

## **Title 23. Waters**

### **Division 3. State Water Resources Control Board and Regional Water Quality Control Boards**

**Amend Chapter 2.8, Sections 931 through 938 and add Section 939 to read as follows:**

#### **Ch. 2.8 Measuring and Reporting**

##### **931 Definitions.**

The following definitions apply to the terms as they are used in this chapter.

(a) "Annual report" refers to any of the following documents:

- (1) Report of permittee or licensee, pursuant to sections 925 and 929, respectively;
- (2) Report of registration and certificate holder, pursuant to section 924; or
- (3) Supplemental statement of water diversions and use, pursuant to section 5104 of the Water Code.

(b) "Board" means the State Water Resources Control Board.

(c) "Claimed water right" means the legal entitlement or claim to divert a reasonable amount of water from a specified source for a beneficial, non-wasteful use. Such entitlement may be granted under a board-issued permit, license, or registration, a federal non-reserved or reserved right on file with the board, or through a riparian or pre-1914 appropriative right claimed in a Statement of Water Diversions and Use that may or may not have been confirmed or adjudicated.

(d) "Data standard" means a set of rules that define how data are described, formatted, recorded, and shared.

(e) "Delta" means the Sacramento-San Joaquin Delta as defined in section 12220 of the Water Code and the Suisun Marsh as defined in section 29101 of the Public Resources Code.

(f) "Deputy director" means the Deputy Director for the Division of Water Rights, or their delegee.

(g) "Diverter" means any of the following:

- (1) Any person authorized to divert water under a permit, license, or registration;
- (2) Any person required under Division 2, Part 5.1 of the Water Code to file a Statement of Water Diversions and Use; or
- (3) To the extent authorized by federal law, the federal government for claimed water rights under permits, licenses, registrations, Statements of Water Diversions and Use, or non-reserved or reserved rights on file with the board.

- (h) "Division" means the board's Division of Water Rights.
- (i) "Identification number" of a claimed water right means the unique alphanumeric value that starts with a letter followed by a minimum of six numeric characters and that identifies any of the following:
  - (1) Application number for a water right license, permit, or registration; or
  - (2) Statement number for a claimed riparian or pre-1914 appropriative right submitted in a Statement of Water Diversions and Use.
- (j) "Maximum allowable diversion amount or rate" means any of the following:
  - (1) The maximum volume or flow rate of water that is authorized to be diverted annually under a permit, license, or registration;
  - (2) The initial or maximum volume or flow rate of water diverted in a twelve month reporting period under a claimed pre-1914 water right filed in a Statement of Water Diversions and Use; or
  - (3) The maximum historical or maximum anticipated volume or flow rate of water diverted in any twelve month reporting period for a claimed riparian right filed in a Statement of Water Diversions and Use.
- (k) "Measurement methodology" means the combination of all measuring devices and any accompanying methodology, including calculations, conversions, formulas, and quality assurance protocols, through which a diverter accounts for the volume and flow rate of water diverted under each claimed water right.
- (l) "Measuring" includes accounting for, calculating, determining, and recording the measured value, as necessary.
- (m) "Measuring device" means a device or other means of measuring that either directly measures volume or flow rate or measures a different parameter that can be used to calculate volume and flow rate, such as velocity, water elevation, volume of water in storage, or electricity consumption or generation.
- (n) "Online reporting platform" means a secure, internet-based software application designed to facilitate the submission, processing, management, and storage of reports, data, documents, or other information.
- (o) "Point of diversion" means the location where water is diverted. Points of diversion include points of direct diversion, points of diversion to storage, points of redirection of previously diverted or previously stored water, and any combination thereof that occurs at the same location.
- (p) "Provisional data" means measurement data in a datafile that may not yet be fully processed or quality assured to meet the accuracy requirements of this chapter or

that may not yet be fully apportioned to each claimed water right. Provisional data are subject to change.

- (q) "Qualified individual" means a person who meets any of the following criteria:
- (1) For a claimed water right with a maximum allowable diversion amount greater than 200 acre-feet per year:
    - (A) A California-registered Professional Engineer or a person under the supervision of a California-registered Professional Engineer who is employed to install, operate, and maintain measuring devices or implement and verify the accuracy of measurement methodologies;
    - (B) A California-licensed contractor authorized by the State License Board for C-57 well drilling or C-61 Limited Specialty/D-21 Machinery and Pumps;
    - (C) A board-certified Water Treatment Operator or Water Distribution Operator who is trained and experienced in water measurement;
    - (D) A person professionally employed as a hydrographer or water measurement technician who is trained and experienced in water measurement;
    - (E) In the case of a claimed water right held by an agency of the federal government, a hydrologist or professional engineer experienced and trained in water measurement who is employed by the federal agency in that capacity; or
    - (F) A diverter, or employee or agent of a diverter, who has completed an instructional course described in section 1841.5 of the Water Code and who is installing and maintaining measuring devices or implementing measurement methodologies for the diverter's own diversion.
  - (2) For a claimed water right with a maximum allowable diversion amount of 200 acre-feet per year or less, a person trained and experienced in water measurement and reporting. This may include the diverter, the diverter's employee or agent, or a person who meets any of the criteria described in paragraph (1) of this subdivision.
- (r) "Quality assurance protocol" means any procedure or process used to ensure the quality and accuracy of measurement data, including correcting for any known or suspected errors in the raw measurement data.
- (s) "Rate" or "flow rate" means the volumetric flow rate, expressed in units of volume per unit of time, at which a volume of water passes a designated and calibrated observation point during a specific time period.
- (t) "Raw measurement data" means the unaltered, numeric output from a measuring device, before any calculations, conversions, formulas, or quality assurance protocols have been applied.

