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BUFFER ZONES

	Comment/Response	Commenter
1A	<p>Part-time, ¼ mile buffer zones will not protect California children from hazardous pesticides.</p> <p><i>DPR's evaluation of available data and current requirements indicates that the health risk to children and others is low. However, this low risk reflects compliance with current requirements in normal situations and does not account for exceptional circumstances or violations. More than a million pesticide applications are made to agricultural crops each year in California. Given the large number of applications that occur around schools, the risk of potential exposure, while small, is still present. Since the dose that may cause adverse effects in children may be lower than adults, there may be disproportionate impacts to children when unintended drift occurs.</i></p> <p><i>A ¼ mile distance is consistent with many county restricted materials permit conditions issued by the county agricultural commissioners (CACs). CACs have placed additional restrictions keyed to this distance on applications around schools that appear to be effective and feasible. Many have been in effect for several years, with few complaints or illnesses at schools and acceptance and compliance by the property operators.</i></p> <p><i>A ¼ mile distance is similar to the restrictions on fumigant labels that prohibit closer applications around schools and other difficult to evacuate sites.</i></p> <p><i>The ¼ mile distance is consistent with Food and Agricultural Code (FAC) section 11503.5. This statute gives CACs the authority to adopt a county regulation regarding the timing, application method, and notification of pesticide applications within ¼ mile of a school through a rulemaking process and contingent on DPR's approval. This regulation essentially implements the intent of that legislation without requiring each county to go through an extended process and provides the same level of protection to school children regardless of where they live.</i></p> <p><i>See response to Comment 1B regarding part-time buffer zones.</i></p>	<p>PC1-923SAC; B23; 14; TUL(1,30,36,46,51); OXN-32; SAL(14, 53, 62)</p>

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<p>2A</p>	<p>Buffer zone should be extended around schools to one mile.</p> <p><i>See responses to Comments 1A and 3A.</i></p>	<p>B1-5; B7;B9-11; B13-17; B19-22; B24-27;B29; K194, K196;Y1-5; 45, 46, 50,106; TUL(2,3,5,9,19,24,25,29,39,44,47,52); OXN-36; SAL(12,13,16,23,31,38,51,55, 59,68,75)</p>
<p>3A</p>	<p>Buffer zones around schools must be 1 mile. Study show that pesticides drift further than ¼ mile; the only comprehensive, national report of drift-related pesticide poisoning occurred more than ¼ mile from the application site. In addition to acute poisoning, the long-term health effects of pesticide exposure show up at distances far beyond ¼ mile. A UC Davis MIND Institute study documented significantly increased rates of autism in children of mothers who lived up to 1 mile from fields, and the UC Berkeley CHAMACOS study of farmworker families in Salinas found contamination from the neurotoxic insecticide chlorpyrifos in homes up to 1.8 miles from treated fields.</p> <p><i>DPR considered other distances, particularly a one mile distance, but the cited studies and other studies do not provide sufficient support for a one mile distance. DPR is mandated by law to protect human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. As part of this mandate, DPR assesses the health risks of pesticides by evaluating potential health effects and potential exposures. The cited studies are important for providing valuable insight into potential human health effects and adding to the overall weight of evidence considered by DPR scientists in health risk assessments. While many of these studies provide a statistical correlation or association between pesticide exposure and potential health effects, the studies do not provide a direct link between pesticide use and quantified exposure in the populations of concern. As such, DPR cannot use the study results as a scientific basis for a regulation pertaining to schools because:</i></p> <ul style="list-style-type: none"> • <i>They evaluated pesticide use without direct exposure measurements.</i> • <i>They did not establish a threshold for a potential toxic effect.</i> • <i>They evaluated variable mixtures of pesticides, primarily organophosphates.</i> • <i>They primarily evaluated pregnant women.</i> <p><i>In order to establish a scientifically-based buffer distance, a threshold exposure level for a potential</i></p>	<p>S1-159; Z1-3; 7, 120</p>

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	<p><i>toxic effect must be determined, and the distance at which that threshold level may occur must be estimated. Different pesticides would have a different threshold and distance, and the cited studies do not provide sufficient data for any pesticides. If DPR concluded that the cited studies provide substantial evidence of the need for measures to reduce organophosphate exposure to pregnant women, DPR would mitigate with a separate set of requirements to address this risk for those pesticides. However these studies would not provide evidence to support any measures to mitigate for all or any other pesticides.</i></p>	
<p>4A</p>	<p>DPR should require 1 mile buffer zones for pesticides of public health concern between fields where these pesticides are used and schools, child care centers, school bus stops, and known school routes. Pesticides of public health concern include pesticides that show evidence of causing cancer, reproductive damage, harm to the brain and nervous system, and asthma and other respiratory problems. Protection zones of ¼ mile are simply not adequate for health protection.</p> <p><i>See response to Comment 3A regarding one-mile buffers.</i></p> <p><i>DPR modified the proposed definition to clarify that bus stops, or vehicles and other sites outside schoolsite properties are not included. The locations of bus stops and routes can vary. Even if the locations can be determined, the boundaries of bus stops and routes are uncertain, making compliance and enforcement of the buffer distance problematic. Also, children do not occupy buses or bus stops during most of the time between the 6:00 a.m. to 6:00 p.m. time period, and therefore the application restrictions are unreasonable.</i></p>	<p>H1-85;H87-100; 36, 44, 100; 101;</p>
<p>5A</p>	<p>Should have 1 mile buffer from all schools and residential areas.</p> <p><i>See response to Comment 3A.</i></p>	<p>B6; B12; B28; C1-31; K1-193; K195; 98</p>
<p>6A</p>	<p>DPR should provide a 1 mile buffer zone as opposed to a ¼ mile buffer zone. In analyzing a 1 mile buffer zone as a reasonable alternative, DPR disregards scientific studies that demonstrate that larger buffer zones will significantly decrease pesticide exposure for children. DPR incorrectly concludes that the buffer zone’s margin of safety is “speculative” and not directly correlated with the size of the buffer zone. The studies are conclusive.</p> <p><i>See response to Comment 3A.</i></p>	<p>122</p>

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<p>7A</p>	<p>The Initial Statement of Reasons (ISR) addressed and dismissed the UC Davis MIND Institute and CHAMACOS studies. It includes a false claim that the selection of a quarter mile buffer zone is supported by the Lee study (“Acute Pesticide Illness Associated with Off-Target Pesticide Drift from Agricultural Applications: 11 States, 1998-2006”). DPR’s assertion that most of the drift cases in the study would not have taken place with current fumigant use restrictions does not obviate the study’s core finding that pesticides routinely drift much further than a ¼ mile. The UC Davis study finding is dismissed on the ground that its focus was not schools but the homes of pregnant women and the later health consequences for their children. The study’s findings of exposure in homes up to a mile from pesticide applications and related health risks provide support for a 1 mile protective zone at schools and childcare facilities to protect young children and also the fetuses of pregnant teachers and students.</p> <p><i>See response to Comment 3A and 21A.</i></p>	<p>120</p>
<p>8A</p>	<p>Protective buffer zones should apply to all applications of pesticides of public health concern, pesticides labeled “Danger-Poison,” and pesticides designated as California-restricted materials. The ¼ mile buffer zone proposed in the draft regulations applies to specific drift-prone application methods, with minimal (25 foot) or no buffer zone required for application methods that are less drift-prone. DPR needs to substantially increase required buffer zones for the most hazardous pesticides regardless of application method.</p> <p><i>DPR’s evaluation of available data and current requirements indicates that the health risk to children and others is low, including pesticides labeled “Danger-Poison” and restricted materials. However, this low risk reflects compliance with current requirements in normal situations and does not account for exceptional circumstances or violations. In part, this regulation addresses unintended drift and higher than expected potential exposures that may occur with any pesticide from unexpected circumstances.</i></p>	<p>H99; 71, 91, 120</p>
<p>9A</p>	<p>The ISR does not explain how DPR determined that a minimal buffer zone of 25 feet for ground-rig sprayers, and no buffer zone at all for most hand applications or greenhouse applications, would adequately protect children from pesticide exposure. Larger buffer zones are needed to protect from exposure to pesticides of public health concern during all outdoor pesticide applications because equipment can malfunction, weather conditions can change rapidly, and children can be exposed when greenhouse exhaust fans are operated after pesticide applications.</p>	<p>89, 120</p>

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	<p><i>As described in the ISR, 25 feet is consistent with the minimum distance for pesticides with buffer zones to mitigate acute bystander exposure as specified by labels, and/or DPR requirements, including U.S. Environmental Protection Agency's (EPA's) recent revisions to its Worker Protection Standard regulation. The 25-foot distance in the proposed regulation will provide a consistent minimum level of protection for all pesticide applications near schools/child day care facilities. Consistency with current buffer distances on these types of pesticides is not only protective of public health, but will also make compliance and enforcement oversight less complicated.</i></p> <p><i>Current requirements, particularly Title 3, California Code of Regulations section 6614, address the other concerns of these comments. Section 6614 provides a fundamental level of protection by requiring an applicator to evaluate the weather and surrounding properties before and during an application to determine if there is a reasonable possibility of contamination of bystanders, public or private property, or if the application would prevent the normal use of property or create a health hazard.</i></p>	
<p>10A</p>	<p>Dispute DPR's conclusion that evaluation of toxicity and exposure indicate that the risk to children from agricultural pesticides applied near schools is low for most pesticides. This exposure evaluation was limited in scope and relied solely on 2014 reports on air monitoring for air levels of only three fumigants at two schools which are located close to agricultural fields; and more extensive pesticide air monitoring at one school, Shafter High School, located more than ¼ mile from agricultural fields.</p> <p><i>The cited reports include monitoring at six sites, including three schools. Three fumigants were monitored at three of the sites and 32 pesticides were monitored at the other three sites. These sites were selected because they are in areas of high use of the monitored pesticides, and are more likely to detect higher air concentrations than other sites. Beginning in 2017, the air monitoring will be expanded to eight sites, with all 32 pesticides monitored at each site. Since this regulation and existing permit conditions provide additional protections for schools, it's possible if not likely that schools will have lower air concentrations than other monitoring sites, all other factors being equal.</i></p>	<p>45, 118</p>
<p>11A</p>	<p>At Shafter High School, in 2014 the carcinogenic pesticide chlorothalonil was detected in 77 percent of samples and the neurotoxic pesticide chlorpyrifos or its oxon was detected in 62 percent of samples</p>	<p>118</p>

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	<p>even though the nearest use of these pesticides was more than ¼ mile from the school. Many schools are located in areas of more concentrated chlorothalonil and chlorpyrifos use.</p> <p><i>A high frequency of detection does not indicate unacceptable exposures. Most of the detections cited were at trace levels and could not be quantified, indicating a low risk. Also see response to Comment 10A.</i></p>	
<p>12A</p>	<p>The potential for exposure to contaminated dust was not evaluated in any of those reports. Neither DPR nor any other state agency has conducted any air monitoring near child care centers. Toxicity evaluation in these reports also failed to examine combined exposures to multiple fumigants.</p> <p><i>See response to Comment 10A. The cited reports compare measured air concentrations to health screening levels. This is not a toxicity evaluation.</i></p>	<p>118</p>
<p>13A</p>	<p>The statement “For pesticides and situations that are identified through the evaluation process as having the potential for posing unacceptable risks, DPR imposes mitigation measures to address the risks” side steps central weaknesses of DPR’s regulatory program. There is a huge backlog of pesticides awaiting completion of the risk characterization process, including many identified as carcinogens, potential neurodevelopmental toxicants and respiratory irritants. Once risk characterizations are completed there can be a large time lag before mitigation measures are adopted.</p> <p><i>It is true that DPR has not yet conducted comprehensive risk assessments for many pesticides. However, it prioritizes and monitors for those pesticides expected to have the highest risk. State law requires DPR to provide substantial evidence of a need for a regulation. Additionally, other pesticide regulatory activities may trigger mitigation prior to a comprehensive risk assessment by DPR. For example, DPR conducts a preliminary evaluation of potential health effects prior to registering a new active ingredient. This evaluation may cause DPR to request additional data or mitigation measures prior to registration, or DPR may deny registration. Also, U.S. EPA conducts comprehensive risk assessments, and may identify and mitigate potential unacceptable exposures before DPR.</i></p>	<p>118</p>
<p>14A</p>	<p>There is ample scientific evidence demonstrating that children have increased exposure to pesticides and increased sensitivity to some pesticides and that some pesticides have been shown to cause effects</p>	<p>118</p>

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	<p>to a child’s developing nervous system so the words “potentially” and “may” should be stricken from the third paragraph of the ISR. Some of the findings of recent epidemiological studies including the CHAMACOS study findings regarding association of elevated organophosphate exposure with neurodevelopmental problems and exacerbated asthma symptoms should be included in the Final Statement of Reasons.</p> <p><i>See response to Comment 3A.</i></p>	
<p>15A</p>	<p>While it is true that a common permit condition (in some counties) for restricted pesticides requires a ¼ mile distance from aerial applications to a school, it should be noted that Imperial County imposes a 1 mile buffer zone for aerial applications and ½ mile buffer zone for other restricted material applications when school or daycare is in session or school grounds are occupied, and San Luis Obispo County imposes a ½ mile buffer zone for aerial applications. These county restrictions support the need for a more protective standard which maintains the buffer zones whenever school grounds are occupied and requires a ½ mile or 1 mile buffer zone for aerial pesticide applications.</p> <p><i>Those counties implemented restrictions based on evaluations of local conditions. This regulation is designed to provide minimum statewide standards for all agricultural pesticide applications near public K-12 schools and child day care facilities. This regulation does not override any county permit conditions, and they will remain in effect where they are more stringent.</i></p>	<p>118</p>
<p>16A</p>	<p>The proposed ¼ mile buffer zone size is not adequate for protection of children from harmful levels of exposure to fumigants and for other pesticides of public health concern applied by drift-prone methods. Air levels of the fumigant 1,3-dichloropropene measured at Shafter High School indicate an elevated cancer risk level even though this school is over ¼ mile from the nearest fumigated field. These risks call for a more protective standard and a 1 mile buffer zone.</p> <p><i>Air monitoring for 1,3-dichloropropene at Shafter High School shows an acceptable cancer risk. DPR’s regulatory goal is for the 70-year average concentration not to exceed 2,600 ng/m³. The monitoring between 2011 and 2016 shows that the 6-year average was 1,078 ng/m³.</i></p>	<p>I1-78; 7, 47, 118</p>
<p>17A</p>	<p>The 25 foot buffer zones are far too small for other pesticide application methods, especially for more toxic pesticides that are known to cause cancer or damage to the nervous system.</p>	<p>G24-121; H1, H5, H8,H11-12, H17-20, H24, H26, H28,</p>

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	<p><i>See responses to Comments 9A and 10A.</i></p>	<p>H30, H35-40, H43-52, H54 H56, H59, H62-63, H65, H69-71, H92-93, H95-96; 102</p>
<p>18A</p>	<p>The UC Berkeley CHAMACOS latest study finds IQ loss for 7 year old for every 522 pounds of organophosphate applied within .62 miles of their mothers when they were pregnant. Since ¼ mile is shorter than .62 mile the regulations do not protect schoolchildren from brain-harming pesticides.</p> <p><i>We believe the commenter has misinterpreted the study. See response to Comment 3A.</i></p>	<p>I1-62, I64-78; H98; T2; Z1-3; 7;</p>
<p>18A1</p>	<p>The proposed 25 foot buffer zone for ground rig applications and no buffer zone for hand, backpack, and greenhouse applications do not provide adequate protection of children from harmful levels of exposure to pesticides of public health concern, including particularly organophosphate insecticides and carcinogenic pesticides. Exposure to drift can be expected to occur at greater distances if weather conditions change rapidly, equipment leaks or an applicator misjudges weather conditions. Exposure to pesticide contaminated air can also be expected when a greenhouse is ventilated after a pesticide application. Based on these risks, ¼ mile buffer zones should be required for all these applications for adequate margin of safety. We agree that bait stations have little drift potential.</p> <p><i>See response to Comment 9A.</i></p>	<p>118</p>
<p>19A</p>	<p>Oppose the ¼ mile buffer zone for listed applications in proposed section 6691. However, should DPR proceed to move forward, suggest the following alternative - DPR will mandate CACs to develop annual action plans that require collaboration with school administrators, agricultural representatives, and other relevant stakeholders to discuss agricultural pesticide use for the upcoming year. CACs will determine the appropriate action for chemicals identified as likely to be applied during the upcoming season, collection and maintenance of that information, and a mechanism for public accessibility.</p> <p><i>The suggested alternative is infeasible because: 1) DPR lacks legal authority to require a school principal or other administrators to take any actions, including collaborating in developing action plans; and 2) this would place undue burden on CACs. Additionally, FAC section 11503.5 already provides legal authority to CACs to develop such plans unilaterally.</i></p>	<p>113, 115, 126</p>

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<p>20A</p>	<p>DPR’s own air-monitoring network has shown ¼-mile buffer zones to be inadequate. The air monitor at Shafter High School in Kern County has registered over the last four years average concentrations of the toxic fumigant Telone at 17 percent of DPR’s previous lifetime cancer risk level of concern, which agency risk assessment experts continue to support. This despite ¼-mile buffer zones for schools in Kern County and zero Telone applications within ¼-mile of the school. UC Berkeley and UC Davis studies have linked prenatal brain-harming exposure to organophosphates to pesticide applications up to a mile away.</p> <p><i>See responses to Comments 3A and 16A.</i></p>	<p>H1-30; H32-85; H87-96; H98-100; 92 120</p>
<p>21A</p>	<p>Section 6690 - We strongly support inclusion of both schools and child care centers. Some provisions of the regulation need to be extended to within 1 mile of schoolsites to provide adequate protection from pesticide inhalation. We dispute the conclusion that selection of the ¼ mile distance is supported by the analysis of pesticide illnesses due to drift from agricultural applications in Lee, et al (2011). In fact, the Lee study demonstrates that a ¼ mile distance does not provide an adequate margin of safety when weather conditions change rapidly, tarps are damaged by wind or other situations where current fumigant restrictions are not followed.</p> <p><i>DPR used the Lee study as part of the justification for the need for a regulation. However, it was not used as the basis for setting the appropriate distances because it did not provide exposure estimates. Also, it examined illnesses during 1998-2006, and significant regulatory changes have been made for fumigants since then.</i></p>	<p>118</p>
<p>22A</p>	<p>This will likely cause undue concern for teachers and parents when a crop protection product is applied within a ¼ mile of a public school or child day care facility.</p> <p><i>The regulation requires the notifications to include sources of additional information for pesticides if concerns are generated. Growers may voluntarily include additional information in the notifications to address any specific local concerns.</i></p>	<p>108, 109; M, O</p>
<p>23A</p>	<p>The overwhelming record of applications compared to incidences at schools demonstrates clearly that this rule is not necessary. DPR’s own data demonstrates that schools have not been affected by drift. The process that was used to create the proposed regulation ignores the fact that real world data clearly</p>	<p>23A, 109, 112</p>

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	<p>demonstrates the current labeling, training, science and regulation is effective in protecting schools. The need for this proposed rule is questionable at best because the existing regulations are working.</p> <p><i>DPR's risk assessments assume that all requirements are followed and no problems occur. DPR's data show that violations and pesticide illnesses, while infrequent, do occur.</i></p>	
<p>24A</p>	<p>Mandating an unscientific and arbitrary buffer zone of a ¼ mile effectively results in the taking of property for many growers. They may have to change what commodities to grow and many will simply be forced to take cropland out of production.</p> <p><i>The regulation forces a shift in days or times of pesticide application. It does not prohibit use within ¼ mile. Based on an economic analysis by UC Davis, the annual statewide cost of the application restrictions is \$0.59 – \$1.18 million, with no cropland forced out of production. A recent Supreme Court decision contradicts the conclusion that this regulation is a taking.</i></p>	<p>109, 114</p>
<p>25A</p>	<p>The proposed requirements remove critical flexibility afforded by U.S. EPA Phase II fumigant labels. The Phase II fumigant labels give growers the ability to manage school proximity restriction impacts on their farming operations by utilizing fumigant application options that reduce the buffer zone distances.</p> <p><i>The fumigant labels do provide flexibility because they allow the user to reduce the buffer from ⅛ to ¼ by size of the application. Labels for most fumigant products already require a ⅛ mile or ¼ mile distance to schoolsites and other “difficult to evacuate” sites, depending on the size of the buffer zone. Growers and applicators frequently manage the buffer zone size so that a ⅛ mile distance is required. This regulation will require a ¼ mile distance to schoolsites. Increasing the distance from ⅛ to ¼ mile means that the impact to fumigations is less than most other applications that will increase the schoolsite distance from zero to ¼ mile.</i></p>	<p>108</p>
<p>26A</p>	<p>Opposed to the ¼ mile buffer around public schools and child day care facilities for aerial and spray blast applications of crop protection products. The ¼ mile buffer would be a statewide standard and doesn't recognize that there are unique situations where flexibility is required. Uniform buffers are problematic as supported in a recent 9th Circuit Court of Appeals opinion which affirmed the position of U.S. EPA which stated that uniform buffers are not an appropriate standard for the use of crop protection products.</p>	<p>16, 109, 115, 126, OXN-5, SAL-1</p>

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	<i>DPR, in consultation with the California Department of Food and Agriculture and UC Extension specialists, could not identify any situations for which flexibility would be required for quarantine or similar applications. DPR acknowledges that the application restrictions will result in an economic cost to growers of \$0.59 to \$1.18 million annually (without notification costs). The Appeals Court decision does not apply to this regulation because it is not based on a risk assessment.</i>	
27A	Extend buffer zone to greater than a mile – preferably two miles. <i>See responses to Comments 1A and 3A.</i>	S85; 98, 129
28A	DPR should clarify the criteria they will use to determine the safety of their regulations based on current data derived from independent research, not rely on pesticide manufacturers' less rigorous data or customary practices. <i>See responses to Comments 1A and 3A.</i>	14
29A	Regulations are not based on science as the distance proposed is uniform statewide as opposed to site specific, chemical specific and method of application specific. <i>See responses to Comments 1A and 3A.</i>	125
30A	DPR should provide scientific validation and risk analysis to confirm that the ¼ mile buffer zone protects against carcinogenic pesticide exposure risks. <i>See responses to Comments 1A and 3A. Additionally, DPR addresses cancer and other long-term risks on a pesticide-by-pesticide basis, and is outside the scope of this regulation.</i>	107
31A	The proposed regulations should be amended to provide actual protection for students, both at schoolsites and during their commutes. The threat of exposure of children to pesticide drift does not occur only on their school campuses. Schools function as focal points for the morning and afternoon commutes of hundreds of thousands of students and many students travel to and from school by foot and bicycle, with commutes that can easily exceed 2 miles, and travel times that can exceed 30 minutes. California Department of Public Health (CDPH) and the California Department of Education support	106

