete, the executive director shall inform the alleged owner by letter that ownership documents must be filed within 30 days and approved by the executive director. During a 60-day period following the date of the executive director's letter, the watermaster will honor requests by the alleged owner for releases of water and/or for certification in accordance with the water right. After the 60-day period, no allocations will be made until the executive director notifies the watermaster of the approved change in ownership. Requests for extension of the initial 60-day period must be submitted in writing to the executive director prior to the end of the 60-day period. If the extension is granted, the watermaster may make allocations, issue certifications and/or order releases for the alleged owner. If the extension is not granted, the watermaster will not issue a certification, make releases or make allocations for the alleged owner until the executive director notifies the watermaster that ownership has been changed to include the new owner. If a water right amendment is required for the new owner to use water, the watermaster shall not honor requests by the new owner for water under that water right until the amendment has been granted by the commission.