

DISBURSMENT OF RESIDUAL MILL ASSESSMENT FUNDS TO
ENHANCE
LOCAL PESTICIDE ENFORCEMENT PROGRAMS

BACKGROUND

The Department of Pesticide Regulation (DPR) protects human health and the environment by regulating pesticide sales and use and fostering reduced-risk pest management. To ensure compliance with the nation's toughest pesticide laws, California has the largest and best-trained enforcement organization in the country. Local use enforcement of pesticide laws and regulations is carried out at the local level through the county agricultural commissioners (CACs). CACs (and their staffs) have primary responsibility for local enforcement activities. The California Agricultural Commissioners and Sealers Association (CACASA) is the official representative body on the behalf of the CACs and Sealers (California Food and Agriculture Code [FAC] section 2003).

Funding for local pesticide field enforcement activities comes from four sources-- mill assessment, locally generated fees and penalties, county general fund, and unclaimed gas tax. Mill assessment is a fee levied on the sale of pesticides sold for use in California. Under statute and regulation, DPR collects and distributes mill assessment to the counties as partial reimbursement for their cost of carrying out the pesticide enforcement program.

SCOPE

The purpose of the Memorandum of Understanding (MOU) between DPR and CACASA is to establish the process and procedures that shall be followed by the parties to this agreement relative to invoicing for work performed, and distribution and accounting of the CAC's residual mill assessments funds, which are to be used to support county initiatives that will enhance local county pesticide enforcement programs. This MOU is intended to establish the roles and responsibilities that the respective authorities of DPR and CACASA shall comply with in carrying out the mutually agreed upon objectives associated with expenditures of residual mill assessment funds.

STATUTORY AND REGULATORY AUTHORITIES

DPR is mandated by California and federal law to protect human health and the environment by regulating pesticide sales and use and fostering reduced-risk pest management. DPR's strict oversight includes extensive scientific product evaluation and registration; and statewide licensing and certification of commercial applicators, dealers, and advisers. The field enforcement of regulations governing pesticide use is carried out by the CACs under DPR's supervision.

A significant portion of a county's funding for the local pesticide field enforcement activities comes from mill assessment. Mill assessment is a fee levied on the sale of pesticides sold for use in California. Under statute and regulation, DPR collects and distributes mill assessment to the counties as partial reimbursement for their cost of carrying out the pesticide enforcement program.

All persons who are the first to sell DPR-registered pesticide products in California are assessed a mill (\$0.001) fee. This fee is established by statute, and the rate is set through regulation. The current mill assessment rate is 21 mills, or \$0.021 per dollar of pesticides sold. Existing law requires DPR to reimburse counties (from the revenue collected from mill assessment) for the cost incurred in enforcing FAC Division 6 (commencing with section 11401) and FAC Division 7, Chapter 2 (including section 12979, as enacted by Chapter 1200, Statutes of 1989), Chapter 3 (commencing with section 14001), Chapter 3.4 (commencing with section 14090), Chapter 3.5 (commencing with section 14010), and Chapter 7 (commencing with section 15201). The amount distributed to the counties equals the revenue derived from 7.6 mills of the total mill assessment revenue collected by DPR.

FAC section 12844 requires the Director and CACs to jointly develop regulations specifying the criteria to be used in allocating the mill assessment funds to the counties. These regulations are established in Title 3, California Code of Regulations (CCR) sections 6391 through 6396.

Title 3 CCR section 6396 (effective February 11, 2006) was established to provide a mechanism for disbursement of mill funds remaining after the application of CCR section 6395, minimum reimbursement (CAC baseline amount). CCR section 6396 provides that any, or all, of the residual funds may be allocated for support of restricted- materials permitting and reporting system activities or any other program element mutually agreed upon by the DPR Director and CACASA. Remaining residual funds not specifically agreed upon may be distributed proportionately to each county pursuant to the criteria in CCR section 6393, or deposited into a trust account for front-loading future projects.

PRINCIPLES OF AGREEMENT

In accordance with CCR section 6396, the CACASA President will annually send a letter to the DPR Director requesting acceptance of the proposed county projects and initiatives to be supported by the residual mill funds.

CACASA will, as necessary, designate project-manager counties (PMC) to collaborate with DPR to secure mutually beneficial program enhancements that will result in improved pesticide use enforcement programs.

Residual mill assessment funds dedicated to these county projects and initiatives will be held in trust by the county of choice, designated by CACASA, for future disbursement as directed by the mutual agreement of the designated PMC, CACASA President, and DPR Director. The appointed CAC for the designated PMC, the CACASA President, and the DPR Enforcement Branch Chief will be authorized to request disbursement.

A formal letter with all of the appropriate authorized signatures of the appointed CAC for the designated PMC, the CACASA President, and the DPR Enforcement Branch Chief will be required to issue a warrant for payment from the related trust account.

DPR agrees to:

1. Work with the designated PMCs to append to their pesticide enforcement work plans project-related tasks, priorities, and time lines required to complete the county projects and initiatives agreed upon between DPR and CACASA.
2. Coordinate with PMCs to provide details for the payment to be disbursed, an appropriate description of the payment requested, and the appropriate party signatures authorizing the payment to support the county projects and initiatives annually agreed upon between DPR and CACASA.
3. Work with PMCs to provide the necessary information to report to DPR and CACASA the status of county projects and initiatives annually agreed upon between DPR and CACASA.
4. Work with CACASA to carry out the protocols established and approved by CACASA on May 5, 2006 (see Attachment A).