- (u) “Threatened, endangered, or fully protected aquatic species” means a species that lives in water for at least one stage of its life and is a species listed as threatened or endangered pursuant to the Endangered Species Act (16 U.S.C. §§ 1531-1544), or the California Endangered Species Act (Fish and G. Code, §§ 2050-2097) or listed as fully protected pursuant to section 5515 of the Fish and Game Code.
- (v) “Twelve month reporting period” means a water year beginning October 1 and ending the following September 30, consistent with subdivision (e) of section 907.

Authority cited: Sections 1058, 1840, and 1841, Water Code.

Reference: Sections 1841.5, and 5103, Water Code.

### **931.5 Authority of the Delta Watermaster.**

The Delta Watermaster shall exercise all powers assigned to the deputy director or the division under this chapter for any point of diversion located within the Delta. The deputy director may exercise these powers within the Delta during a vacancy in the position of Delta Watermaster or as authorized by the Delta Watermaster.

Authority cited: Sections 1058, 1840, and 1841, Water Code.

Reference: Section 85230, Water Code.

### **932 Applicability.**

(a) General Applicability. This chapter applies to any of the following:

- (1) Any claimed water right that has a maximum allowable diversion amount greater than 10 acre-feet per year; or
- (2) Any combination of claimed water rights held by the same diverter that either diverts from the same point of diversion, to the same reservoir, or that serves the same place of use, if the sum of the maximum allowable diversion amounts under such claimed water rights is greater than 10 acre-feet per year.
- (3) Stockpond certificates and registrations for small domestic use, livestock stockponds, and cannabis cultivation are not subject to the requirements of this chapter. The maximum allowable diversion amounts or rates, authorized points of diversion, storage locations or capacities, and places of use for these do not need to be considered in determining applicability or any requirements of diverters under this chapter.

(b) Large Diversions. The additional measurement and submission requirements described in subdivision (b) of section 933 and in section 935, respectively, are referred to as the “large diversion requirements” and apply as follows:

- (1) Large Diversion Applicability. The large diversion requirements of this chapter apply to the following:

- (A) Any claimed water right that has a maximum allowable diversion amount greater than 10,000 acre-feet per year or that is authorized to directly divert more than 30 cubic feet per second at any time; or
  - (B) Any point of diversion that is shared by multiple claimed water rights held by the same diverter, if the sum of the maximum allowable diversion amounts or maximum allowable direct diversion rates of such claimed water rights at the point of diversion is greater than 10,000 acre-feet per year or 30 cubic feet per second, respectively.
- (2) Delayed Effective Date. For any claimed water right or combination of claimed water rights sharing a point of diversion that is authorized to directly divert a total of more than 30 cubic feet per second from October 1 through May 31, but does not have a total maximum allowable diversion amount greater than 10,000 acre-feet per year, the large diversion requirements of this chapter shall take effect on June 1, 2026.
  - (3) Claimed Water Rights with Small Points of Diversion. For any claimed water right that meets the criteria of subparagraph (1)(A) of this subdivision, diverters may submit an alternative compliance plan in accordance with section 936 for the purpose of excluding from the large diversion requirements of this chapter any point of diversion that diverts significantly less than 10,000 acre-feet per year or 30 cubic feet per second.
- (c) Qualifying Reservoir. The requirements for measuring and reporting withdrawals and releases from a reservoir or the total volume of water in a reservoir apply to any reservoir with a storage capacity greater than 5,000 acre-feet. These reservoirs are referred to as “qualifying reservoirs.”

Authority cited: Sections 1058, 1840, and 1841, Water Code.

Reference: Section 13, 1846, and 5103, Water Code.

### **933 Measuring and Accounting.**

- (a) General Measurement Parameters. For each claimed water right that meets the general applicability criteria described in subdivision (a) of section 932, diverters must measure the following, as applicable:
  - (1) Date and time of measurement;
  - (2) Volume and rate of water directly diverted;
  - (3) Volume and rate of water diverted to or collected to storage; and
  - (4) Volume and rate of water withdrawn or released from any qualifying reservoir.
- (b) Large Diversion Parameters. In addition to the general measurement parameters described in subdivision (a), for any claimed water right or point of diversion that

meets the large diversion applicability criteria described in subdivision (b) of section 932, diverters must measure the following, as applicable:

- (1) Date and time of measurement;
- (2) Volume and rate of water diverted, including any combination of direct diversions, diversions to storage, and rediversions of previously diverted or previously stored water, as applicable. For claimed water rights to divert to storage, this may reflect a combination of diversions to storage and water diverted or rediverted for short-term regulation; and
- (3) For claimed water rights to store water in or withdraw or release water from qualifying reservoirs:
  - (A) Total volume of water in the qualifying reservoir at the time of measurement; and
  - (B) Volume and rate of water withdrawn or released from the qualifying reservoir.
- (c) Rediversions of Previously Diverted or Previously Stored Water. For the purposes of this chapter, the term “rediversion” means the taking of water that has already been diverted or stored under a claimed water right from a watercourse or reservoir where the previously diverted or previously stored water has been comingled with other claimed water rights. If not already being measured pursuant to subdivisions (a) or (b), the deputy director may require diverters to measure rediversions of previously diverted or previously stored water if necessary to understand the supply, demand, or availability of water.
- (d) Volume measurements described in this chapter shall reflect the discrete volumes diverted or withdrawn or released in each measurement time interval and not the cumulative total volume, unless otherwise specified.
- (e) Diverters may use any measuring device or combination of measuring devices along with an accompanying methodology to meet the measuring requirements described in this section.
- (f) Diverters may cooperate on a local or regional basis to collectively meet the measuring requirements described in this section. A diverter or group of diverters who collectively measures under multiple claimed water rights shall account for the general measurement parameters described in subdivisions (a) and (c) for each separate claimed water right.
- (g) Measurement Location. No delivery, use, or significant loss of water due to percolation and evaporation shall occur between the point of diversion (or the location where water is withdrawn or released from a qualifying reservoir) and the measurement location unless such deliveries, uses, or losses are otherwise measured and/or accounted for.