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	<p>the Safe Routes to School (SR2S) initiative which promotes biking and walking to school. Consultation with these agencies should occur to determine how the proposed ¼ mile zone might adversely affect students participating in an SR2S program.</p> <p><i>See responses to Comments 1A, 3A, and 4A.</i></p>	
32A	<p>This regulation is extremely burdensome to farms and schools, and it is not clear exactly how it will provide an extra margin of safety. How did DPR decide on ¼ mile buffer? How is that better than what we are currently doing?</p> <p><i>See response to Comment 1A.</i></p>	23
33A	<p>This distance is 1320 feet. The most I have been drifted on is 150 feet. A more common sense distance would be 660 feet. This represents a distance in a ten acre field. This still has a safety margin of over four times.</p> <p><i>See response to Comment 1A.</i></p>	82
34A	<p>The most important error in the proposed regulation is the failure to understand the rate of fall, dispersion, and travel speed of different chemicals. In short, a quarter mile is insufficient for certain pesticides.</p> <p><i>See responses to Comments 1A and 10A.</i></p>	67
35A	<p>Any pesticide with a particle size under 75 microns should be restricted from application within a full mile of a school or daycare, and restricted from application in wind conditions exceeding 1 mile per hour. This allows for a full hour between time of application on the field and time of arrival at the school or daycare facility. Pesticides with a fall rate of 10 feet per hour will be mostly (but not completely) prevented from arriving on school grounds.</p> <p><i>See response to Comment 1A. Additionally, the commenter provided no justification for selecting a particle size threshold of 75 microns or 1 mile distance, and any particle size threshold or distance depends on an evaluation of potential exposures and establishing a level of acceptable exposure. The</i></p>	67

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	<i>commenter presumes that there is surface deposition of pesticides beyond the specified distance causing unacceptable dermal exposure. DPR's evaluations indicate that inhalation exposure usually has higher risk than dermal exposure to bystanders and the public.</i>	
36A	<p>Any pesticide with a particle size under 10 microns should be restricted as in comment 25A above, with the additional restriction that the wind direction not be within 20 degrees of the nearby school or daycare facility. No reasonable buffer distance can prevent these very fine particles from coating the facilities downwind. A distance of 10 miles would not be enough to allow these particles to fall to the ground, even under very low-wind conditions. Wind direction must also be taken into consideration.</p> <p><i>See response to Comment 35A. Additionally, it appears as if the commenter considers any pesticide deposition outside the specified distance unacceptable. DPR regulates the sale and use of pesticides in compliance with federal and state laws. These laws establish a no significant or no unreasonable adverse effect risk standard for mitigating potential health effects from pesticides. Requiring measures to achieve zero risk would be inconsistent with federal and state laws.</i></p>	67
37A	<p>Pesticides applied on the weekends still coat school facilities, including outdoor drinking fountains, play structures, doorknobs, and other surfaces. Any ag operator who sprays pesticides within the restricted range must be required to cover the cost of a thorough cleanup of the pesticide residue, as well as subsequent testing to ensure that cleanup was successful - prior to the arrival of children at the affected facility.</p> <p><i>See responses to Comments 35A and 36A.</i></p>	67
38A	<p>In many areas where specialty crops are produced there are schools and daycare centers operated adjacent to farm land. It would be very difficult to enforce the set-back requirement without adversely impacting the grower's cultural practices. For a grower to comply they would inevitably have to abandon several rows of production to create the "safe" buffer.</p> <p><i>See response to Comment 24A.</i></p>	20
39A	<p>The proposed ¼ mile buffer zone around schoolsites for certain pesticides is inadequate. Several of the reasons provided in the ISR for choosing this distance boil down to the fact that some other regulations</p>	77

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	<p>use the same or a similar distance for various kinds of buffers around schoolsites. This is not an adequate justification. A buffer distance should be chosen based on available data and a health-protective abundance of caution, not simply on precedent.</p> <p><i>This regulation provides a minimum statewide standard. For pesticides and situations that are identified through a health risk assessment as having the potential for posing unacceptable risks, DPR imposes mitigation measures to address the risks on a pesticide-by-pesticide basis. These measures, such as pesticide labeling, permit conditions, and regulations, may be more stringent than specified by this regulation.</i></p>	
<p>40A</p>	<p>The ISR does cite a study of pesticide illness, which it admits “documented illnesses more than one mile from applications.” However, it goes on to claim that these illnesses likely would not have occurred had current buffer requirements been in place. This claim is hard to understand: How could current buffer requirements of ¼ mile or less have prevented illnesses which occurred more than 1 mile away from the application?</p> <p><i>See response to Comment 21A.</i></p>	<p>77</p>
<p>41A</p>	<p>The ISR dismisses calls for a 1 mile buffer zone by dismissing the relevance of studies cited by commenters who suggested that distance--the CDPH study and a UC Davis study linking in utero pesticide exposure with the development of autism. The ISR makes the false claim discussed that the CDPH study has no relevance to assessments of health risks at schoolsites. It claims that the study “only looked at pesticide use within one-quarter mile of schools and provided no support for a more extensive buffer.” Yet the CDPH report authors state repeatedly that one of their goals is to “demonstrate an improved methodology” for measuring pesticide use near schools (e.g., p.2 of the study). DPR could have and should have adopted the CDPH methodology to study agricultural pesticide use at varying distances from schools and in counties not included in the CDPH study.</p> <p><i>It is infeasible to use the CDPH study because it estimated pesticide use, not pesticide exposure. Health risk is based on exposure not use. Exposure is based on methods of application, weather conditions, field conditions, and other factors in addition to use. Moreover, even if use was the only or primary factor in determining exposures, each pesticide would have a different acceptable use level. DPR could not scientifically or legally justify a single use level or buffer distance that would</i></p>	<p>77</p>

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	<i>apply to all pesticides.</i>	
42A	<p>The ISR provides some rather vague criticisms of UC Davis study’s methodology, which are hard to assess without further detail. One criticism elaborated in more detail is that the sample sizes in the study were small. In fact, there were hundreds of participants in this long-term longitudinal study. But even if the sample size is considered small, the ISR is incorrect when it states that “even with a finding of a significant correlation, the small sample size is a flag that such results may indicate the cases are atypical.” Statistical procedures incorporate sample size effects, and finding a significant correlation is less likely with a small sample. If the study’s sample size is to be considered small, the fact that significant correlations were identified is all the more remarkable.</p> <p><i>There are additional reasons why it is infeasible to use the UC Davis study to support this regulation. See response to Comment 3A.</i></p>	77
43A	<p>The ISR’s central criticism appears to be that the UC Davis study looked at prenatal pesticide exposure rather than exposure of children at schoolsites. While this is true, the UC Davis study’s findings of significant neurological effects at distances of over a mile should still raise red flags. If DPR considers the study not entirely relevant, there is an abundance of other studies of the effects of pesticide exposure on school-aged children which could have been consulted, rather than simply dismissing out of hand the study some commenters cited.</p> <p><i>See response to Comment 3A.</i></p>	77
44A	<p>ISR claims that “these two studies do not provide scientific justification for a one mile distance.” DPR has not provided any scientific justification for its chosen ¼ mile distance, so it’s unclear why commenters were expected to provide scientific justification for their suggestions. The final distance in the regulation should be scientifically justified. This will require DPR to perform additional research and analysis. Expanded use of the CDPH methodology is one appropriate tool. Combining this approach with the UC Davis methodology for estimating exposures (which does not apply only to prenatal exposures) could prove particularly fruitful.</p> <p><i>DPR provides a regulatory justification for the ¼ mile distance. As previously mentioned this regulation is designed to protect against exceptional circumstances or violations. See responses to</i></p>	77

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	<i>Comments 1A, 3A, and 41A.</i>	
45A	The buffers and application restrictions are reasonable and workable. <i>No responses needed.</i>	55
46A	The proposed distance is inadequate to protect the health and safety of pupils, staff and visitors of public schools. We suggest a one mile radius measured from the parcel boundary of the school site that is closest to the application and that there be a complete ban of pesticide use in that buffer area. <i>See responses to Comments 3A and 1B.</i>	35

TIME RESTRICTIONS

1B	<p>One mile buffer zones must be implemented 24 hours a day, 7 days a week.</p> <p><i>Some drift occurs with most pesticide applications. DPR’s statutory obligation is to protect the public from drift that would cause adverse health effects. One of the objectives of the regulation is to provide an extra margin of safety in case unintended drift or other problems with the application occur. The highest potential exposure to children from drift is during the application of pesticides. Therefore, an extra margin of safety is needed when pesticide applications occur while schoolsites are in session. The time of schoolsite sessions vary, and compliance and enforcement of a variable time period is problematic. Therefore, DPR selected a fixed time period for the application restrictions.</i></p> <p><i>Another objective of the regulation is to provide emergency preparedness information to schoolsite administrators. While children may be present at schoolsites outside the Monday – Friday, 6:00 a.m. – 6:00 p.m. period, schoolsite administrators are not normally present, so no emergency response measures by schoolsite administrators can occur. Activities supervised by schoolsite administrators outside the restriction period can be addressed on a case-by-case basis using the 3-party agreements specified in section 6991(f).</i></p>	<p>PC1-923SAC;B8; B12; B18;C1-31; D1-5;G1-121; I1-78; H86; J1-40; K1-193, K195, L1-72; T1-69; Z1-3; 7, 8, 14, 90, 92, 99, 102, 105; TUL(7,34); OXN(13,15,19,34); SAL(2,7,9,15,19-22, 29, 30, 32,34-36,43,45,47-50,69,70</p>
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	<p><i>DPR's evaluation of available data and current requirements indicates that the health risk to children and others is low, including dermal and inhalation exposure from expected and normal drift. Exposure from contact with contaminated surfaces following application is much lower than deposition during application. If unintended drift occurs, mitigation of exposure from contaminated surfaces, such as cleanup, is outside the scope of this regulation. Similarly, vapor or dust inhalation exposure from treated fields or contaminated surfaces following application is much lower than inhalation exposure during application.</i></p> <p><i>Inhalation exposure due to volatilization of fumigant pesticides is one exception to the analysis that the highest exposure occurs during the application. Air concentrations from fumigation are often highest shortly following application. Section 6991(e) that requires 36 hours to elapse between the end of a fumigation and when a schoolsite session starts addresses this exception. Additionally, mitigation of fumigant exposure is primarily addressed through separate federal, state, and county requirements, including application method restrictions and buffer zones.</i></p> <p><i>See response to Comment 3A regarding the 1 mile distance.</i></p>	
<p>2B</p>	<p>Buffer zones must be 24 hours a day, 7 days a week. Part-time buffers do not protect school children from exposure to pesticides.</p> <p><i>See response to Comment 1B.</i></p>	<p>S1-159; Y1-5; 45 70, 91, 97, 107; TUL(18,26,51); OXN(10,23); SAL(10,11,17,18,59-61, 63, 66, 85)</p>
<p>3B</p>	<p>CDPH report found soil fumigants and other pesticides that are known to cause cancer, reproductive system effects, harm to the brain and nervous system and respiratory effects being used in large quantities within ¼ mile of many California schools. The draft regulations allow for the continuation of these unjust conditions, as the threats from pesticide drift continue long after applications outside the 6 a.m. to 6 p.m. buffer zone period for most applications and 36 hour period for fumigations, and from applications beyond the insufficient ¼-mile buffer zone distance.</p> <p><i>See response to Comment 1B.</i></p>	<p>H98; 44, 71</p>
<p>4B</p>	<p>No-spray protection zones around schools and daycares should be enforced at all times for fumigations, ground air blast, as well as for aircraft applications, because students, teachers and community members are often on school grounds for scheduled events and unscheduled activities when school is not formally in session. Pesticides can evaporate off the crop plants for days and even weeks after they are applied,</p>	<p>H1-85; H87-100; S156; 36; 44, 46, 47,100; 101</p>

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	<p>and pesticide contaminated dust can be blown onto school grounds and tracked into classrooms.</p> <p><i>See response to Comment 1B.</i></p>	
5B	<p>DPR should provide full-time protections, 24 hours a day, instead of limiting pesticide protections from only 6 a.m. to 6 p.m. because pesticides linger and harm students well after they are applied and because students are frequently present on campuses before 6 a.m. and after 6 p.m. When DPR analyzed three alternatives to the draft regulations, DPR failed to mention full-time protection, rather than 6 a.m. to 6 p.m., as a reasonable alternative. DPR must consider including full-time protections in the regulations, particularly because doing so is the only way to protect students comprehensively.</p> <p><i>See response to Comment 1B.</i></p>	H99; Z1-3; 89, 122
6B	<p>The proposed application time restriction of 6 am to 6 pm on weekdays for nonfumigants is completely inadequate, particularly for higher toxicity pesticides. School facilities and grounds are used extensively on evenings and weekends for meetings, dances, sporting events and other activities and these proposed time restrictions will offer no protection during these activities. Child care centers serving farmworkers often open at or before 6 am to allow farmworkers to get to the fields early so the narrow proposed time restriction will disproportionately impact the children of farmworkers.</p> <p><i>See response to Comment 1B. Child care centers that open prior to 6:00 a.m. can be addressed using a 3-party agreement specified in section 6191(f).</i></p>	118
7B	<p>Buffer zones need to be in effect 24 hours a day, 7 days a week for all drift-prone applications of pesticides of public health concern, as defined in the CDPH report. The proposed application time restrictions actually undermine current efforts to provide protections for children while at school sites. Many current county permit conditions prohibit application of restricted pesticides within ¼ mile of the school when the school grounds are occupied, rather than just during school hours. This requirement should be imposed for less drift prone methods of application of pesticides of public health concern and for drift prone methods of application of pesticides which are lower toxicity.</p> <p><i>See response to Comment 1B. Any county permit conditions that are more stringent than the regulation will remain in effect.</i></p>	118

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<p>8B</p>	<p>DPR states that the proposed regulations “are not based on health effects” but are meant to address “emergency preparedness” and that “this is what the administration is comfortable with.” DPR also stated that “emergency preparedness is not needed on weekends... other laws are available then.” At the very least, this is a curious description of which laws apply and when, and raises the question of why weekend laws are not adequate for week days if the proposed regulations are intended for emergency preparedness and not based on health effects.</p> <p><i>See response to Comment 1B.</i></p>	<p>116</p>
<p>9B</p>	<p>Unless DPR specifically excludes, in regulatory text that can be cited, extracurricular activities (i.e., outside M-F, 6 a.m. to 6 p.m.) on school grounds from triggering the ¼ mile restriction, it is possible that growers having fields within ¼ mile of schools or day care facilities will be permanently barred from applying certain pesticides to their fields. The economic impact of the loss of these production acres would be, in our opinion, in the multiple tens of millions of dollars.</p> <p><i>Section 6191 states that “Pesticide application restrictions will apply Monday through Friday, during the hours of 6:00 a.m. to 6:00 p.m., depending on the distance from the treated area to a schoolsite, the application equipment used, and type of pesticide applied.” Weekend or evening activities are not subject to the application restrictions.</i></p>	<p>119</p>
<p>10B</p>	<p>Despite their own conclusion that risk to children due to pesticide applications near schools is “quite low” and despite the lack of a risk assessment - that when children are at school or day care that they are exposed to an unknown health risk that must be mitigated. Does DPR have any data to document the actual population at risk, the risk the population is being exposed, the specific chemical which presents the risk, the health risk that exposure causes, or the mitigation that a twelve-hour, Monday-Friday, 12 months of the year restriction will provide?</p> <p><i>See response to Comment 1B.</i></p>	<p>124</p>
<p>11B</p>	<p>A quick review of Mondays through Fridays on a single school district’s 2016-2017 calendar tallies 81 holiday and out-of-session days and 181 in-session days. The ISR does not provide any substantive information on how DPR determined it needed to restrict applications or require notifications Monday through Friday year-round. If the school or license day care is not scheduled to be open on a weekday,</p>	<p>124</p>

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	<p>how does DPR justify the restriction and notification requirements for every weekday year-round?</p> <p><i>See response to Comment 1B. Section 6691(d) provides an exception to the application restrictions when classes are not scheduled for the day of application and a child day care facility is closed for the entire day. DPR modified the proposed text removing the application-specific notification.</i></p>	
<p>12B</p>	<p>We are concerned about the inadequacy of the proposal to prohibit fumigant application for 36 hours before school is in session and certain other types of pesticide applications from 6am to 6pm on school days. Such part-time buffer zones do not protect the health of children, teachers and school staff when they are on campus before or after school hours and on weekends for meetings, sporting events, dances and other activities. Childcare facilities serving farmworkers often open at or before 6am so that parents can drop off children before heading to work in the fields. Restricting applications to times when grounds are expected to be occupied does not account for exposure when pesticides evaporate from fields after application or when pesticides are entrained in dust that is deposited on school grounds and blown or tracked into school buildings where residues can persist for extended periods.</p> <p><i>See response to Comment 1B.</i></p>	<p>120</p>
<p>13B</p>	<p>Removing daylight hours presents a potential threat to both the employees and residents. Even with illuminated farm equipment, it becomes more difficult at night to see pedestrians and autos, as well as the effectiveness of the spray application itself.</p> <p><i>DPR acknowledges that growers and applicators will need to take additional safety precautions in order to apply pesticides at night. However, pesticide applications commonly occur at night, including aerial and airblast applications.</i></p>	<p>85</p>
<p>14B</p>	<p>Recommend that DPR restrict carcinogenic pesticide applications to at least ¼ mile around schools at all times, and facilitate rigorous exposure research, including dust analysis and biomonitoring, to ascertain the nature, extent, and co-occurrence of acute and chronic pesticide exposures to school children.</p> <p><i>See responses to Comments 1B and 10B.</i></p>	<p>107</p>

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<p>15B</p>	<p>Prohibitions must apply 24/7. The CDPH study lays out in great detail the reasons for not limiting study of pesticide applications to times when school is in session, including the common use of school grounds for various activities before class, after class, on weekends, and over the summer; the potential for pesticide drift to continue well after applications; and the potential for drifting pesticides to be deposited onto surfaces and persist for long period of time (p.13 of the study). A 2005 DPR monitoring study in Smith River found that air concentrations of 1,3-dichloropropene near the application peaked at least 6 days after the application (monitoring ceased on the sixth day, despite the continued increase in air concentrations). It should be added that many events outside of regular school hours are sports-related, when children are breathing more heavily and thus likely at higher risk for inhalation exposures.</p> <p><i>See responses to Comments 41A and 1B.</i></p>	<p>77</p>
<p>16B</p>	<p>One mile, 24/7 should include labor camps.</p> <p><i>See responses to Comment 1A and 1B. Labor camps and other residential areas are outside the scope of the regulation which is intended to provide an extra margin of safety for children attending schools and child day care facilities.</i></p>	<p>TUL-10</p>

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SCHOOLSITE DEFINITION

<p>1C</p>	<p>The rule should expand to cover all schools and day care centers.</p> <p><i>Private schools are excluded from the regulation. For practical reasons, this regulation was designed to parallel the entities covered by the Healthy Schools Act. Under that act, Public K-12 schools and child day care facilities must provide annual notification to parents of pesticides expected to be used on school grounds (institutional use). If desired, schoolsites should be able to forward the agricultural pesticide notifications to parents and staff using the same procedure. Private schools are not included in the Healthy Schools Act requirements, so they do not have the experience, infrastructure, or procedures to forward the pesticide notifications. Additionally, public K-12 schools regularly contact DPR staff for guidance and training about Healthy Schools Act requirements, and DPR staff can provide guidance about this regulation. Lastly, the locations of some private schools are uncertain or unknown. Family day care homes are excluded because the locations of these facilities are not publicly available.</i></p>	<p>2, 3, 4, 90</p>
<p>2C</p>	<p>The current definition of schoolsite is too broad and may expand the scope of the regulation beyond the school and childcare facilities sites discussed and analyzed by DPR. It is feasible that this could be interpreted to include bus stops throughout rural areas.</p> <p><i>DPR revised the proposed regulation to specifically exclude bus stops.</i></p>	<p>108, SAL-39</p>
<p>3C</p>	<p>For clarity and consistency, definition of schoolsite should be set as the physical school location.</p> <p><i>DPR agrees and modified the proposed definition of schoolsite.</i></p>	<p>112</p>
<p>4C</p>	<p>The regulations do not provide the same level of safety, care and protection that you propose to afford to students in public schools to those in non-public schools. This should be a matter of equal protection under the law.</p> <p><i>See response to Comment 1C.</i></p>	<p>125</p>

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<p>5C</p>	<p>If DPR believes that most pesticide applications near schools posed a health risk to children, then it is not clear – other than their exclusion from the Healthy School Act-why the proposed rule excludes children that attend private school or unlicensed day care? Does DPR have data to suggest that the unidentified health risk they are mitigating is sufficiently decreased to the entire population of children attending school or in unlicensed day care – by only regulating around public schools and licensed day care facilities?</p> <p><i>See response to Comment 1C. As described in the response to Comment 1A, the health risk from normal pesticide applications is low.</i></p>	<p>L48; 124</p>
<p>6C</p>	<p>Schoolsite definition provided in the Education Code does not list school bus stops as part of a schoolsite. Clarify if school bus stops are exempted from the proposed regulation</p> <p><i>See response to Comment 2C.</i></p>	<p>43</p>
<p>7C</p>	<p>DPR should expressly extend protections to charter and private school student as those students are equally at risk. The Healthy Schools Act only regulates pesticide spraying at school sites while the regulations govern pesticide use in the areas that surround schools. DPR's reasons do not sufficiently justify the exclusion of private schools. DPR did not consider any reasonable alternatives in including private schools. At a minimum, DPR should allow for private schools to opt-in to any provisions that would allow for them to receive notifications. This would not require DPR to research any additional information regarding school location because California Department of Education keeps a list of private schools with six or more students.</p> <p><i>See response to Comment 1C. DPR considered an opt-in provision for private schools, but the locations of some private schools is uncertain or unknown, making compliance and enforcement problematic. Neither growers nor CACs have the means to identify all of the private schools within 1/4 mile of an agricultural field and inform them that they can opt-in. Charter schools are included in the regulation, if they are publicly funded.</i></p>	<p>122</p>
<p>8C</p>	<p>Under this definition of "schoolsite," bus stops, school buses, athletic fields and people attending athletic events would be included within the quarter-mile radius imposed under the regulations. As drafted, growers would have to notify schools if they spray within a 1/4of every school bus, both when parked on</p>	<p>V1-18; 19, 53, TUL-16; SAL-41</p>