CACASA and its PMCs agree to:

1. Coordinate with DPR to monitor county project implementation, ongoing project status, and associated funding requests for the annually agreed upon projects and initiatives between DPR and CACASA.
2. Follow the protocols for submitting project proposals as outlined in Attachment A.
3. Follow acceptable administrative and accounting practices; and at least annually, provide a full accounting of all expenditures to DPR.

4. Charge all PMC administrative costs to the unallocated remaining residual mill funds held in the designated trust account.
5. Deposit into the designated trust account any funds remaining after the completion of the county projects and initiatives.

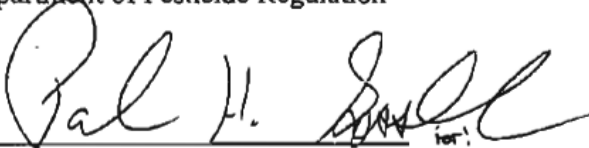
DISPUTE AND CONFLICT RESOLUTION

It is the desire of the parties to establish a speedy, efficient, and informal method for the resolution of interagency conflicts. Conflicts between DPR and CACASA that cannot otherwise be informally resolved will be referred to the DPR Director and the CACASA President.

To assist the parties in resolving conflicts, one staff person will be appointed by the DPR Director and the CACASA President to represent the interests of the signatories of this MOU. This MOU shall become effective upon the date of final signature and shall continue in effect until modified by the mutual written consent of the parties or until terminated by any party upon a thirty-day advance written notice to the other party.

SIGNATORIES

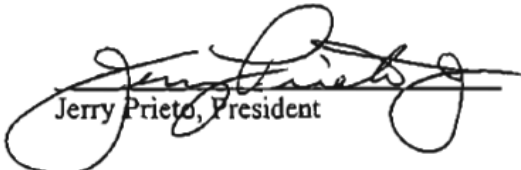
Department of Pesticide Regulation



Mary-Ann Warmerdam, Director

5/26/06
Date

California Agricultural Commissioner and Sealers Association



Jerry Prieto, President

5/30/06
Date

California Code of Regulations Section 6396
Draft Protocol for Residual Mill-Funded Activities to
Enhance County Pesticide Enforcement Programs

California Code of Regulations (CCR) section 6396 (effective February 11, 2006) was established to provide a mechanism for disbursement of the mill funds remaining after the application of CCR section 6395, minimum reimbursement (county agricultural commissioner baseline amount). CCR section 6396 provides that any, or all, of the residual funds may be allocated for support of restricted-materials permitting and reporting system activities, or any other program element mutually agreed upon by the Director of the Department of Pesticide Regulation (DPR) and the California Agricultural Commissioners and Sealers Association (CACASA). Remaining residual funds not specifically agreed upon may be distributed proportionately to each county pursuant to the criteria in CCR section 6393 or deposited into a county trust account, as designated by CACASA, for county projects and initiatives. The following draft protocol outlines the time lines for facilitating commissioner proposals for residual-funded activities.

1. April
Mill disbursement to the counties is made including residual funds.
2. CACASA Spring Conference (May)
DPR and CACASA will discuss and consider joint program priorities for funding projects to begin the following July. These areas have been generally identified and include, but are not limited to:
 - a. Staffing to augment local enforcement programs in a county.
 - b. Pesticide safety training for applicators and outreach for the general public.
 - c. Staffing to support multiple counties.
 - d. Specific project proposals by individual counties.

CACs will receive instructions for the development of project proposals from the Pesticide Regulatory Affairs Committee (PRAC) Chair. All proposals should be forwarded to the PRAC Chair. All projects shall be submitted no later than two weeks prior to the fall interim meeting. The Chair will forward proposals to

PRAC's mill subcommittee for review and consideration for handing. DPR and designated project counties will report on ongoing projects.

3. CACASA Interim meeting (August)

PMC's mill subcommittee will discuss:

- a. Project proposals received for the following year, and will begin review and prioritization for recommendation at the Winter Conference.
- b. Project-manager counties will report on the programmatic and fiscal status of residual-fund projects.

4. CACASA Winter Conference (November)

Topics of discussion will be:

- a. The PRAC's mill subcommittee recommendations for approval of projects by CACASA Board of Directors.
- b. Preliminary report on residual mill fund estimate for the current year issued by DPR.

5. January 1

The CACASA President will send a letter to the DPR Director recommending approval of projects to begin the following July. The letter must indicate the project scope, funding amount, and county for disbursement.

6. February 1

The DPR Director will send a response letter to the CACASA President on agreed- upon recommendations for the remaining residual-funded projects to begin July.

7. CACASA Interim Meeting (February)

- a. Project-manager counties will report on the programmatic and fiscal status of ongoing projects.
- b. A decision regarding the April 1 disbursement of residual funds will be made.
- c. DPR will provide an update on the availability of residual mill funds for projects beginning in July of the following year.

8. March 1

The CACASA President will send a letter to the DPR Director recommending actions for the April 1 disbursement of residual funds.

9. March 15

The DPR Director will send a response letter to the CACASA President on agreed- upon recommendations fox the disbursement of residual funds.

10. April 1

Mill and residual funds will be disbursed to the counties.

11. REPEAT PROCESS.