- (h) Measurement Frequency. Diversers must measure the required parameters described in subdivisions (a) through (c) this section, as applicable, whenever water is diverted or whenever water is withdrawn or released from a qualifying reservoir. Diversers must collect measurements of the required parameters at the following frequencies:
- (1) For a claimed water right to divert only to a reservoir without any authorized direct diversion or diversion to underground storage, the required measurement frequency shall be determined based on the storage capacity of the reservoir and shall be the most frequent of the values listed below. For a reservoir with a storage capacity that is:
    - (A) Greater than 1,000 acre-feet, measurements shall be collected on an hourly or more frequent basis.
    - (B) Greater than 200 acre-feet, measurements shall be collected on a daily or more frequent basis.
    - (C) Greater than 50 acre-feet, measurements shall be collected on a weekly or more frequent basis.
    - (D) Greater than 10 acre-feet, measurements shall be collected on a monthly or more frequent basis.
    - (E) Less than or equal to 10 acre-feet, no measurement is required.
  - (2) For all other claimed water rights, including claimed water rights that authorize direct diversion, diversion to underground storage, or a combination of direct diversion and diversion to surface and/or underground storage, the required measurement frequency shall be determined based on the maximum allowable diversion amount for the claimed water right and shall be the most frequent of the values listed below. For a claimed water right with a maximum allowable diversion amount that is:
    - (A) Greater than 1,000 acre-feet per year, measurements shall be collected on an hourly or more frequent basis.
    - (B) Greater than 200 acre-feet per year, measurements shall be collected on a daily or more frequent basis.
    - (C) Greater than 50 acre-feet per year, measurements shall be collected on a weekly or more frequent basis.
    - (D) Greater than 10 acre-feet per year, measurements shall be collected on a monthly or more frequent basis.
  - (3) For multiple claimed water rights held by the same diverter that authorize diversion from a shared point of diversion or to the same reservoir:

- (A) If all of the claimed water rights meet the criteria described in paragraph (1) of this subdivision, the frequency thresholds described in subparagraphs (1)(A) through (1)(E) shall determine the required measurement frequency for each claimed water right based on the storage capacity of the reservoir.
- (B) If any of the claimed water rights meets the criteria described in paragraph (2) of this subdivision, the frequency thresholds described in subparagraphs (2)(A) through (2)(D) shall determine the required measurement frequency for all of the claimed water rights based on the sum of the maximum allowable diversion amounts of the claimed water rights.
- (C) In the event of any conflict between the measurement frequency requirements for a diverter with multiple claimed water rights that divert from the same point of diversion or to the same reservoir, the more stringent requirement shall control.
- (i) **Measurement Accuracy.** For the purposes of this chapter, “accuracy” means the reported volume compared with the actual volume, expressed as a percentage. The percentage shall be calculated as  $100 \text{ percent} \times [1 - (\text{error} \div \text{actual value of volume})]$ , where the error is calculated as the absolute value of (reported value of volume – actual value of volume), the actual value is determined through laboratory, design, or field-testing protocols, and the reported value is the value determined by the measurement methodology and included in data submissions to the board.
- (1) Diverters are responsible for ensuring that the measurement methodology is implemented, operated, and maintained to meet the accuracy standards of this subdivision:
- (A) For measuring devices installed before January 1, 2016, reported values must be at least 85 percent accurate.
- (B) For measuring devices installed after January 1, 2016:
- (i) For claimed water rights that must be measured on a daily or hourly basis as described in subdivision (h), reported values must be at least 90 percent accurate.
- (ii) For claimed water rights that must be measured on a weekly or monthly basis as described in subdivision (h), reported values must be at least 85 percent accurate.
- (iii) For claimed water rights that share a measurement methodology and have different accuracy requirements under this section, the more stringent requirement shall control for all claimed water rights covered by the measurement methodology.
- (2) Diverters shall notify the board in writing within 30 days of detecting that the measurement methodology does not meet the accuracy requirements of this



section. The notification shall include the diverter's plan to take appropriate and timely corrective action to meet the accuracy requirements of this subdivision.

- (3) If a measurement methodology fails to meet the accuracy requirements of this section, the diverter shall repair or replace any measuring device as necessary or otherwise correct the measurement methodology at the diverter's own expense to meet such requirements.

Authority cited: Sections 1051, 1058, 1840, and 1841, Water Code.

Reference: Section 13, 1846, and 5103, Water Code.

### **934 Measurement Methodology.**

- (a) All submissions under this chapter shall be electronically submitted by the diverter or the diverter's agent through an online reporting platform identified on the board's website.
- (b) Report of Measurement Methodology Content. Each diverter shall submit a report of measurement methodology on a form available through the online reporting platform and containing the following information, as applicable:
  - (1) Name and contact information, including email address, for:
    - (A) All participants covered by the measurement methodology;
    - (B) The primary contact person to represent all diverters covered by the measurement methodology in measurement matters; and
    - (C) The qualified individual who verified the accuracy of the measurement methodology;
  - (2) Identification number of each claimed water right covered by the measurement methodology;
  - (3) Description of the measurement methodology and how it is implemented to derive the data submitted under section 935 from the raw measurement data, including:
    - (A) Identification of each measurement location, if applicable;
    - (B) An explanation of any quality assurance protocol used to ensure the quality of the measurement data;
    - (C) For any measuring device that does not directly measure both discrete volume and rate, the conversion method or formula used to convert the measurement data to volume and rate, including:
      - (i) For a measuring device that measures flow rate only, the conversion method shall describe the protocol used to record the duration of

operation during each measurement interval, where volume is derived by the following formula:  $\text{volume} = (\text{flow rate}) \times (\text{duration})$ ;

