

SUBCHAPTER A: INTRODUCTORY PROVISIONS

§303.1, §303.2

Effective October 26, 2006

§303.1. General.

This chapter is applicable to water rights in the Rio Grande Basin below Fort Quitman, and water rights in that portion of the Nueces-Rio Grande Coastal Basin in Starr, Hidalgo, Willacy, and Cameron Counties whose source of water is the Rio Grande, excluding the Pecos and Devils watersheds. All other rules, regulations, or orders promulgated or issued by the commission relating to water rights are also applicable to these water rights unless expressly stated otherwise or in conflict with the provisions of this chapter, in which event this chapter shall govern.

Adopted October 4, 2006

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§303.2. Definitions.

The following words and terms when used in this chapter shall have the following meanings.

(1) **Account**--The record of municipal and operating reserves; or the record of an allottee's water in storage in the Amistad-Falcon system, and the diversion of such water.

(2) **Accounting period**--From the last Saturday of a month at midnight to the last Saturday of the following month at midnight.

(3) **Agent**--A person designated by a water right holder to have the authority to request certification to divert, make diversions, and/or pay assessment charges.

(4) **Allocation**--The distribution of the United States' share of water stored in the Amistad-Falcon system to the various accounts.

(5) **Allottee**--A water right holder who has an account and who has the right to call on releases of water from the associated accounts.

(6) **Assessment**--The authorized charges against water rights holders levied by the commission to finance watermaster operations.

(7) **Certification**--Written authorization issued by the watermaster to divert water from the Rio Grande or its tributaries for a specific period of time.

(8) **Diversion facility**--Any pump, canal system, or other device.

(9) **Diverter**--A water right holder, an agent, or an exempt domestic and livestock user who takes water from the Rio Grande or its tributaries.

(10) **Hydroelectric rights**--A water right that authorizes the use of available flow for hydroelectric power generation. No account will be established for the holders of hydroelectric rights.

(11) **Lower Rio Grande Valley**--That portion of the Rio Grande Basin, including tributaries, in Texas from Falcon Dam downstream to the Gulf of Mexico, including that portion of the Nueces-Rio Grande Coastal Basin located in Starr, Hidalgo, Willacy, and Cameron Counties, Texas, whose source of water is the Rio Grande.

(A) Reach I is that portion of the Lower Rio Grande between Falcon Dam and the International Boundary and Water Commission streamflow gage at Fort Ringgold.

(B) Reach II is that portion of the Lower Rio Grande between the International Boundary and Water Commission streamflow gage at Fort Ringgold and Anzalduas Dam.

(C) Reach III is that portion of the Lower Rio Grande between Anzalduas Dam and the Progreso Bridge.

(D) Reach IV is that portion of the Lower Rio Grande between the Progreso Bridge and the International Boundary and Water Commission streamflow gage near San Benito.

(E) Reach V is that portion of the Lower Rio Grande between the International Boundary and Water Commission streamflow gage near San Benito and the Cameron County Water Control and Improvement District 6 river pumps.

(F) Reach VI is that portion of the Lower Rio Grande between Cameron County Water Control and Improvement District 6 river pumps and the International Boundary and Water Commission streamflow gage near Brownsville.

(G) Reach VII is that portion of the Lower Rio Grande between the International Boundary and Water Commission streamflow gage near Brownsville and the Gulf of Mexico.

(12) **Measuring device**--A device designed to indicate flow rate and amount, with instantaneous readout in cubic feet per second (cfs) or gallons per minute (gpm) and a flow totalizer with a readout in acre-feet or gallons, to be accurate within 5.0%, said device to be approved by the watermaster. Any device operated and maintained by the International Boundary and Water Commission is considered satisfactory. On tributaries, any device approved by the watermaster is sufficient.

(13) **Middle Rio Grande**--That portion of the Rio Grande Basin including tributaries, in Texas upstream from Falcon Dam to Amistad Dam.

