

**PROPOSED EMERGENCY REGULATION FOR MEASURING AND REPORTING  
DECEMBER 7, 2015 AGENCY DRAFT FOR PUBLIC COMMENT**

**California Code of Regulations**

**Title 23. Waters**

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

**CH 2.7 WATER DIVERSION AND USE REPORTS**

**§ 907. Definitions.**

(a) “Board” when used in this chapter means the State Water Resources Control Board.

(b) “Reports” when used in this chapter refers to the following documents:

(1) Supplemental Statement of Water Diversion and Use Forms. ~~P~~pursuant to Water Code section 5104, ~~supplemental statements of water diversion and use shall be filed at three year intervals, prior to July 1 of the year succeeding the end of each three year interval.~~

(2) Reports of Permittee and Licensee. ~~P~~pursuant to sections ~~847~~ 925 and 929 of this title, ~~prior to issuance of license, annual progress reports shall be filed promptly by the permittee upon forms provided by the board. After issuance of a license, reports shall be made when requested by the board upon forms provided by the board.~~

(3) Reports of Registration and Certificate Holders pursuant to section 924 of this title.

(34) Notices of Extraction and Diversion of Water. ~~P~~pursuant to Part 5 of Division 2 of the Water Code, ~~e~~each person in the counties of Riverside, San Bernardino, Los Angeles and Ventura who, after 1959, extracts ground water in excess of 25 acre-feet in any year shall file with the board, within six months of the succeeding calendar year, a “Notice of Extraction and Diversion of Water” on a form provided by the board.

(45) Forms indicating a change of name, address or ownership.

(c) “Twelve month reporting period” when used in this chapter means a calendar year beginning January 1 and ending December 31.

(ed) “Website” when used in this chapter means [www.waterboards.ca.gov](http://www.waterboards.ca.gov).

Authority: Sections 348, subdivision (a), 1058, 1840, and 1841, Water Code.

Reference: Sections 1003.5, 1395, 1396, 1397, 4999, 5001, 5105 and 12261, Water Code.

**§ 910. Purpose.**

**Note: Proposed additions to the California Code of Regulations are shown in underline. Proposed deletions are shown in strikeout**

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The regulations contained in this chapter are adopted for the purpose of implementing and carrying out provisions of Chapter 2.7 of Division 1 of the Water Code and Parts 2, 5 and 5.1 of Division 2 of the Water Code. The regulations identify requirements for the mandatory electronic filing of reports on the board's internet website. Reports subject to mandatory electronic filing include: supplemental statements of water diversion and use, Water Right Progress Reports by Permittees, Reports of Licensees, Reports of Registration and Certificate Holders, Notices of Groundwater Extraction and Diversion, and reports filed by watermasters pursuant to Water Code section 5101, subdivisions (d) and (e).

Authority: Sections 348(a) ~~and 1058~~, 1058, 1840, and 1841 Water Code.

Reference: Sections 348(a), 5101, 5103 and 5104, Water Code.

### **§ 911. Construction.**

- (a) To the extent authorized by federal law, this chapter applies to the federal government and any reports filed by the federal government for rights claimed under permits, licenses, registrations, statements of water diversion and use, stockpond certificates, and non-reserved and reserved rights on file with the board.
- (b) 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 348, subdivision (a), 1058, 1840, and 1841, Water Code.

Reference: Sections 348, subdivision (a), 5101, 5103, 5104, Water Code.

### **§ 915. Changes in Name, Address or Ownership.**

Pursuant to sections 691, 830, 831, and 1074 of this title, changes in name, address or ownership shall be immediately reported to the board electronically using a change of name, address or ownership form or the supplemental statement of change form available on the board's website.

Authority cited: Sections 348(a) and 1058, Water Code.

Reference: Section 348(a), Water Code.

### **§917. Reporting – Insufficient Flows to Support All Diversions**

When flows or projected available supplies in a watershed or subwatershed are sufficient to support some but not all projected diversion demand, the Deputy Director for the Division of Water Rights may require water diverters located within the watershed or subwatershed to electronically submit monthly or more frequent reports of water diversion.

- (a) Reports of water diversion shall be submitted in accordance with a schedule approved by the Deputy Director for the Division of Water Rights. The schedule may require

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monthly, daily, or more frequent reporting. In determining the frequency of reporting, the Deputy Director for the Division of Water Rights shall not exceed the frequency of recording required under section 933, subdivision (b)(1), of this title.

(b) Water right diversion demand projections made under this section may be based on reported diversion and use data, including but not limited to data submitted with Progress Reports by Permittees, Reports of Licensees, Reports of Registration and Certificate Holders, Supplemental Statements of Water Diversion and Use, and reports filed by watermasters pursuant to Water Code section 5101, subdivisions (d) and (e).

(c) Water availability projections may be based on:

(1) Projected full natural flow data supplied by the Department of Water Resources or its successor;

(2) Projections from the National Weather Service, California Nevada River Forecast Center, and similar sources;

(3) Stream gage data; and

(4) Other data the Deputy Director for the Division of Water Rights determines is appropriate, given data availability, data reliability, and staff resources.

(d) The failure to electronically submit diversion reports requested in accordance with the applicable schedule approved by the Deputy Director for the Division of Water Rights is a violation subject to civil liability of up to \$500 per day pursuant to Water Code section 1846.