- (ii) For a measuring device that measures cumulative volume only, the conversion method to derive the discrete volume diverted within the measurement interval may use the following formula:  $\text{discrete volume} = (\text{cumulative volume at the end of the interval}) - (\text{cumulative volume at the beginning of the interval})$ . The conversion method to derive the flow rate shall describe the protocol used to determine the duration of operation during each measurement interval, where flow rate is derived by the following formula:  $\text{flow rate} = (\text{volume diverted in each measurement interval}) \div (\text{duration})$ ;
  - (iii) For a measuring device that measures water velocity only, the conversion method shall describe the protocol used to determine the cross-sectional area of flow and the duration of operation during the measurement interval, where volume and flow rate are derived by the following formulas:  $\text{volume} = (\text{velocity}) \times (\text{cross-sectional flow area}) \times (\text{duration})$ , and  $\text{flow rate} = (\text{velocity}) \times (\text{cross-sectional flow area})$ ; and
  - (iv) For a measuring device that measures water elevation at the point of measurement, electricity consumption, electricity generation, or any other parameter, the conversion method shall describe the methodology or formula used to determine the volume and flow rate of water diverted;
- (D) A description of the methodology used to aggregate hourly or more frequent measurement data to reflect daily values;
- (E) A description of the methodology used to distinguish measurement data for water directly diverted, diverted to or collected to storage, withdrawn or released from a qualifying reservoir, or rediverted, as applicable and if not measured individually; and
- (F) A description of the methodology used to distinguish and apportion measurement data to each claimed water right covered by the measurement methodology. The aggregate measurement data shall meet the accuracy requirements of subdivision (i) of section 933, but any individual apportionment may be a reasonable approximation as follows:
- (i) For a group of diverters covered by the same measurement methodology, the methodology for apportioning measurement data to each claimed water right may include calculations based on the reasonably approximated percentage of water diverted under each claimed water right;
  - (ii) For a diverter with multiple claimed water rights covered by the same measurement methodology, the methodology for apportioning

measurement data to each claimed water right shall include calculations, as necessary, to allocate diversion amounts according to the priority date of each claimed water right; and

- (iii) For a diversion that the diverter attributes to multiple claimed water rights and/or a combination of contract deliveries and claimed water rights, the methodology shall identify these and apportion measurement data between them;
- (4) A certification by a qualified individual that the measurement methodology meets the requirements of this chapter.
- (c) For measurement methodologies first implemented on or after October 1, 2025, diverters shall submit a report of measurement methodology to the board within 180 days of implementing the measurement methodology or with the submission of the annual report for which the measurement methodology first applies, whichever is earlier. For measurement methodologies first implemented before October 1, 2025, diverters shall submit a report of measurement methodology to the board on or before January 31, 2026.
- (d) Diverters shall submit a revised report of measurement methodology to the board:
  - (1) For any changes or modifications to a previously submitted report of measurement methodology, no later than the submission deadline of the annual report for which the changes first apply; and
  - (2) Within 30 days of a request by the deputy director.
- (e) Diverters must register their measuring device with the board within 30 days of installing or replacing a measuring device, or within 30 days of a request by the deputy director. Diverters must update their measuring device registration within 30 days of recalibrating or changing the location of the measuring device. Diverters shall register each measuring device included in the measurement methodology by submitting the following information, as applicable, on a form available through the online reporting platform:
  - (1) Make and model number of the measuring device;
  - (2) Type of measuring device, such as inline flow meters, submerged orifice gates, rectangular weirs, v-notch weirs, broad crested weirs, or other class of device designed to perform a similar function;
  - (3) Location of the measuring device, including identification of the associated point of diversion;
  - (4) Make, model number, and type of the recording device, if different from the measuring device;
  - (5) Units of measurement;

- (6) Dates of installation and most recent calibration;
  - (7) Contact information for the qualified individual who installed and calibrated the measuring device;
  - (8) Certification of accuracy; and
  - (9) Identification number of each claimed water right that uses the measuring device or recording device.
- (f) Implementation. Each measurement methodology submitted in accordance with this section shall be timely implemented and meet the following requirements:
- (1) Measuring devices may only be installed and calibrated by a qualified individual who meets the requirements of subdivision (q) of section 931.
  - (2) All measuring devices and measurement infrastructure installed after October 1, 2025 shall be installed in a manner and location that does not result in a serious or major disturbance to an environmental or public trust resource and avoids exception criteria listed in title 14, section 15300.2 of the California Code of Regulations.
- (g) Evidence of Proper Functioning. Diverters shall submit evidence to the board verifying that each measuring device included in the measurement methodology is functioning properly and that the measurement methodology meets the accuracy requirements described in subdivision (i) of section 933 as follows:
- (1) Such evidence may include, but is not limited to, calibration reports, laboratory certification documentation, field-test reports, or an affidavit or declaration of a qualified individual documenting the accuracy and proper functioning of the measurement methodology;
  - (2) Evidence of proper functioning shall be submitted upon installation of a measuring device and at least once every five years thereafter, and upon request by the deputy director; and
  - (3) A qualified individual shall certify that all evidence of proper functioning submitted in accordance with this section is accurate to the best of their knowledge.
- (h) Review and Verification. The division may review any measurement methodology and request additional information to support a measurement methodology.
- (1) The division may conduct a field inspection or request additional information from the diverter to determine if all measuring devices have been properly installed and if the measurement methodology has been properly implemented to meet the requirements of this chapter.
  - (2) The diverter shall make all measuring devices reasonably available and accessible for inspection upon request.

