

AMENDED PARAMETERS AND GUIDELINES

Food and Agricultural Code Section 12979
Statutes 1989, Chapter 1200

California Code of Regulations, Title 3, Sections 6000, 6393 (c),
6562, 6568, 6619, 6622, 6624, 6626, 6627, 6627.1, 6628
(Register 90, No. 1)

Pesticide Use Reports
06-PGA-02 (CSM-4420)

I. SUMMARY OF THE MANDATE

On January 21, 1993, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that Food and Agricultural Code section 12979, as added by Statutes 1989, Chapter 1200, and its implementing regulations in Title 3 of the California Code of Regulations, required county agricultural commissioners to implement a new program or higher level of service in an existing program within the meaning of Government Code section 17514 and article XIII B, section 6 of the California Constitution.

The enactment of the test claim statute and adoption of implementing regulations resulted in county agricultural commissioners receiving a greatly expanded number of pesticide use reports. While the chapter contained a funding mechanism, the Commission found that the funding was not sufficient to cover all of the increase in costs experienced by counties. Costs related to activities required by Food and Agricultural Code section 12979, and its implementing regulations in Title 3 of the California Code of Regulations that are not otherwise reimbursed by the Food Safety Account and increased mill assessment, were therefore found to be reimbursable costs mandated by the state.

Counties shall be reimbursed for the costs of increased pesticide use reporting requirements resulting from the enactment of Food and Agricultural Code section 12979, of Chapter 1200, Statutes of 1989 and its implementing regulations in Title 3 of the California Code of Regulations (Title 3, California Code of Regulations, sections 6000, 6393(c), 6562, 6568, 6619, 6622, 6623, 6624, 6626, 6627, 6627.1, 6628), which increased pesticide use reporting requirements on pesticide users to include all agricultural users; increased record keeping requirements on pesticide dealers that are licensed by the state; and required county agricultural commissioners to issue operator and site identification numbers to specified persons, inspect and audit certain records, and file the newly-required pesticide use reports with the state.

Activities related to reports from the use of pesticides that are classified by the state as restricted materials or for the use of pesticides that are applied by commercial pest control applicators and businesses are not reimbursable because those reports were required prior to the enactment of Food and Agricultural Code section 12979, of Chapter 1200, Statutes 1989, and its implementing regulations in Title 3 of the California Code of Regulations (3 CCR).

II. ELIGIBLE CLAIMANTS

Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to file a reimbursement claim for those costs.

III. PERIOD OF REIMBURSEMENT

This parameters and guidelines amendment is effective for the period of reimbursement beginning on July 1, 2005.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

1. A county or city and county may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
2. In the event that revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise provided by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts. and Pesticide Regulatory Activity Monthly Reports (PRAMR).

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, costs of performing the following activities are reimbursable:

1. Issuing operator identification numbers for the use of pesticides that are not classified by the state as restricted materials pursuant to 3 CCR section 6622.
2. Issuing site identification numbers for the use of pesticides that are not classified by the state as restricted materials pursuant to 3 CCR section 6623.
3. Reviewing and filing with the Department of Pesticide Regulation pesticide use reports other than those specified in V below. This activity may be performed by unlicensed persons.
4. Inspecting pesticide use records of growers and other property operators who the county agricultural commissioner had reason to believe failed to report to the commissioner the use of pesticides that are not classified by the state as restricted materials.
5. Auditing the pesticide use records of growers who submitted pesticide use reports to the county agricultural commissioner for the use of pesticides that are not classified by the state as restricted materials.
6. Audit the sales records of pesticide dealers as specified in 3 CCR section 6352, for the sale of pesticides that are not classified by the state as restricted materials.

V. NON-REIMBURSABLE ACTIVITIES

Activities related to reports for the use of pesticides that are classified by the state as restricted materials or for the use of pesticides that are applied by commercial pest control applicators and businesses are not reimbursable because those reports were required prior to the enactment of Food and Agricultural Code section 12979, of Chapter 1200, Statutes of 1989, and its implementing regulations in Title 3 of the California Code of Regulations.

If the purpose of the travel includes activities broader than the reimbursable activities, only the pro-rata portion can be claimed.

VI. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by

productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

Claimants may use time studies to support salary and benefit costs when an activity is task repetitive in nature. Time study usage is subject to the time study guidelines included in the State Controller's annual claiming instructions.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1. Salaries and Benefits, and A.2, Materials and Supplies. Report the cost

of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in 2 CFR Part 225 (the Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VII. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a county or city and county pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, and offsetting revenues and reimbursements, as described in Section VIII, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VIII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a direct result of the same statute or executive orders found to contain the mandate from any source, including and not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from the costs claimed

Specifically, the following revenues and reimbursements must be deducted from any costs claimed:

1. The mill disbursement funds allocated to each county pursuant to California Code of Regulations, title 3, section 6393, subdivision (b) (1), (2), and (9) that are based on the reimbursable activities in Section IV of the parameters and guidelines.
2. The mill disbursement funds allocated to each county pursuant to California Code of Regulations, title 3, section 6393, subdivision (b) (4), (5) and (6) that are used to offset the reimbursable activities in Section IV of the parameters and guidelines.
3. The payments received under each county's contract with DPR for the review and filing of pesticide use reports (electronic submittal to DPR) that are identified as reimbursable in Section IV of the parameters and guidelines.

And, if unclaimed gas tax funds are used for any of the reimbursable activities in Section IV of the parameters and guidelines, that amount must be deducted from any costs claimed.

IX. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

The Controller shall, within 60 days after receiving amended parameters and guidelines prepare and issue revised claiming instructions for mandates that require state reimbursement established by Commission action pursuant to Government Code section 17557, section 17557.2, or any decision or order of the Commission pursuant to section 17559. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission. Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Commission. In preparing revised claiming instructions, the Controller may request the assistance of other state agencies. (Gov. Code, § 17558, subdivision (c).)

If revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

X. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

XI. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision (CSM-4220) is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.