

## **RESOURCE CONSERVATION DISTRICT ACCREDITATION PROGRAM**

### **NOTICE OF PROPOSED RULEMAKING ACTION**

#### **REGARDING**

#### **TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 6. OFFICE OF LAND CONSERVATION**

Notice Published (September, 23, 2016)

[Revised Notice Published December 19, 2017](#)

Office of Administrative Law Notice File Number: [Z2016-0913-08](#)

**NOTICE IS HEREBY GIVEN** that the California Department of Conservation (Department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action. With this rulemaking the Department will propose permanent regulations, after the consideration of all comments, objections, or recommendations.

#### **WRITTEN COMMENT PERIOD**

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the Department. Comments may be submitted by facsimile (FAX) at (916) 327-3430, by email to [rcd@conservation.ca.gov](mailto:rcd@conservation.ca.gov), or by mail to:

Department of Conservation  
ATTN: Resource Conservation District Assistance Program  
801 K Street, MS14-15  
Sacramento, CA 95814

The written comment period ~~closes at 5:00 pm on Monday, November 21, 2016~~ [for the Revised Notice dated December 16, 2016 closes at 5:00 pm on January 6, 2017](#). The Department will only consider comments received at the Department's offices by that time.

#### **PUBLIC COMMENT HEARING**

No public hearing regarding the regulations has been scheduled [for the Revised Notice dated December 16, 2017](#). Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Department at least 15 days before the end of the written comment period. Such request should be addressed to the Department Contact Person identified in this Notice and should specify the regulations for which the hearing is being requested.

#### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by section 9062 of the Public Resources Code, and to implement, interpret, or make specific sections 9062 and 9063 of the Public Resources Code, the Department is proposing the addition of Article 3, including sections 3200 through 3202 and 3205 through 3210, to Chapter 6, Division 2 of Title 14 of the California Code of Regulations.

#### **POLICY STATEMENT OVERVIEW / INFORMATIVE DIGEST**

Existing law establishes Resource Conservation Districts (Districts) as legal subdivisions of the State that maintain their own locally appointed or elected independent boards of directors. State law establishes Districts to implement projects on public and private lands that conserve soil and water; control runoff;

and prevent, control, and stabilize soil erosion in open areas, agricultural areas, urban development, wildlife areas, recreational developments, and watersheds. Currently, there are 98 Districts that manage diverse resource conservation projects covering more than 85 percent of the State.

State law requires the Department to assist in the formation, organization, and operation of Districts. The Department provides assistance to Districts in their mission to promote the long-term sustainability of the State's rich and diverse working landscapes. This support can take the form of financial assistance, administrative education, and information and technical support.

State law grants Districts the right to form associations to coordinate resource conservation efforts on a larger level. The California Association of Resource Conservation Districts (Association) coordinates assistance to Districts, offers a structure for Districts to meet and set priorities, and represents the interests of California Districts to State and federal representatives.

Beginning in 2010, RCD District Managers and RCD Directors began a capacity building effort to develop a pathway to assist RCDs statewide to remain and become more excellent, relevant, and visible. Between 2011 and 2013 the Association's President visited 91 Districts to solicit input on the effort and to develop an understanding of the needs of Districts statewide. The District Managers and the President prompted the Association to initiate a collaborative process to develop a strategic plan to recognize District achievements and to increase District capacity statewide

~~From 2011 to 2013, the Association's President visited 91 Districts to solicit input on and develop an understanding of the needs of Districts statewide. The Association's President confirmed that District capacity varied widely. Specifically, it was evident that some Districts were not meeting basic legal requirements while others were highly functional organizations effectively meeting the conservation needs of their communities. The visits prompted the Association to initiate a collaborative process to identify concrete goals, and develop criteria to meet those goals, to help Districts improve their operational capacity and enhance their programs and services.~~

To ~~incentivize-recognize~~ Districts ~~that~~ achieve the goals identified in this process and to add value to the accomplishment of the goals, the Association requested that the Department establish an accreditation program. The proposed accreditation program structure reflects the goals and criteria regarding **basic** legal requirements and best practices for good governance identified in that process. Districts can apply for Tier I Accreditation on a voluntary basis. Those unable to achieve accreditation can seek technical assistance from the Department and the Association.

