

Williamson Act Program Regulations

California Code of Regulations Title 14, Division 6
(Natural Resources Agency)

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Article 1

§ 14100. Definitions.

All terms defined by Chapters 1 and 2, Statutes of 1971, First Extraordinary Session, and any amendments thereto, shall for the purpose of these rules and regulations be deemed to be used with the same force and effect as in said chapters except as expressly modified herein.

Note: Authority cited: Section 65570, Government Code. Reference: Sections 16107-16112, 16117, 16118, 51061, 51243, 51243.5, 51283 and 65563, Government Code.

§ 14101. "Act" Defined.

"Act" as used in these rules and regulations consists of Sections 16140-16154, 51200-51297.4, 66474.4, 65563, 65570 of the Government Code, Section 33321.5 of the Health and Safety Code, and Sections 421-430.5 of the Revenue and Taxation Code and any amendments thereto.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16142, 16144, 16154 and 65570, Government Code.

§ 14102. Terms Defined.

As used in these regulations, the following terms shall have the meanings noted:

- (a) "Secretary" means the Secretary for Resources, State of California.
- (b) "Governing Body" means the governing body of any county, city, or city and county.
- (c) "Authorized Representative" means the individual appointed and authorized by resolution of the governing body to act on behalf of the governing body.
- (d) "Effective Date" means the last day on which an instrument meeting requirements under Section 422 of the Revenue and Taxation Code can be signed or accepted and recorded, and the instrument is effective for assessment purposes and state payment in the forthcoming fiscal year.
- (e) "Application Report" means the application and the accompanying material described in these regulations submitted to the Secretary for the determination of the eligibility and entitlement of a governing body for state payments under the Open Space Subvention Act.

(f) "Contract," "Agreement," "Scenic Restriction," and "Open Space Easement," shall have the meanings as defined in Section 421 of the Revenue and Taxation Code.

(g) "Enforceable Restriction" shall have the meaning as defined in Section 422 of the Revenue and Taxation Code.

(h) "Prime agricultural land" has the same meaning as provided in Government Code section 51201(c).

(i) "Director" shall mean the Director of the Department of Conservation.

(j) "Continuing" contract shall mean a contract that is not undergoing nonrenewal.

(k) "Non-prime land" shall mean any land other than prime agricultural land.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16142, 16144, 16154 and 65570, Government Code.

Article 2

§ 14110. Filing of Application Reports.

Application reports for state payment shall be filed with the Secretary on or before October 31 of the year in which application is made according to instructions and on forms provided by the Secretary.

Note: Authority cited: Sections 16144, 16154 and Government Code. Reference: Sections 16144, Government Code.

14110.1. County Filing of Application Reports for Lands Within Cities.

A county may claim on its application restricted acreage within the boundaries of a city, if;

(a) the county and each affected city adopt concurrent resolutions authorizing the county to claim restricted acreage on behalf of the city, and acknowledging a joint responsibility to enforce the contracts pursuant to section 51251 of the Government Code;

(b) each affected city shall include in the resolution required by subsection (a) verification that rules governing administration of the contracts, pursuant to Government Code Section 51231, have been adopted;

(c) the county shall identify the city contract lands and participating cities on the county application and map, and;

(d) the county shall include the resolutions and map with each application report pursuant to Section 14110.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16142, 16144, 16154 and 65570, Government Code

§ 14111. Material to Accompany Application Reports.

Each application report filed with the Secretary shall include the following material:

(a) A resolution by the governing body authorizing the filing of the report and designating an authorized representative.

(b) A tabulation on Forms 100 (4/01), 101 (8/02), 102 (8/02), 102A (4/01), 103 (8/02), 104 (4/01), 105 (4/01), 106 (4/01), 107 (4/01), 108 (4/01), 109 (4/01), 110 (4/01), 111 (4/01), 112 (4/01), 113 (8/02), and 114 (4/01) provided by the Secretary, and incorporated by reference, summarizing the number of acres of land under the governing bodies' regulatory jurisdiction on the effective date, by each of the various categories as set forth in Section 422 of the Revenue and Tax Code qualified for state payments and the amounts of the state payments claimed pursuant to Section 16144 of the Government Code in accordance with the provisions in these regulations. The tabulation of non-prime lands shall indicate, by acreage, the section 14112(c) category under which payment is requested. The tabulation shall be certified by the authorized representative that the data given are correct and meet the criteria set forth in Section 14112 herein.

