

Draft Proposed Changes to the Water Measurement and Reporting Regulation

Staff Workshop
November 13, 2024



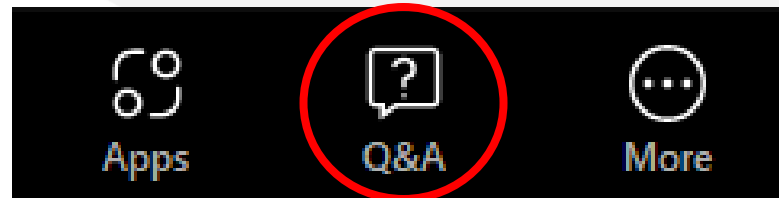
Drought Planning Unit, Division of Water Rights

Ground Rules

- 1. This is a public workshop**
We're here to listen to and respect the perspectives and ideas shared
- 2. Listen actively and with an open mind**
You can respect another person's point of view without agreeing with them
- 3. Stay on point and on time**
Help give everyone the opportunity to be heard

During the Staff Workshop

- You can ask questions using the Q&A feature on Zoom
 - Staff will respond verbally during the Q&A portion (after presentations)



- Send any questions you'd like to be answered in private to:

DWR-Measurement@Waterboards.ca.gov

(916) 323-9393

Workshop Logistics

A background image of a waterfall with water cascading down rocks, creating white foam and splashes. The image is partially obscured by a white curved graphic element on the right side.

Agenda

- Overview of the Existing Regulation
- Draft Proposed Changes
- Tentative Rulemaking Timeline and Next Steps
- Q&A and Public Comments
 - Staff will verbally answer questions submitted via Q&A feature
 - Presentations and questions/comments from registered participants



