



February 4, 2022

Julissa de Gonzalez
Director of Legislation and Policy
California Department of Pesticide Regulation

Dear Ms. Gonzalez,

We look forward to meeting with you on February 10 to discuss a range of issues, including enforcement of the 2018 regulation "Pesticide Use Near Schoolsites."

When we met with the Department in July 2021, DPR leadership concurred with our findings about enforceability problems with the regulation (table attached below). We understand that DPR believes that the necessary fixes would require a regulation. If a regulation is needed, we understand that DPR would prefer to include a fix to the schools regulation within a broad regulatory overhaul of the Pesticide Use Reporting system, addressing a range of other issues at the same time. DPR has previously expressed a preference for voluntary measures to increase compliance with the schools regulation. We now understand that DPR plans to revise inspection forms by March 2022 and to "[assist] in outreach planning with CACs with growers that have fields adjacent to or partially within school buffer zones" (email from Eryn Shimizu, 1/31/22).

We continue to believe voluntary measures are insufficient, and would like to propose the following solutions to the enforceability issues we have identified:

1) Require separate site ID numbers for each portion of a field located within 1/4 mile of a schoolsite. (Site IDs are covered by 3 CCR 6623.)

2) For the Notices of Intent (NOIs) from fields within a ¼ mile of schoolsites, require not only the information specified by 3 CCR 6434, but also the estimated start and end times for the application.

3) Although 3 CCR 6434 already does require "Method of Application", for NOIs for fields within ¼ mile of schoolsites, require that the method description be specific enough to allow County Agricultural Commissioners to determine if the combination of method, active ingredient and end time would constitute a disallowed application under the schools regulation (specifically 3 CCR 6691).

4) For fields located within 1/4 mile of a schoolsite, require that PUR reports likewise specify application start and end times and the application method with sufficient specificity to allow for determination of compliance with the schools regulation. (PUR reports are covered by 3 CCR 6626 and by reference, 3 CCR 6624).


5) Require NOIs for all applications on all fields located within 1/4 mile of schoolsites. (NOIs are covered by 3 CCR 6434.)

At our February 10 meeting, please provide responses to the following questions:

- 1a. Which, if any, of these five actions would require rulemaking?
- 1b. What is DPR's proposed timeline for undertaking such rulemaking?
- 1c. Will DPR commit to commencing a regulatory process narrowly focused on amending the reporting requirements to align with the schools regulation?
- 2a. Which, if any, of these five actions does DPR have authority to implement without rulemaking?
- 2b. What is DPR's timeline for such implementation?
- 3a. Does DPR now have concerns about the data we presented regarding lack of enforceability?
- 3b. If there are concerns, will DPR please share their analysis and indicate areas of disagreement?

We look forward to meeting with you to discuss this and other pending issues.

Sincerely,



Jane Sellen, CPR Co-Director

Margaret Reeves, PAN Senior Scientist

Anne Katten, CRLAF Pesticide and Work Health and Safety Specialist

CC:

Julie Henderson, julie.henderson@cdpr.ca.gov

Karen Morrison, karen.morrison@cdpr.ca.gov

Leia Bailey, Leia.Bailey@cdpr.ca.gov

Jared Blumenfeld, jared.blumenfeld@calepa.ca.gov

Ken Everett, ken.everett@cdpr.ca.gov

School Ground-Truthing Update

Goal: Understand enforcement of and compliance with the school pesticide regulation ([3 CCR § 6691](#)) by examining Pesticide Use Reports (PURs) for fields within ¼ mile of schools in five California counties, and NOVs issued for violations of section 6691 since January 1, 2018.

Methodology:

- Examined PURs for 2018-19 school year for selected schools in five counties: Fresno, Kern, Sonoma, Tulare, Ventura
- Identifying potential violations:
 1. Identify all applications that took place during restricted time (6am-6pm on school day for non-fumigants, within 36 hours of school for fumigants)
 2. Identify applications that most likely used a high-drift application method prohibited by the regulation (PURs do not line up neatly with regulation, some educated guessing involved based on type of pesticide applied)
 3. Identify applications that most likely fell within buffer zone by looking at percentage of the field that was treated (PURs in our data set only identify that application took place *somewhere* on a field that is at least *partially* within buffer zone, does not necessarily mean application itself was within ¼ mile buffer)
- Examined NOV/NOPAs issued in each county since the regulation was enacted

Findings:

- Only three fumigant applications during restricted time, all in Ventura County
- Largest number of likely violations found at: Raisin City Elementary (Fresno County), Vineland Elementary (Kern County), and Tierra Vista Elementary (Ventura County).
- Summary table on Page 2 provides more complete overview of findings.

County	NOVs/NOPAs Issued In County	Potential Violations At Our Schools*
Fresno	2	97
Kern	1	99
Sonoma	2	25
Tulare	0	89
Ventura	1	89

*Applications to 100% of the field with class of pesticide that are most likely to be restricted by 3 CCR § 6691 (fumigants, aerial applications, ground applications of fungicide, spreader-stickers, or insecticides)

Next Steps:

We would like to proceed in a manner that will be most useful to this coalition and our community partners.

School Pesticide Ground-Truthing – Summary of PUR Data

County/School	Total Applications from August 2018 – June 2019	Total Applications 6am – 6pm School Day	Total Applications of Likely Prohibited Methods	Potential Violations – At least 70% of Field Treated	Potential Violations – At least 90% of Field Treated	Potential Violations – 100% of Field Treated
Fresno	574	163	122	121	104	97
A.L. Conner Elementary	4	0	0	0	0	0
Cantua Elementary	90	0	0	0	0	0
Del Rey Elementary	134	46	29	29	12	5
Raisin City Elementary	316	117	93	92	92	92
San Joaquin Elementary	30	0	0	0	0	0
Kern	580	165	118	99	99	99
Bear Mountain Elementary	36	3	1	1	1	1
El Camino Real	12	3	9	0	0	0
Mountain View Middle Sch.	12	4	4	4	4	4
Sequoia Elementary Sch.	91	13	6	5	5	5
Sunset Daycare	194	Need Calendar	-	-	-	-
Vineland Elementary Sch.	235	142	98	89	89	89
Sonoma	364	119	88	51	39	25
Apple Blossom/Orchard View	150	27	23	6	2	0
Forestville Elementary	47	15	12	7	7	4
Guerneville Sch.	30	12	9	8	8	0
Reach Charter Sch.	No Fields w/in Buffer	-	-	-	-	-
Twin Hills Sch.	137	65	44	30	22	21
Tulare	591	150	91	91	91	89
Carl F. Smith Middle Sch.	47	4	1	1	1	1
El Monte Middle Sch.	101	33	23	23	23	23
Lindsay High School	198	47	34	34	34	32
Sunnyside Union Elementary	196	36	23	23	23	23
Woodville Elementary Sch.	49	30	18	10	10	10
Ventura	1871	211	337	115	109	89
ACE Charter Sch.	52	Need Calendar	-	-	-	-
Briggs Elementary	1272	365 (w/o greenhouse)	135	14	14	14
Juan Lagunas Soria Elem.	No Fields w/in Buffer	-	-	-	-	-
Rio Del Valle	340	99	94	6	6	6
Tierra Vista Elementary	207	112	108	95	89	69