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	<p>the schoolsite and when driving to pick up or drop off students, as well as every bus stop frequented by students. This greatly increases the impact of the regulations beyond the DPR's initial projection.</p> <p><i>See responses to Comments 2C and 3C.</i></p>	
9C	<p>The proposed regulation includes child day-care facilities, which are often difficult and time consuming to locate.</p> <p><i>The California Department of Social Services maintains a website with a database of all child day care facilities included in the regulation. Additionally, CACs will assist growers in identifying the locations.</i></p>	40, 84
10C	<p>The proposed regulation only targets agriculture and farmers; it would not apply to railroads, the California Department of Transportation, or even schools themselves.</p> <p><i>The regulation only includes pesticide applications to agricultural commodities. Applications to other sites, such as roadways and structures are not included because most of these applications are generally smaller and use methods less prone to drift. Pesticide applications on school grounds are regulated under the Healthy Schools Act.</i></p>	40
11C	<p>Object to the inclusion of licensed daycare facilities. The regulation on its face states that this is a regulation regarding pesticide use near school sites and thus the inclusion of daycare facilities is an unwarranted expansion of the regulation. With daycare facilities, administrative organization can vary from site to site making the notification requirements overly burdensome.</p> <p><i>The inclusion of child day care facilities is consistent with the Healthy Schools Act and these children may be the most vulnerable to pesticide exposure. The comment about administrative organization is unclear. Each school will also receive a separate notification.</i></p>	42
12C	<p>Oppose the regulations because the ambiguities pertaining to the definition of schoolsites, day care facilities, and land use changes intrinsic in the proposed regulation.</p> <p><i>DPR revised the proposed definition of schoolsite, adding more specificity.</i></p>	27, 28, 29, 81

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13C	<p>The types of sites to be protected should be expanded to include all places where children could be exposed as part of their educations – school bus stops and known bus routes.</p> <p><i>See response to comment 4A.</i></p>	91
14C	<p>The proposed rule fails to explain how growers and applicators will differentiate between exempt and non-exempt day care facilities.</p> <p><i>DPR modified the proposed definition to specify that includes child day care facilities as defined in Health and Safety Code section 1596.750, specifically exempts family day care homes as defined in Health and Safety Code section 1596.78. Family day care homes are exempted because their locations are confidential.</i></p>	54
15C	<p>Will day care facilities based in private homes be included moving forward? These are not easy to identify and may change year-to-year, adding to the bureaucracy needed to track them and send notifications etc. Additionally, licensed day care facilities do not require public notification when they are established, and as such, growers may easily end up "out of compliance" without knowing it.</p> <p><i>See response to Comment 14C. DPR and CACs are working on a process to notify growers of new schoolsites.</i></p>	19
16C	<p>The term "K-12 school administrator" is susceptible to interpretation as referring only to administrators of those schoolsites with levels kindergarten through secondary schools at a single location. To avoid this and other misinterpretations, section 6692 should comport with the definition of a schoolsite provided by the Healthy Schools Act. This is a minor clarification as the proposed regulations refer in proposed section 6690 to Education Code section 17609 and thus contemplate compliance with it.</p> <p><i>The regulation refers to school principals, not administrators.</i></p>	35
17C	<p>Some schools will have large sites with effective buffer areas around the school buildings and others will be on compact sites with very little buffer area. It would make more sense to measure distances from the school buildings, because this would more accurately measure the distance to the point where children actually are congregated.</p>	79

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	<i>DPR revised the proposed definition of schoolsite to add more specificity. The regulation specifies the schoolsite property, including playgrounds, athletic fields, and other areas used by children.</i>	
18C	Will onsite school farms and gardens be subject to this regulation? <i>Yes, if the pesticide is used for the production of an agricultural commodity.</i>	TUL-32

NOTIFICATION

1D	Provide comprehensive, clear and efficient notification for schools officials, teachers, parents and students about what is being used with a least a mile of schools. <i>The regulation requires growers to notify school principals. The regulation does not require notification of teachers, staff, parents, or students for two reasons. 1) The school principal is the primary administrator for the site and can be identified by growers from a California Department of Education's database. Growers cannot identify the teachers, parents, and students at a school. 2) DPR lacks legal authority to require school principals to take any actions.</i> <i>See response to Comment 1A regarding the 1 mile distance.</i>	D1-4; 47; OXN-23
2D	DPR states that "the primary objective of the regulation is to provide an extra margin of safety for unintended drift and other problems with applications." It is unclear how the proposed notification requirement would accomplish this objective. The proposed regulations require growers to notify the principal of a school if they are planning to apply a pesticide within a quarter mile of the principal's schoolsite. But what is the principal supposed to do with this notification? Does DPR intend to give schools the opportunity to object to the application, provide a process for them to stop the application before it happens, or simply notify parents? <i>Providing an extra margin of safety by prohibiting certain types of applications at certain times within a certain distance is the primary, but not only objective. Other objectives include increasing</i>	V1-18; 16, 22, 53

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	<i>communication between growers and schools/child day care facilities, and providing information to assist schools and child day care facilities in preparing for and responding to pesticide emergencies. The regulation provides no provision for schoolsites to stop an application.</i>	
3D	<p>Oppose the proposed regulations and urge the DPR to remove the notification requirements. This notification is purely informational. This notification requirement simply shifts the burden to schools and school leaders who lack the knowledge, expertise, or resources to properly assess the information provided in the notice. Neither my district nor schoolsite has the means necessary to address the burdens imposed by the proposed regulations.</p> <p><i>The notifications are informational only. The regulation requires no action by schoolsites. The notifications include additional sources of information if desired.</i></p>	V1-18; 23, 53, 89, 124; SAL-4
4D	<p>The proposed regulations fail to understand the role of schoolsites versus school districts and school principals versus superintendents and the governing board. It is the district who is ultimately liable for any mishandling of information or unintended consequences resulting from the notification, yet the information is being proposed to be distributed to schoolsites.</p> <p><i>Growers can easily identify the school principal from the California Department of Education’s database. The notifications are informational only, require no actions by schools, and impose no liability on schools.</i></p>	V1-18; 53; SAL-41
5D	<p>Suggest CACs work with the farmers directly to notify the public as well as the schools with accurate, understandable, and appropriate information about the particular pesticide that is going to be applied. The CAC should be available to answer any questions that arise. Schools could provide a link on their web pages to the CAC's information.</p> <p><i>CACs only have information about applications of restricted materials, a small fraction of the pesticides that growers might use. This would also place an undue burden on CACs.</i></p>	V1; SAL-4
6D	<p>Institutional liability is not the only type of liability our members are concerned about. One county office of education expressed concern about how the notification requirement would put “tremendous pressure” on individual principals. By requiring school principals to be the ones to receive the notice, the notice</p>	53

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	<p>requirement could also open up the principal to personal liability as well.</p> <p><i>The notifications impose no liability on principals.</i></p>	
7D	<p>As part of the notification process to schools, DPR should provide impacted schools with a copy of their SB 391 fact sheet for distribution to parents, so that parents are aware of their legal right to reimbursement of medical expenses associated with pesticide drift.</p> <p><i>DPR will provide a fact sheet to schoolsites that will include information about SB 391. However, DPR lacks legal authority to require school principals to take any actions.</i></p>	120
8D	<p>The annual notification requirements are impractical and inflexible. Growers may not know which products they will be applying in time to meet the annual notification deadline. Growers who lease property also do not necessarily know which locations and crops they will be growing in the year ahead, let alone which crop protection products that will likely be applied, and will therefore have great difficulty in complying with the annual notification deadline.</p> <p><i>The regulation does not prohibit use of pesticides not included in the annual notification. The original proposed regulation required the 48-hour notifications to indicate if the pesticide was not included in the annual notification. Since the 48-hour notification requirements have been deleted in the proposed modified text, if a pesticide to be used was not included in the annual notification, the revised text allows the grower to provide this information to the schoolsite and CAC until 48 hours prior to the application.</i></p>	18, 24, 86, 87, 108, 109; OXN-16
9D	<p>The written notification requirements will be burdensome without providing any meaningful benefits. Requiring two different types of notification may cause confusion and lead to errors in paperwork. Inclusion of the maps, the EPA or CA registration numbers, and options that the school may take are unnecessary and do not enhance safety.</p> <p><i>DPR revised the proposed regulation and removed the application-specific 48-hour notification requirements. DPR disagrees that the information included in the annual notification is unnecessary and does not enhance safety. The maps show the schoolsites where pesticide applications will occur,</i></p>	108

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	<p><i>the registration numbers help to identify the pesticides that will be used. All this information could be useful to the school by allowing it to better identify the cause of possible problems and take appropriate action. It will also serve to increase communication between the school and the grower to deal with issues not addressed by the regulation.</i></p>	
<p>10D</p>	<p>Notification of pesticides and scheduled applications should directly relate to potential risk of exposure and serve as a mitigating tool. Growers and CACs already benefit from an open line of communication with neighboring schools to ensure all pesticide applications are conducted safely and according to the law. CACs are well aware of the circumstances surrounding sensitive sites and they have a duty to ensure all persons are protected. Additionally, a list of products used on any farm can be accessed through a Pesticide Use Report at the CAC office. Mandating notices without considering their relationship to potential risk is a disservice to the science based process that could mislead and unnecessarily alarm the public.</p> <p><i>As described in the initial statement of reasons, exposure mitigation is not an objective of this regulation. Based on the regulation workshops, regulation comments, and other discussions, agricultural pesticide applications are not commonly discussed with schoolsites. This regulation will ensure that communication occurs. Without the notification specified by this regulation, schoolsites cannot identify the grower or fields to request use information from the CAC, and it is unnecessarily burdensome to schoolsites and CACs. Growers may provide additional information to schoolsites regarding the risk of the pesticides that are used to avoid alarming the public.</i></p>	<p>114</p>
<p>11D</p>	<p>DPR’s argument that the proposed notification provisions are consistent with other state notification requirement such as the Healthy Schools Act or California restricted materials lacks any credibility. The only thing consistent between the proposed notification requirements and current notification requirements is the administrative process of submitting paperwork. Annual notification is impractical. Product selection may not be known by the deadline provided in the regulation. Unlike products applied to school grounds that require annual notification under the Health Schools Act, agricultural products often vary from year to year and cannot be determined in advance leaving those responsible as at risk of violations.</p> <p><i>DPR disagrees that consistency with other notification requirements lacks credibility, but the proposed regulation has been revised to remove the requirement for application-specific 48-hour notification.</i></p>	<p>110, 115; OXN-5; SAL-1</p>

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	<p><i>Making the annual notification similar to the one required under the Healthy Schools Act will be less burdensome to schoolsites if they choose to forward the notifications to parents and staff. The regulation does not prohibit use of pesticides not included in the annual notification. The original proposed regulation required the 48-hour notifications to indicate if the pesticide was not included in the annual notification. Since the 48-hour notification requirements have been deleted in the proposed modified text, if a pesticide to be used was not originally anticipated and included in the annual notification, the grower can delay providing this information to the schoolsite and CAC until 48 hours prior to the application.</i></p>	
<p>12D</p>	<p>We oppose annual notification. As an alternative, the following language should be added to proposed section 6691:</p> <p>Agricultural representatives will be responsible for advising the CAC(s) throughout the calendar year of any changes made to the initial list of chemicals identified. This will allow growers the flexibility to provide the necessary information without being subject to litigation if changes must be made. The CAC will be responsible for publicly updating the list of chemicals identified by the agricultural representative and notifying the school representative(s).</p> <p><i>See response to Comment 8D. Growers have flexibility to amend the annual notification.</i></p>	<p>115</p>
<p>13D</p>	<p>DPR alleges that schools and child day care facilities usually lack information to respond to pesticide drift events or other pesticide emergencies but fails to provide any evidence to support this claim. DPR spends annually over \$5 million dollars on pest management activities with a strong focus on educational outreach to schools and day care centers. Its commitment to work with schools and school districts across the state has been clearly demonstrated and could be expanded to include these alleged concerns.</p> <p>Fumigant registrants are already required to develop and implement community outreach programs to ensure that information about fumigants and safety is available in communities where soil fumigation occurs. These outreach programs address the risk of bystander exposure by educating community members including schools about fumigants, buffer zones, and how to respond appropriately in case of an incident. Regulations are not needed to address this concern.</p> <p><i>DPR's current schoolsite program provides information regarding pesticide applications on schoolsite</i></p>	<p>115</p>

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	<p><i>grounds, including assistance and training in developing integrated pest management plans and use reporting. The program provides no information regarding agricultural use of pesticides near schools. The expertise of this program is in urban pest management and is very different from the practices used for agricultural pest management. The program cannot be easily expanded. Additionally, DPR lacks information about pesticide applications at specific sites, including the information specified in the annual notifications. The fumigant registrants' outreach program is passive, consisting of a website.</i></p>	
<p>14D</p>	<p>The requirement for annual notification is burdensome and unworkable because of the vagaries of pests and materials required. The only practicable submission for the grower would be to literally list everything, much as growers used to do when applying for restricted materials permits. It has the effect of frightening people unnecessarily and serving little or no purpose in reassuring the parents and teachers that they are fully informed.</p> <p><i>See response to Comment 8D. Growers may provide additional information to schoolsites regarding the risk of the pesticides that are used to avoid alarming the public.</i></p>	<p>79, 125; TUL-23</p>
<p>15D</p>	<p>The annual notification proposal and site specific notices have some very strange proposals. Why would the land operator have to notify principals at a school and two others? Why would the principal not disperse the information?</p> <p><i>DPR revised the proposed regulation and removed the requirement for application-specific 48-hour notification, and included the schoolsite option to designate two employees to receive the notifications.</i></p>	<p>48</p>
<p>16D</p>	<p>Proposed section 6692(a) is very convoluted. The inconsistency in deadlines will be a considerable barrier to achieving compliance. We do our best to educate our growers regarding upcoming deadlines but it will be incredibly confusing for most of the growing community to call this requirement an “annual notification” when they are required to do it twice within a calendar year and then the deadline changes from October to April. We urge DPR to delay implementation until April 2018 so that growers can adjust to the new requirement and only have to do it once every April from then on out.</p> <p><i>DPR agrees and modified the proposed text, except for new growers.</i></p>	<p>42; SAL-56</p>

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<p>17D</p>	<p>Since the new annual and application specific requirements must be filed with the CAC’s office, we are concerned that these new requirements increase the burden on everyone with no health and safety benefit.</p> <p><i>DPR revised the proposed regulation and removed the requirement for application-specific 48-hour notification, but acknowledges that the annual notifications will have an economic cost to growers, estimated to be approximately \$3 million annually. DPR and many commenters believe that the notifications will provide a health and safety benefit.</i></p>	<p>42</p>
<p>18D</p>	<p>The months-in-advanced proposed timing of these notification events disregards the fact that growers of annual crops may not know what crop, and therefore what pesticides they may need, they will be growing this far in advance. Growers often decide which annual crop(s) to grow based on contracts with shippers (these can change in crop and/or volume under contract), market prices, crop rotational needs that surface during the season, and so on. In addition, many annual crop growers, including numerous strawberry growers, operate in a land lease system. Very few of the growers that are dependent on land leases do not know which field(s) they may be renting that far in advance. Oftentimes, these growers do not have their lease agreements settled until 30-60 days before it is time to fumigate their fields. Thus, the proposed timing of annual notifications is unworkable for these, and many other, growers.</p> <p><i>See response to Comment 8D.</i></p>	<p>U36; 64, 119; TUL-37; OXN-6</p>
<p>19D</p>	<p>Problem with the proposed months-in-advance notification is that it does not allow for growers to react, in real-time, to the immediate needs of the crop. Many pesticides are used on an immediate-need basis, which can be triggered by rainfall, pest movements, irregular weather events, and other pesticide use conditions that can change during a season (e.g., Telone Township Caps and VOC limits); and these things cannot be predicted even days in advance, let alone months. There also appears to be no mechanism to update a submitted notification in the advent that new pesticides are registered and made available. This only serves to stifle agricultural innovation and the adoption of the most modern practices.</p> <p><i>See response to Comment 8D.</i></p>	<p>56, 119</p>

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<p>20D</p>	<p>The proposed notification requirement will result in growers submitting paperwork to cover every possible contingency and pesticide need conceivable. This will not only inundate schoolsites with massive amounts of information, the majority of it will be useless information on pesticides that were not used. One option for DPR to consider is to allow notification of pesticide families, and not specific products or rates.</p> <p><i>Growers may not know the pesticide family of a particular pesticide, and schoolsites may have greater difficulty in finding information about a pesticide family in comparison to a specific pesticide. Growers have flexibility in the format and information included for the list of pesticides. For example, growers can provide a 2-part list, with the first part a list of pesticides more likely to be used and the second part a list of pesticides less likely to be used. Growers can also provide additional information about the pesticides included on the list, such as which ones are restricted materials, or have a “danger-poison” signal word.</i></p>	<p>119</p>
<p>21D</p>	<p>DPR should provide a template for the annual notifications and consider development of a statewide electronic clearinghouse to streamline the process.</p> <p><i>DPR and CACs are developing a website that will include notification templates and other tools to assist growers in preparing and submitting the notifications.</i></p>	<p>75</p>
<p>22D</p>	<p>Farmers have developed working relationships with surrounding schools for years. DPR's position that this communication must be regulated is unjust and punishes farmers without any demonstrating need.</p> <p><i>The notification requirements should have minimal impact for growers who routinely communicate with neighboring schools.</i></p>	<p>17</p>
<p>23D</p>	<p>Even if growers were to have field locations and land leases settled in the DPR-proposed timeframes in order to comply with this regulation, the specific pesticide chemistries to be used and their application methods and rates may not be known until the history of the field is fully characterized (i.e., known or suspected severity of pest potential; which specific diseases, weeds, and other pests may be present) or other factors that may influence product choice, application method, and rate. Will there be a mechanism to update the Notifications, and if so, this activity and its associated costs need to be included in the Economic Assessment.</p>	<p>119; SAL-39</p>

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	<p><i>See response to Comment 8D. In addition, the application methods and rates are not included in the notifications. Growers could list a small number of pesticides on the annual notification, then amend the notification with additional pesticides as necessary. Since the initial list is shorter, it will take less time to prepare the annual notification. Therefore, the cost of amending the annual notification is offset by the lower cost of the shorter original notification.</i></p>	
24D	<p>Notification should be in English and Spanish.</p> <p><i>Notifications are sent to school principals and day care administrators. We assume most of these people read English.</i></p>	92
25D	<p>Annual notification will result in a meaningless listing of every possible pesticide choice available.</p> <p><i>See response to Comment 20D.</i></p>	U1-37
26D	<p>Current regulations together with working closely with CAC's office are adequate to protect health of our kids. Imposing additional paperwork requirements will serve no purpose whatsoever.</p> <p><i>See response to Comment 5D.</i></p>	26, 34, 63
27D	<p>Notification will be punitively onerous for smaller management companies.</p> <p><i>DPR estimates that the average affected grower will provide annual notifications for two fields at a cost of approximately \$1,200 annually. However, most of the cost is associated with compiling the list of pesticides expected to be used. It's likely that the list will have minimal changes from year to year, and the cost in later years will be substantially less.</i></p>	58
28D	<p>Support increase communication between growers and school/child day care facilities but this can be accomplished effectively through local outreach or other similar avenues, not as a mandate</p> <p><i>Based on the regulation workshops, regulation comments, and other discussions, agricultural pesticide applications are not commonly discussed with schoolsites. This regulation will ensure that</i></p>	18, 19, 110, 115, 123, 128

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	<i>communication occurs.</i>	
29D	<p>Why only the agriculture sector is being required to make these notifications and not landscape service, pest control or homeowner pesticide applications within the 1/4-mile buffer? Does DPR have any data – monitoring or otherwise regarding pesticide use and drift from landscape, pest control or homeowner pesticide applications near schools?</p> <p><i>See response to Comment 10C.</i></p>	124
30D	<p>Notification should also include a link to the DPR fact sheet on SB 391 which describes pesticide illness medical cost reimbursement provisions of this statute, links to safety data sheets for each pesticide and disclosure if the pesticide is listed under Proposition 65 as a carcinogen or reproductive toxin.</p> <p><i>The annual notifications will include sources of additional information if the schoolsite is interested. See response to Comment 7D.</i></p>	118
31D	<p>Nature of reporting process in unduly burdensome.</p> <p><i>See response to Comment 27D.</i></p>	24, 27, 28, 29, 32,40, 60, 79, 80, 81
32D	<p>The proposed regulation does not take into consideration notification requirements for agricultural facilities that commence operation or change ownership in the middle of the notification period (year). The regulation does not specify how a grower is to be notified of existing schoolsites within a ¼ mile of their property or when new schoolsites are built within the regulated distance. We would like to request that templates for agreements, annual notifications and 48 hour notifications are provided to ensure statewide consistency.</p> <p><i>DPR revised the proposed regulation and included provisions for a new operation or a change in property operator, requiring the first notification within 30 days of assuming control of the property. The California Departments of Education and Social Services have databases with the addresses and contact information for schools and day care facilities. DPR and CACs are developing a website that will include notification templates and other tools to assist growers in preparing and submitting the notifications.</i></p>	43

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<p>33D</p>	<p>Clarify and simplify section 6692(a) requirement that would be easier to understand and comply with. Changing the notification year to calendar will enable CACs to send reminders to growers and pest control businesses with annual mail outs. Removing the actual notification dates allows for a continuous system that growers who go into production in the middle of the year can fall right into the system. This can also be part of the information CACs provide to new growers when they request operator IDs.</p> <p><i>DPR acknowledges that the April 30 deadline for annual notification is inconvenient for growers. This deadline was selected for the convenience of schoolsites, and allows them adequate time to reproduce the notifications and include them in the annual packet sent to parents prior to the next school year, if they choose to do so. However, the deadline also enables CAC staff to remind growers of the schoolsite requirements at the time of permit renewals.</i></p>	<p>43</p>
<p>34D</p>	<p>Growers often wait until the last moment to purchase a specific product, although they will typically know the active ingredient they will be using. An EPA number requirement would create unnecessary violations and be difficult to comply with. This will not change the level of protection provided by the regulation.</p> <p>section 6692(b)(8):</p> <p><u>(b) The annual notification must be in writing and can be provided as a hard copy or an electronic copy and include the following information:</u></p> <p>(1) A summary of the operator of the property's requirements to provide annual notification to a schoolsite as described in subsection (a).</p> <p>(2) A summary of the operator of the property's requirement to provide application- specific notification to a schoolsite as described in section 6693, subsection (a), and the option for the principal and the administrator to waive their right to receive such notification as described in section 6693, subsection (e).</p> <p>(3) A summary of the applicable pesticide application restrictions specified in section 6691.</p> <p>(4) Operator of the property's name and contact information;</p> <p>(5) Map showing location of the field(s) involved and the school or child day care facilities;</p> <p>(6) County agricultural commissioner's contact information;</p> <p>(7) National Pesticide Information Center Web site address;</p> <p>(8) Information on the pesticide(s) expected to be used in the upcoming July 1 through June 30 period including: name of each active ingredient, or principal functioning agent for a spray adjuvant;</p>	<p>43</p>