Overview of the Existing Measurement and Reporting Regulation

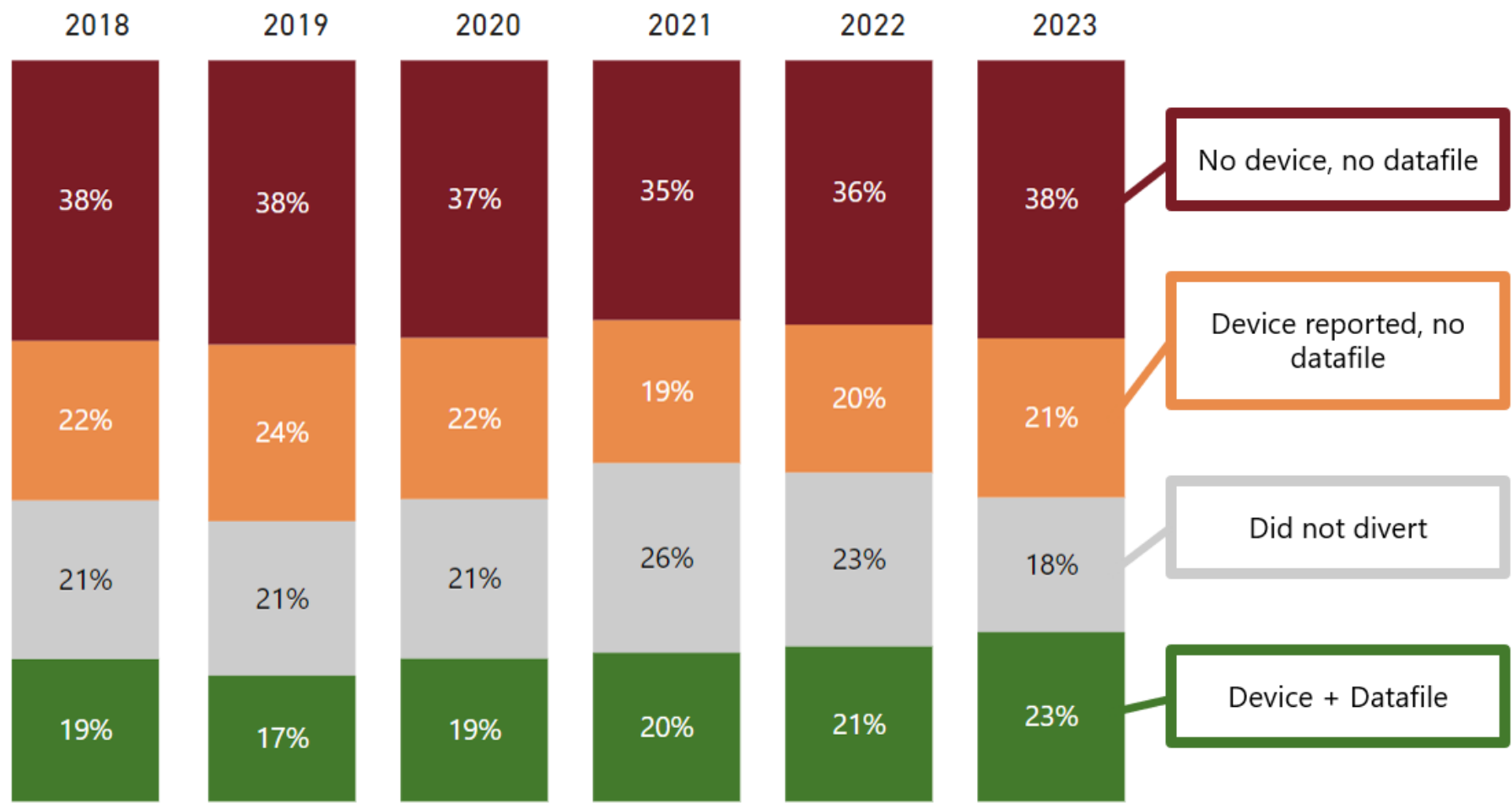
Overview of Current Regulation

- California Code of Regulations, Title 23, §§ 931-938
 - Approved in 2016
 - Often referred to as “SB 88” after the 2015 senate bill authorizing it
- California’s 2012-2016 drought highlighted the need for accurate water diversion data
- Measurement data helps improve the way California manages and allocates water rights
 - Forecast and plan for limited water supplies
 - Facilitate water transfers, petitions, new applications, flood recharge
 - Protect senior water rights

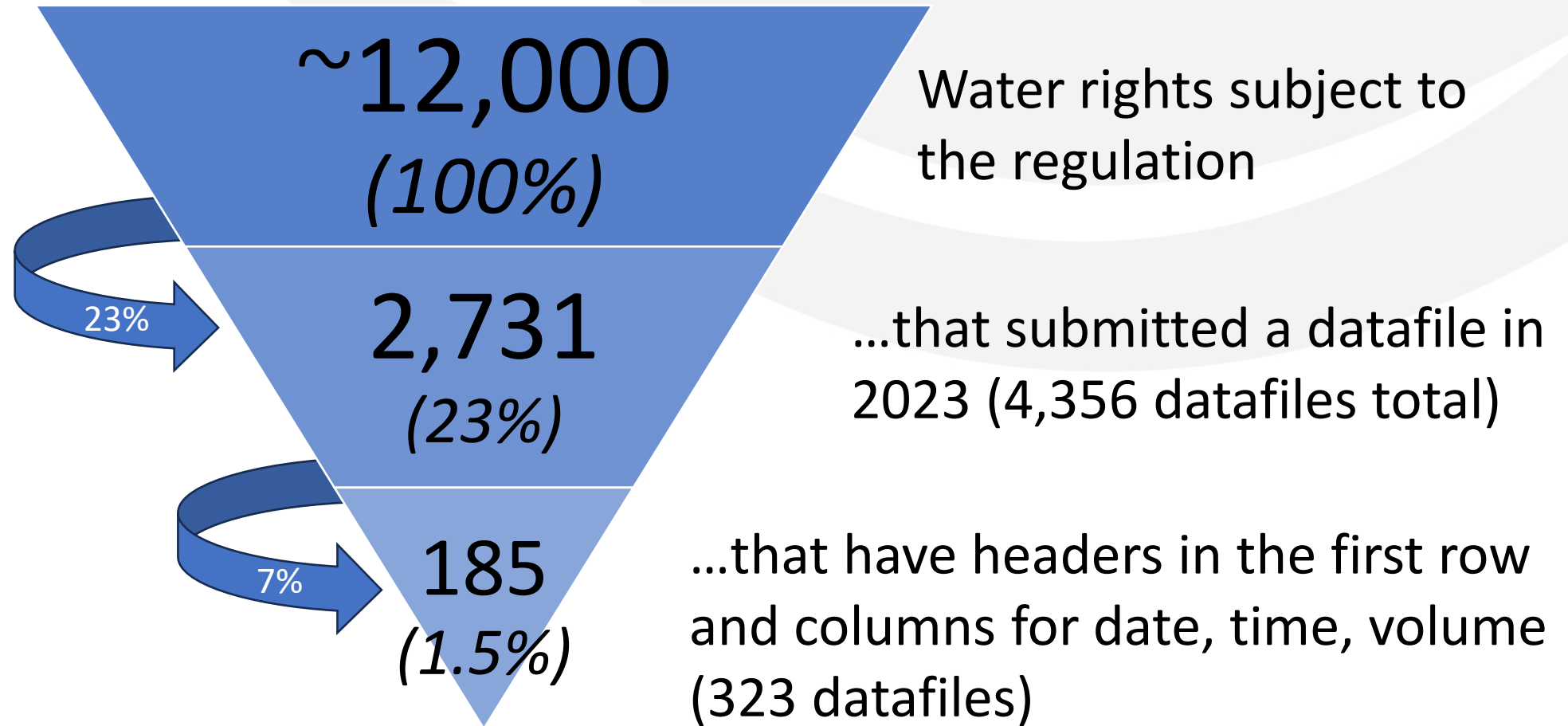
Who is Subject to the Current Regulation