- (3) The deputy director may require changes or modifications to a measurement methodology to meet the requirements of this chapter or to correct a deficiency and may reject any measurement methodology that fails to meet the requirements of this chapter.
  - (4) For a measurement methodology that does not include installation of a measuring device at each point of diversion, the deputy director may require the diverter to install a measuring device at each point of diversion within 90 days if identified deficiencies in the measurement methodology are not timely corrected, or if the measurement methodology is rejected.
  - (5) The division shall notify the diverter in writing if the measurement methodology has been rejected. Any measurement methodology submitted in accordance with this section shall be considered provisionally accepted unless the deputy director has rejected the measurement methodology.
  - (6) The measurement methodology shall be rejected if it violates any requirement of any contract, policy, order, decision, judgement, determination, or other regulatory requirement of the board, a Regional Water Quality Control Board, other state or federal agency, or a court.
  - (7) Incomplete measurement methodology documentation or documentation that does not meet the minimum standards of this section shall not relieve the diverter of fully meeting the requirements of this chapter.
- (i) The measurement methodology will be presumed to remain in effect until cancelled, updated, or otherwise modified by the diverter, or rejected by the deputy director.

Authority cited: Sections 1058 and 1841, Water Code.

Reference: Section 13, 183, 1051, 1840, 1841.5, 1846, and 5103, Water Code.

### **935 Submitting Measurement Data.**

- (a) Diverters must submit measurement data to the board. Measurement data shall be submitted in a datafile, as described in subdivision (b), and shall be accompanied by supplementary materials as applicable and as described in subdivision (c). For each claimed water right and point of diversion that meets the large diversion applicability criteria described in subdivision (b) of section 932, diverters must also submit large diversion submissions in accordance with subdivision (d).
- (b) Datafile Contents. Datafiles submitted under this section shall include measurement data as follows:
  - (1) Datafiles must include the required general measurement data described in subdivisions (a) and (c) of section 933, as applicable, and recorded at the required frequency and accuracy described in subdivisions (h) and (i), respectively, of section 933. For measurements that must be collected on an

hourly basis, the data included in the datafile may be aggregated to reflect daily values of each general measurement parameter.

- (2) The values included in each datafile shall reflect data measured at each measurement location. For a claimed water right with multiple measurement locations, a separate datafile shall be submitted for each measurement location. Diverters may submit multiple datafiles for the same measurement location.
  - (3) The values included in each datafile shall reflect data for the claimed water right being reported. For a diverter or group of diverters that collectively measures under multiple claimed water rights, a separate datafile shall be submitted for each claimed water right. Diverters may submit multiple datafiles for the same claimed water right.
- (c) Supplementary Materials. Diverters shall submit as a supplement to their datafile an explanation of any methodology component, such as a calculation, conversion method, formula, or quality assurance protocol, that:
- (1) Is used to derive the data included in each datafile under subdivision (b) from the raw measurement data; and
  - (2) Is not already described in the report of measurement methodology or that deviates from a measurement methodology submitted to the board. If all calculations, conversion methods, formulas, quality assurance protocols, and other explanations describing how to derive the data included in each datafile are already described in the report of measurement methodology submitted to the board, then the diverter does not need to submit supplementary materials.
- (d) Large Diversion Submissions. For each claimed water right and point of diversion that meets the large diversion applicability criteria described in subdivision (b) of section 932, diverters must submit data to the board as follows:
- (1) Large diversion submissions shall reflect daily or more frequent values of each of the large diversion parameters described in subdivisions (b) and (c) of section 933, as applicable.
  - (2) Provisional data may be submitted for the purpose of meeting the requirements described in this subdivision, so long as the provisional data are clearly labeled.
  - (3) Diverters shall indicate the identification numbers of all claimed water rights represented by the measurement data, but data submitted under this subdivision do not need to be apportioned to each claimed water right, and values corresponding to rediversions of previously diverted or previously stored water do not need to be distinguished.
  - (4) Large diversion requirements described in this subdivision are in addition to the datafile and supplementary materials that must be submitted in accordance with this section.

- (e) Submission Process. Diverters must submit the required materials as follows:
- (1) For datafiles, diverters shall either submit an electronic, machine-readable datafile using a template provided by the board or transmit measurement data directly to the board's online reporting platform using the data standard provided by the board.
  - (2) For supplementary materials, diverters shall submit supplementary materials to the board's online reporting platform.
  - (3) For large diversion submissions, diverters shall either submit an electronic, machine-readable datafile using a template provided by the board, transmit the required data directly to the board's online reporting platform using the data standard provided by the board, or post the required data to a publicly accessible website approved by the deputy director.
- (f) Submission Schedule. Diverters must submit the required materials described in this section to the board within 30 days of a request by the deputy director and as follows:
- (1) Datafiles and any supplementary materials shall be submitted annually, as specified in chapter 2.7 of this title; and
  - (2) Large diversion submissions shall be submitted on a weekly basis, at minimum.
- (g) Data Retention. Diverters must maintain records of the following, as applicable, for a period of not less than 10 years:
- (1) Datafiles and supplementary materials submitted under this section; and
  - (2) Raw measurement data from each measuring device.

Authority cited: Sections 1051, 1058, 1840, and 1841, Water Code.

Reference: Section 13, 1846, and 5103, Water Code.