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	<p>example pesticide product name(s); and the U.S. Environmental Protection Agency or California registration number.</p> <p>...</p> <p><i>The pesticide product registration number provides a useful identification to schoolsites if they choose to look for more information. The registration number is only required for an example product. A grower can use a different product, with a different registration number, as long as it contains an active ingredient included in the annual notification. If the active ingredient is not included in the annual notification, a grower may amend the notification and add a pesticide at least 48 hour prior to use.</i></p>	
<p>35D</p>	<p>The impacts to schools and farmers are significant. It seems like our resources would be better spent on focused pesticide enforcement near schools/towns instead of extensive informational notifications that open schools and farmers up to unknown liabilities.</p> <p><i>See response to Comment 27D.</i></p>	<p>22, 24</p>
<p>36D</p>	<p>Reporting requirement will not provide schools or DPR with any useful information. There doesn't appear to be a mechanism or process for amending or altering the annual list once it's been submitted. To avoid liability, growers will simply submit a list of every California-labeled product for each crop in question.</p> <p><i>See responses to Comments 8D and 20D.</i></p>	<p>19, 54, 82</p>
<p>37D</p>	<p>All agricultural chemical applications are controlled through permits with the local CAC, why do the operators need to notify the CAC what chemicals might be applied when that very CAC issued the permit for the property listing the chemicals permitted on that parcel?</p> <p><i>The commenter is incorrect. CACs only issue permits and receive information of upcoming applications for approximately 37 pesticides that are restricted materials. This is a small fraction of the several hundred pesticides used for the production agricultural commodities.</i></p>	<p>57</p>
<p>38D</p>	<p>Requiring every property owner within ¼mile of a school/daycare to provide the entire informational</p>	<p>57</p>

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	<p>package will simply overwhelm the staff and 90 percent of the information is about the regulation and options. A better solution is having the CAC's office notify the schools/daycare of the regulation and let the operators notify them what chemicals might be applied (although this too could be provided by the CAC). Applications made within ¼mile of a school already require 48 hour Notice of Intent so the CAC office can monitor the application.</p> <p><i>See responses to Comments 10D and 37D. Additionally, DPR and CACs are developing a website that will include notification templates and other tools to assist growers in preparing and submitting the notifications.</i></p>	
<p>39D</p>	<p>The buffer zones around schoolsites must be increased substantially, and the areas requiring notifications must increase correspondingly. It must be noted that a required annual notification of expected pesticide applications is of limited use if applicators are not bound by the terms of the notification. Applicators should be required to provide application-specific notification to schoolsites of any planned application not included in the year's annual notification, regardless of whether or not such application would normally require its own notification. Providing this information is critical to ensure that school administrators and parents can get an accurate idea of the actual extent of pesticide use near schoolsites.</p> <p><i>See response to Comment 1A regarding increasing the distance.</i></p> <p><i>The comment regarding the annual notification is unclear. The regulation clearly specifies who must provide the notification, when it must be provided, and what must be included in the notification. CACs will be able to audit the notifications and take enforcement action if a notification does not comply with the regulation.</i></p> <p><i>The original proposed regulation required the 48-hour application-specific notification to indicate if the pesticide was not included in the annual notification. DPR has revised the proposed regulation and removed the requirements for 48-hour notification, but added a provision requiring growers to amend the annual notification if a pesticide needs to be used, but was not included on the list.</i></p>	<p>77</p>
<p>40D</p>	<p>Regulations are impractical. It would seem more reasonable to send school officials a list of the signs of pesticide poisoning and who to contact for help since many signs of pesticide poisoning can be mistaken for other ailments. To have a greater impact on children safety, school should take greater steps to keep</p>	<p>66</p>

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	<p>children from wondering into farmers’ fields and avoid spray equipment in general.</p> <p><i>The commenter seems to contradict his/her own comment. Different pesticides have different signs and symptoms, and many of the signs and symptoms can have other causes. There would be little value in providing a list of signs and symptoms. DPR lacks legal authority to regulate schools.</i></p>	
<p>41D</p>	<p>The reporting of applications to principals presumes that principals have the expertise to make better informed decisions than the CAC and staff.</p> <p><i>The objectives of the notifications are to provide a means of communication between growers and schoolsites, and to provide emergency preparedness information to schoolsites. School principals do not need to have expertise about pesticides. However, the notification includes sources of additional information if the principal desires more information, including contact information for the CAC.</i></p>	<p>55</p>
<p>42D</p>	<p>The notification provisions in the proposed regulations, sections 6692 and 6693, are beyond DPR’s authority. “An agency does not have the authority to alter or amend a statute or enlarge or impair its scope.” (See <i>Interinsurance Exchange of the Auto. Club v. Superior Court</i>, 56 Cal.Rptr.3d 421, 434 (Cal. Ct. App. 2007) (citing <i>Morris v. Williams</i>, 433 P.2d 697, 748 (Cal. 1967); <i>First Indus. Loan Co. of Cal. v. Daugherty</i>, 159 P.2d 921, 923–24 (Cal. 1945)).</p> <p><i>There are several statutory provisions in the FAC that give the Director broad authority to regulate the use of pesticides to protect public health and the environment (FAC sections 11456, 11501, 12976, 14102). The required notification to schools administrators provides them with information allowing them to identify the potential source of an observed adverse health effect and to contact the appropriate individuals to address the situation, as well as be in a position to take appropriate action to protect the students in their charge.</i></p>	<p>16</p>
<p>43D</p>	<p>The smaller scale application methods should not be exempted from notification requirements. These applications are much more likely to be done by untrained staff uninformed of safety measures and regulations.</p> <p><i>There are no exemptions from the annual notification. All pesticides used for the production of an agricultural commodity within ¼ mile of a schoolsite must be included in the annual notification,</i></p>	<p>89</p>

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	<i>including pesticide applications within enclosed spaces and other applications exempted from application restrictions. DPR modified the proposed text removing application-specific notification.</i>	
44D	<p>Since most of the circumstance that require notification are precluded or excluded by preceding regulations, it is not clear when notification is mandated.</p> <p><i>See response to Comment 43D. DPR modified the proposed text removing application-specific notification.</i></p>	89
45D	<p>Notices posted should be illustrated and bilingual to accommodate persons with low literacy and without English fluency.</p> <p><i>See response to Comment 24D.</i></p>	89
46D	<p>Notices should include the following statement: California health care providers have a duty to report pesticide-related illness. If you seek medical care due to a pesticide exposure, inform the provider of your concerns and how and where you believe you were exposed.</p> <p><i>School principals and day care administrators will receive the notifications. This information is not needed.</i></p>	89
47D	<p>While proposed regulations provide for a minimum of ¼ mile between certain pesticide applications and schoolsites, there is no guidance provided on how the distance between the two would be measured. The proposed regulation would require notification of pesticide application on part of the parcel yet not on other parts. As a practical matter, applications are made on a parcel/crop basis. Since application on part of the parcel would be made at the same time as the balance of the parcel, notification should be made as to the entire application. Propose to change the proposed regulation that would require notification if any part of the parcel boundary of the application parcel falls within the minimum distance. We suggest that the schoolsite parcel boundary closest to the application parcel be designated as the point from which measurement is made.</p> <p><i>The regulation refers to pesticide applications within ¼ mile of a schoolsite. The regulation does not refer to parcels. For parcels that are partially within ¼ mile, the pesticides used in the area within ¼</i></p>	35

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	<i>mile must be included in the annual notification.</i>	
48D	<p>DPR should harmonize its proposed regulations with the Healthy Schools Act (HSA). Part of the HSA, Education Code section 17612(a), provides for notification of staff as well as parents or guardians of pupils enrolled at a schoolsite with a written notice of the name and active ingredient(s) of all pesticide products expected to be applied at the schoolsite during the upcoming year. Section 17612(a)(1) further provides that recipients of such notices can register for 72 hour advance warning of individual pesticide application as well as application of pesticides not listed on the annual notice. The proposed regulations does not provide for notification to staff and parents or guardians at all. Amend proposed sections 6692 and 6693 to require notification to staff and parents or guardians of children attending schools within areas of pesticide applications.</p> <p><i>DPR has no legal authority to regulate schools and cannot require schoolsites to forward the notifications to parents and staff.</i></p>	35
49D	<p>Object to the provision in proposed sections 6691(f) and 6693(f) that supplant publicly- noticed and adopted regulations yet publicly-enforced by DPR through CACs. This violates the Administrative Procedures Act, Government Code sections 13140,et seq.,by improperly delegating rulemaking to a private operator, a school administrator and a CAC, none of whom are state agencies, to craft and enforce a pesticide application restriction without any public participation or procedural safeguards.</p> <p><i>The requirements on the private operator that result from these agreements are voluntarily entered into with the knowledge that they will be enforced by the CAC. The agreements only bind the actions of the private operator who has entered into the agreement and are not a standard of general application, and, as such, are not governed by the requirements of the Administrative Procedure Act.</i></p>	35, SAL-50
50D	<p>The timing for this announcement is not related to actual farming practice. Instead of making the notice in January, when things are dormant and I have a chance to make an annual farm plan, the regulation wants me to make it in June, right in the middle of the growing season. If there is a new exotic pest in 2017, I may not know about it until later in the year. What am I supposed to do in 2018? Watch my crop be destroyed because I did not identify the pesticide that will kill that exotic pest? What if I decide after 2017 harvest in September-October I can't deal with all these new regulations and I am going to lease the vineyard in 2018. How can the new operator submit a plan when the deadline was back in June?</p> <p><i>The deadline for providing the annual notification is April 30, and the notification must include the</i></p>	79

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	<i>pesticides expected to be used during the upcoming July – June period. Growers may provide the notification in January. Also see responses to Comments 9D, 36D, and 38D.</i>	
51D	<p>I need to send legal notice to two people at the school (actually three schools in a cluster, so six notices). I have to find out who those people are and then I am going to be sending notices (presumably US Mail with a stamp) out on a continuous basis every few days during the months of May-July. Or, I could use the DPR's electronic system, and the people at the schools who need to know could identify themselves as persons with an interest to the CAC, and the system could kick out electronic notices to said persons. This way, if I fail to send notice, it will be identified at the CAC's office right away, and we will all be on the same page.</p> <p><i>See response to Comment 21D.</i></p>	79
52D	<p>The proposed regulation permits a principal to appoint two school employees to receive the notification. This places the district with additional liability should a mistake be made.</p> <p><i>DPR revised the proposed regulation and removed the option to designate 2 employees to receive the notifications. The principal of the school receives the notification.</i></p>	TUL-16

APPLICATION-SPECIFIC NOTIFICATION

1E	<p>Needs to have a notification system that includes the time and pesticides sprayed at least 48 hours before application, not only to the schools but the home and communities near the school.</p> <p><i>DPR has revised the proposed regulation and removed the requirement for application-specific 48-hour notification. The application-specific notifications may have minimal value since the regulation prohibits many of the applications with the highest drift potential. Also, school administrators have several concerns about the notifications, including potential liability and workload. CACs are concerned about the redirection of resources that may be needed to enforce the requirements and respond to inquiries generated by the notifications. Notification for all pesticides is unprecedented and DPR cannot accurately determine the impacts to all parties. Two separate pilot projects for</i></p>	S9
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	<p><i>application-specific notification to schools are being conducted, one in Kern County and one in Monterey County. DPR will reassess the need, impacts, and method for application-specific notification after the completion of these pilot projects. Notification to homes and communities is outside the scope of the regulation which is intended to provide an extra margin of safety for children attending schools and child day care facilities.</i></p>	
<p>2E</p>	<p>Application-Specific Notification should be provided for evening and weekend applications near the school also so administrators will be aware if sporting events or other extracurricular activities are planned. Oppose section 6693(e) which would allow the principal or daycare administrator to waive their right to receive application-specific notification. Neither the principals nor the day care providers are the intended beneficiaries of these regulations. They are charged with the protection of students entrusted to their care, and should not be placed in the position to be pressured or even lobbied to forego notice.</p> <p><i>See response to Comment 1E.</i></p>	<p>118</p>
<p>3E</p>	<p>The application-specific notification lacks flexibility and is fundamentally flawed. The requirements for this notification do not recognize the daily challenges growers routinely face when responding to or planning for forecasted weather events. Crop protection products are selected and applied in response to pest pressures, weather events, costs, logistics and many other factors in order to safeguard the crop from loss or to impede the spread of disease. It is important to be able to respond rapidly to the unique nature of each pest or disease problem in order to reduce the likelihood that additional applications need to be made. The 48-hour notice restriction ties the hands of the grower and puts California farms in a position of not being able to implement their pest and disease management plans. Utilizing crop protection products is expensive and growers will not make applications that are not needed.</p> <p><i>See response to Comment 1E.</i></p>	<p>16, 108, 109, 110, 111</p>
<p>4E</p>	<p>The 48-hour application specific notification is not only difficult to accomplish but is more likely to alarm recipients. The proposed communication fails to convey the need for an application(s) within a supportive context that describes risk assessment (in general), and specifically the human health risk assessment and risk management efforts that resulted in the registered use of crop protection materials. Without sufficient context, it is unlikely that a member of the public would regard the communication as anything other than alarming due to a lack of understanding of the processes and protections already in</p>	<p>113</p>

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	<p>place. Eliminate the 48-hour application specific notification and instead allow agricultural representatives, school officials, and the CAC to develop a plan to house information and make that information publically available. Before making lists of chemicals available to the general public we believe DPR has a role to further explore and effectuate its own effective communication to the general public defending its science-based decisions to register pesticides for use in California.</p> <p><i>See response to Comment 1E.</i></p>	
5E	<p>The 48-hour notification element is too prescriptive, lacks needed flexibility, and is fundamentally flawed. The requirement is based on a federal label requirement unique to the application of soil fumigants. It requires emergency preparedness and response measures in certain circumstances that are not applicable to other crop protection products or chemicals. DPR cannot cite unrelated federal label requirements to justify the proposed notification requirements. DPR should remove the 48-hour notification provisions.</p> <p><i>See response to Comment 1E.</i></p>	115; OXN-5; SAL-1
6E	<p>Farmers must have an ability to respond to changing weather or other conditions that could threaten their crops. Oppose the regulation.</p> <p><i>See response to Comment 1E.</i></p>	PC1-220R; PC1-166WA/CC; A1-25; M1-136; U1-U37; 5, 6, 21, 26, 65, 85, 86, 87, 95, 96, 104; SAL-28
7E	<p>Farmers must have an ability to respond to changing weather or other conditions that could threaten their crops. Request elimination of the 48-hour notification requirement as an example of obstruction of this necessary flexibility. Any regulation also must have an emergency provision to address situations that must be handled quickly (Asian Citrus Psyllid/ Huanglongbing).</p> <p><i>See response to Comment 1E.</i></p>	N1-75; 30, 39, 41, 62, 76, 112; TUL(31,33,37); SAL-39
8E	<p>Opposes proposed section 6693 and requests DPR continue to use the California restricted materials permit system to address those chemicals that have been scientifically determined to warrant application specific notification requirements.</p> <p><i>See response to Comment 1E.</i></p>	115

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<p>9E</p>	<p>School principals and childcare administrators should not be allowed to “opt out” of Application-Specific Notification. Advance notice of pesticide applications enables the early detection of pesticide drift incidents, and allows schools administrators and staff to reschedule outdoor activities to reduce exposure. DPR’s ISR states that “consistency with the Healthy Schools Act is an important element of the proposed regulations...Because of this procedural alignment, it may be easier for schools and child day care centers to implement an optional parental notification process for offsite applications that is similar to the Healthy Schools Act’s mandatory notification process for on-site applications.” Consistency with the Healthy Schools Act must extend to the mandatory notification requirement. Optional notification is not sufficient.</p> <p><i>See response to Comment 1E. Also see response to Comment 48D.</i></p>	<p>91, 120 C-31</p>
<p>10E</p>	<p>With the approval of additional pesticide safety regulations and significant improvements to air monitoring implemented in the last five years, we question the need to include the provisions for a 48-hour Application-Specific Notification as stated in section 6693. Implementation of this provision creates a tremendous workload for CACs, school administrators and growers and seems onerous since section 6691 restricts pesticide applications on Monday through Friday from 6 a.m. to 6 p.m. for pesticides and application methods that pose the highest risk.</p> <p><i>See response to Comment 1E.</i></p>	<p>75</p>
<p>11E</p>	<p>Require advance notification be provided to schools if any pesticide use continues to be allowed within one mile of schools. Schools should then be required to notify teachers and use robo-call systems to notify parents.</p> <p><i>See response to Comment 1E. Also see response to Comment 48D.</i></p>	<p>H99; 100</p>
<p>12E</p>	<p>Kern and Monterey counties have initiated pilot projects regarding school notification of pesticide applications within ¼ mile of schools. DPR should give these programs sufficient time to assess their efficacy before implementing a statewide rule with 48-hour notification requirement.</p> <p><i>See response to Comment 1E.</i></p>	<p>75, 110, 124</p>

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13E	<p>Bothered about the confusion that may be promoted in the 48 hour notification proposal This seems to make the current 24 hour notification, we have used with much success for restricted materials, for over 30 years, obsolete.</p> <p><i>See response to Comment 1E.</i></p>	125
14E	<p>Does section 6693(b) include email and fax? The regulation should specify electronic delivery of notification is acceptable, such as email, fax or other electronic method.</p> <p><i>See response to Comment 1E.</i></p>	43, 80
15E	<p>Would be helpful if DPR developed fillable Application Specific Notification to standardize the process for all involved. A standardized electronic form (e.g. PDF) would streamline the process for notification and create consistency for compliance inspection purposes.</p> <p><i>See response to Comment 1E.</i></p>	43
16E	<p>Would the alternative application specific notification allow for growers to provide less info than required on subsection (a)-(d)? The way this section currently read is that it allows custom written agreements between growers and schoolsites. The agreements remove the requirements for compliance with subsection (a)-(d). However, it is not clear how we would cite a violation of an element within an agreement. Provide clarification as to what would the citable section be for violation of the agreement</p> <p><i>See response to Comment 1E.</i></p>	43
17E	<p>The application-specific waiver provision will create a data and recordkeeping gap. Delete this provision.</p> <p><i>See response to Comment 1E.</i></p>	107
18E	<p>Applications should only occur under specific conditions. That is, the right product applied at the right time, under the right conditions and in accordance with all label requirements. If a pest control adviser determines that the right time is right now, that would not happen under the regulations because the proposed time is 48 hours later.</p> <p><i>See response to Comment 1E.</i></p>	54

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19E	<p>Informing schoolsite staff of impending applications will not provide any additional level of protection above the current regulation and may inundate them with notices until they become more junk mail.</p> <p><i>See response to Comment 1E.</i></p>	57
20E	<p>What is the purpose of the 48 hrs. Is the school going to close? Is this to give the parents time to pull their child if they want? There have been plenty of times that we would hold off on spraying because of the wind. We would try again the next night and if the wind died down, then we would start. With the 48 hour restriction, we don't have that opportunity. We would have to wait another 48 hours on top of the time spent waiting for the right weather conditions.</p> <p><i>See response to Comment 1E.</i></p>	78
21E	<p>All fungicides state on the label a certain amount of spray interval. Start at bloom and continue every 14 days for example. With this restriction, I am not able to maintain a proper interval. Instead of using a softer, preventive type of material, I am forced to use a more potent type with shorter intervals and more gallons per acre. Or if there is a rain event and we want to add a material. Even though it would be on the list of what we provided to the school, we would still have to wait 48 hours.</p> <p><i>See response to Comment 1E.</i></p>	78
22E	<p>This seems counterproductive as this seems to apply to safe applications of hand and ground rig applications. This 48 hour notification period can make it worse due to weather changes that can occur. The chart of proposed applications within a quarter mile is confusing as ground pump sprayers can be used within 25 feet. It is safe at 25 feet, why have a notice for a quarter mile application. A much better way is to give the school the ability to ask for use reports at the end of the year by calling the CAC. They already have this information as to the date, time, chemical and amount used. Adding additional paperwork will not keep the children from getting sprayed. In fact it can hurt by delaying the spray when weather conditions are not favorable.</p> <p><i>See response to Comment 1E.</i></p>	82
23E	<p>The short time window it gives to successfully spray a field is unreasonable. One of the key factors to good integrated pest management is timing. If growers cannot time insecticide sprays or growth regulating sprays properly it often leads to repeat application which wastes time, money, and increases pesticide use.</p> <p><i>See response to Comment 1E.</i></p>	60, 66

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24E	48 hours is not an adequate time frame for schools to inform staff and parents and plan what to do. <i>See response to Comment 1E.</i>	89
25E	School principal or administrator waiver of application-specific notification undermines the objective of protecting public health and safety as required by FAC section 11501 and serves no discernable purpose. <i>See response to Comment 1E.</i>	35
26E	Paragraph (a) seems to conflict with section 6691, requiring only notification when application of pesticides is planned within ¼ mile of a school and between 6:00 am and 6:00 pm, rather than prohibiting it. <i>See response to Comment 1E.</i>	56
27E	Requiring a completely new notice when a delay has occurred seems like it could cause confusion. Might it be better to provide for a notice of changed date linked to the original notice? <i>See response to Comment 1E.</i>	56
28E	If you want uniform, consistent and complete forms for these notices, DPR should create the form and put it on the web as a fillable pdf file that growers and applicators can use. This will allow forms to be updated from time to time as experience dictates. It could also facilitate machine reading of forms for data collection and analysis by State, County or school officials. <i>See response to Comment 1E.</i>	56
29E	Paragraph (d) says the notice must state that the application is within ¼ mile. Is this to imply that applications beyond ¼ mile also require notice? It should be clear to everyone that any notice received under this regulation is within ¼ mile of the school. Recommend deletion of last sentence. <i>See response to Comment 1E.</i>	56
30E	Is Paragraph (f) the flexibility that I mentioned above for the school official to waive all this? <i>See response to Comment 1E.</i>	56
31E	Wine grape has to be delivered to the crush pad that is free of mildew and rot and has quality measured by specific parameters on a day to be specified perhaps only 24 or 48 hours in advance, sometimes even	79