Authority: Sections 348, subdivision (a), 1058, 1840, and 1841 Water Code.

Reference: Sections 348, subdivision (a), 1846, 5101, 5103 and 5104, Water Code.

**§ 920. Supplemental Statements of Water Diversion and Use.**

(a) Supplemental statements of water diversion and use shall be filed on forms available at the board's website. A supplemental statement shall be filed annually within six months of the close of the twelve month reporting period~~triennially~~, or promptly if there is a change in the name or address of the person diverting water, or more frequently as directed under section 917. Notice to the board of changes in name, address or ownership must also be reported electronically on the ~~change of name, address or ownership~~supplemental statement of change form on the board's website. Filing the ~~change of name, address or ownership~~supplemental statement of change form does not eliminate the requirement to file a supplemental statement of water diversion and use.

(b) After the board has received an initial statement of water diversion and use as required by Water Code section 5101, the board will provide a user name and password to the person required to file supplemental statements of water diversion and use. The electronic supplemental statement form will be pre-populated with current ownership information made available to the board. Failure to receive a notice providing a user name and password does not exempt the filer from the requirement to file a supplemental

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statement of ~~changewater diversion and use~~. Persons required to file a supplemental statement should notify the board prior to the ~~annual~~triennial reporting date to request a user name and password if the board has not already provided such information.

(c) The completed supplemental statement form shall include the following information:

- (1) ~~Changes to~~ The name(s), address, or ownership information on record with the board;
- (2) The type of water right being claimed for the water diverted under the statement;
- (3) The maximum rate of diversion achieved at any time during each month of the year, if available;
- (4) The amount of water directly diverted and collected to storage in each month and the total annual amount diverted. Each month must contain an entry. If no diversion occurred, a "0" should be entered;
- (5) A description of the diversion works, including type of diversion and capacity of direct diversion and/or storage facility.
- ~~(5) On or after January 1, 2012, the~~ (6) The amount of water beneficially used in each month and the total annual amount beneficially used. Each month must contain an entry. If no beneficial use occurred in a given month, a "0" should be entered;
- ~~(6)~~ (7) The purpose(s) for which the water was diverted and used;
- ~~(7)~~ (8) Any changes in the other information contained in the preceding statement;

(d) If a substitute or alternative water supply, such as groundwater, contract water, or recycled water, is being used in lieu of surface water to be reported under a statement, the report should indicate the source and amount of substitute or alternative water used and the amount of surface water offset on a monthly basis.

(e) If ~~the use of an alternative supply of water or any~~ water conservation efforts have resulted in a cessation or reduction in use, the report should include a description of the conservation efforts employed and indicate the extent and monthly amount of the reduction in water use due to these water conservation efforts.

Authority: Sections 348, subdivision (a), 1058, 1840, and ~~4058~~1841, Water Code.

Reference: Sections 348, subdivision (a), 1010, 1011, 1011.5, 5100, 5101, 5103 and 5104, Water Code.

### § 921. Watermaster Reports Filed with the Board.

(a) Watermasters that elect to file annual reports with the board shall file the reports in an electronic format acceptable to the board.

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(b) Reports filed with the board by a watermaster pursuant to Water Code section 5101(d) shall include the following information:

- (1) Identity of the person(s) diverting water
- (2) Description of the general purposes of use
- (3) Description of the place of use
- (4) The type of use
- (5) The quantity of water diverted from each source.

(c) Reports filed with the board by a watermaster pursuant to Water Code section 5101(e) shall include the following information:

- (1) Identity of the person(s) diverting water
- (2) Description of the place of use
- (3) The quantity of water diverted from each source.

(d) Reports filed with the board by a watermaster pursuant to Water Code section 5001 shall include the following information:

- (1) Identity of the persons who have extracted or diverted water
- (2) Description of the general place of use
- (3) Quantity of water extracted or diverted from each source.

(e) Additional reporting criteria may be included if such criteria are included pursuant to an agreement between the board and the watermaster. Additional requirements may include: the diverter's mailing address, assessors parcel number(s), tract number, monthly diversion amounts, and total diversion amounts.

Authority: Sections 348(a) and 1058, Water Code.

Reference: Sections 348(a), 5001, 5101(d) and 5101(e), Water Code.

**§ 924. Water Use Reports of Registration and Certificate Holders.**

(a) Reports of registration and certificate holders shall be filed annually within three months of the close of the twelve month reporting period. Provisional streamflow data may be used in preparing the water use report if final streamflow data is not available by the reporting deadline. If provisional streamflow data is used in the water use report, an amended report based on final streamflow data should be filed within six months of the close of the of the twelve month reporting period. Any report not timely amended shall be deemed final. The report shall be filed electronically on a form available at the board's website. Compliance with the requirement to file a water use report is a condition of every registration or certificate. A failure to file a report under this section is a violation of registration and certificate terms, as applicable.

(b) The annual reports shall include the following information:

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(1) A statement of compliance or of noncompliance with the terms and conditions of the registration or certificate;

(2) The quantity of water diverted from each point of diversion by month (or shorter timeframe if otherwise required);

(3) The maximum rate of diversion from each point of diversion achieved at any time during each month of the year, if available;

(c) The first reports of registration and certificate holders shall be for diversion and use of water made during calendar 2016. The report for 2016 shall be filed prior to April 1, 2017.