(c) A map showing the lands in the categories tabulated in (b) above. For the application report submitted for fiscal year 2000/2001, the map may be submitted in any reasonable form that certifies the land for which subvention payment is claimed. Beginning with the application report submitted for fiscal year 2001/2002, the map must be prepared as follows:

(1) The map must include the following information:

- (A) The location and category of all lands tabulated in accordance with sub-section (b), above.
- (B) The location and category of all enforceably restricted lands enrolled under contracts entered into pursuant to Section 51240 of the Government Code that are not otherwise tabulated in accordance with sub-section (b), above.
- (C) If applicable, the location and type of enforceable restriction, as defined in Revenue and Taxation Code Section 422 for a scenic restriction entered into prior to January 1, 1975, an open space easement, or a wildlife habitat contract for which subventions are claimed.
- (D) The boundaries of agricultural preserves established pursuant to Section 51230 of the Government Code.

(2) For all maps submitted pursuant to this section, the following production standards must be followed:

- (A) The boundaries of all lands specified by sub-section (1), above, must be clearly and precisely delineated.
- (B) Areas of 40 acres or more of lands specified by sub-section (1), above, must be shown on the map.

(C) Delineation within each parcel must be made, whenever possible, to indicate distinctions between land categories that exist within the parcel or parcels.

(3) Local governmental jurisdiction that use a computer-based mapping system for the purpose of mapping the location of lands specified by sub-section (1), above, may submit the map in a digital, electronic file format that is accessible by the Department. For map submittals of this type, the following additional production standards must be followed:

(A) Boundaries of land specified by sub-section (1), above, which are bounded by physical or cultural features, must accurately coincide with those features as the features are represented on reliable and readily available base maps such as the United States Geological Survey Topographic Quadrangle Map Series.

(B) The delineation of lands specified under subsection (1), above, must be based on original information no smaller than 1:125,000 in scale.

(C) The digital, electronic map file must include written documentation containing the following information: 1) the scale, map projection system, if any, and map coordinate system, if any, that was used to create and store the digital, electronic map file; and 2) a description of the computer-based mapping system used to create the digital, electronic map file, including the name of any proprietary file format.

(4) Local governmental jurisdictions that do not use a computer-based mapping system for the purpose of recording the location of lands specified under sub-section (1), above, must submit a map produced using a stable, durable material such as presentation-grade drafting film or paper. For map submittals of this type, the following additional production standards must be followed:

(A) Prominent physical and cultural features, such as county or city boundaries, major transportation routes, drainage courses, inland water bodies, and major population centers, must be clearly represented. Wherever the boundaries of lands specified by sub-section (1) above, coincide with such features, the boundaries must be represented in such a way that it is clear to the reader of the map that the boundary in fact coincides with the physical or cultural feature.

(B) The preferred scale for production is 1:100,000; the map must be produced at a scale no smaller than 1:125,000 and no larger than 1:60,000. The scale used must be clearly identified on the map.

(C) The type of map projection system used must be clearly identified on the map.

(D) Labeled reference marks or grid lines must be used whenever possible to indicate the location of the area depicted on the map relative to a commonly used coordinate system such as the public lands survey system or latitude and longitude.

(5) Local governmental jurisdictions may request consultation and technical assistance from the Department for the purpose of meeting the requirements of sub-sections (1-4) above.

