

Article 1. Mill Assessment Collection
Sections 6380-6388

6380. Sales Invoice Misrepresentation.

NOTE: Authority cited: Section 407 and 12781, Food and Agricultural Code.
Reference: Section 12841, Food and Agricultural Code.

6382. Penalties.

For any delinquency in making a return, or any deficiency in payment, of the pesticides mill assessment which is received after the date due (one calendar month after March 31, June 30, September 30, and December 31 of each year), a penalty of 10 percent of the amount which is due shall be added.

NOTE: Authority cited: Section 12781, Food and Agricultural Code.
Reference: Section 12843, Food and Agricultural Code.

6384. Exemptions.

When a registered pesticide is sold by the registrant to a purchaser for a nonpesticide use and the invoice clearly identifies its specific intended use, the sale is not subject to the mill assessment.

NOTE: Authority cited: Section 12781, Food and Agricultural Code.
Reference: Section 12841, Food and Agricultural Code.

6386. Established Rate.

The director establishes the mill assessment on pesticide products at 21 mills (0.021) per dollar of sales for all sales of registered pesticides for use in this state pursuant to Food and Agricultural Code section 12841.

NOTE: Authority cited: Sections 12781, and 12841, Food and Agricultural Code.
Reference: Section 12841, Food and Agricultural Code.

6388. Pesticide Sales and Assessment Reporting.

(a) Each registrant shall report quarterly to the department the total dollars of sales and total pounds or gallons of each registered and labeled pesticide product sold by the registrant for use in this State and the total assessments due. Each report of pesticide sales and assessment shall be on a form prescribed by the department or in a format approved by the Director.

(b) An acceptable department form for reporting the pesticide sales is form "Report of Pesticide Sales in California," PR-ENF-181 (Rev. 07/98). The information to be reported shall include the following:

- (1) The ending and delinquent date of the quarter being reported;
- (2) The name, address and U.S. Environmental Protection Agency (U.S. EPA) firm number of the registrant;
- (3) The U.S. EPA or State registration number and brand name of each product registered and sold for use in the State; and
- (4) The total dollar sales and total pounds or gallons of each formulated product sold

6388. Pesticide Sales and Assessment Reporting., continued

(c) An acceptable form for reporting the pesticide sales is form "Report of Pesticide Sales in California," PR-ENF-180 (Rev. 07/98). The information to be reported shall include the following:

- (1) The ending and delinquent date of the quarter being reported;
- (2) The name, address and U.S. EPA firm number of the registrant;
- (3) The total dollar sales for all products registered and sold for use in the State during the quarter;
- (4) The pesticide mill assessment rate;
- (5) The total assessments and penalty (if applicable) that are due;
- (6) The total amount of payment submitted;
- (7) The name, title, signature, and phone number of the authorized representative completing the form;
- (8) The date when the form was completed; and
- (9) Certification under penalty of perjury that the information contained in the report is true and correct.

(d) The individual report specified in (b) and the dollar sales figures associated with a specific product found on the report shall be considered official information acquired in confidence pursuant to Government Code section 6254(k) of the Public Records Act and section 1040 of the Evidence Code.

NOTE: Authority cited: Sections 11456, 12781 and 12845, Food and Agricultural Code.
Reference: Sections 12843 and 12845, Food and Agricultural Code.

**Article 2. Mill Assessment Disbursement Criteria
Sections 6390-6397**

6390. Purpose of Article.

This article specifies the criteria to be used in allocating pesticide mill assessment funds to counties based upon each county's costs, pesticide regulatory activities, workload, and performance, pursuant to Section 12844 of the Food and Agricultural Code.

NOTE: Authority cited: Sections 11456, 12781 and 12844, Food and Agricultural Code.
Reference: Section 12844, Food and Agricultural Code.

6391. County Reimbursement.

(a) Reimbursement for work specified in section 6393(b) shall be made by April 1 of each year pursuant to section 12841 of the Food and Agricultural Code.

(b) Reimbursement shall not exceed costs incurred by the county as shown in the County Agricultural Commissioners' Annual Financial Statement, Item 5, entitled "Pesticide Use Enforcement."

NOTE: Authority cited: Sections 11456, 12781 and 12844, Food and Agricultural Code.
Reference: Sections 12841 and 12844, Food and Agricultural Code.

6392. County Reports.

Each county shall submit a monthly report on a form prescribed by the director supporting the administration and enforcement of their pesticide regulatory program. The monthly report shall be submitted within 30 days after the end of each month. All reports shall be subject to audit by the director, and the director may require substantiation of the matters therein.

NOTE: Authority cited: Sections 11456 and 12781, Food and Agricultural Code.
Reference: Sections 11455, 12844 and 14012, Food and Agricultural Code.

6393. Criteria Items and Apportionment.

(a) The amount of funds allocated to each county for each criteria item shall be based on each county's pest control activities, costs, workload, and performance in proportion to all counties, except as provided in sections 6391(b) and 6395.