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	<p>less. If this regulation prevents me from effectively treating my vineyard against mildew and rot, then I will lose this year's crop. I simply can't wait to apply a material that is proven safe because there is an artificial overly legalistic notice requirement.</p> <p><i>See response to Comment 1E.</i></p>	
32E	<p>Since DPR says this is only for emergency preparedness, we would also like to propose that it is only an annual notification to the schools to let them know who the grower is that owns the property near them, giving their contact info for more dialect in between the grower and the principal of the school. Since the individual notifications are only about low-incident specific notifications, like spot spraying, these types of applications we don't know why the low incidents need to be told to use every single individual time.</p> <p><i>See response to Comment 1E.</i></p>	TUL-15
33E	<p>Allowing school principals to opt-out of some of the notifications is a false choice. While the proposed regulations do allow the school principal to opt-out of the application-specific notifications, that does not remove the threat of liability. If a principal were to opt-out of receiving such notifications, the school or school district would still be subject to liability if a claim is made. Allowing schools to opt-out does nothing to alleviate the new liability concerns our school personnel and districts share.</p> <p><i>DPR has revised the proposed regulation to remove the requirement for application-specific 48-hour notification. Even if the 48-hour notifications had been retained, the notifications impose no liability on schools.</i></p>	53, 123; TUL-16; SAL-41
34E	<p>DPR should remove the notification opt-out provision and alternative agreement provisions in the regulations because they will likely have a negative impact on students. DPR's reasons for allowing schools to opt out of receiving pesticide spraying notification include "cost of forwarding the notifications to parents" and "concerns about decrease in student attendance and associated decrease in school funding if they choose to provide the notification to parents." DPR fails to explain how the cost of forwarding notification is prohibitive, but posting this information or sending robo-calls are alternative cost-efficient ways for schools to notify parents and students of spraying. DPR's reason that school attendance and funding may decrease does not warrant allowing schools to waive knowledge of spraying.</p> <p><i>DPR revised the proposed regulation and removed the requirement for application-specific 48-hour notification. One of the reasons for removing this requirement was lack of support from school</i></p>	122

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	<p><i>administrators. The several dozen administrators who commented all opposed the notifications due to potential workload and liability concerns.</i></p> <p><i>The commenter's reasons for suggesting the removal of the alternative agreement provisions are unclear. This is the mechanism that will be used to address extracurricular and other student activities outside the Monday – Friday, 6:00 a.m. – 6:00 p.m. period, so it is unclear how this will negatively impact students. Also see response to Comment 19F.</i></p>	
<p>35E</p>	<p>Notification of any neighboring school, day-care facilities, residences or businesses must be provided one full week before any pesticide application of any kind; this communication must be through the CACs website to school secretaries, phone calls including reverse 9-1-1 calls, posting of the fields in English and Spanish, local radio and television PSA announcements, all of these in English and Spanish, with Triqui and Mixteco as available through CRLA translators. If cancellation of the pesticide application occurs, the same communication routes must be notified as soon as possible.</p> <p><i>DPR revised the proposed regulation and removed the requirement for the application-specific 48-hour notifications. Even if the requirement had been retained, the suggested changes are not needed to achieve the objective of providing emergency preparedness information to schoolsites.</i></p>	<p>14</p>
<p>36E</p>	<p>Consider enhancing Cal Ag Permits Systems to include capabilities for growers and Pest Control Businesses to submit their Notices of Application (NOAs) to the CAC. The proposed regulation includes provisions to allow Notices of Intent (NOIs) to be considered as NOAs. This will increase the number of growers in Cal Ag Permits statewide. Adding the NOA capabilities to Cal Ag Permits System will provide inspectors the NOA information on the field as it currently does for NOIs.</p> <p><i>DPR revised the proposed regulation and removed the requirement for application-specific 48-hour notification.</i></p>	<p>43</p>
<p>37E</p>	<p>The regulation does not allow ordinary, low-risk application to occur without notice, while catching applications that do present higher risk. If the label signal word is at the lowest level, i.e. "Caution", and the application is performed per the label by ground equipment, with minimal wind, or wind direction favorable, and at night when the school is not in operation, it makes little sense to create a false sense of hazard by sending a flurry of notices. On the other hand, if the signal word was "Danger", then I would</p>	<p>79</p>

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	<p>agree, the school might really want to know about it. Do school administrators have time to read the notices that are they receive almost continuously from May through July? After being completely swamped by these notices, is the administrator going to catch the one-time that I use something that has a higher hazard?</p> <p><i>See response to Comment 1E.</i></p>	
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APPLICATIONS

1F	<p>County authority to improve protections must not be impeded. The draft policy requirement that schools, grower, and CAC must all agree on stricter requirements around specific schools, and that the agreement can be rescinded by one party’s objection at any time, hampers county officials’ ability to protect children. While growers most certainly can communicate their concerns to CACs, they should not be given veto power over the CAC’s authority to require added protections based on local conditions. We are also concerned that allowing “alternative application restrictions that the parties agree provide the same or a greater level of protection” is too vague and open-ended. At a minimum this should be limited to application restrictions that the CAC determines provides a greater level of protection.</p> <p><i>This regulation does not impede the ability of any CAC to place permit conditions that go beyond the protection of this regulation on the use of those pesticides that have been made restricted materials due to inherent qualities that increase their risk potential for impacting public health. However, CACs can only implement permit conditions for the approximately 37 pesticides designated as restricted materials. For restricted materials and the several hundred other pesticides that are not restricted materials, this regulation provides a minimum level of protection beyond the current label requirements and state regulations already enforced by the CACs. The 3-party agreements specified by section 6691(f) provide a means for the school, CAC, and farmer to address the need for restrictions outside the 6 am to pm time frame, the need and extent of which may vary greatly from schoolsite to schoolsite..</i></p> <p><i>The regulation includes specific application restrictions that cannot be replaced by any alternate other than one that is more expansive (time period in which the restrictions are in effect, the prohibition on specific application types). If the parties are uncertain if alternative restrictions provide</i></p>	120
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	<i>the same level of protection, they should only agree to restrictions that are clearly more protective, such as extending the distances, increasing the time periods, or applying the requirements to extracurricular activities.</i>	
2F	<p>Proposed subsection 6691(f) [negotiated written agreements] should be deleted in its entirety. We are very concerned that (1) this subsection does not ensure protection of school children from pesticide drift exposure resulting from pesticide applications outside of the 6 am to 6 pm weekday time; (2) allowing “alternative application restrictions that the parties agree provide the same or a greater level of protection” creates a problematic loophole because there are no criteria included for deciding whether alternative application restrictions will provide at least as much protection as the regulatory requirements that were adopted during the rulemaking process. The last sentence of proposed section 6691(f) which would give the CAC authority to enforce the alternative application restrictions “as if they were requirements in regulation” does not comply with the Administrative Procedures Act.</p> <p><i>See response to Comment 49D and Comment 1F.</i></p>	118
3F	<p>The voluntary agreements with growers and the CAC to have different provisions could encourage weaker agreements than the proposed regulations. As it stands, “the application restrictions do not apply when there is a written agreement between the operator of the property, the principal or child day care facility administrator, and the CAC that specifies alternative application restrictions that the parties agree provide the same or a greater level of protection as provided by subsections (a) through (c).” The ISR only states that section 6691(f) “can be used” to make stronger requirements. That means the agreements could create less favorable regulations, which has the potential to cause serious harm to students and families. DPR’s definition of similar protections gives complete discretion to parties, like growers and CACs, who have already actively spoken against stronger regulations. DPR should remove any ambiguity by only including language allowing for stronger regulations.</p> <p><i>See response to Comment 1F.</i></p>	122
4F	<p>Section 6691(e) restricts the use of fumigants when school classes are scheduled or child day care facilities are open within 36 hours following fumigation. DPR states this provision was added specifically for 1,3-dichloropropene, to be consistent with federal restrictions for other fumigants. This is unacceptable and not consistent with federal or state restrictions. In October 2016, DPR revised</p>	115

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	<p>mitigation measures for 1,3-dichloropropene following what it described as a, “comprehensive scientific study,” which did not include or discuss the need for a 36-hour restriction. This included the development of a risk characterization document and management directive for which there was a formal, peer-reviewed, public comment period. If a 36-hour restriction was scientifically warranted, it should have been included in DPR’s risk management directive.</p> <p><i>The risk management directive that DPR issued in October 2016 only addresses the cancer risk from 1,3-dichloropropene. Section 6691(e) addresses the risk from acute exposure.</i></p>	
<p>5F</p>	<p>The regulation proposes to eliminate those applications that are more prone to drift from occurring during school hours, Monday through Friday from 6 am to 6 pm. This will provide an additional level of protection for school children during school hours and support this part of the proposed regulation.</p> <p><i>No response is needed.</i></p>	<p>76</p>
<p>6F</p>	<p>Under the current regulations (i.e., the Phase II labels), soil fumigant users have the ability to select application practices that have a lower potential for fugitive emission. The Phase II soil fumigant labels intentionally included this flexibility, because it encourages the adoption of fumigant emission reduction practices and technology. In contrast, a static ¼ mile restriction discourages the adoption of these strategies; growers will be penalized regardless of the application practices and stewardship measures they undertake.</p> <p><i>See response to Comment 25A.</i></p>	<p>119</p>
<p>7F</p>	<p>The overall effect of a static ¼ mile restriction on all soil fumigant applications is that more applications will have to be done on Saturday mornings to accommodate the 36-hour interval between application and the start of the school week on Monday morning. Concentrating many fumigant applications to weekends will put tremendous strain on limited applicator resources, and also poses to incur significant buffer zone overlap problems because adjacent growers may also need to use weekend applications for other pesticides subject to this regulation. This will result in a bottleneck that impedes agricultural productivity for both industry (growers and applicators) and regulators (county agricultural officer inspectors).</p>	<p>119</p>

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	<p><i>DPR acknowledges that more fumigations will need to be conducted on Saturdays, but the impact is reduced because there are similar requirements currently in effect. The 36-hour requirement of section 6691(e) impacts applications of the fumigant pesticides 1,3-dichloropropene (1,3-D), chloropicrin, methyl bromide, and pesticides that generate methyl isothiocyanate (MITC). Chloropicrin and methyl bromide labels currently require a 1/8 mile or 1/4 mile distance to schoolsites, depending on the size of the buffer zone. MITC permit conditions currently require a 1/2 mile distance to schoolsites. This requirement has the greatest impact on fumigations using products containing 1,3-D as the sole active ingredient because it has no similar requirements currently, and they comprise approximately 20 percent of all fumigations.</i></p>	
<p>8F</p>	<p>The proposed regulation prohibits those application types that have the most potential for drift from occurring during school hours. This prohibition is likely to result in an increase in weekend and nighttime applications which will be more difficult to inspect given the limited availability of resources at these times.</p> <p><i>With the many different types of crops, agricultural practices and climate zones located throughout the state, current pesticide applications do not always occur during normal work hours. Depending on the crop grown or the agricultural practice used on a crop, work may need to be conducted in the very early morning hours, or in the evenings when the weather is coolest. Also, weather patterns (rain, extreme temperatures, fog) may affect the time of year and time of day a pesticide application can occur, therefore, CAC staff may be required to work evenings, weekends and split shifts, and not Monday through Friday, 8:00 a.m. – 5:00 p.m. For example, Imperial County staff work evenings in the summer, since daytime temperatures are in the 100's and most of the summer pesticide applications occur then.</i></p>	<p>62, 75</p>
<p>9F</p>	<p>Do not allow pesticide application if wind speed is over 2 miles per hour.</p> <p><i>The comment is outside the scope of the regulation, and could potentially result in higher exposures. Most labels prohibit pesticide applications if the wind is less than 3 miles per hour or more than 10 miles per hour. Pesticides applied during periods of low wind speed or calm conditions do not readily dissipate and high air concentrations can occur near the application area.</i></p>	<p>K195</p>

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<p>10F</p>	<p>Since pesticides often linger in the environment following the applications, continuing to expose children to their harmful side effects, DPR should take into consideration these factors when deciding whether certain pesticides should be banned outright with the buffer zone.</p> <p><i>DPR considers these factors as part of its health risk assessments that evaluate the potential health effects and exposures. Regulatory actions indicated by these assessments are made on a chemical by chemical basis. The prohibitions in these regulations are primarily designed to limit those applications with the most potential to drift.</i></p>	<p>31</p>
<p>11F</p>	<p>Once the new no-spray protection zones are in place, conduct ongoing air monitoring at schools around the state that have been identified as having the most pesticides of public health concern applied nearby. Any exceedances of health screening levels detected by air monitors should be immediately reported to local school and county officials, parents and teachers, and should trigger an expansion of the protection zone.</p> <p><i>This comment is outside the scope of the regulation.</i></p>	<p>H99; 100, 101</p>
<p>12F</p>	<p>Many sprayed applications present no health risk to any nearby property such as micronutrient foliar applications, horticultural oil and plain water.</p> <p><i>The regulation only pertains to pesticide applications for the production of an agricultural commodity. Nutrients and water are not pesticides.</i></p>	<p>58</p>
<p>13F</p>	<p>If pesticide treatments are restricted to holidays and weekends there will be more incidences of exposure to folks recreating near agricultural lands on weekends and holidays.</p> <p><i>Current requirements regarding protection of people and the environment still apply, including 3 CCR section 6614 that requires an applicator to evaluate the weather and surrounding properties before and during an application to determine if there is a reasonable possibility of contamination of bystanders, public or private property, or if the application would prevent the normal use of property or create a health hazard. The focus of this regulation is to add an extra margin of safety for schools where we know children are present on a regular and predictable schedule.</i></p>	<p>95</p>

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<p>14F</p>	<p>Continued pesticide air monitoring is recommend to not only assess the effectiveness of this proposed regulation but to build better understanding of organophosphates in the environment.</p> <p><i>This comment is outside the scope of the regulation.</i></p>	<p>99</p>
<p>15F</p>	<p>Support adopting section 6691(f) regarding written agreement.</p> <p><i>No response is needed.</i></p>	<p>115</p>
<p>16F</p>	<p>Restricting a growers' ability to apply needed control measures makes pest management more complex and less reliable, resulting in loss of production. Also, in instances where aerial application is required, nighttime application which is highly dependent on visual navigation will certainly be less accurate and/or safe in darkness. Relying solely on weekend application may not be possible due to weather and resource restrictions.</p> <p><i>DPR acknowledges that applications at night will be more difficult than daylight applications. However, night applications are common due to lower temperatures, less potential exposure to bees, and other reasons.</i></p>	<p>83, 124</p>
<p>17F</p>	<p>For almonds, there is a very narrow window during bloom for fungicide sprays. Growers must work between rain storms and when the ground is sufficiently dry to allow application of ground sprays. If not applied at the correct time, bloom disease can easily reduce yields by over 25 percent and that can necessitate additional unplanned crop year use of pesticides.</p> <p><i>DPR acknowledges the vulnerability of almonds during the bloom period. UC Davis and the California Department of Food and Agriculture did a comprehensive analysis of the expected almond losses for several counties. DPR used this analysis to estimate an average annual loss of approximately \$300 for an affected grower. However, the loss is highly dependent on the amount and timing of rainfall. During a worst-case year DPR estimated an average loss of \$4,600.</i></p>	<p>124</p>
<p>18F</p>	<p>Navel Orange Worm (NOW) is a major pest for almonds that requires precise timing for control, especially given that the insecticides available for NOW control use soft based chemistry.</p> <p><i>See response to Comment 17F.</i></p>	<p>124</p>

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<p>19F</p>	<p>While we appreciate the thought behind the flexibility provided by the proposed section 6691(f), this clearly re-enforces the fact that this proposed rule is not based on rigorous regulatory risk assessment, it's regulatory politics. How is an operator of a property, the principal of a school, an administrator of a day care facility or a CAC able to determine just by "agreeing" that an alternative application will provide the same level of protection as provided by the proposed restrictions?</p> <p><i>DPR will provide guidance to CACs for the three-party agreements, but the regulation includes specific application restrictions, including prohibiting certain types of applications at certain times within a certain distance. If the parties are uncertain if alternative restrictions provide the same level of protection, they should only agree to restrictions that are clearly more protective, such as extending the distances, increasing the time periods, or applying the requirements to extracurricular activities.</i></p>	<p>124</p>
<p>20F</p>	<p>It is puzzling that the ISR offered organic practices as an example of what should be considered as qualifying for an alternative agreement. It is our understanding that this rule would apply to organic sprays in addition to conventional sprays as we are not aware of an exemption for organic sprays within the proposed regulation. Is it just that they're being applied to "organic production" that allows for its consideration in an alternative agreement? Lee et al. (2011) and DPR's illness database appear to support the conclusion that organic practices or organically approved materials themselves shouldn't be a determinative factor in the alternative agreement process. We would recommend that DPR be the arbitrator of whether an alternative agreement can provide the same level of protection that is required by the proposed rule.</p> <p><i>The regulation applies to all pesticides. Additionally, the parties always have the option to seek guidance from DPR for making the three-party agreement.</i></p>	<p>124</p>
<p>21F</p>	<p>The proposed rule categorizes and treats the application of registered low-risk pesticides that are used in California organic and conventional production as a significant health risk to school children. For example, sulfur, a registered pesticide approved for use in organic agriculture will be considered an equivalent health risk to school children as materials applied by fumigation. How does that make sense in terms of risk assessment and risk mitigation?</p> <p><i>One of the objectives of the regulation is to provide an extra margin of safety in case of unintended drift or other application problems. DPR has documented illnesses due to illegal drift of sulfur.</i></p>	<p>124</p>

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<p>22F</p>	<p>Review of the ISR and our interpretation of the intent of the restrictions imposed by the proposed rule are to pesticide applications prior to and during growing of an agricultural commodity and not for post-harvest purposes. The rule should be clear that the proposed rules provisions do not pertain to post-harvest applications.</p> <p><i>Section 6690 says “The provisions of this article pertain to pesticide applications made for the production of an agricultural commodity within ¼ mile of a schoolsite.” Post-harvest pesticide applications are considered an industrial use and are not included in the regulation.</i></p>	<p>124</p>
<p>23F</p>	<p>The proposed rule specifically mentions that the rule will apply to all fumigants. Our understanding is that it applies only to soil fumigants not to fumigants applied post- harvest. This is not clear from the current language and we request clarification from DPR on whether the term fumigant strictly means soil fumigant</p> <p><i>See response to Comment 22F.</i></p>	<p>124</p>
<p>24F</p>	<p>Would the term “fumigants” exclude aluminum phosphide and zinc phosphide? If so, please state the exemption in regulation. Underground phosphine spot treatments for rodents are permitted on school grounds. In addition, phosphine products are restricted and require a permit from the CAC. Product label and permit condition further restrict the distance phosphine products can be used from a structure.]</p> <p><i>Aluminum phosphide and zinc phosphide applications made for the production of an agricultural commodity are included in the regulation. Other uses of these pesticides are not included in the regulation, including industrial uses (e.g., post-harvest applications) and non-production agriculture uses (e.g., rights-of-way applications).</i></p>	<p>43</p>
<p>25F</p>	<p>Delete duplicate information from 6691(a). A shade house is a common structure associated with greenhouses and nurseries.</p> <p>(a) There must be a minimum 25 foot distance restriction when using a:</p> <p>(1) Ground-rig sprayer. However, if this type of equipment is used to apply a dust, powder, or fumigant, the ¼ mile distance restriction in subsection (a) applies.</p> <p>(2) Field soil injection equipment for formulations other than dust or powder. However, if this</p>	<p>43</p>

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	<p>type of equipment is used to apply a fumigant, the ¼ mile distance restriction in subsection (a) applies; or if used to apply a dust or powder, there is no minimum distance restriction.</p> <p>(3) Other application equipment not identified in this section, such as drip or flood chemigation equipment. However, if this type of equipment is used to apply dust, powder, or fumigant, the ¼ mile distance restriction in subsection (a) applies.</p> <p>(b) Notwithstanding subsections (a) and (b), there is no distance restriction when:</p> <p>(1) The application is made within an enclosed space, such as a greenhouse or shade house. However, when applying a fumigant, the ¼ mile distance restriction in subsection (a) applies.</p> <p>(2) The application is made using bait stations.</p> <p>(3) A pesticide is applied as a dust or powder using field soil injection equipment.</p> <p>(4) A pesticide is applied as a granule, flake, or pellet. However, when the pesticide product formulation is applied as a fumigant, or is applied by aircraft, the ¼ mile distance restriction in subsection (a) applies.</p> <p>(5) An application is made using a backpack sprayer. However, when this type of equipment is used to apply a dust or powder, the ¼ mile distance restriction in subsection (a) applies.</p> <p>(6) An application is made using a hand pump sprayer. However, when this type of equipment is used to apply a dust, powder, or fumigant, the ¼ mile distance restriction in subsection (a) applies.</p> <p><i>DPR believes that the duplication provides clarity to the regulation. A shade house is not considered an enclosed space as defined in section 6000.</i></p>	
<p>26F</p>	<p>Section 6691(f): In order to allow for unique agreements that may be approved by the CAC, the statement “Provide the same or a greater level of protection as provided by subsections (a) through (c).” should be reconsidered for removal since it seems to conflict with section 6693(e). As an agreement between the school and grower, the decision should be left to the two parties. This statement would indicate the CAC would need to conduct safety assessments for each grower-schoolsite agreement. CACs might not have the tools to ascertain the exact level of protection as the proposed regulation. This might create an undue burden on CACs when it comes to limited resources and it might result in delay or rejection of approvals.</p> <p><i>See response to Comment 19F.</i></p>	<p>43</p>

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<p>27F</p>	<p>Section 6691(b) creates confusion and conflict with Yolo County Permit Condition which states no restricted materials applications may be made within ¼ mile of any school while in session. Section 6691(b) should clarify that the more restrictive County Restricted Materials Permit Conditions apply for restricted materials and not leave the impression that 25 feet is sufficient for all materials.</p> <p><i>Several CACs have more stringent permit conditions for restricted materials than specified by this regulation. Growers must always comply with the most stringent requirements, whether they are specified by labels, state regulations, or county permit conditions.</i></p>	<p>49</p>
<p>28F</p>	<p>Consequences might include: 1) Farmers moving to more aggressive chemicals so they can reduce the number of spray applications. 2) Because the number of potential spray hours is reduced farmers may opt to spray when conditions are less favorable. This could mean more drift. 3) Because the number of potential spray hours is less farmers may opt to use less precise spray methods (aerial instead of ground) to get the job done. This means more drift.</p> <p><i>These consequences are speculative and unlikely to occur because this regulation provides incentive to growers to use less toxic pesticides and application methods with less drift potential.</i></p>	<p>80</p>
<p>28F</p>	<p>Major problem with the rule is that less toxic sprays are treated the same as the most toxic sprays. So using organic mineral oil is the same as spraying with 2,4-D? This makes no sense if our goal is to reduce the danger of exposure to our children. Any rules hoping to protect should reward farmers who switch to more precise application methods and the use of less toxic chemicals.</p> <p><i>See response to Comment 21F. The restricted application methods all have a higher risk of drift, and it was the intent of this regulation to reduce the potential of exposure from drift regardless of the relative toxicity of the pesticide.</i></p>	<p>80</p>
<p>29F</p>	<p>We use low volume fanjets which have very little drift capabilities. These are run at a pressure less than 20 pounds at nine inches above the ground. These are not high impact sprinklers that spray a thirty foot distance at high pressure. There needs to be allowances to accept this type of new technology.</p> <p><i>The application method described appears to require a distance of 25 feet. While the drift potential may be low, it is not negligible and some precautions are warranted.</i></p>	<p>82</p>

