

Summary of Proposed Changes to the Measuring and Reporting (SB 88) and Water Diversion and Use Reporting Regulations

Accurately measured water diversion data is critical for managing and making informed decisions about California's water supply, especially during droughts. The measuring and reporting regulations (chapter 2.8 of title 23 of the California Code of Regulations, often referred to as SB 88) requires diverters who divert more than 10 acre-feet of water per year to measure and report the water they diverted. Although the regulations have been in effect since March 2016, much of the data submitted to the State Water Resources Control Board (State Water Board or Board) has been of limited usefulness, in part due to non-standardized formatting and inconsistent measurement values.

Proposed Changes to the Regulations

The State Water Board is proposing to revise the existing chapter 2.8 regulations to improve the quality and usability of submitted data, as well as to improve the overall clarity of the text. The proposed revisions are based on feedback received from diverters during the Board's substantial outreach and engagement efforts since 2022. The Board is also proposing minor revisions to the "Appropriation of Water" and the "Water Diversion and Use Reports" regulations (chapters 2 and 2.7 of title 23 of the California Code of Regulations, respectively). The proposed changes to chapters 2, 2.7, and 2.8 include:

1. **Restructuring the regulations:** At first glance, the text of the proposed revision looks substantially different from the existing regulations. The existing regulation text was struck out entirely and replaced with plainer language for improved clarity. Although the language and organization have been updated, the overall intent of the regulations — to measure diversions and submit measurement data — generally remain unchanged.
2. **Redefining key terms:** Existing definitions were condensed and rewritten to avoid confusion. For example, the proposed text removes the distinction between a "measuring device" and a "measurement method" in favor of the single term of "measuring device" to describe anything that is used to measure or collect data.
3. **Specifying datafile format and submission:** The existing regulations do not specify a datafile format for reporting measured diversion data. Without a standardized format for datafiles, data cannot be systematically analyzed and instead must be individually reviewed. The proposed revision requires diverters to use a standardized datafile format provided by the State Water Board. This ensures submitted data is usable and enables the Board to better manage California's surface water resources. This change will also provide consistent and clear direction to diverters, who have expressed confusion about how to comply with existing requirements. While more prescriptive, the proposed change will ultimately result in more efficient, cost-effective, and usable datafile submittals.
4. **Simplifying requirements:** The proposed revision modifies applicability criteria to exempt small diverters including stockpond certificates and registrations for small domestic use, livestock stockponds, and cannabis cultivation. The proposed revision also relaxes some of the measurement frequency and accuracy requirements and removes some of the previously required components for measurement methodologies or alternative compliance

plans. It also expands eligibility criteria for qualified individuals. Additionally, the proposed revision allows temporary exemptions from measuring and submitting measurement data under extenuating circumstances.

5. **Clarifying points of redirection and measurement location:** The existing regulations do not explicitly distinguish between points of initial diversion and points of redirection of previously diverted or previously stored water. As a result, some diverters are measuring and reporting their redirections, while others are not. The proposed revision clarifies that diverters who currently measure their redirections should continue to do so. The deputy director may request diverters to measure redirections that are currently unmeasured, if the Board finds that this data is necessary to understand water availability. The existing regulations also do not explicitly require diverters to identify the location of measuring devices. The proposed revision requires each measuring device to be linked to a physical location, to the extent possible, to fully understand when, where, and how much water is diverted.
6. **Updating large diversion requirements:** Under the existing regulations, the largest diverters are subject to “telemetry requirements” to post measurement data to a public website on a weekly basis. However, the word “telemetry” is misused in the existing regulations, so the proposed revision re-terms these requirements as “large diversion requirements,” to reduce confusion with the common definition of “telemetry.” The existing regulations also make complex distinctions between which diverters are subject to these requirements. The proposed revision simplifies the applicability for these requirements by removing the streamflow percentage-based applicability criteria and the “June through September” diversion qualifier. Instead, water rights that are authorized to divert more than 10,000 acre-feet per year or more than 30 cubic feet per second at any time will be subject to the large diversion requirements. This change affects fewer than 200 water rights, about 0.3% of all water rights in California. Additionally, the revision proposes to relax the large diversion requirements to allow diverters to submit provisional data to satisfy the weekly reporting requirements.
7. **Expanding alternative compliance eligibility:** The existing regulations allow eligible diverters to pursue alternative compliance with the regulations. The proposed revision expands the eligibility criteria for alternative compliance to allow additional flexibility for diverters.
8. **Promote adaptability to changing water data needs:** The proposed revision allows the State Water Board to more easily tailor requirements to the needs and conditions of individual watersheds to better balance the costs and benefits of collecting and submitting measurement data throughout the state without relying on a one-size-fits-all approach for all of California.
9. **Requiring an Email Address:** The proposed revision requires all water rights holders to have an email address to access the Board’s new online reporting platform.
10. **Aligning Requirements with the Water Year:** The proposed revision aligns reporting requirements for groundwater extractions and diversions with the water year, rather than the calendar year, to match other water rights’ reporting schedules.

Rulemaking Process

The State Water Board submitted a Notice of Proposed Rulemaking Action (NOPA) and associated documents to the California Office of Administrative Law (OAL) on February 18, 2025. OAL published the NOPA in the [California Regulatory Notice Register](#) on February 28, 2025, which initiated the formal rulemaking process.

Public Hearing

As part of the rulemaking process, the State Water Board will hold a public hearing at **10:00 a.m. on Wednesday, April 16, 2025** to discuss the proposed regulation revisions. The hearing will be hosted online only, with no in-person component. To provide oral comments and ask questions during the hearing, please complete the [Zoom registration form](#) to attend the hearing via Zoom. If you do not wish to speak during the meeting, you may attend the live webcast at <https://video.calepa.ca.gov/> (no registration is necessary). The hearing will be recorded and a link will be posted on the [Regulation's Rulemaking website](#) following the meeting.

Public Comment Period

The Board welcomes any member of the public to review and submit comments on the proposed revisions and associated documents. The public comment period will begin on Friday, February 28, 2025 and will extend until **5:00 p.m. on Wednesday, April 23, 2025**.

After the public comment period closes, the Board will review all comments it has received and will update the proposed regulation text as appropriate. If there are substantial changes to the proposed regulation text, the Board will provide an additional 15-day comment period.

Adoption and Approval

After the proposed text of the revisions has been finalized, the revisions will be taken to a Board Meeting for consideration and adoption. Once adopted, they will be submitted to OAL for final review and approval and filed with the California Secretary of State to become effective. The proposed regulation revisions are anticipated to become effective on October 1, 2025.

Resources and More Information

For additional information on the existing measuring and reporting regulations, visit the State Water Board's [Water Measurement and Reporting Regulation website](#). For more information on the rulemaking process, visit the [Regulation's Rulemaking website](#). If you have any questions, please contact Board staff at DWR-Measurement@Waterboards.ca.gov or (916) 323-9393.