

Division of Water Rights
**ALTERNATIVE COMPLIANCE PLAN
INSTRUCTIONS**



INTRODUCTION

This document is intended to assist people with completing the Alternative Compliance Plan form.

Water right holders who divert more than 10 acre-feet of water per year are required to measure the water they divert. A diverter may choose any measuring device, or combination of devices, that meet the measurement and monitoring requirements of the regulation. Additional information on the measurement requirements may be found on the following webpage:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_use.shtml

The majority of diverters should be able to comply with the measurement and reporting requirements. However, a diverter, or group of diverters, may propose and implement an alternative compliance plan for one or more of the measurement or monitoring requirements of Title 23, Division 3, Chapter 2.8, Sections 933 or 934 of the California Code of Regulations.

The diverter or group shall provide a detailed explanation and substantiating documentation demonstrating that strict compliance with one or more requirement is not feasible, would be unreasonably expensive, would unreasonably affect public trust resources, or would result in the waste or unreasonable use of water.

Where strict compliance is not feasible, the diverter should propose an alternative standard that achieves the closest attainable compliance practical. A claim that strict compliance is unreasonably expensive shall be accompanied by a supporting cost analysis.

The State Water Board may reject Alternative Compliance Plans that do not meet the requirements.

A plan lacking the required information does not release a diverter from the obligation to measure.

An Alternative Compliance Plan should not be filed to request additional time. If a diverter needs additional time to comply with the measurement and monitoring requirements, they should submit a Request for Additional Time Form to the State Water Board for review.

Filing an Alternative Compliance Plan for a Measurement Method. An Alternative Compliance Plan should only be filed for a Measurement Method if the proposed method will not comply with one or more of the measurement or monitoring requirements of the regulation. Examples of Measurement Methods include:

- Multiple diverters sharing a point of diversion.
- A single water right holder with multiple points of diversion may propose a measurement method that may preclude the need to install a measurement device at each point of diversion.

Additional information on filling out the Alternative Compliance Plan form is provided below.

Section A – Water Right Owner Information

This section of the form describes the information that is required for each water right or claimed right covered under the Alternative Compliance Plan. For plans covering more than one diverter, attach a table containing the information each water right or claimed right.

The following information shall be provided for each right covered by the plan:

- Name
- Phone number
- Email address
- Mailing address

For each water right covered under the Alternative Compliance Plan, check the applicable requirement for installation deadline, measurement accuracy, monitoring frequency, and qualifications of the individual

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responsible for installing/certifying the measurement and monitoring. These requirements are summarized in the following table:

Type of Diversion (af = acre-feet)	Installation Deadline	Required Accuracy	Required Monitoring Frequency	Qualifications For Installation And Certification
Direct Diversion ≥ 1,000 af/year Storage ≥ 1000 af	January 1, 2017	10%	Hourly	Engineer/Contractor/Professional
Direct Diversion ≥ 100 af/year Storage ≥ 200 af	July 1, 2017	10%	Daily	Engineer/Contractor/Professional
Direct Diversion > 10 af/year Storage ≥ 50 af	January 1, 2018	15%	Weekly	Individual experienced with measurement and monitoring
Storage > 10 af	January 1, 2018	15%	Monthly	Individual experienced with measurement and monitoring

Section B – Information on Primary Contact

This section of the form includes the contact information for the primary contact associated with the plan. The required contact information includes name, phone number, email address, and mailing address. If the Water Right Owner and Primary Contact are the same, you may skip Section B by check ‘Yes’ in Question 9 of Section A.

Section C – Information on Qualified Individual

An Alternative Compliance Plan shall be prepared by a Qualified Individual. This section of the form includes the contact information for the Qualified Individual submitting the Plan. The required contact information includes name, phone number, email address, and mailing address. The Qualified Individual must also check how they are qualified to submit the Plan.

Section D – Request for Alternative Compliance

Questions 1a and 1b: Check which measurement or monitoring requirement(s) you are requesting alternative compliance from. Alternative compliance may be sought from one or more of the measurement or monitoring requirements of Title 23, Division 3, Chapter 2.8, Section 933 or 934 of the California Code of Regulations. Summarize the reasons for requesting alternative compliance for each requirement.

Questions 2a and 2b: Mark the appropriate justification for requesting alternative compliance. The regulation allows a diverter or group of diverters to request an Alternative Compliance Plan when strict compliance with one or more requirement:

- Is not feasible.
- Would be unreasonably expensive.
- Would unreasonably affect public trust resources.
- Would result in the waste or unreasonable use of water.

The majority of diverters should be able to comply with the measurement and reporting requirements. Where strict compliance is not feasible, the diverter should propose an alternative standard that achieves the closest attainable compliance practical. A claim that strict compliance is unreasonably expensive shall be accompanied by a supporting cost analysis.

Provide a detailed explanation and substantiating documentation justifying that strict compliance with one or more requirement is not feasible, would be unreasonably expensive, would unreasonably affect public trust resources, or would result in the waste or unreasonable use of water.