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<p>30F</p>	<p>It is reasonable and appropriate to allow CACs to adopt local regulations which are more health protective than the statewide regulations. However, subsection 6691(f) contains two fatal flaws. First, it requires the agreement of growers to implement local regulations, which is sure to prevent more health protective measures from being adopted in most cases. This power should be reserved to the CACs, following a transparent public process, as in the case of other local pesticide regulations allowed by current law. Second, it leaves the determination of what “provide[s] the same or a greater level of protection” to the sole judgement of the parties to any local agreement. Unfortunately, local growers, school administrators, and even CACs simply do not have the expertise in most cases to make such public health judgements without further guidance. In order to be effective, the regulation must not leave such matters up to local parties, but rather must specify that any local regulations are limited to one or more of the following: (a) increasing some or all of the distance restrictions provided by the state regulations, or adding distance restrictions for pesticides which have none under the state regulations; (b) limiting the size or number of applications or application rates near schoolsites, more than or in addition to the state regulations; (c) prohibiting the application of specific pesticides, classes of pesticides or formulations of pesticides, or prohibiting specific application methods not prohibited by the state regulations.</p> <p><i>Separate from section 6691(f), FAC section 11503.5 gives CACs the authority to develop local regulations for pesticide applications within ¼ mile of a school. Also see response to Comment 19F.</i></p>	<p>77</p>
<p>31F</p>	<p>The proposed regulation applies different restrictions to different types of pesticides, based on the product formulation and application method. There is some justification for this kind of tiered approach. Buffer distances should be much larger than those proposed. While product formulation and application method contribute substantially to the potential for drift, the proposed regulation must consider not just the potential for drift but also the possible effects of exposure. Pesticides should also be categorized by health risk. The CDPH study provides a good methodology for identifying “pesticides of public health concern” for this purpose. Pesticides of public health concern must be subject to larger buffer zones than other pesticides of the same formulation type and application method.</p> <p><i>See responses to Comments 1A and 21F.</i></p>	<p>77</p>

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<p>32F</p>	<p>CAC must “consider local conditions” including “use in vicinity of schools” before issuing the permits required for many agricultural pesticide applications and may impose permit-specific requirements, such as buffer zones, based on local conditions. In contrast, DPR’s proposed section 6691 imposes generic buffer zones and time restrictions on broad categories of pesticides and application equipment without data demonstrating the need for such restrictions.</p> <p><i>One of the objectives of the regulation is to provide an extra margin of safety in case unintended drift or other application problems occurs. As described in the ISR, acute illnesses due to drift from agricultural applications have been documented in California and elsewhere. DPR’s pesticide illness database for California shows that 5 episodes involving 34 cases of illness occurred at schools due to drift from agricultural pesticide applications during 2005 – 2014.</i></p>	<p>16</p>
<p>33F</p>	<p>There are many different applications on an agricultural site. Many are nutrient based applications that pose no threat to sensitive sites. It makes no sense to lump those into the same regulation pertaining to a sensitive site.</p> <p><i>The regulation only includes pesticide applications for the production of an agricultural commodity. Nutrients are not pesticides and are not included in the regulation.</i></p>	<p>60</p>
<p>34F</p>	<p>All pesticides, herbicides and insecticides are not the same: Some products that agriculture uses are the same active ingredient that any homeowner can buy over the counter. Yet, agriculture has a continuing education system as well as the permitting system to continue to protect users and non-users from adverse effects of these products. The homeowner use is simply not regulated beyond Point 1 of my comments above. Is DPR going to regulate all homeowners within ¼ mile of a sensitive site?</p> <p><i>The number of pesticides available to homeowners is much smaller than those available for agricultural use. Additionally, agricultural pesticide applications are much larger than those made by homeowners. If unintended drift occurs, agricultural applications are more likely to cause adverse effects than homeowner applications.</i></p>	<p>60</p>
<p>35F</p>	<p>The regulations give excess discretionary authority both to the CACs and to school/childcare site administrators, both of whom may be subject to political, social, and economic pressure from the local agricultural industry.</p> <p><i>See response to Comment 19F.</i></p>	<p>89</p>

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<p>36F</p>	<p>We use low pressure hooded boom sprayers with low drift nozzles to apply herbicides on the orchard floor. Is it intended that such equipment would be covered by subsection (b)(3)? Can use of such equipment be exempted due to the low likelihood of drift?</p> <p><i>The type of application described appears to be consistent with the type specified in section 6691(b)(3) and would require a distance of 25 feet, but there is no provision to exempt this application type from the distance restriction.</i></p>	<p>56</p>
<p>37F</p>	<p>Subsection (c)(5) and (6): We use hand-held wands connected to ATV mounted spray tanks. This is very similar to a backpack or hand pumped sprayer which also use hand held wands for spray application. Can use of this equipment be similarly exempted?</p> <p><i>A more detailed description is needed to determine if this type of application would be exempted from the 25-foot distance restriction.</i></p>	<p>56</p>
<p>38F</p>	<p>The restrictions of this section should be limited to times when school is in session. School officials should have the authority to waive these restrictions whenever they would accomplish nothing other than Inconvenience to a grower. School holidays have been good times for soil fumigation and application of pesticides that require extra care. The proposal also is unduly restrictive during summer break when schools are often vacant for long periods. These periods often coincide with hull split sprays and insect pest flare ups that require treatment.</p> <p><i>The restrictions are in effect Monday through Friday, 6:00 a.m. to 6:00 p.m. The time of schoolsite sessions varies, and compliance and enforcement of a variable time period is problematic. Therefore, DPR selected a fixed time period for the application restrictions. Restrictions are not in effect during weekends. Additionally, section 6691(d)(1) provides an exemption to the distance restrictions when school classes are not scheduled for the day of application. This would include holidays and summer breaks.</i></p>	<p>56</p>
<p>39F</p>	<p>It should be left up to the school official and the grower to work out times when pesticides may be applied and when they should not. This will enable the accommodation of after school activities that occur after 6:00 pm and on Saturday or Sunday.</p> <p><i>See response to Comment 38F.</i></p>	<p>56</p>

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<p>40F</p>	<p>The regulation totally ignores the impact on farmworkers and their families who would be required to operate spray equipment after dark. Even with lighting that meets all OSHA standards, there are more slip, trip and fall Injuries that occur after dark than during daylight hours. Malfunctioning equipment Is less easily detected in the dark. Working nights disrupts families.</p> <p><i>See response to Comment 13B.</i></p>	<p>U36; 56; OXN-6</p>
<p>41F</p>	<p>I am limited here by the regulation to only spraying at night. I have to spray all night. So is it safe for me to drive equipment to two other vineyards after spraying all night? And can I get notice out in time? Wind is expected three days out, so I won't be able to spray then. What am I going to do?</p> <p><i>See response to Comment 13B. Additionally, DPR has revised the proposed regulation and removed the requirement for application-specific 48-hour notification, providing greater flexibility for the timing of applications.</i></p>	<p>79</p>
<p>42F</p>	<p>The problem with the proposed regulation is that it ignores too many factors (or just lumps virtually all applications into a higher risk category) and in so doing, ties the hand of the farmer, making it more difficult to respond to conditions and reduce risk. Nighttime can be a good time to spray, but the worst time is often just before dawn, when the potential for inversion is greatest. There is a high likelihood with the window of time to apply so limited, that farmers will continue to make applications even if they see a drift cloud developing before dawn, because they know that if they pause for the sun to come up and cause the air to lift and disperse the cloud, they will run out of time. I see the regulation making it more likely rather than less, that on days of application, drift will occur, for this reason.</p> <p><i>See response to Comment 13F.</i></p>	<p>79</p>
<p>43F</p>	<p>It's safest to make applications while students are in school so they are not drawn to the area of application out of curiosity.</p> <p><i>See response to Comment 13F. The purpose of this regulation is to provide an additional margin of safety during a time when it is predictable that a significant number of children will be present in proximity to the agricultural field.</i></p>	<p>130</p>

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44F	<p>The intended regulation is unintended drift, but the regulation removes 12 hours of potential ideal drift situations to do your applications which should be revisited.</p> <p><i>See response to Comment 13F.</i></p>	TUL-41
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COUNTY AGRICULTURAL COMMISSIONERS AUTHORITY

1G	<p>FAC section 11503.5 gives statutory authority to CACs to adopt a county regulation regarding timing, application method, and notification of pesticide applications within one-quarter mile of a school through a rulemaking process and contingent on DPR’s approval. DPR argues that, “... the proposed regulation essentially implements the intent of that legislation without requiring each county to go through an extended process, and provides the same level of protection to school children regardless of where they live.” This is inaccurate. Assembly Bill (AB) 974 (Chapter 457, Statutes of 2002) deliberately provides authority to local counties without imposing a statewide standard. This regulation circumvents that law and imposes a statewide standard in areas where flexibility is needed. It also undermines the stakeholder process that led to the development of that law as written and the legitimate concerns that were raised by impacted stakeholders.</p> <p><i>By AB 974, the Legislature recognized that pesticide applications within the ¼ mile area surrounding a school were the appropriate applications on which to focus when considering increased restrictions around schools. The Bill did not set any specific standards, but did give the local CAC the authority to do so provided they engaged in a rulemaking process comparable to that required by the Administrative Procedures Act to assure stakeholder involvement in the process. Authority to broadly restrict pesticide use in this manner was new authority only previously held by DPR. This regulation exercises DPR’s authority to provide a statewide minimum standard of protection and is providing for stakeholder input as required by the Administrative Procedures Act. This regulation does not curtail the flexibility of the local CACs to provide more county-wide protection under the process described by AB 974 or through the schoolsite specific agreements allowed by section 6691(f).</i></p>	73, 115, 123; OXN-16
2G	<p>Proposed regulations violate the California Administrative Procedure Act as they are not "Necessary" and are "Duplicative" of similar Federal Regulations. The ¼ application buffer zone (section 6691) does</p>	18, 19, 113, 126; SAL-54

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	<p>not satisfy the necessity requirement of section 11349. FAC section 11503.5 provides statutory authority to CACs to adopt a county regulation regarding timing, application method and notification of pesticide applications within ¼ mile of a school through a rulemaking process and contingent on DPR's approval. DPR argues that "...proposed Regulation No. 16-004 essentially implements the intent of that legislation without requiring each county to go through an extended process, and provides the same level of protection to school children regardless of more they live." This is an inaccurate statement. The proposed regulation circumvents that law and imposes a statewide standard in areas where flexibility is needed. It also undermines the stakeholder process that led to development of that law, as written, and the legitimate concerns that were raised by impacted stakeholders in that process.</p> <p><i>See response to Comment 1G.</i></p>	
<p>3G</p>	<p>Oppose because most of the proposed regulation is already included in county regulations, thereby, creating yet another set of rules, costs and requirements.</p> <p><i>San Bernardino is the only county that has adopted regulations pertaining to agricultural pesticide applications near schools. Many counties have permit conditions for the approximately 37 pesticides designated as restricted materials applied near schools and most fumigant labels have requirements for schoolsites, but the several hundred other pesticides have no schoolsite requirements. The county permit conditions will remain if in effect, where they are more stringent than this regulation.</i></p>	<p>40, 42; TUL-40</p>
<p>4G</p>	<p>Because this creates buffer zones, the regulation negates all local efforts by CACs to create and enforce such restrictions. Should buffer zones be necessary, they should be determined by the CACs who have direct knowledge of local conditions as well as the ability to seek input directly from the affected growers and superintendents.</p> <p><i>See response to Comment 3G.</i></p>	<p>42</p>
<p>5G</p>	<p>CACs already have authority to impose localized permit conditions in situations such as around schools and daycare facilities. Statewide regulation doesn't make sense.</p> <p><i>See response to Comments 1G and 3G.</i></p>	<p>X1-13 17, 33, 60, 112</p>

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<p>6G</p>	<p>Allow for counties to retain full authority to adopt stricter requirements based on local conditions such as proximity to pesticide use and chemical makeup of pesticides.</p> <p><i>See response to Comments 1G and 3G.</i></p>	<p>H4, H7, H9, H10, H12, H14-16, H21, H22, H23, H31, H33, H34, H41, H55, H61, H64, H66, H68, H72-85; H87-90; Y1-5; 33, 36, 44, 46, 56, 91, 107; OXN-11; SAL-17</p>
<p>7G</p>	<p>Opposed to the regulations as proposed because they may actually, if unintentionally, remove the ability of the CAC to protect the public from the adverse effects of pesticides. This proposal would seem, by virtue of its cookie cutter approach, to remove the option of the CAC to require the same and “equal” protection of children in nonpublic facilities. It also gives a false sense of possible harm or even possible protection to those parents, teachers and students affected by its overly broad scope.</p> <p><i>See response to Comments 1G and 3G.</i></p>	<p>125</p>
<p>8G</p>	<p>The proposal provides no specific incentive for operators of pesticide application sites to agree to anything stricter than the new regulations. DPR should revise section 6691(f) to provide explicit rights for localities to go farther than state requirements in regulating pesticide use near schoolsites.</p> <p><i>CACs have the authority to implement more stringent requirements for restricted materials using permit conditions. They also have authority to adopt county regulations for applications of non-restricted materials near schools under FAC section 11503.5.</i></p>	<p>36</p>
<p>9G</p>	<p>DPR has a very competent and well organized system of CACs who work diligently and daily with the ag community. The CACs are already paid to perform this mandate and focus closely on schools. If greater reporting of applications near schools will make kids safer and becomes required it should be done through the CAC who has the knowledge and the mandate to protect the citizens of California. They in turn could give the schools the data that would serve them best. Incorporate language for CACs to keep schools better informed than they do presently. You could even ask the Governor and Legislature for greater funding so the CACS could do more extensive work at the local level to protect schools. CACs know the farmers and they know the local schools. They are already enforcing buffers around schools and are highly aware of the ag operations that are next to schools.</p>	<p>66</p>

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	<i>The current schoolsite requirements vary from county to county. One of the objectives of the regulation is to establish minimum statewide standards for pesticide applications near schoolsites. Also see response to Comment 3G.</i>	
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SCIENCE

1H	<p>The proposed regulations are not based on new science or technology and oppose the regulations.</p> <p><i>This regulation is not based on any studies of specific pesticides and their effects on human health. Using the Agency's knowledge and expertise on pesticides in general and application methods in particular, this regulation was designed to provide an extra level of safety for schoolsites. Additionally, regulations designed to mitigate the potential adverse effects of specific pesticides that are based on such studies assume that applications are made in compliance with all label requirements, state regulations, and county permit conditions. This assumption provides specific and worst-case scenarios of application methods, application amounts, weather conditions, field conditions, and other factors that DPR can evaluate to estimate potential exposures. This includes evaluation of air monitoring data. This regulation assumes that applications do not comply with the requirements, so specific scenarios cannot be developed for scientific evaluation and exposure estimation, and current air monitoring data do not reflect these types of applications.</i></p>	PC1-245OR; PC1R;PC160R; PC183-184R; PC1-166WA/CC; A1-45; N1-75;O1-33; P1-53; Q1-56; R1-R97; U1-37; W1-6; 9, 10, 11, 12, 13, 18, 20, 27, 28, 29, 30, 41, 48, 51, 60, 81, 104, 124; TUL(13, 27); OXN(5,8,27)
2H	<p>Support stated purposes of the proposed regulation, however, the proposed regulation should be designed to address chronic exposures of concern in addition to potential short-term acute exposures from pesticide applications.</p> <p><i>The objectives of this regulation are to address potential acute exposures by providing a greater margin of safety in case unintended drift occurs and improve emergency preparedness. Addressing chronic exposure is outside the scope of the regulation and is addressed on a chemical by chemical basis.</i></p>	H98, H100; 71, 91; OXN-8; SAL-59

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<p>3H</p>	<p>Do not ignore DPR's long-standing scientific principles to regulate pesticide use.</p> <p><i>See response to Comment 1H.</i></p>	<p>M1-296; 17, 110; TUL-50; OXN-29</p>
<p>4H</p>	<p>The proposed regulation fails to address the actual sources of pesticide exposures within schools.</p> <p><i>The Healthy Schools Act addresses pesticide applications within schools.</i></p>	<p>X1-13; 16</p>
<p>5H</p>	<p>No scientific justification for additional burdensome regulations. The regulations completely override current law that provides the same protection as the regulations seek to address, but offer no county level flexibility. Growers and applicators will be required to fill out and submit unnecessary paperwork further adding to the burdensome administrative requirements already in place.</p> <p><i>See responses to Comments 1H, 9G, and 1E.</i></p>	<p>15, 16, 19, 25, 51</p>
<p>6H</p>	<p>Adequate protection already in place. The proposed regulations lack scientific basis.</p> <p><i>See response to Comment 1H.</i></p>	<p>24, 74, 6H, 19, 37, 38, 69, 83, 88, 108, 109, 111, 123, 124, 131; TUL(14,28,31,35,37,38,42); OXN(6,7,14); SAL(67,74,83)</p>
<p>7H</p>	<p>DPR cites outdated and incomplete drift-related acute illness data to justify the proposed regulation. As noted in the initial statement of reasons, the drift-related acute illness data cited (Lee et. al. 2011) is more than ten years old and includes possibly invalid data from prior to the implementation of DPR regulations and U.S. EPA's stricter labeling requirements to mitigate drift exposure.</p> <p><i>See responses to Comments 1H and 21A.</i></p>	<p>110, 126</p>
<p>8H</p>	<p>DPR fails to acknowledge the positive results of its own air monitoring network. For five straight years, DPR's comprehensive air monitoring network has demonstrated that pesticides in high risk communities including schools, have been found well below levels that indicate a health concern or the need for further evaluation. Current regulations and label restrictions are health protective and confirmed by DPR's own data.</p> <p><i>See response to Comment 1H.</i></p>	<p>17, 18, 110, 115, 126; SAL-1</p>

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<p>9H</p>	<p>DPR’s own database, scientific reports, risk evaluations and risk management measures argue convincingly against the adoption of additional regulations as suggested in DPR’s Concepts to Address Pesticide Use Near Schools.</p> <p><i>See response to Comment 1H.</i></p>	<p>113, 124, TUL-17</p>
<p>10H</p>	<p>DPR speculates that the 5 illness related episodes cited likely would not have occurred had the proposed regulations been in place. This argument is purely speculative and irresponsible.</p> <p><i>Since the regulation specifies a greater distance between applications and schoolsites than current requirements, the regulation would have reduced the number or severity of the illnesses, if not prevented the illnesses.</i></p>	<p>115, 126</p>
<p>11H</p>	<p>DPR estimates that approximately 1.5 percent of non-fumigant agricultural pesticide applications each year may potentially result in drift. This argument is not credible. It is based on a single 2014 study in which CACs conducted inspections and found that non-compliance with rules intended to prevent pesticide drift occurred in 1.5 percent of the cases. There no scientific credibility to the conclusion being hypothesized through this unscientific study.</p> <p><i>While a single year of data was evaluated, the frequency of violations is similar in other years.</i></p>	<p>115, 126</p>
<p>12H</p>	<p>DPR argues available data and current requirements indicate that the health risk to children and others is low, but that the low risk doesn’t account for exceptional circumstances or violations. This is grossly inaccurate and contradictory to further explanation provided in the ISR that only unintended drift or problem applications near schools pose a potential risk.</p> <p><i>See response to Comment 1H.</i></p>	<p>77, 115</p>
<p>13H</p>	<p>DPR cites the CDPH's April 2014 report titled “Agricultural Pesticide use near Public Schools in California” as a key component in its decision to propose these changes. This report is far below the caliber of science that DPR should depend on to develop any regulation under its authority, especially one of this breadth and impact. It sets an unacceptable precedent for scientific standards that undermines the public policy process.</p>	<p>123; SAL-27</p>

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	<p><i>The CDPH report was not included as a " Document Relied Upon" for the regulation. Moreover, page 2 of the ISR says “Although the report provided valuable data on pesticide use practices, it further cautioned on page viii of the report, that it did ‘not attempt to measure school children's exposures to pesticides and, therefore, study results cannot be used to predict possible health impact.’”</i></p>	
14H	<p>Without risk assessment, there is no scientific merit or basis. Without a solid scientific foundation, a precedent is set of rulemaking by public opinion.</p> <p><i>See response to Comment 1H.</i></p>	22, 42, 124
15H	<p>Since DPR has identified “persistent concern” as a driver for the proposed rule does it have any data on how the ¼ mile restriction and ongoing reporting requirements will mitigate “persistent concern?”</p> <p><i>The ¼ mile restriction may or may not address persistent concerns, but see response to Comment 1A for the reasons for selecting the distance.</i></p>	124
16H	<p>Has DPR’s conclusion changed regarding the level of risk to children due to pesticide application around schools or that theirs or EPA’s current registration and pesticide use programs are not effectively mitigating the higher risks that they have identified?</p> <p><i>See response to Comment 1H.</i></p>	124
17H	<p>Since DPR’s conclusion is that buffer zones and restrictions would have prevented the illnesses more than ¼ mile – we can only assume that illnesses that occurred within a ¼ mile were due to drift of non-fumigants. Is that true? Lee et al. (2011) appears to report that most drift incidents connected to illness in California were fumigants – which again would likely be prevented now due to buffer zones and other restrictions – and make adoption of this rule unnecessary.</p> <p><i>Not all drift illnesses are caused by fumigants. Also see response to Comment 10H.</i></p>	124
18H	<p>In the case of DPR’s own database, it reflects illnesses associated with a total of five incidents over the ten years, with one incident occurring every two years. Does DPR have any data in regards to any other illnesses due to other types of pesticide applications near schools during 2005-2014? Or the total number of types and number of pesticide applications near schools during the same period?</p>	124