Authority: Sections 348, subdivision (a), 1058, 1228.6, 1840, and 1841, Water Code.

Reference: Sections 348, subdivision (a), 1226.1, 1226.2, 1228.2, 1228.3, and 1846, Water Code.

**§ 925. Progress Reports by Permittee.**

(a) As specified in section 847 of this title, water right permit holders are required to file annual progress reports. Section 846 of this title provides that permittees may also be required to submit a written statement of the quantities of water beneficially used. Annual reports required under this section are in addition to any specific reporting requirements in a water right permit.

(b) Annual progress reports by permittee shall be filed within three months of the close of the twelve month reporting period ~~no later than July of the next year succeeding the year of diversion~~ on forms available at the board's website. Provisional data and information may be used in the progress report if final data is not available by the reporting deadline. If provisional streamflow data are used in preparing the progress report, an amended report based on final data shall be filed within six months of the close of the twelve month reporting period. Any reports not timely amended shall be deemed final. A failure to file a progress report is a violation of permit terms.

(c) The annual reports shall include the following information:

(1) A statement affirming compliance or non-compliance with permit terms and conditions;

(2) The construction status of the permitted project and status of current water use;

(3) The purpose(s) for which water is diverted and used. Use information to be provided includes:

(A) irrigation, including crop type and acreage;

(B) frost protection, including acres covered;

(C) heat control, including acres covered;

(D) industrial, including type of activity;

(E) stock watering, including number and type of animals;

(F) municipal, including approximate population served, and seven digit public water system number or other identifier;

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(G) domestic, including number of persons served, lawn or garden area, etc., and seven digit public water system number or other identifier, if applicable;

(H) power generation, including installed capacity in kilowatts, megawatts or horsepower;

(I) recreational, including boating, fishing or other water sports;

(J) additional uses not named above, including environmental use;-

(4) The amount of water taken from each point of diversion in each month (or shorter timeframe if otherwise required) from the source, including amount directly diverted and amount collected to storage, and the total annual amount of water diverted. Each month must contain an entry. If no diversion occurred in a given month, a “0” should be entered;

(5) The maximum rate of diversion achieved from each point of diversion at any time during each month (or shorter timeframe if otherwise required) of the year, if available;

(6) For permits that authorize collection of water to storage, the annual report shall also include the measurement data required to be collected in section 933 of this chapter.

(d) If a substitute or alternative water supply, such as groundwater, contract water, or recycled water, is being used in lieu of surface water that is required to be reported under this ~~section~~report, the report should indicate the source and amount of substitute or alternative water used and the amount of surface water offset on a monthly basis.

(e) If ~~the use of an alternative supply of water or any~~ water conservation efforts have resulted in a cessation or reduction in use, the report should include a description of the conservation efforts employed and indicate the extent and monthly amount of the reduction in water use due to these water conservation efforts.

Authority: Sections 348, subdivision (a), 1058, 1840, and 1841~~1058~~, Water Code.

Reference: Sections 348, subdivision (a), 1010, 1011, ~~and~~ 1011.5, and 1846, Water Code.

**§ 929. Reports of Licensee.**

(a) As specified in section 847 of this title, water rights license holders are required to file reports when requested by the board. Annual reports required under this section are in addition to any specific reporting requirements in a water right license.

(b) Reports of licensee shall be filed annually within three months of the close of the twelve month reporting period ~~and not later than July of the next year succeeding the year of diversion~~ on forms available at the board's website. Provisional data and information may be used in the report of licensee if final data is not available by the reporting deadline. If provisional streamflow data is used in preparing the report of licensee, an amended report based on final streamflow data shall be filed within six months of the

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close of the twelve month reporting period. Any reports not timely amended shall be deemed final. A failure to file a licensee report is a violation of license terms.

(c) The annual reports shall include the following information:

- (1) A statement affirming compliance with license terms and conditions;
- (2) The amount of water diverted;
- (3) The purpose(s) for which water is diverted and used. Use information to be provided includes:
  - (A) irrigation, including crop type and acreage;
  - (B) frost protection, including acres covered;
  - (C) heat control, including acres covered;
  - (D) industrial, including type of activity;
  - (E) stock watering, including number and type of animals;
  - (F) municipal, including approximate population served, and seven digit public water system number or other identifier;
  - (G) domestic, including number of persons served, lawn or garden area, etc., and seven digit public water system number or other identifier, if applicable;
  - (H) power generation, including installed capacity in kilowatts, megawatts or horsepower;
  - (I) recreational, including boating, fishing or other water sports;
  - (J) additional uses not named above, including environmental use;
- (4) The amount of water taken from the source from each point of diversion in each month (or shorter timeframe if otherwise required), including direct diversion amount and amount collected to storage, and the total annual amount of water diverted. Each month must contain an entry. If no diversion occurred in a given month, a "0" should be entered.
- (5) The maximum rate of diversion achieved from each point of diversion at any time during each month (or shorter timeframe if otherwise required) of the year, if available;
- (6) For licenses that authorize collection of water to storage, the annual report shall also include the measurement data required to be collected in section 933 of this chapter.