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Questions 3a and 3b: Mark which category your request for alternative compliance falls under and include a brief summary of the situations as it applies to the diverter or diverters covered under the plan. If you mark the “other” box, please fully describe the situation for which you are requesting alternative compliance.

There are a variety of situations where alternative compliance may be considered, including:

- Points of diversion and reservoirs located in inaccessible areas a portion of the year due to snow
- Points of diversion under tidal influence. Some diversion locations experience reverse flow during periods of low tide.
- Points of diversion with an existing measuring device or measurement method in use.
- The water being measured is too corrosive for the measurement equipment.
- The diversion is measured by another entity. The diverter should identify the entity and method of measurement used.

Question 4: Summarize the various measurement and monitoring options that were considered by the diverter or group of diverters. Alternative Compliance Plans shall include alternative, objective measurement and performance standards that achieve the closest attainable compliance. Describe the measurement and performance standards which will be implemented to achieve the closest attainable compliance with the requirements for measuring and monitoring.

Section E – Area Covered by the Alternative Compliance Plan

Describe the area covered by the Alternative Compliance Plan. Include a description of the place of use for each water right covered by the Plan. Attach maps, aerial photographs, or other renderings showing the area covered by the Plan and delineating the acreage of each place of use served. For the area covered by the plan, include a list of assessor’s parcel numbers and the current owner of each parcel.

Section F – Measurement and Monitoring

Provide a brief description of the measurement and monitoring system associated with the Alternative Compliance Plan. For each Point of Diversion listed in the Alternative Compliance Plan, describe how the water is measured. Identify the measurement accuracy associated with the measurement devices. Describe how the overall accuracy of the Alternative Compliance Plan was calculated.

Section G – Implementation Schedule (If Necessary)

If applicable, describe the implementation schedule, including objective milestones from date of filing through final implementation. Milestones should include date of completion for construction and testing, expected dates of issuance of required permits, and expected date for compliance with the California Environmental Quality Act

An Alternative Compliance Plan shall be submitted by the established regulatory deadlines unless a Request for Additional Time has been granted by the Division of Water Rights.

Section H – Other Permits

Describe any other permits required to implement the Alternative Compliance Plan. Include information on the agency responsible for issuing the permit, and the expected date of issuance.

Section I – Attachments

List and describe all attachments submitted to support the Alternative Compliance Plan.

Section J – Signature and Important Information

Each participant in an Alternative Compliance Plan must sign the form or an “opt-in” form which must be retained by the Plan manager. (Attach a listing of participants, as needed, in Microsoft Excel .xlsx, comma-separated .csv, or tab-separated .txt format). Each Plan participant shall acknowledge that the Plan will be timely implemented

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and that the measurement and monitoring of diversions will substantially comply with the Measurement Regulation. Further, each Plan participant shall acknowledge that the water rights covered by the Plan will not be exercised outside the scope of the Plan. Each Plan participant is responsible for promptly informing the Division of Water Rights or the Delta Watermaster, as appropriate, if the participant withdraws from the Plan. The Plan manager is responsible for promptly informing the Division of Water Rights or the Delta Watermaster, as appropriate, if the Plan is modified or abandoned or if the Implementation Schedule is adjusted.

Division of Water Rights and Delta Watermaster staff may evaluate the contents of an Alternative Compliance Plan at any time. Staff will initially determine if all the information has been filled out, and accept the Alternative Compliance Plan as complete or return it as incomplete. An Alternative Compliance Plan may be reviewed for compliance purposes at any time or as part of a systematic audit.

SUBMITTING AN ALTERNATIVE COMPLIANCE PLAN

A diverter shall electronically submit a completed Alternative Compliance Plan to the State Water Board with all required attachments. No paper forms will be accepted.

WHAT HAPPENS AFTER AN ALTERNATIVE COMPLIANCE PLAN IS FILED?

Alternative Compliance Plans shall be posted with the associated water right file number(s). Plans will be posted on the Board's website, providing the opportunity for public comment. Plans are subject to audit by the Deputy Director and the Delta Watermaster.

An Alternative Compliance Plan may remain in effect for a period not to exceed five years. A diverter may renew an Alternative Compliance Plan by resubmitting it, with or without amendment, before the plan expires. After a plan expires, the diverter shall measure and monitor in accordance with the requirements of Title 23, Division 3, Chapter 2.8, Sections 933 and 934 of the California Code of Regulations.

Due to improvements to measuring and monitoring equipment, previously acceptable reasons for requesting alternative compliance may be deemed unacceptable in the future.

Contact Information - Reporting and Measurement

Please contact the Division of Water Rights or the Delta Watermaster if you have any comments or questions.

Phone Number: (916) 341-5300

Email Addresses: Reporting: ewrims@waterboards.ca.gov
Measurement: dwr-measurement@waterboards.ca.gov
Delta Watermaster: deltawatermaster@waterboards.ca.gov