- Those with water rights to divert >10 AF/year must measure their diversions and submit measurement data to the State Water Board
- Largest diverters must also post measurement data to a public website, updated weekly at a minimum (telemetry)
- Applicability thresholds also apply to diverters with combinations of rights to divert from the same POD, divert to the same reservoir, or serve the same POU

Regulation Implementation



Data Usability



Previous Outreach Efforts

Apr – Aug 2023



Individual meetings:

- State and Federal agencies
- Consultants
- Water agencies
- Utility Companies

Aug 2023



Public listening sessions

(1 in-person, 1 virtual)

Oct 2023 – Mar 2024



New guidance materials:

- Updated website
- Datafile templates
- Video tutorial
- Measurement and reporting manual
- FAQs
- Updated forms

Dec 2023 – Jan 2024



Compliance assistance workshop and "office hours"



Draft Proposed Changes to the Regulation

Summary of Proposed Changes

1. Restructuring the SB 88 regulation
2. Revising and eliminating requirements
3. Refining key terms
4. Identifying measurement location
5. Specifying datafile format and submission
6. Clarifying points of rediversion
7. Updating telemetry requirements
8. Expanding ACP eligibility
9. Expanding threshold adjustments
10. Requiring an email address
11. Aligning reporting with the water year

Restructuring the SB 88 Regulation

Existing Regulation

- 931. Definitions
- 932. Applicability
- 933. Measuring Devices
- 934. Measurement Methods
- 935. Alternative Compliance
- 936. Request for Additional Time**
- 937. Report of Water Measuring Device
- 938. Compliance

Proposed Revision

- 931. Definitions
- 932. Applicability
- 933. Measuring and Accounting
- 934. Measurement Methodology
- 935. Submitting Measurement Data
- 936. Alternative Compliance
- 937. Temporary Exemption from Measurement
- 938. Threshold and Schedule Adjustment
- 939. Compliance

Proposed: Restructured SB 88 Regulation

931	Definitions	Key Terms
932	Applicability	Who needs to measure
933	Measuring and Accounting	What to measure
934	Measurement Methodology	How to measure
935	Submitting Measurement Data	What to submit
936	Alternative Compliance	Flexibility in requirements
937	Temporary Exemptions	Relief from requirements
938	Threshold and Schedule Adjustment	Adjustments to measurement
939	Compliance	What if you don't measure

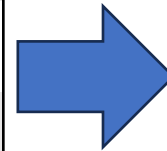
Proposed: Simplify & Reduce Requirements

- Proposed revision simplifies some requirements:
 - Measurement frequency
 - Measurement accuracy
 - 5-year calibration → 5-year evidence of proper functioning
 - Qualified individuals
- Removed components of measurement methods:
 - Removed additional requirements for storage
 - Removed additional requirements for groups of diverters measuring together
- Temporary exemptions

Measurement Frequency

Existing

Maximum Direct Diversion Amount	Storage Capacity	Required Frequency
1,000+ AF	1,000+ AF	Hourly
100-1,000 AF	200-1,000 AF	Daily
10-100 AF	50-200 AF	Weekly
--	10-50 AF	Monthly



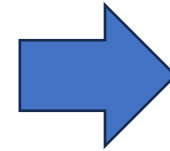
Proposed

Maximum Allowable Diversion Amount	Required Frequency
1,000+ AF	Hourly
200-1,000 AF	Daily
50-200 AF	Weekly
10-50 AF	Monthly

Measurement Accuracy

Existing

Criteria	Accuracy
Device installed before 1/1/16	±15%
Lab certified devices	±5%
Measuring diversions, < 100 AF	±15%
Measuring diversions, ≥ 100 AF	±10%
Measuring storage, < 200 AF	±15%
Measuring storage, ≥ 200 AF	±10%