(d) If a substitute or alternative water supply, such as groundwater, contract water, or recycled water, is being used in lieu of surface water that is required to be reported under this report, the report should indicate the source and amount of substitute or alternative water used and the amount of surface water offset on a monthly basis.

(e) If ~~the use of an alternative supply of water or any~~ water conservation efforts have resulted in a cessation or reduction in use, the report should include a description of the conservation efforts employed and indicate the extent and monthly amount of the reduction in water use due to these water conservation efforts.

Authority: Sections 348, subdivision (a), 1011, 1058, 1840, and 1841~~1058~~, Water Code.

Reference: Sections 348, subdivision (a), 1010, 1011, ~~and~~ 1011.5, and 1846, Water Code.

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**§ 930. Notices of Extraction and Diversion.**

(a) Annual notices of groundwater extraction and diversion required pursuant to Part 5 of Division 2 of the Water Code shall be submitted to the board electronically, within six months after the close of the succeeding calendar year, on the forms available at the board's website. A failure to file an annual notice of groundwater extraction and diversion is considered non-use of water.

(b) The report shall include the following information:

- (1) Type of diversion;
- (2) Amount of groundwater extracted during the calendar year;
- (3) Amount of surface water diverted and used, if applicable;
- (4) Method of measurement;
- (5) Supplemental information, if applicable.

(c) Electronic reporting of groundwater extraction and diversion does not apply to those persons reporting to local oversight agencies pursuant to section 5009 of the Water Code.

(d) As specified in Section 1070 of this title, a filing fee is required. The fee must be submitted separately from the electronic report. Filing is not complete until the board receives the filing fee.

(e) If the use of an alternative supply of water or any water conservation efforts have resulted in a cessation or reduction in use, the report should indicate the extent and amount of the reduction in water use due to water conservation efforts.

Authority: Sections 348, subdivision (a), 1058, and 1529, Water Code.

Reference: Sections 1005.1, 1005.2, 1005.3, 1005.4, 1011, 1011.5, 1530, 4999, 5000, 5001, 5002, 5003, and 5004, Water Code.

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**CH 2.8 MEASURING AND MONITORING**

**§931 Definitions** – the following definitions apply to the terms as they are used in this Chapter.

(a) “Accuracy” means the measured volume relative to the actual volume, expressed as a percent, and determined at the same frequency as is specified for monitoring in section 933, subdivision (b) of this title. The percent shall be calculated as  $100 \times (\text{measured value} - \text{actual value}) / \text{actual value}$ .

(1) “Measured value” is the value indicated by the device or determined through calculations, such as flow rate combined with duration of flow.

(2) “Actual value” is the value as determined through laboratory, design, or field testing protocols.

(b) “Board” means the State Water Resource Control Board

(c) “Deputy director” means the Deputy Director for the Division of Water Rights. Within the Delta, as defined in section 12220 of the Water Code, the term “deputy director” means either the Deputy Director for the Division of Water Rights or the Delta Watermaster.

(d) “Executive director means” the Executive Director of the board.

(e) “Measurement method” means a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage where the method is likely to achieve accuracy standards comparable to those of individual measuring devices as described in section 933 subdivision (d) of this chapter.

(f) “Measuring device” means a device by which a water right holder determines and records the numeric value of flow rate, velocity or volume of the water passing a designated and calibrated observation point during a specific time period. A measuring device may be a manufactured device, on-site built device, or in-house built device.

(g) “Qualified individual” means:

(1) For diversions greater than or equal to 100 acre-feet per year:

(A) 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; or

(B) a California-registered Professional Engineer.

(C) a professional subject to oversight by a California-registered Professional Engineer and employed to install, operate, and maintain water measurement and reporting devices or methods.

(2) For diversions less than 100 acre-feet per year, a person trained and experienced in water measurement and reporting. This may include the water right holder or the water right holder’s agent.

(h) “Twelve month reporting period” has the same meaning as in section 907, subdivision (c) of this title.

(i) “Type of measuring device” means a class of measuring devices manufactured or built to perform similar functions. For example, inline flow meters, rectangular, v-notch, and broad crested weirs are types of measuring devices. Submerged orifice gates are another type of measuring device.

(j) “Water right holder” means:

(1) Any person authorized to divert water under a permit or license; or

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(2) Any person required under Water Code Part 5.1 to file a Statement of Water Diversions and Use; or

(3) Any person authorized to divert under a registration; or

(4) To the extent authorized by federal law, this chapter applies to the federal government and any reports filed by the federal government for rights claimed under permits, licenses, registrations, statements of water diversion and use, stockpond certificates, and non-reserved and reserved rights on file with the board.

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

Reference: Sections 5103, Water Code.

**§932 Applicability.**

(a) Except as provided in subdivision (d), the following water right holders shall install and maintain a measuring device or employ a measurement method capable of measuring the rate of diversion, rate of collection to storage, the rate of withdrawal or release from storage, and the total volume of water diverted or collected to storage:

(1) Any person authorized to divert greater than 10 acre-feet of water per year under a permit or license.

(2) Any person who has previously diverted or intends to divert greater than 10 acre-feet of water per year and is required under Water Code Part 5.1 to file a Statement of Water Diversions and Use.

(3) Any person authorized to divert greater than 10 acre-feet of water per year or to have a storage facility with a capacity greater than 10 acre-feet under a registration.

