

State Water Board Adopts Water Use Reporting and Measurement Regulations

On January 19, 2016, the California State Water Resources Control Board adopted emergency regulations to implement provisions of Senate Bill 88, which institutes measurement and reporting requirements for surface water diverters.

Under the new regulations, all surface water right holders and claimants — including those under riparian, pre-1914 rights, licenses, permits, registrations for small domestic or small irrigation, and livestock stockwatering and stockpond certificates — will be required to record their monthly diversions and report them at least annually. The regulations also empower the Division of Water Rights to require monthly or more frequent reporting under certain drought conditions.

Moreover, for all users who divert more than 10 acre-feet of water per year, the new regulations impose measuring requirements that will require such users to certify their measuring devices or other measuring methods. Requirements on the largest diverters are the strictest and most aggressive. For example, users who divert 1,000 acre-feet or more per year must certify measuring devices or measuring methods that can record hourly data by January 1, 2017. Users who divert at least 100 acre-feet per year must certify their ability to record daily data by July 1, 2017. And users who divert at least 10 acre-feet per year must certify the ability to take weekly measurements by January 1, 2018. Certifications for measuring devices or methods must be renewed at least every five years.

Diverters for whom strict compliance with the measurement device or method requirement "is not feasible, would be unreasonably expensive, would unreasonably affect public trust uses, or would result in the waste or unreasonable use of water" may file an alternative compliance plan. The requirements for an alternative compliance plan impose a heavy burden on diverters who seek to take advantage of this provision, including providing specific implementation milestones, addressing permitting issues and CEQA compliance, and describing the plan's budget and financing, in addition to documentation supporting the specific basis for seeking alternative compliance. The deadlines for filing alternative compliance plans are identical to those established for each tier of water users diverting 10 acre-feet or more per year. Alternative compliance plans must also be renewed every five



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years.

The new regulations can be found in Chapters 2.7 and 2.8 of the California Code of Regulations, Title 23, Division 3.

For more information, please contact:

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