New State Water Measurement Requirements for All Surface Water Users (10+ acre-feet)

This document provides a summary of new state water measurement requirements and deadlines for California surface water users.
If you have questions about the information contained in this document, or otherwise wish to discuss the maintenance and protection of your water rights, please contact Brownstein Hyatt Farber Schreck, LLP.

Who

The California State Water Resources Control Board's (SWRCB) regulations under SB 88 apply to all water right holders diverting 10 acre-feet (af) or more of surface water annually (applies to ~12,000 right holders).

What

New requirements for measuring, monitoring and reporting water diversions require purchase and installation of measurement devices appropriate for the quantity of water and diversion type; the cost of installing the devices ranges from ~$300 to $800 for small diverters and up to ~$19,000 for large diverters.

When

The implementation timeline is phased depending upon the quantity of water diverted. The largest water diverters must start reporting Jan. 1, 2017; **the filing deadline for Measurement Method, Alternative Compliance Plan and Request for Additional Time was extended from Jan. 1 to Jan. 30, 2017, for diversions or storage of 1000+ acre-feet**.

Where

Across California; this applies to all surface water rights holders including those claiming a riparian, pre- or post-1914 appropriative water right.

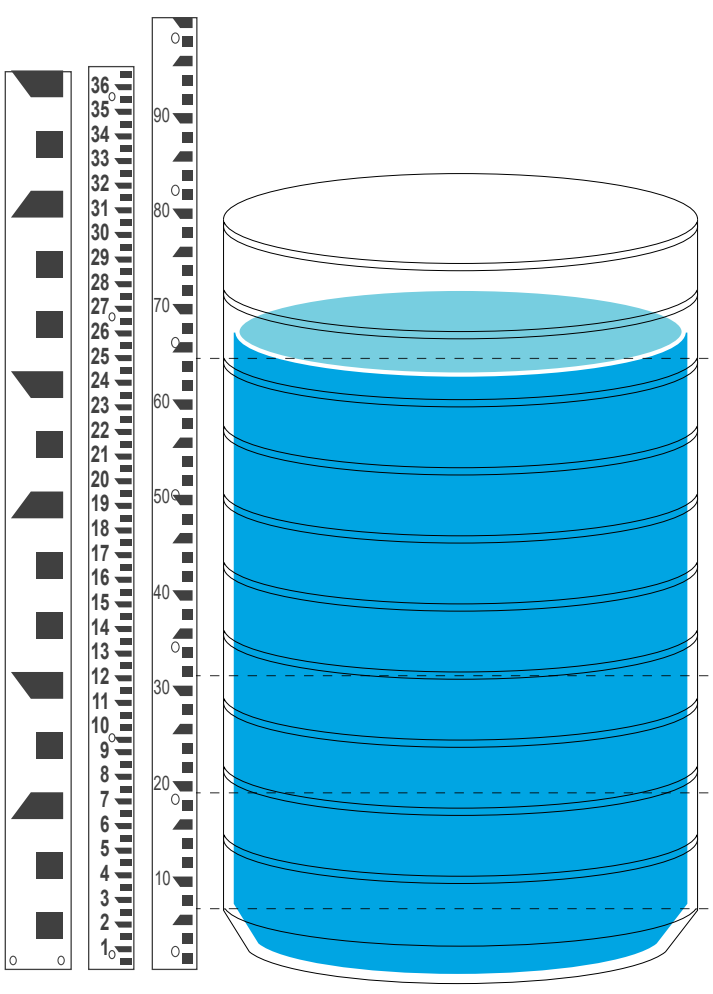
Why

The state cannot regulate what it cannot measure and the drought exacerbated the need for real-time, transparent data. Will allow the State and water users to more efficiently manage water during drought and ensure protection of senior water rights.

How

A report on the device or method used to calculate diversions must be e-filed with user's first annual water use report after device installation, and every 5 years thereafter. Measurement records must be maintained for 10 years.