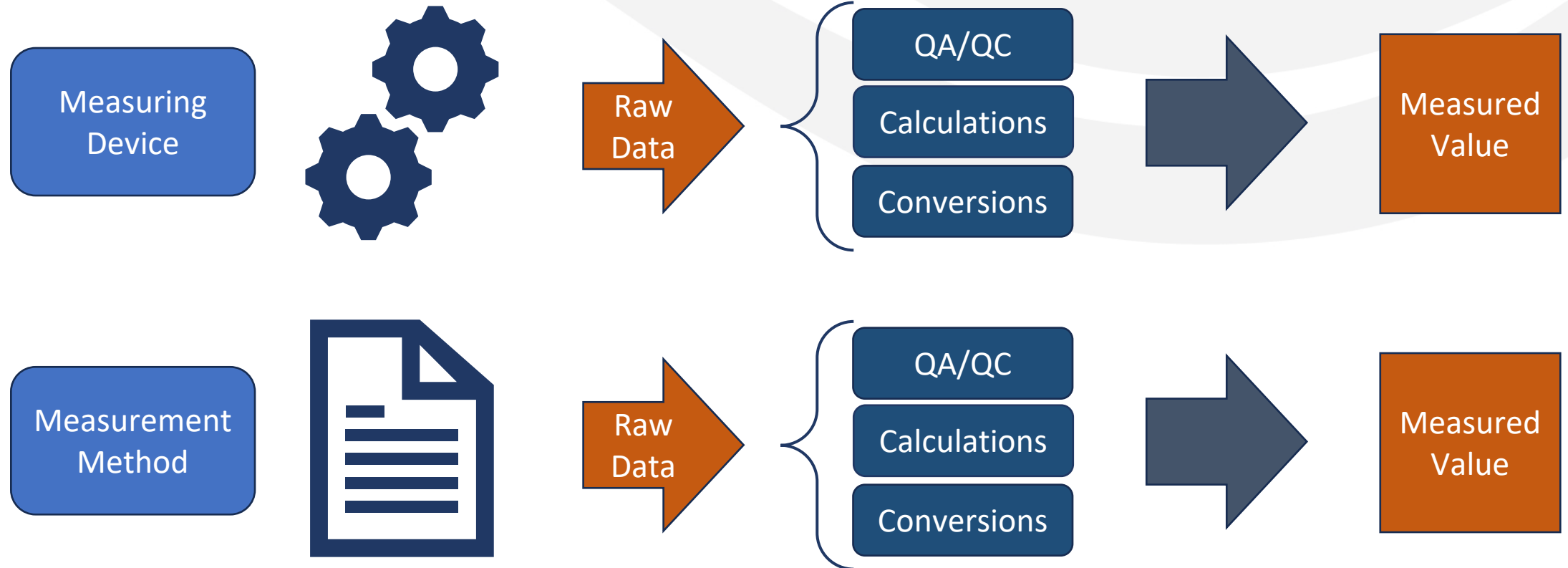
Proposed

Criteria	Accuracy
Device installed before 1/1/16	±15%
Measurement frequency: Monthly or weekly	±15%
Measurement frequency: Daily or hourly	±10%