### Proposed Regulations

#### §3200. Definitions.

The regulations proposed in this section clarify the definitions of "Department," "District," and "Program."

#### §3201. Voluntary Review.

The regulations proposed in this section clarify that the Department will not review all Districts for accreditation; it will only review those that have applied. The Department is not requiring accreditation as a condition for technical assistance and outreach.

#### §3202. Tier I.

The regulations proposed in this section establish the requirements a District must meet in order to achieve a Tier I Good Governance Accreditation rating. This **new**-section incorporates the Tier I Form (September 12, 2016) by reference, which a District must complete and submit to the Department in order to be considered for accreditation. This new section limits the duration of Tier I Accreditation to twelve months. If the District is interested in maintaining accreditation, it must ~~reapply-submit expired~~ **reapply-submit expired** ~~prior~~**documents prior** to the end of the twelve month period.

#### §3205. Submittal.

The regulations proposed in this section require a District to notify the Department at least five days prior to a District's submittal of its first application in order for the Department to provide the District with an electronic filing account. This new section also clarifies that if an application is insufficient, as determined by the Department, the District may re-submit its application at any time.

#### §3206. Department Review.

The regulations proposed in this section establish the Department's responsibilities regarding the review of applications. Specifically, it specifies that the Department must determine whether an application is complete within 30 days of receiving an application. Furthermore, the Department must determine the District's eligibility for accreditation within 90 days of determining the completeness of an application. If the District is ineligible for accreditation, the Department must provide an explanation of what the District must improve to meet accreditation. This section also clarifies that the Department may contact the District with any questions it may have while reviewing the material.

#### §3207. Loss of Accreditation.

The regulations proposed in this section establish that any District that does not submit ~~any expired documents the information~~ required for certification prior to the renewal date will lose accreditation. Furthermore, this new section establishes that a District may lose accreditation if the Department becomes aware that the information provided for the accreditation is no longer valid ~~or is not accurate~~.

#### §3208. Department's Website.

The regulations proposed in this section require the Department to list on its website each of the Districts that have obtained accreditation.

#### §3209. Relationship of Certification to Funding.

The regulations proposed in this section clarify that when the Department has funding available to distribute to Districts, the Department may require Tier 1 certification as a component of eligibility.

#### Anticipated Benefits of the Proposed Regulations

The Department anticipates that the status conveyed by accreditation will ~~serve as an incentive for Districts to improve their~~ provide recognition for Districts that have a higher level of capacity and performance. Furthermore, it will provide a third-party validation that the District in question is meeting legal requirements and best practices for good governance. This will enable the Department to easily identify District leaders as well as Districts that need additional assistance. The Department and the Association can then target their assistance efforts to better meet the needs of Districts at all levels. ~~Other governmental and non-governmental organizations could also use the proposed accreditation program as one method to evaluate Districts for financial assistance.~~

#### Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Department has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the accreditation of Districts in California.

## **INCORPORATED BY REFERENCE FORM**

Tier 1 Form (September 12, 2016).

## **PLAIN ENGLISH REQUIREMENT**

The Department prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2 (a)(1). The proposed regulations are written to be easily understood by the parties that will use them.

## **MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The Department has determined that the regulations do not impose a mandate on local agencies or school districts.

## **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT**

The Department has determined that the regulations do not impose costs to local agencies or school districts.

## **OTHER NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES**

The Department has determined that there are no other nondiscretionary costs or savings imposed on local agencies.

## **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE**

The Department has determined that there are no costs or savings in federal funding to the State.

## **FISCAL IMPACT**

The Department has determined that the regulations impose minor and absorbable costs to the Department and Districts (which are legal subdivisions of the State).

The Department estimates that, of the 98 Districts in California, approximately 40 will apply for accreditation in any one year. To administer the Tier I Program, this will require \$131,000 per year to support 1.125 positions, composed of one Staff Services Manager II (0.125) to manage the program, and one Associate Governmental Program Analyst (1.0) to administer program. This cost estimate includes posting the application and instructions to the Department's website; establishing electronic filing accounts for Districts upon request; responding to requests for information and clarification; and downloading, collecting, and reviewing applications. The Department has determined that these costs are absorbable with the Department's existing Resource Conservation District Assistance Program.