(6) Local governmental jurisdictions that submit maps substantially meeting the criteria listed under sub-sections (1-4) above, may, on or before December 31 of each year, request that the Department incorporate the map submitted pursuant to this section into the Department's own computer-based mapping system. Contingent upon the availability of necessary resources the Department may incorporate within its computer-based mapping system the original map as

submitted by the local governmental jurisdiction. If the local governing body chooses to adopt this file as its official map for purposes of meeting the requirements of this section, the following criteria shall apply in lieu of the normal requirement to submit an original map with each annual application report:

(A) For the year immediately following that for which the local governmental jurisdiction's initial map file with the Department is current, and for every second year thereafter, the local governmental jurisdiction must submit copies of assessor parcel maps that depict the location of parcels affected by changes to the number of acres of land specified under sub-section (1) above.

(B) For the second year immediately following that for which the local governmental jurisdiction's initial map file is current, and for every second year thereafter, the local governmental jurisdiction must submit materials needed to update the map file. The materials supplied by the local governmental jurisdiction for this purpose must be adequate to allow the map file to be updated in a manner consistent with the guidelines listed under subsections (1-4) above.

(d) A sample of each form of contract, agreement, scenic restriction, or open space easement used for placing land under enforceable restrictions if:

- (1) The format of the document has been changed since the last application report; or
- (2) A governing body is submitting an application report for the first time.

(e) If changed since the previous year's application report was filed with the Secretary, or not otherwise previously provided, the governing body's rules for the administration of agricultural preserves, including an enumeration of compatible uses as required by Government Code Section 51231 and any amendments thereof, as well as the governing body's designation of minimum parcel sizes for lands in agricultural preserves and/or subject to contract and rules governing the subdivision of lands subject to contract.

(f) If changed since the previous year's application report, and unless otherwise available through the California Environmental Resources Evaluation System (CERES), the open space element pursuant to Article 10.5, Chapter 3, Division 1 of Title 7 of the Government Code of the governing body's general plan, including a map of open space lands designated in the open space element, if available.

(g) A listing of all enforceable restrictions which were terminated, including the acreage involved, in the intervening year through any of the following:

- (1) completion of contract nonrenewal pursuant to Government Code Section 51246.
- (2) annexation pursuant to a city protest filed prior to January 1, 1991 pursuant to Government Code sections 51243-51243.5 The County shall also provide the name of the City and date of the resolution pursuant to Government Code Section 56844.2 that the City will not to succeed to the contract.
- (3) contract rescission pursuant to Government Code Section 51256.
- (4) cancellation pursuant to Government Code Sections 51280-51286 and 51297. The City or County shall specify the date of the final cancellation and the amount of the cancellation fee.
- (5) acquisition for a public improvement pursuant to Government Code Section 51295, including a brief description of the public improvement.

(h) A list of contracts and corresponding acreage for which nonrenewal has been initiated in the intervening year pursuant to Government Code Section 51245.

(i) A list of all continuing contracts or other enforceable restrictions on land annexed by a city pursuant, including the name and address of the city assuming jurisdiction over the restriction.

(j) Such other material as the Secretary may require.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16142, 16142.1, 16144, 16154, 51207 and 65570, Government Code.

§ 14112. Determination of Eligibility.

(a) Eligibility of land for payment shall be determined in accordance with the provisions of the Act and these regulations. Land, which in the opinion of the Secretary is eligible, must be subject to an enforceable restriction and must have been assessed pursuant to Section 423, 423.3, 423.4, 423.5, or 426 if previously assessed under Revenue and Taxation Code section 423.4 and eligible pursuant to Government Code section 16142(c), and the governing body having jurisdiction over the land must have a local open space plan as required by Section 65563 of the Government Code. However, to be eligible, the land assessed pursuant to one of the above code sections need not be designated as open space in the plan, except as noted in the following subdivisions.

(b) The Secretary shall be the final judge of whether nonprime land devoted to open space use is of statewide significance. Only those nonprime lands devoted to open space use as defined in Section 51201 and Section 65560 of the Government Code which are designated for open space use in a local open space plan and which meet the criteria set forth in subdivision (c) shall be considered as land devoted to open space use of statewide significance and eligible for payment.