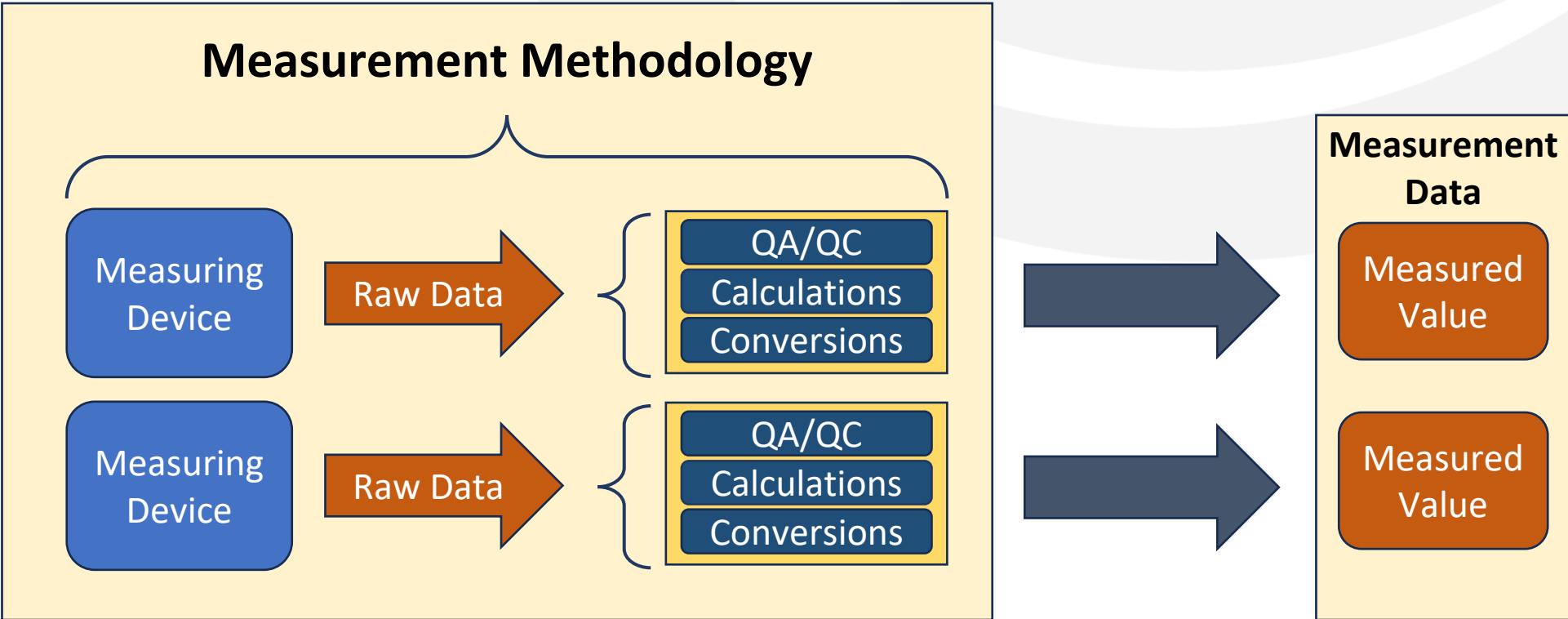
Temporary Exemptions **New Proposed Section*

- No Diversion for the Entire Water Year
 - No need to submit a datafile with all zeros
 - Indicate in annual report
- Destruction of Diversion Infrastructure
 - Temporarily exempted from measuring until diversion is restored
 - Indicate in annual report
- Destruction of Measuring Device/Measurement Infrastructure
 - May request temporary exemption from measuring for 180 days
 - Submit request within 30 days, may request extension
- Regardless of any exemptions, diverters must file annual report

Measuring Device/Measurement Method – Existing



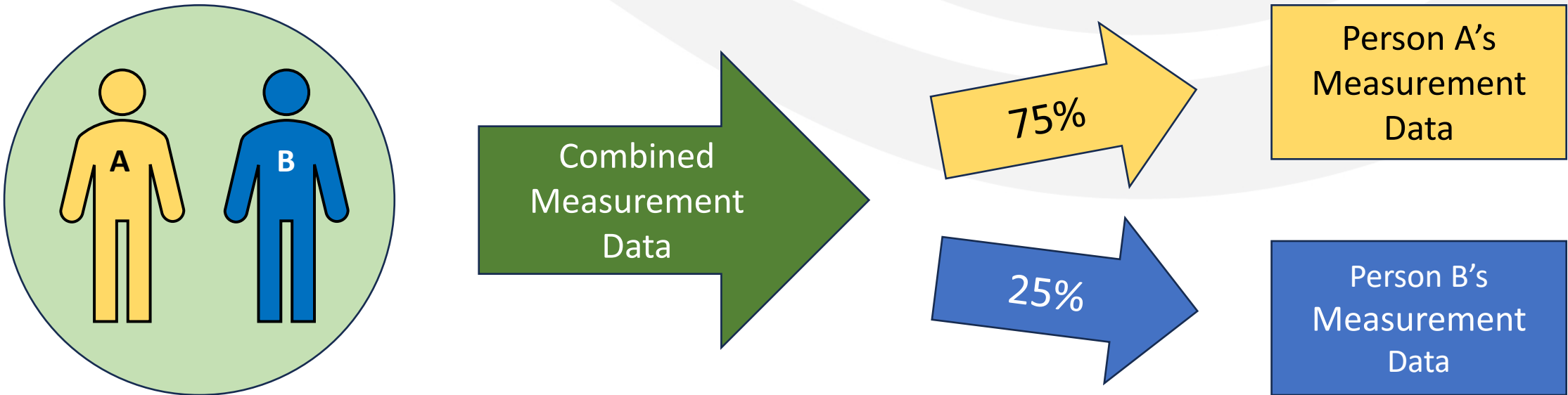
Measuring Device/Measurement Methodology – Proposed