### **936 Alternative Compliance with Measuring and Reporting Requirements.**

- (a) Eligibility. Diverters may submit an alternative compliance plan to more effectively or efficiently measure the parameters described in section 933. This includes, but is not limited to, circumstances where strict compliance with the requirements of this chapter is not feasible, would be unreasonably expensive, would unreasonably affect public trust uses, would result in the waste or unreasonable use of water, or is met by another person, agency, or organization.
- (b) Alternative compliance plans may cover a single diverter or a group of diverters.
- (c) Alternative Compliance Plan Content. Each alternative compliance plan shall be submitted on a form available through the board's online reporting platform and contain the following information, at a minimum:
  - (1) Name and contact information, including email address, for:

- (A) All participants covered by the alternative compliance plan;
  - (B) The primary contact person to represent all diverters covered by the alternative compliance plan in measurement matters; and
  - (C) The qualified individual who certified that the alternative compliance plan meets the requirements of this chapter;
- (2) Identification number of each claimed water right covered by the alternative compliance plan;
- (3) Detailed description of the area covered by the alternative compliance plan, including all of the following:
- (A) All points of diversion and how water is diverted at those points and conveyed to the place of use;
  - (B) Total acreage included in the alternative compliance plan, if applicable;
  - (C) Assessor's parcel number and ownership within the area covered by the alternative compliance plan; and
  - (D) A map or aerial photograph that clearly shows the area covered by the alternative compliance plan. The location of each place of use, point of diversion, and measurement location for each claimed water right covered by the alternative compliance plan must be clearly labeled;
- (4) Description of how the proposed alternative measurement methodology generally complies with the requirements of the chapter, including:
- (A) An explanation of the specific basis for claiming that the proposed alternative compliance plan is more efficient or effective than strict compliance with the requirements of this chapter and meets the alternative compliance eligibility criteria described in subdivision (a);
  - (B) Identification of the proposed measurement frequency and accuracy and the proposed data submission process and schedule;
  - (C) A description of the proposed measurement methodology, including any measuring devices or alternative means of measuring the required measurement parameters, any measurement locations, and any calculations, conversion methods, formulas, and quality assurance protocols, and how the proposed measurement methodology is implemented to derive the data submitted to the board from the raw measurement data;
  - (D) A description of the proposed methodology to distinguish and apportion measurement data to each claimed water right covered by the alternative compliance plan; and



- (E) If applicable, including for measurements using remote sensing, a description of the methodology used to account for any water losses between the point of diversion (or the location where water is withdrawn or released from a qualifying reservoir) and the measurement location, including water losses due to percolation or evaporation;
  - (5) Description of the implementation and the implementation schedule with date-specific, objective milestones from the date of filing the alternative compliance plan through final implementation;
  - (6) An affirmation, signed by all diverters covered by the alternative compliance plan, that the alternative compliance plan will be implemented in accordance with the schedule contained therein; and
  - (7) A certification by a qualified individual that the alternative compliance plan meets the requirements of this chapter to the best of their knowledge.
- (d) Any measuring devices included in the alternative compliance plan shall be registered with the board in accordance with subdivision (e) of section 934. For alternative compliance plans that do not use any measuring devices, diverters shall indicate when submitting measurement data that no measuring devices were used.
- (e) Data Submission and Schedule. Diverters shall submit the required materials described in subdivision (a) of section 935 in accordance with the submission processes and schedules described in subdivisions (e) and (f), respectively, of section 935 or in accordance with an alternative submission process or schedule described in the alternative compliance plan.
- (f) Implementation. An alternative compliance plan submitted in accordance with this section shall be implemented according to the schedule described in the alternative compliance plan, unless otherwise directed by the deputy director.
- (g) For alternative compliance plans first implemented on or after October 1, 2025, diverters shall submit an alternative compliance plan to the board prior to its implementation. For alternative compliance plans first implemented before October 1, 2025, diverters shall review their previously submitted alternative compliance plan and ensure it meets the requirements of this chapter on or before January 31, 2026.
- (h) Diverters shall submit a revised alternative compliance plan to the board:
- (1) For any changes or modifications to a previously submitted alternative compliance plan, including changes in the methodology, area, measurement location, or participants, no later than the submission deadline of the annual report for which the changes first apply; and
  - (2) Within 30 days of a request by the deputy director.

- (i) Alternative compliance plans submitted pursuant to this section will be posted on the board's website with the opportunity for comment by any interested party.
- (j) Review and Verification. The division may review any alternative compliance plan and request additional information to support the alternative compliance plan.
  - (1) The deputy director may require the diverter to submit evidence that an alternative compliance plan has been implemented in accordance with the proposed schedule.
  - (2) The division may conduct a field inspection or request additional information from the diverter to determine if an alternative compliance plan has been properly implemented and meets the requirements of this section.
  - (3) The deputy director may require changes or modifications to any alternative compliance plan to meet the requirements of this chapter or to correct a deficiency and may reject any alternative compliance plan that fails to meet the requirements of this chapter.
  - (4) The deputy director may reject an alternative compliance plan for failure of the diverter to implement a previous alternative compliance plan according to its schedule, or for failure of a previous alternative compliance plan to achieve the required accuracy.
  - (5) The division shall notify the diverter in writing if the alternative compliance plan has been rejected. Any alternative compliance plan submitted in accordance with this section shall be considered provisionally accepted unless the deputy director has rejected the alternative compliance plan.
  - (6) A decision or order issued under this section is subject to reconsideration under article 2 (beginning with section 1122) of chapter 4 of part 1 of division 2 of the Water Code, and all applicable sections of this title.
  - (7) Incomplete alternative compliance plans and alternative compliance plans that do not meet the minimum requirements of this section shall not relieve the diverter of the requirement to fully comply with this chapter.
- (k) The alternative compliance plan will be presumed to remain in effect until cancelled, updated, or otherwise modified by the diverter, or rejected by the deputy director. Diverters must review their alternative compliance plan every five years and confirm that there are no proposed changes with the alternative compliance plan as submitted.

Authority cited: Sections 183, 1051, 1058, 1840, and 1841, Water Code.

Reference: Sections 13, 1122, 1123, 1841.5, 1846, and 5103, Water Code.