(b) Determination of Diversion Threshold for Requiring Measurement – the determination of whether a diversion meets the threshold for required measurement (stated in subsection (a) of this section or as adopted in accordance with subsection (d) of this section) shall be made by the deputy director. When making such a determination, the deputy director shall consider:

(1) Multiple points of diversion for a water right used by the same person or serving the same place and purpose of use.

(2) Multiple water rights with shared point or points of diversion.

(c) Effective Dates. The deadlines for the installation and certification of measuring devices or method shall be:

(1) On or before July 1, 2016, for a water right holder with a right or a claimed right to divert 1000 acre-feet of water per year or more.

(2) On or before January 1, 2017, for a water right holder with a right or a claimed right to divert 100 acre-feet of water per year or more.

(3) On or before January 1, 2018, for a water right holder with a right or a claimed right to divert greater than 10 acre-feet of water per year.

(d) Increasing the Measurement Threshold

(1) Beginning January 1, 2017, [t]he executive director may issue orders to increase the 10 acre-feet reporting threshold of subdivision (a) in a watershed or subwatershed incrementally

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to or above 25 acre-feet. The executive director may authorize an increased reporting threshold after:

(A) Considering the total monthly quantities diverted in relation to the monthly quantity of water available within the watershed or subwatershed; the requirements of any policy, decision or order of the board or a court; and the need for diversion and bypass information to evaluate impacts to public trust resources; and

(B) Reviewing any relevant information submitted by affected water right holders or other interested parties regarding a proposed increase in reporting threshold; and

(C) Determining the benefits of the additional reporting information at a specific reporting threshold are substantially outweighed by the cost of installing measuring devices or employing methods for measurement.

(D) The executive director shall not increase the measurement threshold in a watershed or subwatershed above those established in any other regulation, policy, decision, order or other legal requirement adopted by the board, a Regional Water Quality Control Board, or a court, unless the change is authorized by previous requirements.

(3) The executive director may review each proposal to increase the reporting threshold on a case-by-case basis.

(4) The executive director may authorize an increased reporting threshold for a period not to exceed five years. If changing conditions warrant, the executive director may modify or cancel any such authorization.

(5) The executive director shall maintain a list of reporting thresholds for watersheds or subwatersheds greater than 10 acre-feet.

(6) A decision or order issued under this section by the executive director is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the Water Code.

### (e) Other Measurement and Monitoring Requirements.

(1) Any person with a water right identified in or subject to a statute, order, policy, regulation, decision, judgment or probationary designation of the board, a Regional Water Quality Control Board, or a court is responsible for meeting the terms and conditions of the statute, order, policy, regulation, decision or judgment and the requirements of this Chapter. If there is any conflict or inconsistency between the measurement and monitoring requirements subject to the statute, order, policy, regulation, decision, judgment or probationary designation and the requirements of this Chapter, the more stringent requirement or requirements shall control in each instance.

(2) A permit, license, or registration holder is responsible for meeting the conditions of the permit, license, or registration and the requirements of this Chapter. If there is any conflict or inconsistency between the permit, license, or registration condition for measurement and monitoring and the requirements of this Chapter, the more stringent requirement or requirements shall control in each instance.

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

Reference: Sections 1122, 1123, and 5103, Water Code.

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**§933 Measuring Device Requirements.**

(a) Measurement Options. A water right holder may choose any measuring device, or combination of devices, that meets the requirements of this section.

(b) Data

(1) Data Recording. The measuring device shall be capable of recording the date, time, and at least one of the following: total volume of water diverted, flow rate, water velocity, or water elevation. The data shall be recorded in a format retrievable and viewable using Microsoft Xcel, Microsoft Access, or other software program authorized by the Deputy Director. The measuring device shall be capable of recording the required information as follows:

          (A) For direct diversion:

                  i. On an hourly or more frequent basis for a water right holder with a right or a claimed right to divert 1000 acre-feet of water per year or more.

                  ii. On a daily or more frequent basis for a water right holder with a right or a claimed right to divert 100 acre-feet of water per year or more.

                  iii. On a weekly or more frequent basis for a water right holder with a right or a claimed right to divert more than 10 acre-feet of water per year.

          (B) For storage in a reservoir or pond:

                  i. On a daily or more frequent basis for a reservoir or pond with a storage capacity of 200 acre-feet or more.

                  ii. On a weekly or more frequent basis for a reservoir or pond with a storage capacity of 50 acre-feet or more but less than 200 acre-feet.

                  iii. On a monthly or more frequent basis for a reservoir or pond with a storage capacity of greater than 10 acre-feet and less than 50 acre-feet.

(2) Data Submittal.

(A) Each water right holder to which a measurement requirement applies shall submit the data from each measuring device to the board as required by chapter 2.7 of division 3 of this title, and within 30 days of any request or order by the board.

(B) By January 1, 2020, a water right holder who either diverts more than 10,000 acre-feet annually or, on a monthly basis diverts more than 50 percent of the monthly median flow of the watershed (Hydrologic Unit Code (HUC) 10 as shown on the Division's eWRIMS database) where the diversion is located shall provide real-time telemetered diversion data via a public website that displays the data on at least a daily bases, that is updated weekly, at minimum. The data shall be provided to the board upon the request of the executive director in a format retrievable and viewable using Microsoft Xcel, Microsoft Access, or other software program authorized by the deputy director.