(A) Reach I is that portion of the Middle Rio Grande between Amistad Dam and the International Bridge at Del Rio.

(B) Reach II is that portion of the Middle Rio Grande between the International Bridge at Del Rio and the International Bridge at Eagle Pass.

(C) Reach III is that portion of the Middle Rio Grande between the International Bridge at Eagle Pass and the International Boundary and Water Commission streamflow gaging station at San Antonio Crossing.

(D) Reach IV is that portion of the Middle Rio Grande between the International Boundary and Water Commission streamflow gaging station at San Antonio Crossing and the International Bridge at Laredo.

(E) Reach V is that portion of the Middle Rio Grande between the International Bridge at Laredo and San Ygnacio.

(F) Reach VI is that portion of the Middle Rio Grande between San Ygnacio and Falcon Dam.

(14) **No charge water**--Storm and flood water in the Rio Grande downstream from Amistad Dam that is designated by the watermaster, in accordance with Texas Water Code, §11.0871, and with Texas Water Commission order dated August 4, 1981, and any subsequent orders, as being available for diversion and use by water rights holders.

(15) **Nondiverter**--An agent or a water right holder who has water delivered to him by a diverter.

(16) **Proration period**--The period determined on a monthly basis, when the United States' share of water in the Amistad-Falcon system is less than 50% of the total United States conservation storage.

(17) **Pump operation report**--That part of the certification which the diverter returns to the watermaster after recording the amount of water actually diverted during the certification period.

(18) **Travel time**--The time for released water to travel downstream to designated reaches on the Middle or Lower Rio Grande.

(19) **Treaty**--The 1944 water sharing treaty between the United States and Mexico, and all related amendments and minute orders adopted by the International Boundary and Water Commission.

(20) **Tributary diverter**--A water right holder, an agent, or an exempt domestic and livestock user on the Rio Grande below Fort Quitman and above Amistad Reservoir or on a tributary of the Rio Grande with no right to call for releases from Amistad or Falcon Reservoirs.

(21) **Upper Rio Grande**--That portion of the Rio Grande Basin, including tributaries, in Texas from Amistad dam upstream to Fort Quitman, excluding the Pecos and Devils watersheds.

(22) **Usable balance**--The quantity of water in acre-feet an allottee has available for use, and is based upon whichever is less:

(A) the sum of allottee's annual authorized amount of water minus actual use for the year to date, plus the allottee's contract water balance; or

(B) the amount in the allottee's storage account.

(23) **Water-in-transit**--Privately owned water, not including state water, that a person has pumped from an underground reservoir and that is in transit between the point of discharge into the Rio Grande and the place or the point of diversion by a person who has contracted with the owner of the water to purchase the water, and that may be stored in a reservoir for later use.

(24) **Water right**--A right acquired under the laws of the state to impound, divert, and/or use water.

(A) Class A water right--A water right in the Lower or Middle Rio Grande Basin designated as a Class A right and held under a certificate of adjudication, granted in the Adjudication of the Lower and Middle Rio Grande River in *State v. Hidalgo County Water Control & Improv. Dist. No. 18*, 443 S.W.2d 728 (Tex. App. - Corpus Christi 1969), *writ ref'd n.r.e.*, or issued by the commission. If converted to a domestic, municipal, and industrial (DMI) water right, a Class A water right is converted to 50% of the existing water right.

(B) Class B water right--A water right in the Lower or Middle Rio Grande Basin designated as a Class B right and held under a certificate of adjudication, granted in the Adjudication of the Lower and Middle Rio Grande River in *State v. Hidalgo County Water Control & Improv. Dist. No. 18*, 443 S.W.2d 728 (Tex. App. - Corpus Christi 1969), *writ ref'd n.r.e.*, or issued by the commission. If converted to a DMI water right, a Class B water right is converted to 40% of the existing water right.

(25) **Water right holder**--One who owns a water right.