(b) The apportionment for each criteria item shall be a percentage of the total mill assessment funds available for reimbursement to counties [less the amount specified in section 6395(b)]. Such criteria items and corresponding apportionments are as follows:

(1) **Apportionment, 3 percent:** The total number of Pesticide Use Enforcement Program inspections completed in accordance with the prioritization plan agreed upon by the Director and the commissioners and the commissioner's negotiated work plans;

(2) **Apportionment, 3 percent:** The total number of: licensed pest control dealers located in each county; licensed pest control advisers, pest control businesses, pest control aircraft pilots, and farm labor contractors registered in each county; structural pest control operators providing notice of work in each county; active operator identification numbers in each county; and any additional similar workload activities approved jointly by the Director and the commissioners.

6393. Criteria Items and Apportionment., (b) continued

(3) **Apportionment, 3 percent:** The total number of private applicator certificate holders certified in each county;

(4) **Apportionment, 3 percent:** Work hours expended on pesticide related activities that are agreed upon by the Director and the commissioners, provided the work hours are expended by persons holding a Pesticide Regulation and/or Investigation and Environmental Monitoring license or by unlicensed persons qualified to apply for a Pesticide Regulation and/or Investigation and Environmental Monitoring license who are closely supervised by persons holding a Pesticide Regulation and/or Investigation and Environmental Monitoring license;

(5) **Apportionment, 3 percent:** Expenditures reported by each county for pesticide-related activities that are agreed upon by the Director and the commissioners;

(6) **Apportionment, 3 percent:** The total pounds of pesticides used in the county that have been reported pursuant to Food and Agricultural Code section 12979.

(7) **Apportionment, 21 percent:** The total number of restricted materials permits and permit amendments issued by each county; sites identified on all restricted materials permits and permit amendments issued by each county; and notices of intent reviewed by each county;

(8) **Apportionment, 21 percent:** Based on the total pounds of nonagricultural-labeled pesticides sold in this state in relation to each county's population. Pounds of pesticide sold data shall be derived from mill assessment collection information provided to the department. Population data shall be based on the most recent U.S. census information. Counties receiving funding under the provisions of section 8698.5 of the Business and Professions Code for structural fumigation enforcement shall only receive funds from this apportionment after deducting the amount of funds received pursuant to section 8698.5 of the Business and Professions Code; and

(9) **Apportionment, 40 percent:** Based on each county's pesticide use report data records in relation to the total number of pesticide use report data records submitted to the department by all counties.

NOTE: Authority cited: Sections 11456, 12781, and 12844, Food and Agricultural Code.
Reference: Sections 12841 and 12844, Food and Agricultural Code.

6394. Performance Evaluation.

(a) The Director shall evaluate each county pesticide use enforcement program at least every three years. The evaluations shall measure the county's effectiveness in implementing state program areas recognized in statute or regulation, or agreed upon by the county and Director as an essential program element.

(b) The Director shall provide a performance evaluation report to the commissioner that documents the county's performance in implementing the state program areas recognized by the Director.

(c) The Director and the commissioner shall jointly develop and document corrective actions to improve the county's pesticide use enforcement program in the program areas identified in the performance evaluation report. Corrective actions may be brought forth as a recommendation for mill assessment allocation under section 6396(a).

6394. Performance Evaluation., continued

(d) When any commissioner fails to implement the jointly developed corrective actions or an agreement on corrective actions cannot be reached, the Director shall take measures to improve the pesticide use enforcement program in the county. The measures may include but are not limited to, a reduction of the county's annual mill assessment allocation under sections 6393 and 6395(a).

NOTE: Authority cited: Sections 11456, 12781 and 12844, Food and Agricultural Code.
Reference: Sections 2281 and 12844, Food and Agricultural Code.

6395. Minimum Reimbursement.

(a) Determinations as specified in sections 6393 and 6394(c), notwithstanding, but subject to section 6391(b), no county shall be reimbursed funds less than the amount of funds reimbursed to the county pursuant to section 12844 of the Food and Agricultural Code, for the fiscal year ending June 30, 2003, or the average for fiscal years ending June 30, 2001, 2002, and 2003, whichever is greater, unless the mill assessment funds available for allocation on March 1 of the current year are less than \$14.3 million, in which case each county's reimbursement shall be reduced in the same proportion as it would have been reimbursed under this article. However, in no instances shall a county's minimum reimbursement be less than \$27,600 except as provided in section 6391(b).

(b) From the total funds available for allocation to counties, 30 percent shall be utilized for the stipulation of subsection (a) above.

NOTE: Authority cited: Sections 11456, 12781, and 12844, Food and Agricultural Code.
Reference: Section 12841 and 12844, Food and Agricultural Code.

6396. Residual Funds.

(a) Any residual funds resulting after the application of section 6395 may be disbursed based on commissioner requests to support restricted materials permitting and reporting system activities, and any other program element that the Director and the California Agricultural Commissioners and Sealers Association jointly agree upon, on a case-by-case basis. Funding request shall be submitted to the Director by March 31st of each year and jointly approved by the Director and the California Agricultural Commissioners and Sealers Association no later than June 30th.

(b) Any residual funds resulting after the application of sections 6391, 6394(d), 6395, or 6396(a) shall be distributed to all counties not subject to section 6394(d), in the same proportion as funds reimbursed under section 6393.

NOTE: Authority cited: Sections 11456, 12781 and 12844, Food and Agricultural Code.
Reference: Section 12844, Food and Agricultural Code.

6397. Sunset Review of Regulations.

NOTE: Authority cited: Sections 11456, Food and Agricultural Code.
Reference: Sections 11456, Food and Agricultural Code.

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