### **937 Temporary Exemption from Measurement.**

- (a) Diverters must complete and submit annual reports in accordance with chapter 2.7 of this title, regardless of whether they are subject to or exempted from any of the requirements under this chapter.
- (b) Request for Additional Time. Diverters may submit a request for additional time on a form available through the Board's online reporting platform to comply with the provisions of this chapter.
  - (1) The deputy director may grant additional time not to exceed 24 months per extension.
  - (2) Approval of a request for additional time is contingent on the following:
    - (A) Financial considerations shall be considered only in cases where the diverter has requested agency funding and is awaiting a grant or loan award.
    - (B) Additional time based on other considerations is limited to the minimum time needed to access the site due to weather conditions, minimum time needed to obtain necessary permits, minimum time needed to comply with construction time periods set in other agency permits, or unforeseen circumstances.
  - (3) All requests for additional time shall be accompanied by documentation of grant or loan requests or agency permit requests, as applicable. Funding and/or permit approval documents shall be submitted to the board within 30 days of receipt. Requests for additional time based on unforeseen circumstances shall be accompanied by a showing of good cause and a showing that all reasonable efforts have been made to comply with this chapter.
  - (4) All requests for additional time shall be accompanied by a plan documenting the additional time needed to comply with the provisions of this chapter. The plan shall describe the interim measurement and reporting practices the diverter will implement while diligently pursuing compliance with this chapter.
- (c) Temporary Exemption for No Diversions and No Withdrawals or Releases. The diverter is exempt from meeting submission requirements as follows:
  - (1) No Diversions and No Withdrawals or Releases During the Twelve Month Reporting Period. If, during the entirety of the twelve month reporting period, no diversions are made under the claimed water right and no withdrawals or releases are made from qualifying reservoirs, diverters are not required to submit a datafile or any of the supplementary materials described in subdivisions (b) and (c), respectively, of section 935.
    - (A) Diverters claiming a temporary exemption under this subdivision must indicate in the associated annual report for the claimed water right that no

diversions were made and no water was withdrawn or released from qualifying reservoirs.

(B) The submission requirements described in section 935 shall resume for the claimed water right for any twelve month reporting period during which a diversion occurs or water is withdrawn or released from qualifying reservoirs.

(2) No Large Diversions. For any claimed water right or point of diversion that meets the large diversion applicability criteria described in subdivision (b) of section 932, if no diversions are made and no water is withdrawn or released from qualifying reservoirs during the entirety of the week or other schedule for reporting as established under section 938, diverters are not required to submit the large diversion submissions described in subdivision (d) of section 935 for the corresponding week or other such schedule for reporting during which no diversions were made and no water was withdrawn or released from qualifying reservoirs.

(A) Diverters claiming a temporary exemption under this subdivision must indicate in the online reporting platform that no diversions were made and no water was withdrawn or released from qualifying reservoirs during the time period.

(B) The submission requirements described in section 935 shall resume once diversions or withdrawals or releases from qualifying reservoirs resume.

(d) Destruction of Diversion or Withdrawal or Release Infrastructure. If a natural disaster, emergency, or other unforeseen circumstance destroys the diversion or withdrawal or release infrastructure or equipment, or otherwise prevents any water from being diverted at a point of diversion or from being withdrawn or released from a qualifying reservoir:

(1) For destruction of diversion infrastructure or equipment:

(A) Diverters are not required to submit diversion measurement data for the affected point of diversion covering the portion of the twelve month reporting period for which the diversion infrastructure or equipment was inoperable.

(B) For any water that is withdrawn or released from qualifying reservoirs while the diversion infrastructure or equipment is inoperable, diverters must continue to measure withdrawals and releases and submit this data in accordance with the requirements of this chapter.

(C) Large Diversions. For any claimed water right or point of diversion that meets the large diversion applicability criteria described in subdivision (b) of section 932, diverters must continue to measure the total volume of water in qualifying reservoirs and the volume and rate of water withdrawn or released

- from qualifying reservoirs and submit this data in accordance with the requirements of this chapter.
- (2) For destruction of withdrawal or release infrastructure or equipment:
    - (A) Diverters are not required to submit withdrawal or release measurement data for the affected location where water is withdrawn or released from qualifying reservoirs covering the portion of the twelve month reporting period for which the withdrawal or release infrastructure or equipment was inoperable.
    - (B) For any water that is diverted at a point of diversion while the withdrawal or release infrastructure or equipment is inoperable, diverters must continue to measure diversions and submit this data in accordance with the requirements of this chapter.
    - (C) Large Diversions. For any claimed water right or point of diversion that meets the large diversion applicability criteria described in subdivision (b) of section 932, diverters must continue to measure the volume and rate of water diverted and the total volume of water in qualifying reservoirs and submit this data in accordance with the requirements of this chapter.
  - (3) Diverters must indicate in the associated annual report for the affected claimed water right when the diversion or withdrawal or release infrastructure or equipment was inoperable.
  - (4) All requirements of this chapter shall resume when diversions or withdrawals or releases from qualifying reservoirs resume.
- (e) Destruction of Measuring Device or Measurement Infrastructure. If a natural disaster, emergency, or other unforeseen circumstance destroys measuring devices or measurement infrastructure, or otherwise prevents measurement of any of the required measurement parameters described in section 933, diverters may request a temporary exemption from measuring the affected measurement parameter at the measurement location. Diverters shall continue to measure and submit data for each measuring device that remains operational.
- (1) Any temporary exemption requested under this subdivision must be submitted in writing to the board within 30 days of the measurement infrastructure or measuring device becoming inoperable and must describe the reason for the request, which measurement parameters are affected, and a timeline in which the measurement infrastructure or measuring device will be repaired or replaced and become operational.
  - (2) The deputy director may approve or reject any temporary exemption request on a case-by-case basis. Any rejection of a temporary exemption request shall include an explanation for the rejection. If the deputy director does not issue a written notice of approval or rejection within 30 days of receipt of the temporary

exemption request, the temporary exemption request shall be presumed to be provisionally approved until a written notice of approval or rejection is issued, up to a maximum of 180 days from the date the temporary exemption request was submitted.