(C) For a reservoir subject to drawdown and refill during the collection to storage season, or that is otherwise operated in a cyclical manner, the maximum and minimum water surface elevations, the corresponding reservoir volume, and the monitoring dates shall be measured and the maintained.

(D) For each reservoir, if water is diverted or flows into the reservoir under more than one basis of right, including groundwater or water purchased under a contract, the amounts reported to the board shall be limited to the amounts covered by the water right being reported. A record of the alternative supplies entering the reservoir throughout the year shall be maintained to demonstrate that water stored is under a separate basis of right or contract.

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(3) Data Retention. Each water right holder shall keep records of the data from each measuring device for a period of no less than 10 years.

(c) Calculating Volume from Recorded Data. If a measuring device measures the flow rate, water velocity, or water elevation, and does not report the total volume of water diverted or delivered, the water right holder shall report the conversion method used to convert the measured value to volume. The conversion method shall be approved by a qualified individual.

(1) For a measuring device that measures flow-rate, the report shall describe protocols used to record the duration of operation where volume is derived by the following formula: Volume = (flow rate) x (duration).

(2) For a measuring device that measures flow velocity only, the report shall describe protocols used to determine the cross-sectional area of flow and the duration of operation, where volume is derived by the following formula: Volume = (velocity) x (cross-section flow area) x (duration).

(3) For a measuring device that measures water elevation at the device (e.g. flow over a weir or differential elevation on either side of a device), the report shall describe protocols used to derive flow rate at the measuring device and the method or formula used to derive volume from the measured elevation value(s).

(d) Required Accuracy. The accuracy for each measuring device applies to the volume diverted or stored.

(1) A device installed on or before January 1, 2016, shall be certified to be accurate to within ±15 percent by volume.

(2) A device installed or replaced after January 1, 2016 that is used to measure the diversion or bypass of water shall be certified to be accurate to within:

(A) ±5 percent by volume in the laboratory if using a laboratory certification.

(B) ±10 percent by volume in the field if using a non-laboratory certification for a water right holder with a right or a claimed right greater than or equal to 100 acre-feet per year.

(C) ±15 percent by volume in the field if using a non-laboratory certification for a water right holder with a right or a claimed right greater than or equal to 10 acre-feet per year.

(3) A device installed or replaced after January 1, 2016 that is used to measure the water stored in a reservoir or pond shall be certified to be accurate to within:

(A) ±10 percent by volume in the field for a reservoir or pond with a storage capacity of 200 acre-feet or more.

(E) ±15 percent by volume in the field for a reservoir or pond with a storage capacity greater than 10 acre-feet and less than 200 acre-feet.

(e) Certification of Measuring Device Accuracy. The accuracy of a measuring device shall be initially certified and documented as follows:

(1) For a measuring device installed prior to January 1, 2016, the accuracy required shall be initially certified and documented by field-testing performed by an individual trained in the use of relevant field-testing equipment. The results from the field testing shall be documented in

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a report approved by a qualified individual and shall be filed with the next subsequent water use report.

(2) For a measuring device installed or replaced after January 1, 2016, the accuracy shall be initially certified and documented by either:

(A) Laboratory certification prior to installation of a measuring device as documented by the manufacturer or an entity, institution or individual that tested the device following relevant industry-established protocols. Documentation shall include the manufacturer's literature or the results of laboratory testing of an individual measuring device or type of measuring device; or

(B) Non-laboratory certification after the installation of a measuring device in the field, as documented by either:

(i) The affidavit or declaration of a qualified individual documenting the design and installation of the measuring device at a specified location; or

(ii) A report approved by a qualified individual documenting the field-testing performed on the installed measuring device by an individual trained in the use of field testing equipment.

(f) Protocols for Field-Testing and Field-Inspection and Analysis. Field-testing shall be performed for a measuring device according to the manufacturer's recommendations or design specifications and be overseen by a qualified individual. Field inspection and analysis protocols shall be performed and the results shall be approved by a qualified individual for each measuring device to demonstrate the following:

(1) The design and installation standards used for each measuring device meets the accuracy standards of subdivision (d) of this section; and

(2) The operation and maintenance protocols will ensure compliance with the accuracy standards of subdivision (d) of this section.

(g) Installation, Maintenance and Performance Requirements. A measuring device shall be installed, maintained, operated, inspected, and monitored to ensure the accuracy standards of subdivision (d) of this section are met. The installation of a measuring device shall be performed by a qualified individual.

(h) Calibration. The measuring device shall be calibrated by a qualified individual upon installation and at least once every three years thereafter. The water right holder shall be responsible for more frequent calibration of measuring device(s) as necessary to ensure the accuracy requirements of subdivision (d) of this section are met.

(i) Measuring Device Location. No delivery or use of water shall occur between the point of diversion and the location of the measuring device, unless otherwise measured.

(j) Accessibility. The measuring device shall be installed in a manner such that it is readily accessible for reading, inspection, testing, repair or replacement. The water right holder shall make the measurement device available for inspection by an authorized representative of the board upon request. The water right holder shall provide the board's representative with

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reasonable access to inspect the measuring device. Failure to provide such access is a violation of this regulation.