(c) Land shall be deemed to be devoted to open space use of statewide significance within the meaning of this section and Section 16143 of the Government Code if it meets at least one of the following criteria:

- (1) Areas of outstanding scientific, scenic and recreation value.
- (2) Areas which are required as habitat for significant fish and wildlife resources, including rare and endangered species.
- (3) Forest and agricultural lands which are judged to be of major importance in meeting future needs for food, fiber, and timber.
- (4) Areas which provide green space and open areas in and around high-density metropolitan development.
- (5) Areas which are required to provide needed access to coastal beaches, lakeshores, and riverbanks.
- (6) Areas which require special development regulation because of hazardous or special conditions, such as earthquake fault zones, unstable slide areas, flood plains, and watersheds.
- (7) Areas which serve as connecting links between major public recreation and open space sites, such as utility easements, streambanks, trails, and scenic highway corridors.
- (8) Areas of major historic or cultural interest.

(d) When determining whether enforceably restricted land meets the definition of prime agricultural land pursuant to Government Code section 51201(c)(1) and (2), a participating local government shall rely on the most current information suitable for that purpose. When determining whether enforceably restricted land meets the definition of prime agricultural land pursuant to Government Code section 51201(c)(3), (4) or (5), a participating local government shall rely on information derived from the assessment for the year in which the subvention claim is made, pursuant to subdivision (a) of this section.”

(e) Agricultural conservation easements executed and approved pursuant to the provisions of Public Resources Code section 10200 through 10277 or Government Code sections 51256 and 51256.1 shall be eligible for payment.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16140, 16141, 16142, 16143, 51201, 51256 and 51256.1, Government Code; and Section 10211, Public Resources Code.

§ 14113. Computation of the Amount of Entitlement.

The necessary computations to determine the amount of entitlement under the Act shall be made on a parcel-by-parcel basis by the governing body in accordance with Section 16142 of the Government Code, and the provisions of these regulations.

(a) To determine the total entitlement for each parcel that exceeds 40 acres, computations shall be made for all categories of open space land within the single parcel. Entitlements for parcels of 40 acres or less shall be determined by the category to which the major part of the area is assigned. Computations shall be made to the nearest 10 acres or less. Nothing in this subsection shall apply to any determination of the minimum legal size pursuant to Government Code Sections 51222, 66474.4, and/or any applicable State or local ordinance or rule regarding enrollment or subdivision of legal parcels subject to an enforceable restriction.

(b) The following types of lands shall not be entitled to payment:

- (1) Acreage devoted to residential use and assessed pursuant to Section 428 of the Revenue and Taxation Code.
- (2) Acreage assessed under Section 426, unless previously assessed under Revenue and Taxation Code section 423.4 and eligible pursuant to 16142(c) of the Government Code;
- (3) Acreage enforceably restricted pursuant to the Open Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5 of the Government Code);
- (4) Parcels subject to contracts which are of less than 40 acres for Open Space Land of Statewide Significance, unless such parcels are contiguous to other restricted lands comprising more than 40 acres total, are subject to a written joint management agreement involving noncontiguous parcels which total more than 40 acres, or the board or council specifically finds these parcels will sustain commercial agricultural use; or
- (5) Contracted acreage which is valued lower under Revenue and Taxation Code Section 110.1 than under Revenue and Taxation Code Section 423, 423.3 or 423.5.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16140, 16141, 16142 and 51222, Government Code.

§ 14114. Retention of Computations.

Governing bodies shall retain all computations and supporting documents for determining the amount of entitlement and will make them available to the Secretary, Director, State Board of Equalization or State Controller for audit upon request. Where such documents are otherwise privileged or confidential, such records shall not become public records upon transfer to a State agency as provided in this subsection. Retention of records regarding assessment of lands shall be for a period of six years. Retention of other records regarding contract administration and enforcement, including but not limited to compatible use determinations, subdivision and permit approvals, and cancellation decisions and valuations pursuant to Section 51283 of the Government Code, shall continue as long as the effected contract remains in effect plus nine years.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16146 and 16154, Government Code.

§ 14115. Incomplete Application Records.

