



July 16, 2021

Ken Everett, DPR Assistant Director
Donna Marciano, DPR Enforcement Regional Offices Branch Chief
Joseph Damiano, DPR Enforcement Headquarters Branch Chief
Joshua Ogawa, DPR Enforcement Headquarters Branch Supervisor
Karen Morrison, DPR Acting Deputy Director

Via email

Dear Mr. Everett, Ms. Marciano, Mr. Damiano, Mr. Ogawa and Ms. Morrison:

Thank you for meeting with us on July 8 to discuss our documented concerns with enforceability of the Pesticide Use Near Schoolsites regulation, DPR's precedent-setting rule intended to protect children from pesticide drift at schools and day care facilities.

In the meeting, you confirmed the following enforceability issues:

1. Most application methods that are restricted under the schools regulation are not identifiable under current PUR reporting requirements;
2. While current requirements for Notices of Intents (NOIs) do include "method of application", in many cases the requirements are not specific enough to identify the methods restricted under the schools regulation;
3. In fields that cross the "buffer zone" (¼ mile distance restriction), the exact location of applications cannot be verified under current PUR reporting requirements;
4. Exact end times of applications are oftentimes inaccurately reported in PUR;
5. CAC inspection forms lack a checkbox to evaluate whether applications within ¼ mile of schoolsites are in compliance with the schools regulation.

In the meeting, you proposed that DPR would implement the following remedies:

1. Educate CACs and growers at upcoming Spraysafe events about the schools regulation, and request that growers voluntarily assign separate Site Identification Numbers to any portions of fields that are within ¼ mile of schoolsites.

2. Instruct CACs to educate growers during permit renewal about the schools regulation, including the need to accurately report application end times.
3. Add a checkbox to CAC inspection forms to require inspectors to evaluate compliance with the schools regulation.

We also discussed the following remedies, to which DPR did not commit:

1. Require CACs to require an NOI for all applications that are within 1/4 mile of schoolsites and that would use an application method restricted by the schools regulation. CACs already have this authority under FAC section 14006.6 but there is no requirement that they implement it.
2. Change permitting and/or PUR reporting requirements to require growers to demarcate fields that cross the buffer zone and report separately on the portions within ¼ mile of schoolsites.
3. Change PUR reporting requirements so that the reported application method aligns with the schools regulation.
4. Amend guidance for Enforcement Branch Liaisons to include evaluation of CAC enforcement of the schools regulation when conducting CAC performance evaluations.

Our understanding of DPR's view is that amending PUR reporting requirements would involve a regulation change, and that the remedies discussed here addressed just one concern about PUR among many that DPR is considering. Further, you expressed that requiring NOIs based on location and application method might meet with resistance but agreed to consider it.

The Pesticide Use Near Schoolsites regulation is broken and must be fixed

As we discussed in the meeting and outlined in [our letter to you dated March 9, 2021](#), the schools regulation provides critically needed protection for California's children, the majority of them Latinx, who attend schools and daycares located near treated fields. The regulation took many years to develop, and was broadly welcomed as an important safeguard. As you noted, the safety of applications near schools is a priority for CACs. Since DPR is in agreement that the regulation is not currently enforceable, we urge you in the strongest possible terms to embrace a real remedy to close these enforcement loopholes. We do not consider the small voluntary measures proposed in the July 8 meeting to be adequate.

Moving forward, we ask that you:

- i. Notify us of upcoming Spraysafe events so that we can understand how this information is being presented to CACs and growers.
- ii. Share with us a copy of the revised CAC inspection form.
- iii. Update Volume 4 (Inspection Procedures) of the Enforcement Compendium to reflect the required changes.
- iv. Publicly commit to a plan to adequately address and correct the unenforceability of the schools regulation. Again, we do not consider voluntary measures to be adequate.

Sincerely,

A handwritten signature in blue ink that reads "Jane Sellen Sarah C. Aird".

Jane Sellen and Sarah Aird, Co-Directors, Californians for Pesticide Reform

A handwritten signature in black ink that reads "Anne Katten".

Anne Katten, Pesticide and Worker Safety Project Director, California Rural Legal Assistance Foundation

Mike Zeiss, PhD, Former DPR Scientist (2007 - 2017)

CC: Julie Henderson, DPR Acting Director
Martha Sanchez, DPR Environmental Justice Liaison
Yana Garcia, CalEPA Deputy Secretary for Environmental Justice
Aimee Norman, DPR IPM Branch Chief, DPR