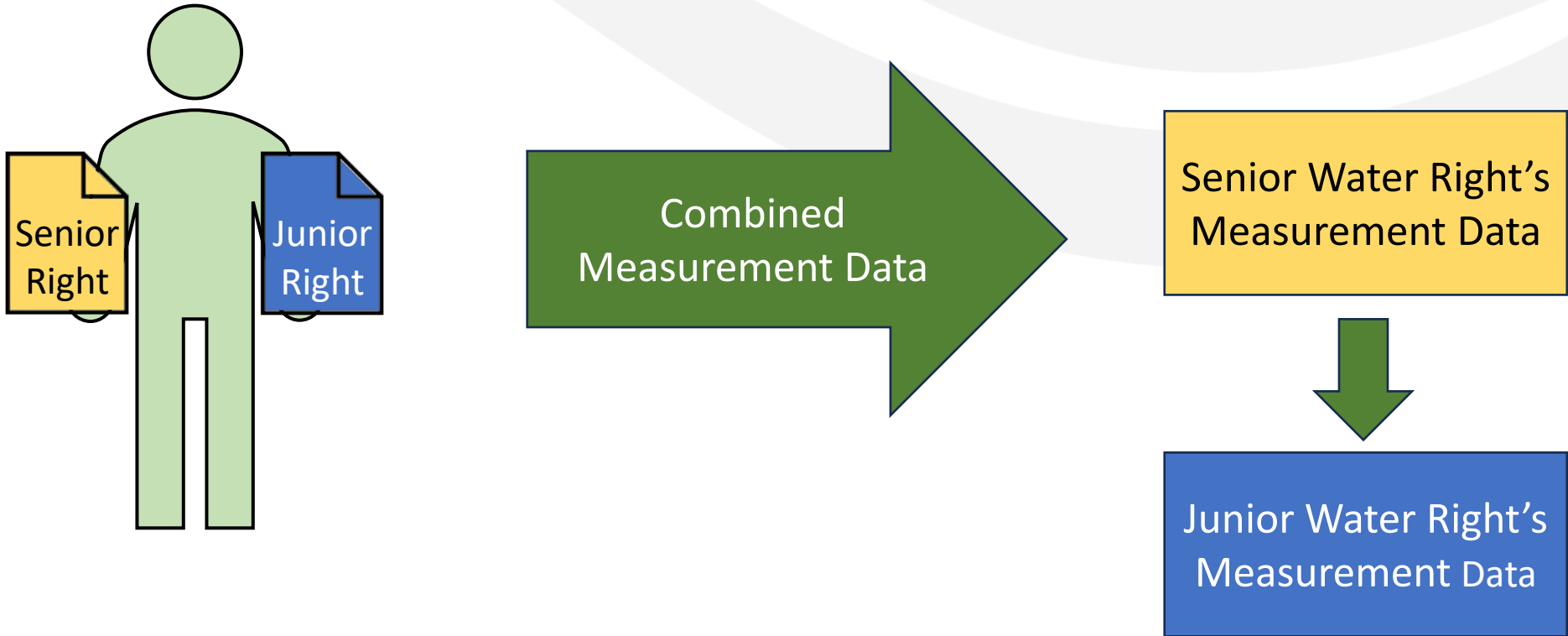
Proposed: Measurement Methodology

- Describe how you're measuring and how you generated the data in each datafile
 - Devices, locations, etc.
 - QA/QC protocols
 - Calculations, conversions, formulas
 - Apportioning per water right
- Submit a Report of Measurement Methodology by 2/1/26
- Register each device by 2/1/26
- Implementing your methodology:
 - Methodologies are presumed approved unless rejected
 - Device location and installation must not severely impact the environment

Example: Apportioning Per Water Right (Group of Diverters)



Example: Apportioning Per Water Right (Individual Diverter)