If the Secretary determines that an application report is improperly completed or incomplete, the governing body, upon written notification by the Department, shall re-submit or submit additional information requested by the Department.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Sections 16144 and 16146, Government Code.

§ 14116. Review by Secretary.

Upon receipt of a properly completed application report, the Secretary will review it to determine the eligibility of the local government to receive payment and the amount to which it is entitled in accordance with the provisions of Section 16144 of the Government Code.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Section 16144, Government Code.

§ 14117. Certification of Payment.

The Secretary, after determining the amount to which the governing body is entitled, shall certify the amount to the State Controller for payment.

(a) Annual entitlements may be certified for payment by the Secretary beginning in August of each year as the review of each application report pursuant to Section 14110 is completed, and in the order that each is determined to be complete and accurate.

(b) Application reports received after April 30 shall not be certified for payment by the Secretary until all application reports received pursuant to Section 14110 prior to April 30 have been certified for payment. The Secretary may delay payments on application reports received after April 30 until the following fiscal year. Notwithstanding Section 14118 reports received after October 31 of the following fiscal year are not eligible for payment.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Section 16144, Government Code.

§ 14118. Adjustments.

New or additional information pertaining to eligibility or entitlement may be submitted by a governing body at any time up to and including October 31 of the year following submission of the application report to which the information pertains. Based on this information, the Secretary may make supplemental reports to the State Controller in accordance with Section 16144 of the Government Code.

(b) Where the Secretary determines that an overpayment was made, deductions against an entitlement paid in accordance with provisions of Section 14113 may be made in subsequent years to correct such overpayment. When changes to entitlement claims are due to corrections in governing body records, or improvements to record-keeping systems, the governing body shall provide, when requested by the Secretary, documentation of the changes on a contract-by-contract or parcel-by-parcel basis. In addition, the Secretary may deduct cancellation fees which have not been collected or transmitted within the time frame required by Section 51283 of the Government Code.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Section 16144, Government Code.

§ 14119. Determination of Ineligibility; Failure to Enforce.

(a) In the event the Department finds that the Act as defined in this chapter, or any enforceable restriction, is violated by a county or city receiving open space subventions, the Department shall notify that city or county that the violation may result in a determination of ineligibility for open space subventions pursuant to Government Code 16146. Within 60 calendar days of receiving such notice, the city or county may request a hearing to contest the finding that a violation has occurred. Should the city or county fail to respond to this notice, otherwise fail to remedy the violation, or if the Department's finding of a violation be upheld following a hearing, the Director may certify to the controller that the city or county is ineligible to receive open space subventions.

(b) Nothing in this section shall limit the Secretary or Director's authority to otherwise pursue enforcement actions authorized by other state laws including but not limited to Government Code sections 16147 or 51294. A determination regarding subventions pursuant to this section shall not be construed as terminating the enforceable restriction in questions.

Note: Authority cited: Sections 16144, 16154 and 65570, Government Code. Reference: Section 16144, Government Code.

§ 14120. Hearings.

(a) Upon receiving notification of a violation pursuant to section 14119, or notification of an adjustment pursuant to section 14118, the city or county shall have the right to request an informal hearing with the Department of Conservation pursuant to Government Code section 11445.10 et seq.

(b) Within 60 calendar days from receipt of a notification of a violation or notification of an adjustment, the city or county may deliver or mail to the director of the Department, a written request for a hearing. Such request shall include a statement of the basis for contesting the notice.

(c) The director of the department shall schedule the hearing no more than 45 calendar days from receipt of the city or county's written request, and shall notify the city or county in writing of the date set for the hearing.

(d) Failure to submit a written request for a hearing within 60 calendar days from receipt of a notification of a violation or an adjustment shall constitute a waiver of the city or county's right to a hearing.

(e) The director shall make a determination based upon review of the facts, information, and evidence presented at the hearing.

(f) The city or county shall be notified of the director's determination in writing within 15 calendar days from the date of the hearing.

Note: Authority cited: Sections 16146 and 65570, Government Code. Reference: Sections 16146 and 11445.20(c), Government Code.