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	<p><i>There were 157 illnesses in 140 episodes at schools due to non-agricultural pesticide applications at schools, but only 9 of the illnesses were to children. The Healthy Schools Act addresses pesticide applications at schools. DPR estimated that approximately 137,000 pesticide applications for the production of an agricultural commodity occurred within ¼ mile of a schoolsite between July 2013 and June 2014.</i></p>	
<p>19H</p>	<p>While the ISR states that the proposed rule would likely prevent the reported drift incidents, it would also be important to know if those five drift incidents occurred before or after U.S. EPA and DPR registration and pesticide use restrictions that are noted in the ISR as likely preventing the incidents reported in Lee et al. (2011)?</p> <p><i>As described in the ISR, the majority of illnesses in these cases resulted from aerial applications and fumigations that were not conducted in compliance with regulatory requirements. For California during 1998 – 2006, Lee et al. estimated 1.6 drift events causing 11.8 cases of illness per 100,000 agricultural pesticide applications. Fumigations accounted for a disproportionate number of illnesses, causing 8 percent of the events but 45 percent of the cases of illness. However, these illnesses occurred prior to the U.S. EPA’s new restrictions for fumigants in 2012, DPR’s requirements for methyl isothiocyanate implemented in 2010 and requirements for chloropicrin implemented in 2015, to mitigate drift exposure.</i></p>	<p>124</p>
<p>20H</p>	<p>The ISR doesn’t provide information in regards to the year, the county, the crop, the material, the type of application and the reported illnesses associated with the five drifts incidents. It may be the case that the illnesses were caused by a drift of a single type of material and unique application that presented a high risk that has subsequently been addressed by EPA’s and DPR’s regulatory processes or that they occurred due to pesticide use violations that are easily addressed through outreach and education or focused pesticide use enforcement actions.</p> <p><i>There were no commonalities in the reported drift incidents.</i></p>	<p>124</p>
<p>21H</p>	<p>It is also very significant that 20 percent of the pesticide drifts causing illness at schools are attributable to a registered pesticide that is approved for use in organic agriculture. How has EPA or DPR addressed the risks attributed to the 20 percent of the pesticide drifts that caused illness at schools from 2005-</p>	<p>124</p>

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	<p>2014?</p> <p><i>The comment is unclear, but the regulation includes pesticide applications for the production of organic agricultural commodities.</i></p>	
22H	<p>The ISR’s reliance on Lee et al. (2011) to identify “risk” is noted, but we also would point out the same reference also indicates that over 93.2 percent of the non-occupational illnesses caused by drift – were the result of violations of state and federal pesticide use regulations. Since Lee et al. (2011) is being used to substantiate the proposed rule, can DPR identify the cause of the drift that cause the other 6.8 percent of the non-occupational illnesses? If the cause of the drift can be identified, in DPR’s opinion has subsequent EPA and DPR registration and pesticide use regulations likely mitigated the risk of the event occurring again?</p> <p><i>There is insufficient information given in the paper.</i></p>	124
23H	<p>Since Lee et al. (2011) clearly identified that most illness was due to violation of existing regulation, can DPR provide a reason why enhanced enforcement of existing regulation wasn’t offered as an alternative?</p> <p><i>Enhanced enforcement is a reactive approach. This regulation provides a proactive approach to address pesticide applications near schoolsites.</i></p>	124
24H	<p>The ISR cites Lee et al. (2011) to substantiate the need for the proposed regulation with an estimation of 1.6 drift events causing 11.8 cases of illness per 100,000 pesticide applications. The reference itself states “no data not shown” in regards to their estimate. It is concerning that the report would include a report summarizing data that is not available. Has DPR reviewed the data to confirm the estimate is correct?</p> <p><i>Scientific papers do not include raw data that DPR can review, but they are peer reviewed.</i></p>	124
25H	<p>The Final Statement of Reasons should acknowledge that by reducing risk of both acute illness and chronic health impacts of pesticide exposure the proposed regulation should result in significant health care cost savings and reduced absenteeism. These benefits will be greatly enhanced if the regulation is strengthened.</p>	118

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	<i>The health benefits and cost savings of the regulation cannot be estimated.</i>	
26H	<p>The regulations must consider the health effects of chronic exposure. The Initial Statement of Reasons states that “[t]he proposed regulation will address potential short-term acute exposures from pesticide applications,” making clear that the proposed regulations are not intended to address the health effects of chronic exposure. It also states that “DPR’s evaluation of available data and current requirements indicates that the health risk to children and others is low when pesticides are used in compliance with the relevant regulations and label requirements.” We object to this characterization of risk, which is not supported by the available science and which fails to take chronic exposure into account.</p> <p><i>See response to Comment 2H.</i></p>	120, 121
27H	<p>There is ample evidence that many non-fumigant pesticides continue to volatilize for hours or days after application and will persist for long periods in dust that is tracked indoors.</p> <p><i>See response to Comment 1B.</i></p>	118
28H	<p>Increased burden on farming without cause. Existing rules already assure public safety and there is no evidence the new rules would enhance public safety. The Notice of Proposed Regulatory Action itself indicates that the risk of potential exposure is small. There is no scientific evidence to support that the proposed regulations will make any impact to decreasing any kind of exposure.</p> <p><i>See response to Comment 1H.</i></p>	37, 41, 88
29H	<p>The ISR cites out of context a caveat from the CDPH study which states that because actual exposure was not estimated, “study results cannot be used to predict possible health impact.” Not cited is the fact that the CDPH study’s explicitly stated purpose of contributing to efforts to minimize pesticide exposure at schoolsites, nor this more edifying statement from the study: “Although the use of pesticides near a location does not mean that individuals are exposed, ongoing use may increase the probability of exposure.” In other words, while actual health impacts can’t be estimated from the study, its entire purpose is to point out levels of exposure (and thus health impact) risk.</p>	77

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	<i>DPR disagrees with the comment. DPR acknowledges that potential exposures to pesticides occur at schoolsites, as documented in its air monitoring reports. However, the risk of these exposures is low. The point of the CDPH study is not to point out levels of exposure or health risk. It is to document pesticide use.</i>	
30H	<p>The only purpose listed for the proposed regulation which relates to actual health risks is to “provide an extra margin of safety in case of unintended drift or when other problems with applications occur” (p.5). The phrase “extra margin of safety” implies that there is already an acceptable margin of safety, which goes hand in hand with the ISR’s claim of existing “low risk.” But that claim is false. DPR must admit that existing regulations leave in place an unacceptably high risk of exposure of schoolsites to pesticide drift. Without that recognition, a basis for an adequate new regulation can hardly be provided</p> <p><i>DPR disagrees with the comment.</i></p>	77
31H	<p>The described scope of the regulation is also troublingly narrow. With no further explanation, the ISR states: “The proposed regulation will address potential short-term acute exposures from pesticide applications” (p.5). Children and school staff spend long hours, day in and day out, at schoolsites. Nearby pesticide treated agricultural fields provide a prime opportunity for long-term chronic exposures. DPR must adjust the scope of the proposed regulation to address not only short-term acute exposures, but also long-term chronic exposures.</p> <p><i>See response to Comment 2H.</i></p>	77

ALTERNATIVES

II	<p>There are several points of concern that do not take into account advancements through improved mitigation practices and precision technology in pesticide application. Applicators currently closely follow existing regulations developed by a framework involving state and federal government. These are sound practices that assure safety when applying pesticides and there is no evidence additional restrictions would enhance safety.</p> <p><i>There can still be unintended drift or application problems from the improved practices.</i></p>	M295-300; N1-75; 39
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<p>2I</p>	<p>Consider allowing Sonoma County Winegrape Commission to set up and manage a central electronic location where Sonoma County grape growers within 1/4 mile of a school or day care center can submit their annual notifications.</p> <p><i>The regulation allows this type of notification.</i></p>	<p>76</p>
<p>3I</p>	<p>The most effective regulation would be to alter section 6691 to make all pesticides used within a ¼ mile of a school restricted materials, all applications would take place outside of the restriction period (Monday through Friday 6:00 am to 6:00 pm), except when circumstances warranted, and require a 48 hour notice of intent for all applications used within ¼ of a school. In this system, CACs would review all the notice of intents to ensure all applications took place with the wind blowing away from the school, and the CAC could condition all applications to meet the specific needs of the school, such as conflicts with applications and after school activities, or aerial applicators flying over school property, etc. If schools or parents want pesticide notification and potential pesticide use on farms surrounding their schools, then they should contact their CAC for that information.</p> <p><i>There is insufficient justification to make all pesticides used within ¼ mile of a schoolsite restricted materials, and doing so would place an undue burden on CACs.</i></p>	<p>1</p>
<p>4I</p>	<p>Section 6692 would be replaced with a grower’s pesticide use history, because the only way for a grower to predict what chemicals he may use is to look at the chemicals he has used in the past. Section 6693 Application-Specific Notification would be replaced with a list of schools and parents requesting pesticide notification, which would be maintained by the CAC. The CAC would be responsible for the notifications. School principals and teachers do not want to be burdened with pesticide notifications, which is why the CACs need to be responsible for facilitating notifications when necessary, denying applications when they shouldn’t take place, and conditioning permits when necessary.</p> <p><i>The regulation allows a pesticide use history to be used to compile list of pesticides expected to be used required for the annual notification. Further, cropping patterns and practices may change year to year, information that may only be known by the operator. DPR modified the proposed text and the requirements for application-specific notification have been removed.</i></p>	

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<p>5I</p>	<p>A better solution to annual notification should be round-tabled, one that is productive and feasible for all of us to co-exist.</p> <p><i>DPR lacks legal authority to require schoolsites to participate in discussions.</i></p>	<p>64</p>
<p>6I</p>	<p>DPR should consider delaying implementation of these rules by an additional two years to allow for farmers in these buffer zones to consider transitioning to viable alternative crops if necessary, as well as to allow for the purchase of additional equipment to comply with the anticipated rules.</p> <p><i>All crops are affected by the regulation, and no additional equipment purchases are required.</i></p>	<p>19</p>
<p>7I</p>	<p>Recognizing that the ultimate fate of winegrapes is to be made into wine, a more thorough economic review should be conducted to account for increases of value of the agricultural product after harvest.</p> <p><i>DPR estimated these and other indirect costs by multiplying the direct cost by 2.</i></p>	<p>19</p>
<p>8I</p>	<p>As growers of perennial crops that have a lifespan exceeding 20+ years, we request that DPR significantly increase the time between new rule scoping and new rule implementation, so that landowners can plan and adapt according to new rules changes.</p> <p><i>DPR believes that growers can adapt to the regulation within the specified timeframe.</i></p>	<p>19</p>
<p>9I</p>	<p>DPR should establish grant opportunities for farmers in these buffer areas to upgrade to different application equipment to comply with the new rules.</p> <p><i>DPR lacks legal authority for this type of grant program, and new application equipment is not needed to comply with the regulation.</i></p>	<p>19</p>
<p>10I</p>	<p>DPR should consider advocating that in order to obtain a use permit, new child care facilities should adhere to guidelines similar to the construction of new schools and limit their placement within a quarter mile of agricultural areas, recognizing that agriculture is an existing protected land use under California state law.</p> <p><i>DPR consulted with the Department of Social Services for this regulation.</i></p>	<p>19</p>

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11I	<p>In light of the lack of public notification for new day care facilities and schools, we request that DPR update and maintain a comprehensive and easy to navigate data set of all licensed day care facilities and schools within the quarter mile boundary, as well as an impact map of all affected properties.</p> <p><i>DPR and CACs are working on a website (modifications to CalAgPermits) that will identify affected fields and schoolsites.</i></p>	19
12I	<p>It should be the sole responsibility of DPR to notify both the property owner and pesticide applicator of the affected property of a change in condition, requiring them to adopt new rules. Suggest that a database of licensed day care facilities, schools, or any property that requires a buffer be maintained with a GIS based mapping program by a state agency that property owners and applicators can easily access to determine if rules apply.</p> <p><i>DPR lacks the information to provide the needed notifications. Also see response to Comment 11I.</i></p>	19
13I	<p>Currently, school districts have to comply with varying levels of CEQA review when considering expansion or construction of new facilities. DPR should outline new procedures/guidelines for school districts and (day cares, which do not require CEQA review) to comply with site selection or to properly mitigate the impact to agricultural neighbors and legally protected land uses such as agriculture.</p> <p><i>DPR lacks legal authority to make this regulation.</i></p>	19
14I	<p>DPR and CACs should be given the flexibility to issue multiple site IDs to one tract of land that would allow for a separation of blocks that are within the quarter mile boundary from other blocks that fall outside the boundary. In the case where significant portions of property fall outside the quarter mile zone, these areas should not be subject to rules that apply to blocks within the quarter mile zone.</p> <p><i>This flexibility exists without the need to provide by regulation.</i></p>	19
15I	<p>Recommend the routine and standardized collection, digitization, compiling, and reporting of agricultural field locations to be made publicly available and accessible through DPR's PUR system; An accurate, complete, and publicly accessible statewide database on all pesticides applied on school properties,</p>	71

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	<p>including those pesticides applied by maintenance staff; An accurate, complete, and publicly accessible database of school property boundaries in California. These data will be essential for the ongoing surveillance of pesticide use near schools and other sensitive locations and allow for the continued evaluation of the DPR's proposed regulations.</p> <p><i>CACs are responsible for maintaining information on field locations. As specified by the 2014 amendments to the Healthy Schools Act, DPR is compiling information on all pesticide applications at schoolsites. A publicly accessible database of school boundaries is available at http://www.greeninfo.org/work/project/cscd.</i></p>	
<p>16I</p>	<p>It would be appropriate to coordinate school and child care siting with existing agricultural operations throughout the state. It seems unreasonable to me to think that a home based child care facility could be licensed next door to me that would require me to change my farming practices without justification.</p> <p><i>The regulation does not include family day care homes.</i></p>	<p>22, 79</p>

ENVIRONMENTAL JUSTICE

<p>1J</p>	<p>Racial disparity/Concerned about the disproportionate exposure of Latino school children that attend schools near the heaviest use of hazardous/health-harming agricultural pesticides.</p> <p><i>The regulation will provide equal protection for all schools. Also see responses to Comments 1A and 1B.</i></p>	<p>G1-121; D1-5; G1-121;47, H1-20; H22-56; H58-63; H65-76; H78-90; H92-99;L1-5;L8-9; L12; L15;L17-21;L23-46; L56; L59; L67-70; S1-159; 7, 14, 31,46, 71, 91, 92, 100, 101, 103, 105, 118, 121, 120, 122; TUL-26; OXN-33; SAL(2,7,13,59)</p>
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ECONOMIC/FISCAL IMPACT

<p>1K</p>	<p>DPR relied on a study to analyses the economic impact of the proposed regulation that failed to look at all crops and all counties. This analysis was restricted to two crops, almonds and grapes. While these are the most valuable crops in the Central Valley, other predominant crops such as berries were not included in the analysis. Further, the UC Davis study focuses on the counties in the state with the highest production value in grapes and almonds. However, since the regulations apply to agricultural land near schools, the correct metric should include regions with a significant share of agricultural land bordering schools. These counties are in more rapidly urbanizing parts of the state.</p> <p><i>The Documents Relied Upon included a memorandum by Neal and Segawa that estimated the regulation cost for all crops and counties, based on the UC Davis study.</i></p>	<p>R1-97; 108; OXN-16</p>
<p>2K</p>	<p>Who would be responsible for the economic impact to the schools and CACs as a result of these additional regulations?</p> <p><i>There are no requirements on schoolsites, so there is no economic impact. DPR estimated that the annual cost to CACs will be approximately \$132,000. CACs will redirect the necessary staff and resources to implement the regulation. The fiscal impact to CACs was significantly reduced by the removal of the application-specific notification requirements as explained in the Update of the Initial Statement of Reasons</i></p>	<p>R1-97</p>
<p>3K</p>	<p>The proposed regulations create an unfunded mandate forcing precious school resources to be diverted to notification requirements and away from student learning. These proposed regulations impose a costly new mandate on schools which DPR lacks any jurisdiction or authority to impose. While DPR has acknowledged that the proposed regulations would increase the workload and cost to CACs, it failed to acknowledge the increased workload and cost to school districts and school sites.</p> <p>Once notified, the school would be required to notify parents about the upcoming pesticide applications or face the threat of lawsuits if the school had the information but failed to disseminate it. With these proposed regulations, DPR is imposing a costly new mandate on schools which DPR lacks any jurisdiction or authority to impose.</p>	<p>V1-18; 53, 55; SAL-41</p>

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	<i>There are no requirements on schoolsites, so there is no economic impact.</i>	
4K	<p>By creating this mandate, the regulations create a false sense of security amongst parents. Once notified by the school, parents could assume that the school is doing something in response to the notification and as a result, expect a certain level of protection. However, as drafted, the regulations leave a school completely powerless to respond.</p> <p><i>Schoolsites are not required to provide the notifications to parents. If they do, they can explain, what if any, actions they are taking in response to the notifications.</i></p>	53
5K	<p>DPR’s Economic and Fiscal Impact Statement fails to acknowledge the impact of the proposed regulations on schools. While DPR has acknowledged that the proposed regulations would increase the workload and cost to CACs, it failed to acknowledge the increased workload and costs for schools, despite our having expressed such concerns in our February meeting. Requiring growers to notify schools about nearby pesticide applications, transfers a burden to schools to notify parents of the same information. This means the cost of mailing out notices or making telephone calls, not only annually, but also every time the school receives notice of an application-specific notification near school property, bus routes, or other areas frequented by students. Prior notice requirements attempted by the Legislature typically stall due to the annual notification cost of up to \$1 million annually to school districts.</p> <p><i>See response to Comment 3K.</i></p>	53
6K	<p>The proposed regulations do not provide funding for the CACs to handle increased responsibility of taking the lead for the new mandates. Why impose additional burden on the CAC for the administration, without funding to provide the administration of the proposed regulations? The cost/benefit of the proposed pesticide rules are not justified.</p> <p><i>See response to Comment 2K.</i></p>	59
7K	<p>The proposed regulation represents a significant workload for CACs’ staff across the state with no identified funding attached. This lack of funding will require CAC to divert staff away from other pesticide regulatory activities to enforce the new regulations.</p>	75, 79

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	<i>See response to Comment 2K.</i>	
8K	<p>The economic analysis is flawed in that it is not representative of the statewide impacts from this regulation, having used only grapes and almonds in the study, assuming only one missed application spray, additional costs of notification, quarantine spray requirements, and potential liability issues.</p> <p><i>See response to Comment 1K.</i></p>	104
9K	<p>The economic report prepared by the California Department of Food and Agriculture and by the Department of Agricultural & Resources Economics at U.C. Davis is significantly flawed. It fails to address many crucial elements required to conduct a thorough economic analysis.</p> <p>The analysis is incomplete and analyzes only select counties. The UC Davis study focuses on the counties in the state with the highest production value in grapes and almonds. However, since the regulations apply to agricultural land near schools, the correct metric should include regions with a significant share of agricultural land bordering schools. These counties are in more rapidly urbanizing parts of the state.</p> <p><i>See response to Comment 1K.</i></p>	110, 115, 116, 117, 119, 123, 124, 126
10K	<p>Limited Crops Analyzed. The second UC Davis study analyses the economic impact of the regulation on six crops, however the final study is restricted to two crops, almonds and grapes. While these are the most valuable crops in the Central Valley, other predominant crops such as berry crops that dominate most coastal regions, but are not included in the analysis.</p> <p><i>See response to Comment 1K.</i></p>	110, 115, 116, 117, 119, 123, 126
11K	<p>Zero Impact Conclusion. A critical and very questionable assumption in the UC Davis study is “that there will be zero yield impact from losing one spray.” This assumption is in direct contradiction to our informal survey of pest control advisors (PCAs), and inconsistent with basic economic principles. In addition, the requirement that at least two sprays must be missed before there is a notable yield loss means that the joint probability of this event is extremely small. This results in the extremely low estimates of expected revenue loss due to yield reduction reported in the UC Davis study.</p>	110, 111, 113, 115, 116, 117, 119, 123, 126

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	<p><i>The assumption that there will be zero yield impact from losing one spray is based on information provided by UC Davis researchers. Missing a single spray means that two sprays were applied but not at the optimal time. No private sector consultants were interviewed. It is noted that for no bloom sprays applied, there is a wide range of yield loss estimates for a given crop in a given region. This is particularly important because the estimates are based on an inability to treat for a single season.</i></p>	
<p>12K</p>	<p>The reported cost of missing a single spray is inaccurate. When the expected yield loss from a single missed spray based on our PCA survey is multiplied by the implied probability of a single spray loss based on the appendices from the UC Davis study, the expected net revenue loss for a representative case is substantially higher than the UC Davis analysis of missing two out of the three normal sprays.</p> <p><i>See response to Comment 11K.</i></p>	<p>110, 113, 115, 116, 117, 119, 123, 126</p>
<p>13K</p>	<p>Quality and Quarantine Impacts. In our small survey of PCAs several mentioned the potential for economic costs of quality degradation due to missed sprays. In addition, quarantine requirements which allow access to certain markets often require spraying in at specific times.</p> <p><i>Field quarantine treatments for light brown apple moth (LBAM) and Asian citrus psyllid (ACP) consist of standard insecticide sprays of approved materials. According to UC Davis researchers, field insecticide sprays are relatively timing insensitive; necessary airblast treatments can be done outside of school hours.</i></p>	<p>110, 115, 116, 117, 119, 123, 126</p>
<p>14K</p>	<p>Farm Revenue Losses. The UC Davis study focuses on revenue losses. A more appropriate measure is farm profitability (net income). Net income accounts for price and yield variability that can have dramatic impacts on the effect of a regulation in any given year. In particular, farm-level net income impacts can quantify differences in the ability to absorb additional regulatory costs across different types of growers (e.g. large vs small growers).</p> <p><i>Revenue losses depend on yield losses, changes in revenues and costs per acre related to yield loss, and acres affected. Whether or not these losses occur depend on precipitation and how it affects pest management programs. This analysis considers each of these factors in order to estimate total net revenue losses for California almond and grape in selected counties for which GIS data and yield loss</i></p>	<p>110, 115, 116, 117, 119, 123, 126</p>