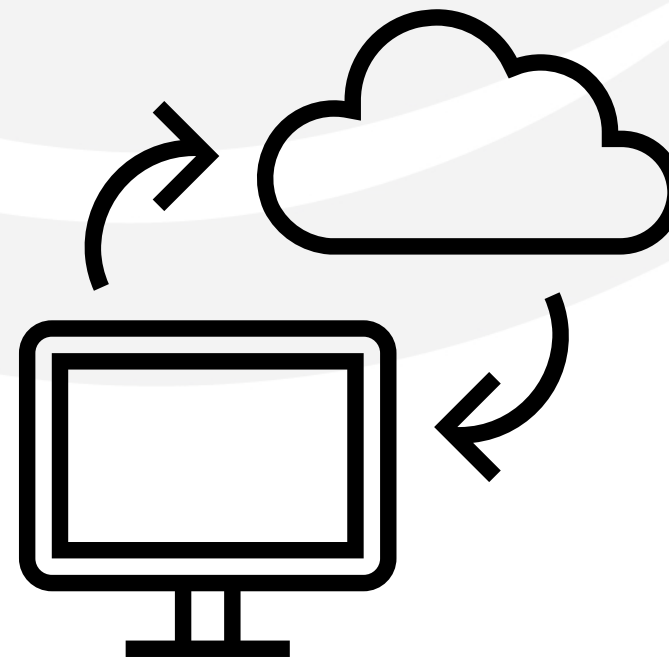
Proposed: Identifying Measurement Location

- Measurement location should be close to the point of diversion to minimize losses from evaporation or seepage
- Identify the location in your methodology
- Without measurement location, cannot interpret data to know which device corresponds to which POD



Proposed: Datafile Format and Submission

- What to submit:
 - Datafile and supplementary materials (as needed)
- Datafile format:
 - Use template or transmit directly to reporting platform
 - Volume and rate of direct diversions, diversions to storage, and withdrawals/releases from storage
- Datafiles contain data specific to each water right and POD
- Identify rediversions



Proposed: Clarifying Points of Rediversion

- In existing regulation:
 - Points of rediversion not explicitly referenced
 - Some diverters measure points of rediversion, others don't
- In proposed draft:
 - Label any measurements of rediversions
 - Deputy director may ask diverters to measure rediversions if the data is necessary to better understand water availability

Updating Telemetry Requirements

Existing

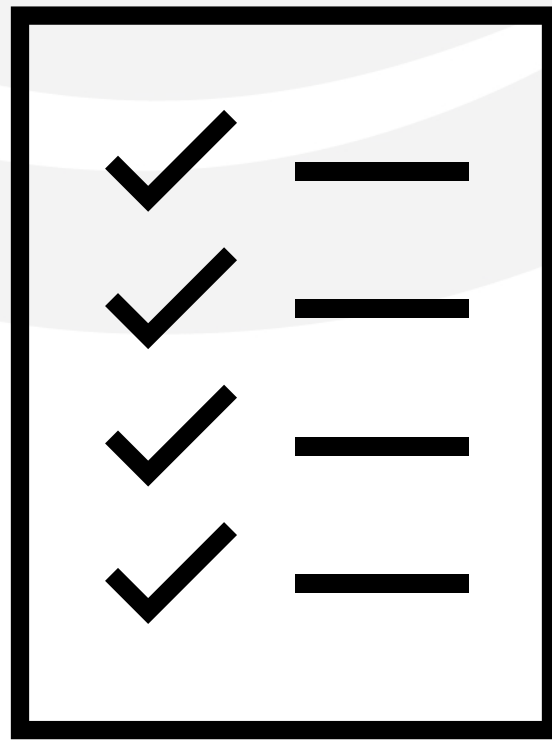
- Diverts >10,000 AF/year or 30 cfs **from Jun-Sep**; or
- Has a storage facility with a capacity >10,000 AF
- **Diverts >20% of the streamflow from Jun-Sep**
- Post to a **public website** weekly

Proposed

- Diverts >10,000 AF/year or 30 cfs **any time**; or
- Has a storage facility with a capacity >10,000 AF
- Post to the **Board's online reporting platform** weekly
- **Provisional data can be submitted**

Proposed: Expanding ACP Eligibility

- Where strict compliance:
 - Is not feasible
 - Would be unreasonably expensive
 - Would unreasonably affect public trust uses
 - Would result in the waste or unreasonable use of water
 - Is met by another person, agency, or organization who is measuring and reporting diversions on the diverter's behalf
 - Is not appropriate



Other Proposed ACP Changes

- Added scenarios for non-consumptive beneficial uses (e.g., hydropower)
- Clarify that a datafile is still required
- ACP is presumed effective unless rejected
 - Don't wait for any kind of approval letter

Proposed: Expanding Threshold Adjustments

- Deputy director can review available data and adjust:
 - General applicability under the regulation
 - Measurement frequency thresholds
 - Telemetry applicability thresholds
 - Reporting schedules for datafiles and telemetry
- May allow provisional data if more frequent submission of datafiles is required

Proposed: Requiring an Email Address

- Chapter 2 and 2.7
 - Not SB 88 regulation
- All water rights holders will need a valid email address on file
- Requirement for data security on the new online reporting platform