STORAGE: monthly e-reporting using approved device/method required annually



Deadline:
- To install and certify device
- Or to adopt a measurement method

Requirements:
- Measurement Accuracy
- Monitoring Frequency
- Installation & Certification

>/= 1000 af	2017 January 1st	- 10% - Hourly - Engineer/Contractor/Professional
>/= 200 af	2017 July 1st	- 10% - Daily - Engineer/Contractor/Professional
>/= 50 af	2018 January 1st	- 15% - Weekly - Person experienced with measurement & monitoring
>/= 10 af	2018 January 1st	- 15% - Monthly - Person experienced with measurement & monitoring

DIRECT DIVERSION: monthly e-reporting using approved device/method required annually

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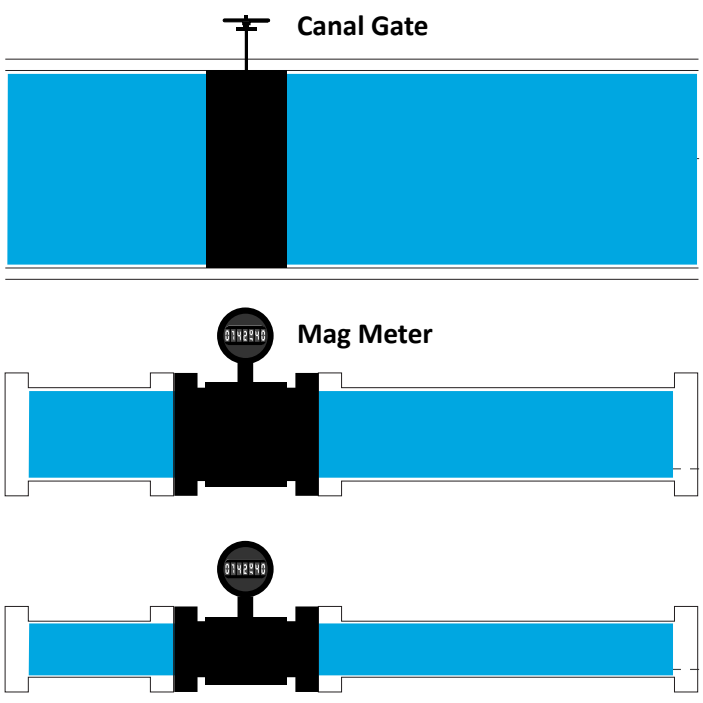

>/= 1,000 afy (acre-feet per year)	2017 January 1st	- 10% - Hourly - Engineer/Contractor/Professional
>/= 100 afy	2017 July 1st	- 10% - Daily - Engineer/Contractor/Professional
>/= 10 afy	2018 January 1st	- 15% - Weekly - Person experienced with measurement & monitoring

RESOURCES

Regulations
http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/docs/measure_reg_oal_approve.pdf

SWRCB Quick Links and Info
http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_use.shtml

Financial Assistance
http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/docs/measure_grant_summary.pdf

Equipment Suppliers
http://www.swrcb.ca.gov/waterrights/water_issues/programs/diversion_use/wm_vendors.shtml

Reporting and Sample Forms
http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_use.shtml#how
https://rms.waterboards.ca.gov/login.aspx?ReturnUrl=Default.aspx

Water Measurement Devices

Examples: http: //www.swrcb.ca.gov/waterrights/water_issues/programs/diversion_use/wm_devices.shtml
Propeller Meter/Turbine Meter: an internal propeller or turbine determines the inline flow rate.
Acoustic Meter: uses a sensor to transmit an ultrasonic sound signal into a pipe.
Flow Totalizer: totalizes measured flow through a flow meter.
Slide/Sluice Gate: gate valve opening calibrated to measure flow.
Cost Estimates for Devices: http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/docs/measure_cost_tables.pdf

On Jan. 1, 2016, the California State legislature issued water measurement orders otherwise known as SB 88. Accordingly, the SWRCB adopted SB 88 regulations that outline procedures for measuring and reporting diversions and established deadlines for installing measuring devices. Under SB 88, right holders diverting over 10 acre-feet of water per year are required to employ diversion measurement methods capable of measuring the rates of direct diversion, collection to storage, and withdrawal or release from storage. (Wat. Code § 1840(a)(1); see also C.C.R. tit. 23, § 932(a).) The effective date of this requirement is phased according to the size of a user's claimed right, with the earliest effective date being Jan. 1, 2017 for anyone with a right to divert 1,000 acre-feet per year or more. (C.C.R. tit. 23, § 932 (c)(1)(a).)

The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice, please contact Amy Steinfeld or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

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