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	<p><i>estimates were available.</i></p> <p><i>The analysis considers net revenue loss but only the changes in costs associated with the change in yield and spray program associated with the regulation. Other costs remain unchanged and do not impact net revenue. When yields are reduced, harvest costs can decline, and when fewer sprays are applied, treatment costs decline. Therefore, the estimated loss in gross revenue from yield losses due to missed sprays is larger than the loss in net revenues. These cost savings must also be considered when estimating net losses. DPR and UC Davis assume that the cost of harvest is reduced by the same percentage as the yield reduction. For example, a 20 percent reduction in yield would mean a 20 percent reduction in harvest cost. For sprays, a reduction in sprays means a reduction in costs, i.e. the cost of the missed sprays and the decrease in harvest costs. We calculate the net revenue loss as the gross revenue loss due to the crop loss minus the unrealized harvest and spray costs.</i></p>	
<p>15K</p>	<p>Multiplier Effects. The UC Davis studies use a “default” economic multiplier to quantify the total economic effect. This is an odd approach because it is a simple task to run a standard input-output model (such as IMPLAN) to correctly generate the economic multiplier effect. In addition, the approach used in the UC Davis study does not analyze value-added or employment losses as a result of the regulation</p> <p><i>DPR and UC Davis utilized the California Department of Finance’s assumption that the indirect effect on economic activity equals the direct effect on agriculture, so that the economic activity multiplier equals 2. Input-output models require a number of assumptions we were not prepared to make in order to use a “canned model” with pre-determined relationships among sectors. These models tend to generate broad-based effects while we required impacts for only two commodities. The use of an existing input – output model would not have refined our analysis appreciably relative to the use of the multiplier utilized by the California Department of Finance. Provided sufficient time and resources, it is conceivable that an input-output model disaggregated to the commodity level might result in slightly different estimates. However, it is extremely unlikely that such a model would significantly change the estimated losses.</i></p>	<p>110, 115, 116, 117, 119, 123, 126</p>
<p>16K</p>	<p>The fiscal issue is unaddressed in another area as well. DPR does not provide funding for CACs who are fundamental to implementing the proposed regulations. When DPR was asked about this by several representatives of the agriculture community, the response was that “CACs would absorb the cost” and later in the same setting acknowledged that more conversation was needed with CACs and that there</p>	<p>116; SAL-54</p>

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	<p>“could be a funding issue that will need to be addressed.”</p> <p><i>See response to Comment 2K.</i></p>	
17K	<p>With the ¼ mile, Monday-Friday, 6 a.m.-6 p.m. application prohibition – the time most crop protection products are applied, crop loss would occur because growers would be prohibited from applying necessary products in a timely manner to ensure protection of their crops without compensation to those growers.</p> <p><i>DPR estimated that the annual statewide economic cost to growers for the application restrictions is \$0.59 to \$1.18 million.</i></p>	25
18K	<p>The economic analysis that accompanies DPR’s proposal recognizes openly states that there will be crop losses experienced by growers in the state. DPR has grossly understated the amount of those losses and has failed to account for the negative economic impact that will be felt by the many different crops in California. Many major crops in California were not included in the analysis.</p> <p><i>See response to Comment 1K.</i></p>	109 113
19K	<p>In DPR's economic impact, the following use scenarios were not included:</p> <p>Critical material applications for the Glassy Winged Sharpshooter. Because of the over-wintering patterns of the vector, materials must be applied to adjacent citrus groves and other hosts via air blast and aerial application, which limits growers' abilities to apply in zones near schools. This is a critical point since current protocols call for time sensitive spraying. Missing a single spray puts an entire grape growing area in jeopardy.</p> <p>Crop quality may be reduced, jeopardizing grower contracts with wineries.</p> <p>Failure to adequately treat pests can lead to additional crop losses in subsequent years (buildup of insect or disease pressures)</p> <p><i>See responses to Comments 13K, 7I, and 11K.</i></p>	110

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<p>20K</p>	<p>Following IPM guidelines, moisture in the vineyard due to rain can lead to powdery mildew infection occurring in as little as 10 hours due to moist conditions that are not uncommon for spring in the San Joaquin Valley. If left without the option to treat because of the 12-hour prohibition by the time the earliest signs of disease are discovered more than 10 hours could've elapsed before treatment becomes an available option, and that's assuming field conditions permit being able to get into the field with calibrated sprayers in order to make a critical fungicide application. Therefore, failure to spray, as a preventive or mitigating measure, would lead to crop damage and costs that run in the thousands per acre.</p> <p><i>Grape growers understand the importance of keeping powdery mildew inoculum low. Even under high disease pressure, several fungicide options provide preventative action if applied at intervals from 7 (sulfur) to 14 days (demethylation-inhibitors, strobilurins and quinolines). If conditions prevent prophylactic sprays, a light summer oil has eradicant properties (if no sulfur residue present). Even with the regulation and high powdery mildew risk, growers will usually have enough flexibility to avoid yield or quality problems.</i></p>	<p>113</p>
<p>21K</p>	<p>The economic assessment is inadequate. Strawberry, as a crop, was not evaluated despite common knowledge that strawberries are a major California crop and its production is largely concentrated in coastal areas that coincide with major populated areas and the high densities of schools and day cares associated with these more populated areas. While a "data consideration" justification is given, Monterey County was excluded from this analysis. To be a valid economic assessment on the impacts of the proposed regulation, strawberries must be included as a crop, and Monterey County must be included as a county being evaluation because it has the greatest strawberry acreage in the State.</p> <p><i>See response to Comment 1K.</i></p>	<p>119</p>
<p>22K</p>	<p>In addition to the quarantine impacts, as Asian Citrus Psyllid spreads across the state, CDFA will be implementing regional pest management programs in citrus-growing areas. CDFA's program will rely on time-sensitive, area-wide aerial and blast treatments; missing a single application would put entire citrus-growing regions at risk to disastrous economic losses by allowing reservoirs of ACP to escape control, which could serve as launching pads to spread the fatal disease HLB to other trees and orchards</p> <p><i>See response to Comment 13K.</i></p>	<p>123</p>

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<p>23K</p>	<p>UC Extension Service expert, David Doll, reports that even a single fungicide application is critical and that a Butte County orchard that missed just one spray during full blossom suffered over 50 percent brown rot blossom infection.</p> <p><i>The comments attributed to David Doll are incorrect. Doll’s original comments can be found at (http://thealmonddoctor.com/2012/02/09/bloom-time-diseases-and-control/). The Butte County orchard mentioned in the comment was based on information relayed to him from Brent Holtz, and was also incorrect. The orchard was a Butte/Padre (cultivars) orchard located in Madera county. The orchard was very atypical because it had not been sprayed and was organic or transitioning into organic and thus had a very high inoculum of brown rot. Both David Doll and Brent Holtz along with University of California Agricultural Experiment Station faculty and Cooperative Extension Specialists and Farm Advisors developed the almond loss estimates by UC Davis and DPR.</i></p>	<p>124</p>
<p>24K</p>	<p>Economic Report underestimates the almond acres potentially affected by the proposed regulation. Our analysis indicates that over 15,000 acres of whole almond orchards are potentially affected. We can accurately identify the boundaries of all almond orchards in the state through access to an almond orchard GIS database. While the Report may have accurately reported the almond acreage that falls into the ¼ mile buffer, it's very likely a grower will notify and treat the entire crop as contiguous to the crop that falls into the ¼ mile buffer.</p> <p><i>A grower may voluntarily restrict applications beyond ¼ mile, but it is not a requirement, and is not included in the economic analysis.</i></p>	<p>124</p>
<p>25K</p>	<p>Land Values. DPR has missed a significant economic impact to businesses by ignoring the likely decrease in land values surrounding schools and day care facilities due to the proposed rule. Each of the studies commissioned to evaluate the economic impact of the rule report direct and indirect losses to the acreage surrounding schools. If an acre of farmland is and will suffer a predictable economic loss due to the rule – it follows that the per acre value of that asset will decrease. We believe losses due to land values devaluation will be significant and should be accounted for in the economic impact analysis. We do not believe that DPR’s finding of no significant economic impact can be made without considering the economic impact to land values due to the proposed rule.</p>	<p>124</p>

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	<p><i>The loss would, in theory, be equal to the present discounted value of the change in net returns due to the regulations. The annual notification cost would have a small effect. In terms of the prohibited applications, the almond and grape weather analysis showed that the actual impact would be small in the regions affected. Furthermore, the loss in land values would be bounded below by the value of land in a crop that uses fewer applications subject to the ban.</i></p>	
<p>26K</p>	<p>The result of our land use planning and economics of building schools is that more and more schools exist in farming areas – and that fact now causes significant economic risk to a farmer within ¼, ½ or a mile away from a school. Who is going to pay for a grower’s loss of net income and devaluation of their land asset because a school district builds a new school nearby?</p> <p><i>See response to Comment 25K.</i></p>	<p>19, 124</p>
<p>27K</p>	<p>DPR’s cost analysis must consider the cost of pesticides to human and environmental health. We have urged DPR to consider the human and environmental health costs of pesticides in its "economic impact" analysis, but these were not included in DPR's study. A number of academic studies have been conducted in recent years to address such calculations.</p> <p><i>The health benefits and cost savings of the regulation cannot be estimated.</i></p>	<p>120</p>
<p>28K</p>	<p>Economic and Fiscal Impact Statement is inadequate at capturing the wide ranging benefits of implementing sensible buffer zones near where children learn and play. While DPR was more than willing to place the costs of these regulations into real numbers, it appears hesitant to quantify the monetary benefits of decreased pesticide exposure to children and bystanders.</p> <p><i>See response to Comment 27K.</i></p>	<p>36</p>
<p>29K</p>	<p>It is critical that DPR provide school children, residents, and the public at-large with a full economic cost-benefit analysis that incorporates the latest science and seriously considers the negative externalities and market failures caused by the use of highly toxic pesticides near school sights.</p>	<p>36</p>

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	<i>See response to Comment 27K.</i>	
30K	<p>This proposed regulation would impose a local unfunded mandate by increasing the level of services to be delivered without providing adequate funding to offset the possible associated cost. If adopted as proposed, this regulation would have a significant impact on DPR's Program. The estimated cost to implement the new regulation for us would be approximately \$274,000 annually as the resulting additional workload will require up to almost two more full-time employees for effective implementation. Consider allocating the appropriate funding for this mandate, including the cost to implement the administrative components involved.</p> <p><i>See response to Comment 2K.</i></p>	43
31K	<p>Recommend that DPR not just provide the potential economic impact on agriculture, but also include an economic analysis on the potential disease and illness prevention benefits from the proposal. Recommend that DPR utilize additional California-specific research for its economic impact determination, such as the finding from the California Biomonitoring Study and the pesticide metabolite biomonitoring research from the Center for the Health Assessment of Mothers and Children in Salinas.</p> <p><i>See response to Comment 27K.</i></p>	107
32K	<p>Economic impact report doesn't include schools.</p> <p><i>See response to Comment 3K.</i></p>	23
33K	<p>The California Department of Finance analyzed the effects of the rule on businesses and individuals. Under Section A (Estimated Private Sector Impact Costs), it appears that DOF failed to analyze the impact of the proposed rule's reporting requirements. In fact, DOF didn't even check the Section A box for "imposes reporting requirements." How this could be missed is truly baffling because the entire focus of the proposed rule is a series of reporting requirements. Growers and applicators must submit report after report, notification after notification to school officials, CACs, DPR and others. If DOF failed to look at the cost of the reporting requirements, it needs to do so.</p> <p><i>DPR estimated that the annual statewide economic cost of the annual notification is approximately \$3</i></p>	54

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	<i>million. DPR modified the proposed regulation removing the requirement and cost for the application-specific notifications.</i>	
34K	<p>DOF prepared its report before Governor Brown signed a bill which expands overtime pay for farmworkers. There's little doubt that the proposed rule will shift spray applications near schools, especially for air blast and aerial applications, to nights and weekends. This will trigger new overtime pay costs. These costs are not factored into the Economic and Fiscal Impact Statement but need to be.</p> <p><i>UC Davis consulted with several growers who indicated that they will try to stagger workers' schedules so that no one works more than 40 hours a week but someone is always available to work. So, growers' responses suggest that they will also work to minimize overtime payments. Also see response to Comment 16F.</i></p>	54
35K	<p>Yolo County has the lowest property tax retention rates in California at .09 on the dollar. Given that 43 percent of the PUE program funding comes from severely limited County General fund dollars, it will be difficult to absorb the fiscal impact without having a disparate impact on our under represented community given the workload shift created by this regulation. Given Yolo Counties limited General Fund resources, any economic downturn would severely constrain our abilities to provide adequate services to all of our residents. Please consider a funding mechanism to address this problem.</p> <p><i>See response to Comment 2K.</i></p>	49
36K	<p>I wish to challenge the finding that this regulation will not affect small business. I am a small business and I am definitely affected.</p> <p><i>DPR stated that small businesses will be affected in the regulation notice.</i></p>	57
37K	<p>Even if the profits of corporate agricultural operations are considered, and weighed against the health effects on our children, you should then include the financial impacts on families and the state of California of those health effects. Those impacts include direct health care costs, but, importantly, also lost economic productivity for the state and the nation. Caregivers lose hours at work, schools have to</p>	67

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	<p>spend more time on children with disabilities, children grow up to be less productive.</p> <p><i>Since the regulation imposes more stringent requirements, it is possible that there could be a reduction in health care costs, but DPR is unable to estimate this savings.</i></p>	
38K	<p>There are administrative costs and burdens for growers in preparing the annual and application-specific notifications. Such costs and burdens are unjustifiable as such notifications would be of very limited value, since growers cannot predict the pest pressures that may arise a year in advance. School administrators have also raised concerns over the significant burden the notification provisions would impose on schools, in terms of both financial costs and personnel resources, without improving public health. CACs would face additional demands on resources to address increased administrative burdens. Given the lack of a scientific basis for the regulations, these burdens on growers, schools and CACs are completely unjustified.</p> <p><i>DPR disagrees that the costs are unjustifiable. The annual notifications provide valuable information to schoolsites. DPR modified the proposed text removing the requirements for application-specific notifications.</i></p>	16
39K	<p>Differences in the regional rainfall levels and frequency and regional crops results in an inability to generalize their results from a few Central Valley regions to the entire state. More precise, region-specific analysis is needed to obtain a full and accurate picture of the economic impact of these regulations.</p> <p><i>See response to Comment 1K.</i></p>	U37
40K	<p>The impact of a loss of profit increase rapidly and is more sensitive to the loss of sprays that gross revenue measures alone.</p> <p><i>See response to Comment 14K.</i></p>	U37
41K	<p>Is there comprehensive, verified data to support the economic impact that will be caused by this regulation?</p> <p><i>See response to Comment 1K.</i></p>	TUL-32

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MISCELLANEOUS

1L	<p>Existing rules protect public schools and licensed child care centers and no evidence additional restrictions would enhance safety. Oppose the regulation.</p> <p><i>See response to Comment 1A.</i></p>	PC1-164LB; PC1-157DB; A1-25; 21
2L	<p>We follow rules that provide many layers of protections and materials used to stop pests and diseases have been and always will be carefully applied. Oppose the regulation.</p> <p><i>See response to Comment 1A.</i></p>	PC1-288B
3L	<p>Arbitrary decision-making goes against all scientific framework used by the state and federal government.</p> <p><i>See response to Comment 1H.</i></p>	PC1-166WA/CC; U1-37; OXN-16
4L	<p>Schools were not involved in developing the regulation and most probably have no idea what impact this will have on their review of the notices, recordkeeping, and if/how they will inform the families of their students under the Healthy Schools Act. DPR should examine these questions more carefully prior to making a regulatory change.</p> <p><i>DPR consulted with the California Department of Education and several schools in workshops targeted to school administrators. DPR modified the proposed text removing the requirements for application-specific notification that were of most concern. The regulation does not require any actions by schoolsites.</i></p>	W1-6
5L	<p>CACs or DPR should create, and regularly update a Web site where parents and residents can find details of when and where fumigants/pesticides are being applied. A Web site that has a map of the county with areas of application highlighted including locations and dates of application would be a great public service, and would help a parent or resident limit any potential exposure. It would provide true transparency and disclosure and would improve the overall relationship between resident and farmer</p> <p><i>This comment is outside the scope of the regulation.</i></p>	Y2

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<p>6L</p>	<p>The ISR does not explain why these application restrictions will not be implemented until October 1, 2017. The purpose of the regulation would be best achieved by implementing the regulations on August 15, 2017. This will provide adequate opportunity for the agricultural community and local CACs to adjust to the new regulations while ensuring that these much needed protections will be in effect for the entire 2017-18 school year.</p> <p><i>It is infeasible to implement the regulation by August 15, 2017. In fact, DPR had to change the effective date to January 1, 2018, due to the time it will take to complete the legal requirements of the rulemaking process.</i></p>	<p>118</p>
<p>7L</p>	<p>Like many other regulations of this type, we request a sunset of three years in order for DPR and stakeholders to assess the ongoing need for and efficacy of the regulatory package that you ultimately adopt.</p> <p><i>Adding this provision assumes that agricultural practices will change regardless of the regulation or that other regulatory actions will make the regulation unnecessary. DPR is not aware that either of these will occur. If there is no need for the regulation in the future, DPR can propose to repeal the regulation through the normal rulemaking process.</i></p>	<p>112</p>
<p>8L</p>	<p>DPR fails to acknowledge in its assessment that the current, stricter label restrictions will provide the same level of protection as this overbearing regulation.</p> <p><i>DPR is not aware of any label requirements that are as stringent as the regulation.</i></p>	<p>115</p>
<p>9L</p>	<p>The Phase II soil fumigant labels have been fully in effect for over four years. The special considerations for schools and other difficult-to-evacuate sites have proven to be workable for growers, while also providing safe use for all concerned. Additional regulations, as proposed, are not needed, and soil fumigants should be exempt from this regulation if it is adopted.</p> <p><i>See response to Comment 25A.</i></p>	<p>119</p>

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10L	<p>DPR was unable to quantify any benefit of this regulation, stating: "Any health benefits of the prohibitions are unknown."</p> <p><i>No response is needed.</i></p>	M1-300, 17, 20, 79
11L	<p>Support the proposed regulations on pesticide use near schoolsites.</p> <p><i>No response is needed.</i></p>	E1-11, 61
12L	<p>Protect all California School Children from Pesticides</p> <p><i>No response is needed.</i></p>	F1-36
13L	<p>Strongly support DPR's efforts to increase communication between agricultural producers and nearby schools with the hope that it will foster better relationships and practices, resulting in reduced risk to children in agricultural communities.</p> <p><i>No response is needed.</i></p>	126
14L	<p>Thoughtful school siting that does not continue to place operational restriction on existing farms and ranches needs to be encouraged. DPR must reach out and work with the Governor's office to encourage these kinds of changes instead of proposing regulations that don solve existing or future problems.</p> <p><i>This comment is outside the scope of the regulation. DPR lacks legal authority to regulate school siting.</i></p>	123
15L	<p>The original concept of restricted pesticide use regulation as a functional equivalent of an environmental impact report has been forgotten in this effort. If the proposal goes forward as proposed what happens when the topography of the site is ignored? What happens when the non-public school is affected? What happens when the grower's field is treated under a state or federal quarantine and not by her/him but by aerial operations out of his control? Because these questions are not answered in the proposal I am again left to be in opposition.</p> <p><i>CACs only evaluate and issue permits for approximately 37 pesticides that are restricted materials.</i></p>	125

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	<i>This is a small fraction of the several hundred pesticides used for the production agricultural commodities. CACs will have some flexibility in considering topography when enforcing the distance requirements. See response to Comment 1C regarding private schools. See response to Comment 13K regarding quarantine applications.</i>	
16L	DPR violates Government Code section 11135 because DPR proposes to renew pesticide product registrations, allow continued use of pesticides and fumigants, and fails to consider and adequately prevent chronic exposures. DPR violates Government Code section 11135 specifically regarding Telone and more generally regarding the overall use of pesticides near schools (individually and cumulatively). <i>This comment is outside the scope of the regulation.</i>	121
17L	Oppose the regulation – the potential for increased legal liability without sufficient protection from lawsuits generated by the heightened perception of risk, as opposed to actual risk. <i>The regulation does not increase liability.</i>	19, 20,27, 28, 29, 81
18L	Significant concerns over the possible impact new school and day care facility development could have on land currently zoned for agriculture, and whether prime farmland could be lost as a result. <i>See response to Comment 14L.</i>	27, 28, 29, 81
19L	The proposed regulation goes against California Farm Bureau Federation policy. <i>No response is needed.</i>	40
20L	Provide resources and support for small farmers impacted by rule, particularly those that are most disadvantaged, facing resource or language barriers, as well as veterans, receive financial support and technical assistance to move away from hazardous pesticide use. <i>CACs will provide guidance and training for the regulation. DPR lacks legal authority to provide financial support.</i>	47, 72

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<p>21L</p>	<p>It uses soft and vague language including "may" and "might". Lacking proof that this is "reasonably necessary" DPR is clearly abusing power and the discretion entrusted them by the residents of California.</p> <p><i>This regulation is a reasonable measure that will provide an extra level of protection around schoolsites when children are present to reduce the risk of their exposure to pesticides resulting from unintended drift or other problem applications.</i></p>	<p>37, 88</p>
<p>22L</p>	<p>If this was about the students, wouldn't companies that fumigate homes be included? Why don't they have to give 48 hour notice and not fumigate during the hours of 6 am- 6pm if they are fumigating a building near a school. This is an unnecessary burden on farmers, schools, and CACs.</p> <p><i>DPR is developing use restrictions for structural fumigations separate from this regulation.</i></p>	<p>23</p>
<p>23L</p>	<p>The times and days proposed for restriction of pesticide application are wholly impractical for California public schools. Schools are used year-round, on the weekends and after instructional hours for a variety of purposes including but not limited to student/staff meetings and events, sports practice and games, concerts and plays. It is clear that DPR failed to consult with the State Department of Education in crafting the proposed regulation, confirmed by omission of such consultation in the DPR staff report prepared in support of the proposed regulation.</p> <p><i>See response to Comment 4L. Schoolsite activities outside Monday through Friday, 6:00 a.m. to 6:00 p.m. can be addressed through the 3-party agreements specified in section 6691(f).</i></p>	<p>35</p>
<p>24L</p>	<p>I operate a small farm, 100 percent of which will be profoundly affected by the regulation. It is not at all clear to me that I will be able to comply with the regulation and continue to produce a commercially viable crop.</p> <p><i>During its analysis of the economic impact, DPR and UC Davis found a significant number of growers who already comply with the regulation.</i></p>	<p>79</p>
<p>25L</p>	<p>Do we really have a problem here? How many actual cases of harm are believed to have occurred? Would enforcement of existing regulation have prevented the harm? After all, applicators are required to follow the label and to prevent drift. If drift occurred that then harmed kids, then it seems that existing regulation already covers the matter, and we have not so much a need to create new regulation, but a</p>	<p>79</p>

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	<p>need to create a higher standard of enforcement near schools.</p> <p><i>See response to Comment 23H.</i></p>	
26L	<p>Oppose the regulations</p> <p><i>No response is needed.</i></p>	132-143
	<p>Comments not relevant to the proposed action, e.g. remove pesticides from foods; protect children from pesticides, switch to organic, etc.</p>	50, 68, 144-196