Proposed: Aligning Reporting with the Water Year

- Chapter 2.7, section 930
 - Not SB 88 regulation
- 2023 regulation made all annual reports align with the water year (Oct 1-Sep 30) except Groundwater Notices of Extraction and Diversion
- Change to align Groundwater Notices reporting to match other schedules



Next Steps

- Presentation slides and recording will be uploaded to the Water Measurement and Reporting Rulemaking webpage
- Written comment deadline –
12:00 noon on Monday ~~November 25~~ December 2, 2024
submitted to DWR-Measurement@Waterboards.ca.gov
- Begin formal rulemaking process – late 2024/early 2025

Overview of Regulatory Process and Next Steps

Informal Staff Workshop

- **Nov 13, 2024**
- Pre-rulemaking
- Draft revised regulation text released Nov 4, 2024
- Written comment period – **ends at noon on Nov 25 Dec 2, 2024**

Notice of Proposed Action (NOPA) to OAL

- Late 2024/early 2025
- Includes:
 - NOPA
 - Draft revised regulation
 - Initial Statement of Reasons (ISOR)
 - Informative Digest
 - Economic Impact Assessment
- Publication in Notice Register initiates formal rulemaking

Comment Period/Public Hearing

- Anticipated early 2025
- 45+ day written comment period
- Public Hearing:
 - Staff presentation
 - Overview of revised regulation
 - Opportunity for public comments

Board Meeting

- Anticipated summer 2025
- Staff presentation/overview of revised regulation
- Opportunity for public comments
- Board consideration of proposed regulation

Submittal to OAL

- Anticipated summer 2025
- OAL reviews package within 30 working days of submittal
- If approved, OAL submits to Secretary of State
- Possible effective date late 2025/early 2026

15 Minute Break

Please return at 11:10 a.m.

If you'd like to join the Zoom meeting to comment or ask questions, register here:



For private questions or issues, contact:

DWR-Measurement@Waterboards.ca.gov

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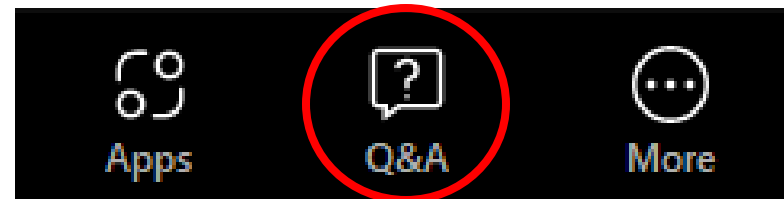
Q&A and Public Comments

Logistics

1. Staff will verbally answer questions submitted via Q&A
2. Registered speakers with presentations, including panels
3. Other registered speakers
4. Additional comments and Q&A
Staff will announce each speaker, please listen for your name and you will be invited to unmute

Q&A

- Staff will read and verbally answer questions submitted using the Zoom Q&A feature (you may have to click the ...More button to see it)
- There will be another opportunity to answer Q&A questions after presentations and oral comments



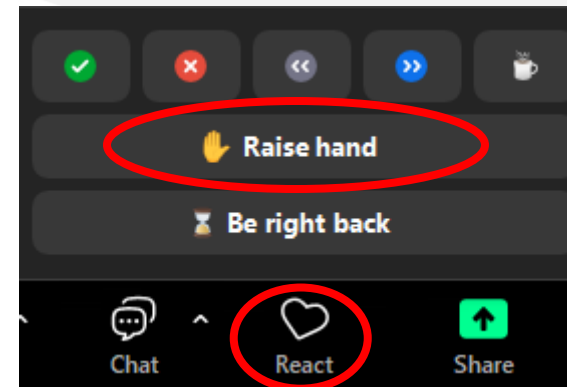


Public Presentations and Panels

- Registered participants and panels who wish to make a presentation
- Presentations will be in the order that they were submitted
- Staff will share and advance slides

Additional Comments

- Registered participants, including speaking only if necessary
- Speakers will be called in the order they registered
- If you have additional comments or questions, please use the React → Raise Hand feature



- Final Q&A submissions will be answered at 12:30 p.m.

Thank you
for
Attending!

**Water Measurement
and Reporting Regulation
Rulemaking Webpage**

<https://bit.ly/MeasurementRulemaking>



**Water Measurement
and Reporting Regulation
Webpage**

<https://bit.ly/MeasurementWebsite>



Contact Us:

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Written Comments due by **12:00 noon on
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