(k) Verification of Measuring Device. The board may conduct a field inspection or request additional information from the water right holder to determine if the measuring device has been installed and meets the requirements of this section. Failure to timely install a measuring device or verify its accuracy is a violation of this regulation.

(l) Inadequate Measuring Device. If a measuring device fails to meet the accuracy requirements of subdivision (d) of this section, the water right holder shall repair or replace the measuring device to meet such requirements.

(1) Notification. A water right holder shall timely notify the board in writing upon detecting that the holder's measuring device does not comply with the accuracy requirements of subdivision (d) of this section. The notification shall include the water right holder's plan to take appropriate, timely corrective action to comply with the accuracy requirements of subdivision (d) of this section.

(2) Enforcement. Failure to timely repair or replace a measuring device that does not comply with the accuracy requirements of subdivision (d) of this section is a violation of this regulation.

(m) Nothing in this section shall be construed to limit or modify the board's authority to obtain information under any other lawful authority.

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

Reference: Sections 1846 and 5103, Water Code.

**§934 Measurement Method.** A measurement method is a protocol for measuring water diversions, other than through a measuring device at each authorized point of diversion, where the method is found by the deputy director to reasonably achieve the accuracy requirements of subdivision (d) of this section. The board encourages water right holders on a local or regional basis to cooperate and establish a measurement method or methods to measure direct diversion, diversion to storage, and withdrawal or release from storage in an efficient and cost effective manner which meets the accuracy requirements of subdivision (d) of this section. Any measurement method must be able to quantify the amount of water diverted under all separate priorities of rights being exercised.

(a) Request for Measurement Method.

(1) Form and Content. A Request for Approval of Measurement Method shall be prepared by a California-registered Professional Engineer. The request shall describe how the measurement method will meet the requirements of this Chapter and include, at a minimum, the following information:

(A) Name and contact information of all participants, including designation of a manager to serve as the primary contact person.

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(B) Map showing location of participants and covered lands (including all assessor parcel numbers). The map shall conform to the mapping requirements of article 7 of chapter 2 of division 3 of this title.

(C) Description of the measurement method, including how the method will be capable of measuring the volume of water diverted, rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage.

(D) Documentation required under subdivision (d) of this section verifying the accuracy of the measurement method.

(E) A detailed description of how installing and maintaining a measuring device at each point of diversion is not feasible, would be unreasonably expensive, would unreasonably affect public trust resources, or would result in the waste or unreasonable use of water.

(F) Description of the permitted, licensed, registrations, certificates and water right claims covered by the measurement method including: file number, owner name, water right type, priority of diversion, monthly and annual diversion amounts, place of use, purpose of use, and alternative sources of water.

(G) Evaluation of public trust needs including minimum in-stream flows and water quality concerns or bypass requirements of any of the water rights involved.

(H) Evaluation of enterprise income of the water users if claiming installing and maintaining measuring and monitoring devices would be unreasonably expensive.

(2) Action by the deputy director. Only complete forms accompanied by maps will be accepted for review. No action will be taken on incomplete requests.

(A) The measurement method will be reviewed and, if found to reasonably meet the purposes of this section, authorized by the deputy director. A measurement method may be conditionally authorized if it meets the requirements of this Chapter.

(B) A measurement method shall not be authorized for any project with an existing or prior gage, or where any requirement of any contract, , policy, order, decision, judgment, determination, or other regulatory requirement of the board, a Regional Water Quality Control Board, or a court requires that diversions be gaged. A measurement method shall not be authorized for any project where it can reasonably be interpreted that gaging is necessary to meet such regulatory requirements.

(3) Initial Term and Renewal. The deputy director may authorize a measurement method for a period not to exceed five years. Any request for renewal shall be on a form available on the board's website, and shall not be deemed complete unless the accuracy of the measurement method has been reviewed and re-certified by a California-registered Professional Engineer.

(b) Data

(1) Data Recording. The measurement method shall be capable of recording the date, time, and total amount of water diverted in accordance with the requirements of section 933 subdivision (b) of this title. The data shall be recorded in a format retrievable and viewable using Microsoft Xcel, Microsoft Access, or other software program authorized by the deputy director.

(2) Data Submittal. Each water right holder or claimant shall submit data from the measurement method to the board pursuant to chapter 2.7 of division 3 of this title, or within 30 days of request of the board. Water use data for each -twelve month reporting period shall be submitted on a form available on the board's website with the appropriate water use report

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including a Progress Report by Permittee, Report of Licensee, Supplemental Statement of Water Diversion and Use, and Water Use Reports of Registration and Certificate Holders.

(c) Required Accuracy. The accuracy of the measurement method to determine the volumes of water diverted, diverted to storage, and withdrawn or released from storage shall reasonably achieve accuracy standards comparable to the standards listed in section 933 subdivision (d) of this title for individual measuring devices. The accuracy of the measurement method shall be determined by a California-registered Professional Engineer.

(d) Certification of Measurement Method Accuracy. The accuracy of a measurement method shall initially be certified and documented by field-testing performed by an individual trained in the use of relevant field-testing equipment. The results from the field testing shall be documented in a report approved by a California-registered Professional Engineer and shall be filed with the subsequent water use report. When the measurement method applies to water diverted for agricultural use, the certification shall be based on a statistically significant number of sampling points based on field size, include field testing and measurement during multiple phases of the crop-growth cycle, include all factors which influence water consumptive use demands, and calculate tailwater return flows. Field notes, calculations, and other materials used in the certification shall be included in the report.