- (3) Upon approval of a temporary exemption request, the diverter is not required to meet the measuring requirements described in section 933 or the large diversion submission requirements described in section 935 for the affected parameter at the measurement location for up to 180 days after the measurement infrastructure or measuring device became inoperable.
- (4) Diverters must indicate in the associated annual report for the affected claimed water right when the measurement infrastructure or measuring device was inoperable and provide estimates of the values for the affected parameters that occurred during the period of inoperability.
- (5) Diverters may submit a written request to extend the temporary exemption up to an additional 180 days. Any such request must include an explanation for the time extension and a timeline in which the measurement infrastructure or measuring device will be operational. The deputy director may approve or reject any time extension requests for temporary exemptions on a case-by-case basis.
- (6) All requirements of this chapter shall be reinstated 180 days after the measurement infrastructure or measuring device became inoperable, or on the expiration of any approval of a temporary exemption request pursuant to paragraph (3) of this subdivision, whichever comes earlier, or the expiration of any time extension approved pursuant to paragraph (5) of this subdivision.
- (7) Diverters are required to meet all requirements of this chapter if the temporary exemption request is denied.

Authority cited: Sections 1058, 1840, and 1841, Water Code.

Reference: Section 13, 1846, and 5103, Water Code.

### **938 Threshold and Submission Schedule Adjustment.**

- (a) For the purposes of this chapter, “threshold” means the numeric value above which a particular requirement of this chapter applies and at or below which it does not apply. Thresholds may refer to the general applicability, large diversion applicability, or qualifying reservoir thresholds described in section 932, or the measurement frequency thresholds described in subdivision (h) of section 933.
- (b) For the purposes of this chapter, “submission schedule” means the submission frequency and associated dates by which datafiles, supplementary materials, or large diversion submissions must be submitted, as described in subdivision (f) of section 935.

- (c) The deputy director may issue orders to adjust any threshold, or submission schedule within a watershed or subwatershed.
- (d) The deputy director may raise the general applicability threshold consistent with paragraph (b)(2) of section 1840 of the Water Code but may not lower the general applicability threshold in a watershed or subwatershed to be any value below 10 acre-feet per year.
- (e) For diverters not subject to large diversion requirements, the deputy director may not lower the frequency thresholds in a watershed or subwatershed below the following:
  - (1) For hourly measurements, 1,000 acre-feet of storage capacity or 1,000 acre-feet per year;
  - (2) For daily measurements, 100 acre-feet of storage capacity or 100 acre-feet per year; or
  - (3) For weekly measurements, 10 acre-feet of storage capacity or 10 acre-feet per year.
- (f) The deputy director shall provide notice and opportunity for comment before adjusting the large diversion applicability, qualifying reservoir, or frequency thresholds, or the submission schedules in a watershed or subwatershed.
- (g) The deputy director may adjust a threshold or submission schedule after considering:
  - (1) The total volume of water diverted per month in relation to the total volume of water available per month within the watershed or subwatershed;
  - (2) The requirements of any policy, decision, or order of the board or a court;
  - (3) The need for diversion and/or withdrawal or release measurement information in evaluating how the diversions and/or withdrawals or releases impact public trust resources or water availability. The deputy director may require submission of documentation on the nature and scope of diversions and/or withdrawals or releases in the watershed before issuing the order;
  - (4) Any relevant information submitted by affected diverters, federal, state, local, or tribal governments, or other interested parties regarding a proposed adjustment;
  - (5) The cost of meeting the requirements of this chapter in relation to the benefits of the additional measurement information at a specific threshold or submission schedule; and
  - (6) Whether a proposed adjustment will unreasonably injure public trust resources or threatened, endangered, or fully protected aquatic species.
- (h) The deputy director has the discretion to allow diverters to submit provisional data for submission schedules that have been adjusted to require more frequent data

submission than the datafile submission schedule described in subdivision (f) of section 935. Provisional data must be clearly labeled. For datafiles that are submitted with an annual report, the measurement data shall not be provisional.

- (i) Any order to adjust a threshold or submission schedule shall remain in effect for a period not to exceed five years, after which the order may be renewed. If changing conditions warrant, the deputy director may modify or cancel any adjustment.
- (j) The deputy director shall maintain and post on the board's website a list of thresholds and submission schedules for watersheds or subwatersheds where the threshold or submission schedule is different from the default value established in this chapter.
- (k) A decision or order issued under this section by the deputy director is subject to reconsideration under article 2 (beginning with section 1122) of chapter 4 of part 1 of division 2 of the Water Code, and all applicable sections of this title.

Authority cited: Sections 1051, 1058, 1840, and 1841, Water Code.

Reference: Section 13, 1122, 1123, 1846, and 5103, Water Code.

### **939 Compliance.**

- (a) Failure to meet the requirements of this chapter, including, but not limited to, failure to timely implement, maintain, verify the accuracy of, or correct deficiencies of a measurement methodology or alternative compliance plan, is a violation subject to civil liability up to the maximum per day penalty pursuant to section 1846 of the Water Code.
- (b) Conflicting Requirements. Any person with a claimed water right identified in or subject to a legal action or requirement, including, but not limited to, a statute, order, policy, regulation, decision, judgement or probationary designation of the board, a Regional Water Quality Control Board, or a court, must meet the terms and conditions of the claimed water right and the legal action or requirement in addition to the requirements of this chapter. If there is any conflict or inconsistency between any legal requirement and the requirements of this chapter, then the more stringent requirement shall control in each instance.
- (c) Nothing in this chapter shall be construed to limit or modify the board's authority to obtain information under any other lawful authority.

Authority cited: Sections 1058, 1840, and 1841, Water Code.

Reference: Sections 13 and 1846, Water Code.