During the pre-rulemaking period, the Department requested that a representative sample of Districts "test drive" the Tier I application process. From this informal study, the Department estimates that Districts that apply for Tier I will, on average, need three hours of a District Manager's time and two hours of an administrative assistant's time to read, interpret, and complete the form; reach out to the Department with any questions or clarifications; collect and compile the necessary documentation; and submit the entire package to the Department. This is a minor and absorbable cost for Districts.

## **INITIAL DETERMINATION REGARDING ANY SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS AND INDIVIDUALS**

The Department has made an initial determination that the regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California

businesses to compete with businesses in other states. Furthermore, the regulations will not have any significant, statewide adverse economic impact directly affecting individuals.

### **EFFECT ON SMALL BUSINESSES**

The Department has determined that the adoption of the regulations will not affect small business. The Program is a voluntary accreditation program available to Districts to assess their governance capacity.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **COST IMPACT ON HOUSING**

The regulations will not have any effect on housing costs.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT**

The Department has made an initial determination that the adoption of these regulations will NOT significantly affect the following:

- The creation or elimination of jobs within the State of California
- The creation of new businesses or the elimination of existing business within the State of California
- The expansion of businesses currently doing business within the State of California, and
- The health and welfare of California residents, worker safety, or the State's environment.

The regulations provide Districts the option to apply for Department accreditation. The accreditation program will impact Districts by incentivizing them to meet basic State laws and best practices for good governance. To compile and submit an application, the Department estimates that it will cost each District three hours of a District Manager's time and two hours of an administrative assistant's time. This should be minor and absorbable for Districts.

While the proposed regulations will impact those Districts that choose to seek accreditation, they do not apply to or affect businesses. Therefore, they will not create or eliminate businesses, affect their competitiveness, or impact the expansion of businesses currently doing business in the State.

Additionally, these regulations do not impact the health and welfare of California residents, worker safety, or the environment. ~~They~~ These regulations strictly impact the governance capacity of Districts.

Benefits of Proposed Action: The status conveyed by accreditation will serve as an incentive for Districts to improve their capacity and performance. Furthermore, it will provide a third-party validation that the District in question is meeting legal requirements and best practices for good governance. This will enable the Department to easily identify District leaders as well as Districts that need additional assistance. The Department and the Association can then target their assistance efforts to better meet the needs of Districts at all levels. ~~Other governmental and non-governmental organizations could also use the proposed accreditation program as one method to evaluate Districts for financial assistance.~~

### **REASONABLE ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in

implementing the statutory policy or other provision of law. The Department invites interested persons to present statements with respect to alternatives to the regulations during the written comment period.

#### **DEPARTMENT CONTACT PERSONS**

Written comments, inquiries, and any questions regarding the substance of the regulations shall be submitted or directed to:

David Thesell, Deputy Chief  
Department of Conservation  
801 K Street, MS14-15  
Sacramento, CA 95814  
[David.thesell@conservation.ca.gov](mailto:David.thesell@conservation.ca.gov)  
916/324-0868

The following person is designated as a backup Contact Person for inquiries only regarding the regulations:

Jenny Di Stefano  
Resource Specialist  
Department of Conservation  
801 K Street, MS14-15  
Sacramento, CA 95814  
[Jenny.e.distefano@conservation.ca.gov](mailto:Jenny.e.distefano@conservation.ca.gov)  
916/804-2345

#### **AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF PROPOSED REGULATIONS**

The Department has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Department's office at 801 K Street, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the regulations. Copies of these items are available upon request, from the Department Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The rulemaking file, including the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text, may be viewed on the Department's Web site at <http://www.conservation.ca.gov/dlrp/RCD/publications/Pages/Regulations.aspx>

#### **15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the written comment period ends and following a public hearing, if any is requested, the Department may adopt the regulations substantially as described in this Notice, without further notice. If the Department makes modifications that are sufficiently related to the ~~originally proposed~~ revised text, it will make the modified text (with the changes clearly indicated) available to the public (including through the Department's Web site described above) for at least fifteen (15) calendar days before the Department adopts the proposed regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Department Contact Person identified in this Notice.

#### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

The Department is required to prepare a Final Statement of Reasons pursuant to Government Code Section 11346.9. Once the Department has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the Department's Web site described above. Written requests for copies should be addressed to the Department Contact Person identified in this Notice.