(e) Shared Measurement Point Upstream of the Delivery Point or Farm Headgate. A group of water right holders may measure water diverted at a location upstream of their respective delivery points or farm headgates or at shared points of diversion if an agreement accepted by the deputy director is in place for the water right holders to share a measuring device located at the shared point of diversion. Water right holders using a shared measuring device under this subdivision shall report the following additional information to the board on an annual basis:

(1) The methodology used to apportion the volume of water delivered from the shared point of diversion to each downstream water right holder.

(2) The field or flow condition at each individual water right holder's delivery point downstream of the point of measurement including the duration of water delivery to the individual water right holder, annual water use patterns, irrigated acreage (including GIS map showing assessor's parcel number and USDA field identification number), crops planted, on-farm irrigation system, and other relevant distinctions in beneficial uses and water management practices.

(3) Any differences in consumptive use of water among the individual water right holders.

(f) Operation and Performance Requirements. A measurement method shall be operated and maintained to ensure the accuracy standards of subdivision (c) of this section are met. Field testing and re-analysis that the measurement method meets the requirements of this section shall be performed by a California-registered Professional Engineer upon installation, and at least once every three years thereafter.

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(g) Inadequate Measurement Method. If a measurement method fails to meet the accuracy standards of subdivision (c) of this section or the conditional approval by the deputy director, the measurement method shall be corrected to ensure it complies with these requirements.

(1) Notification. The water right holders employing a measurement method shall notify the board in writing within 30 days of finding a measurement method does not comply with the accuracy standards of subdivision (c) of this section or the conditional approval by the deputy director. The notification shall include a plan to take appropriate, timely corrective action.

(2) Enforcement. Failure to correct defects or to ensure the measurement method complies with the accuracy standards of subdivision (c) of this section is a violation of this regulation.

(3) Measuring Devices Required. If defects in the measurement method are not timely corrected, measuring devices shall be installed at each point of diversion previously covered by a measurement method within 90 days of notification from the board that such measurement method has been deemed inadequate.

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

Reference: Sections 1846 and 5103, Water Code.

**§935 Alternative Compliance for a Measuring Device or Measurement Method Requirement.**

(a) The deputy director may consider alternative compliance to one or more of the requirements of section 933 and section 934 of this title upon finding that strict compliance is not feasible, would be unreasonably expensive, would unreasonably affect public trust uses, or would result in the waste or unreasonable use of water.

(b) The deputy director may authorize alternative compliance for a specific measuring device or measurement method, for a type of measuring device, or for similar measurement methods.

(c) Request from a Water Right Holder for Alternative Compliance. A water right holder may file a request alternative compliance with the deputy director.

(1) The request shall be filed electronically on a form available on the board's website.

(2) The request shall describe how strict compliance with one or more of the requirements of section 933 and/or section 934 of this title is not feasible, would be unreasonably expensive, would unreasonably affect public trust uses, or would result in the waste or unreasonable use of water:

(3) The request shall describe how the proposal is a reasonable alternative to one or more of the requirements of section 933 and/or 934 of this title.

(4) The deputy director may review each request for alternative compliance on a case-by-case basis. Alternative compliance proposals may be conditionally approved.

(5) The deputy director may require a water right holder to submit annual reports or a compliance plan to ensure the conditions of approval of the alternative compliance are met.

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

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Reference: Sections

**§936 Request for Additional Time.**

A water right holder may submit a request for additional time to comply with the provisions of this Chapter on a form available on the board's website. Additional time may be granted by the deputy director upon a showing of good cause. The additional time granted by the Deputy Director shall not exceed 24 months, combined, under all extension requests.

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

Reference: Sections

**§937 Report of Water Measuring Device.**

(a) Report - Filing Requirements. A report of water measuring device shall be filed electronically on a form available on the board's website.

(1) For measuring devices installed on or before January 1, 2016, a water right holder shall submit a report of water measuring device to the board on or before July 1, 2016.

(2) For measuring devices installed after January 1, 2016, a water right holder shall submit a report of water measuring device to the board with the first water use report submitted after installation of the device.

(3) After the initial report has been submitted, the water right holder shall provide the board with a Report of Water Measuring Device or Measurement Method at five year intervals.

(4) The water right holder shall submit a report of water measuring device to the board within 30 days of installation or calibration of a new or replacement measuring device.

(5) The water right holder shall submit a report of water measuring device to the board within 30 days of request from the board.

(b) Form - Content. The report of water measuring device shall contain the following information, as applicable:

(1) Name of water right holder

(2) Contact information for person testing performance of device, including email address

(3) Water right identification number, if assigned

(4) Type of measuring device.

(5) Make, model number and serial number of the measuring device.

(6) Type of recording device.

(7) Make, model number and serial number of the recording device.

(8) Units of measurement.

(9) The date of installation.

(10) Certification of accuracy

(11) Name of the person who installed the measuring device.

(12) Date of most recent calibration or recalibration of the measuring device.

(13) Maintenance schedule for the measuring device and the recording device.

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

Reference: Sections

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