SB88 AND DRAFT EMERGENCY REGULATION FOR MEASURING AND REPORTING
Measurement Requirements

• For permit and license holders for diversions (including combined diversions) greater than 10 acre-feet, unless there are more stringent requirements in the permit or license.

• For Statements of Water Diversion and Use for diversions (including combined diversions) greater than 10 acre-feet. Can no longer claim “not locally cost effective” as a basis for not measuring diversion.
The Current Problem

• Current requirements do not capture timely, accurate data on water diversion and use which is needed in order to evaluate water supply conditions in each watershed.
  – Need to determine how far water supplies can be expected to stretch.
  – Need to determine whether there is water available for diversions.
  – Need to support the priority system.
The Current Problem

• Need current and accurate information on how much water is being diverted.

• Rainfall and snow accumulation patterns vary widely across the State. Water supply may be adequate in one region while a critical water shortage can occur in another region.
What’s New

• The Governor signed into law SB 88 which improves and extends measurement regimes to water diversions of 10 acre-feet or more per year.

• The law requires that water diverters begin measuring as soon as January 1, 2016, although the effective date is extended and phased by the proposed regulation.
Benefits

- Increase understanding of water use through more accurate measurement
- Improve water rights administration and transparency of records
- Provide more accurate data on available water supplies
Benefits, Continued

• Assure compliance with the quantity and season limitations of existing water rights
• Protect senior rights in accordance with priorities
• Provide for efficient management and use of water during times of shortage
• Improve forecasting of water demand
Primary Components of the New Law

- Reporting
- Measurement
Early Input for Developing Regulation

- October 6 – Initial stakeholder meeting
- October 8 – Delta interest stakeholder meeting
- October 16 – Technical workshop
- November – Public outreach meetings in Los Angeles, Redding, Stockton, Sacramento, and Santa Rosa.
Reporting Requirements

• Annual water use reports required for all water right holders.

• During times of water shortage in a watershed or sub-watershed, monthly or more frequent reporting may be required.
## Measurement Requirements

<table>
<thead>
<tr>
<th>Type of Diversion</th>
<th>Installation Deadline</th>
<th>Required Accuracy</th>
<th>Required Monitoring</th>
<th>Installation And Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Diversion ≥ 1000 afa</td>
<td>July 1, 2016</td>
<td>10%</td>
<td>Hourly</td>
<td>Engineer/Contractor/Professional</td>
</tr>
<tr>
<td>Direct Diversion ≥ 100 afa / Storage ≥ 200 af</td>
<td>January 1, 2017</td>
<td>10%</td>
<td>Daily</td>
<td>Engineer/Contractor/Professional</td>
</tr>
<tr>
<td>Direct Diversion &gt; 10 afa / Storage ≥ 50 af</td>
<td>January 1, 2018</td>
<td>15%</td>
<td>Weekly</td>
<td>Individual experienced with measurement and monitoring</td>
</tr>
<tr>
<td>Storage &gt; 10 af</td>
<td>January 1, 2018</td>
<td>15%</td>
<td>Monthly</td>
<td>Individual experienced with measurement and monitoring</td>
</tr>
</tbody>
</table>
## Diversion by Category

<table>
<thead>
<tr>
<th>CATEGORY (ACRE-FEET PER YEAR)</th>
<th>NUMBER OF PERMITS, LICENSES, AND STATEMENTS</th>
<th>MEASUREMENT REQUIREMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>≥ 100,000</td>
<td>296</td>
<td>Telemeter Measure Hourly</td>
</tr>
<tr>
<td>≥ 10,000 and &lt; 100,000</td>
<td>520</td>
<td>Telemeter Measure Hourly</td>
</tr>
<tr>
<td>≥ 1000 and &lt; 10,000</td>
<td>1,598</td>
<td>Measure Hourly</td>
</tr>
<tr>
<td>≥ 100 and &lt; 1000</td>
<td>4,162</td>
<td>Measure Daily</td>
</tr>
<tr>
<td>&gt; 10 and &lt; 100</td>
<td>4,987</td>
<td>Measure Weekly</td>
</tr>
<tr>
<td>Reservoirs ≥ 50</td>
<td>Included in the 4,987</td>
<td>Measure Weekly</td>
</tr>
<tr>
<td>Reservoirs &gt; 10 and &lt; 50</td>
<td>Included in the 4,987</td>
<td>Measure Monthly</td>
</tr>
<tr>
<td>≤ 10</td>
<td>16,584</td>
<td>Not in new regulation</td>
</tr>
</tbody>
</table>
Measurement Method

• A method capable of measuring direct diversion and storage, at accuracy standards comparable to those of individual measuring devices.

• Multiple water right holders on a single surface supply can propose a collaborative measurement approach.

• A single water right holder with multiple points of diversion can propose a measurement method.
Alternative Compliance

• A water right holder may request an alternative compliance approach when either a device or method is not feasible, would be unreasonably expensive, would unreasonably affect public trust resources, or would result in the waste or unreasonable use of water.

• A water user requesting an alternative approach should submit a reasonable plan for attaining compliance.
Existing Measurement Programs

• Water Board staff is reviewing state and federal agency water measurement programs to determine which agencies’ measurement standards are comparable to the new regulation.

• Compliance with comparable measurement programs will be “grandfathered” as meeting the new regulatory standard.
Diversion Size

• The regulation grants authority to the Executive Director to identify areas in the State where measurement is not required at the > 10 acre-feet size, but at a larger size.

• The regulation describes the factors to be considered.
Device Certification

• Initial certification of compliance is due with the first water use report filed after the device has been installed and every five years thereafter.

• The regulation allows qualified individuals to install and maintain water measurement devices that have been lab certified.
Special Requirements for Largest Diverters

• Real-time telemetered diversion requirements:
  – Required by January 1, 2020 for a water right holder who:
    • diverts more than 10,000 acre-feet annually; or
    • diverts more than 50 percent of the monthly median flow of the watershed (Hydrologic Unit Code 10 or 12) 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 basis, that is updated weekly, at a minimum.
Input is Requested on the Following Topics:

• Who should be allowed to certify the adequacy of the alternatives to the measurement and monitoring requirements?
• What specific factors should the Executive Director consider when considering whether to raise the diversion threshold for measurement?
• Should recertification of a measurement device be required every five years?
• Should real-time telemetered monitoring be required? If so, under what circumstances?
Next Steps

• The draft regulation will be refined based on comments received.

• The State Water Board is currently scheduled to consider adoption of the Emergency Regulation at its January 19, 2016 Board Meeting.
Additional Information

- Emergency regulation website

- Phone Number: (916) 341-5300

- Email Address: dwr-measurement@waterboards.ca.gov