



MONTEREY BAY CENTRAL LABOR COUNCIL, AFL-CIO

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Dear Commissioner Lauritzen:

On behalf of the Safe Strawberry Monterey Bay Working Group and the Monterey Bay Central Labor Council, I thank you for participating in our September 10th meeting and for bringing together esteemed guests from your office, the Department of Pesticide Regulation, and the US Environmental Protection Agency. We truly appreciate the time and effort you and your group took in meeting with us.

Our concern is that we are not in a better place for mutual understanding after this meeting. While we believe your call for a non-confrontational relationship at the beginning of the meeting was sincere, frankly, your repeated assertions just minutes later that “[t]he reality is we don’t have the authority” to create pesticide protective “buffer zones” around schools, were confounding and indeed confrontational. Going forward, we must understand how you justify the position you have taken regarding the authority of the County Agricultural Commissioner. For clarity, we want to know in writing.

Our position is that the legal authority of the County Ag Commissioner to create buffer zones is in at least Sections 11503, 11503.5, and 14006.5 of the California Food and Agricultural Code.

a. 11503: “The commissioner of any county may adopt regulations applicable in his or her county which are supplemental to those of the director which govern the conduct of pest control operations and records and reports of those operations ...”

b. 11503.5: “The county agricultural commissioner may apply Section 11503 to the agricultural use of any pesticide for agricultural production within one-quarter mile of a school with respect to the timing, notification, and method of application. Any regulations adopted pursuant to this section shall become operative unless specifically disapproved in writing by the director within 30 calendar days of their submission by the commissioner.

c. 14006.5. “... Before issuing a permit for any pesticide the commissioner shall consider local conditions including, but not limited to, the following:

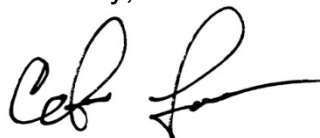
(a) Use in vicinity of schools, dwellings, hospitals, recreational areas, and livestock enclosures ... “

The fact also remains that County Ag Commissioners have used this authority, including the attached permit conditions from the Kern County Ag Commissioner (from Kern County Ag Commissioner website at <http://www.kernag.com/ep/forms/kern-general-permit-conditions.pdf>).

The extent of your authority to act to protect Monterey County residents from the threat of harmful pesticides has become a central concern of our group, since your comments at our meeting. Your claims of “no authority” to create buffer zones were a surprise to us, given our reading of the law and the actions of other county agricultural commissioners. Improved communication and understanding around this issue is essential to building a trusting relationship with you and your office.

We look forward to your timely response in writing.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ceb' followed by a stylized flourish.

Executive Director, Monterey Bay Central Labor Council
And Member, Safe Strawberry Monterey Bay Working Group

ENCLOSED

CC: DPR and US EPA

KERN COUNTY - GENERAL PERMIT CONDITIONS

THE FOLLOWING CONDITIONS APPLY TO ALL KERN COUNTY RESTRICTED MATERIALS PERMITS EXCEPT THOSE SPECIFICALLY CONDITIONED OTHERWISE.

I. DRIFT PREVENTION

- a. No pesticide application shall be made or continued if the material is unable to be confined to the target area.
- b. The applicator is responsible for utilizing buffer zones and other mitigation measures to prevent drift or other hazards.
- c. Apply only when wind speed is less than 10 mph at application site.
- d. Discharge shall start only after entering site.
- e. Discharge shall stop prior to exiting site.

II. SCHOOL BUFFER ZONES and RESTRICTIONS

- a. **No applications of Restricted Materials are to be made within ¼ mile of a school in session or during school sponsored activities when children are present.**
- b. No restricted material may be applied at a school site while school is in session or during school sponsored activities when children are present.
- c. A notice of intent (NOI) shall be submitted at least 24 hours prior to the use of restricted materials.

III. AERIAL APPLICATIONS

No aerial applications of Restricted Materials are to be made within 1/4 mile of:

- a residential area
- occupied labor camp
- other areas designated by the Commissioner

IV. GROWER / EMPLOYER – Responsibilities

- a. The permittee (grower) shall provide a copy of his Restricted Materials Permit to each of his Pest Control Operators and pesticide dealers.
- b. The “Notice of Intent” may be submitted by the person making the application, but the final responsibility for filing rests with the Permittee.
- c. A completed copy of the Pesticide Safety Information Series (PSIS-A8) pertaining to Hazard Communication information for employees handling pesticides shall be displayed by the employer. All other Appropriate “Pesticide Safety Information Leaflets” shall be accessible to employees who handle pesticides.
- d. A completed copy of the Pesticide Safety Information Series (PSIS-A9) pertaining to Hazard Communication for field workers shall be displayed at the work site.

- e. Applications of all pesticides by the grower or his employees must be followed by a Pesticide Use Report for each site location within ten (10) days after the end of the month. Failure to submit Use Reports may result in enforcement action such as permit cancellation and Agricultural Civil Penalty Fines.

V. **ALMOND – BEE PROTECTION POLICY**

Because of the necessity for bees to pollinate almonds and the need to treat crops nearby, the following procedures will be in effect: Applications of Methyl Parathion (PennCap-M®), Carbaryl (Sevin®) and Carbofuran (Furadan®) shall not be made within one mile of almond orchards that are being pollinated by bees, except when there are no blooming plants (including weed bloom) in the treatment area. (A statement of this condition must be on the PCA's written recommendation). For all other applications of pesticides toxic to bees, the applicator shall follow label directions.

VI. **PERMIT CONDITIONS FOR TRIBUFOS (DEF and Folex)**

No employee shall be directed or allowed to conduct any activities that may involve human contact with foliage, within the treated area, until seven days after an application of tribufos.

VII. **PERMIT CONDITIONS FOR PARAQUAT (Gramoxone and Starfire)**

Persons working as applicators or flaggers (except applicators working in an enclosed cab or flaggers working in an enclosed vehicle) shall wear a dust/mist respirator approved by MSHA/NIOSH (number prefix TC-84-A).

VIII. **PILOT PROJECT TO PROTECT AGRICULTURAL WORKERS**

The "Pilot Project to Protect Agricultural Workers" was established as a means to improve communication between agricultural neighbors in an attempt to reduce pesticide related incidents. The Pilot Project Area is that portion of the San Joaquin Valley of Kern County, South of Highway 58, and East of Highway 99. The Kern County Department of Agriculture and Measurement Standards will notify adjacent growers of applications of Restricted Materials requiring a Notice of Intent (NOI) within the Pilot Project Area. Growers proposing applications of Restricted Material within the Pilot Project Area will be provided with information regarding their agricultural neighbors. Sites within the Pilot Project Area will be designated on the permit with the statement "**PPA-48 HOUR NOI REQUIRED**". Notice of Intents to apply Restricted Materials within the Pilot Project Area must be submitted 48 hours prior to the proposed application.

Applicant's Initials: _____

revised 12/09