

**Questions for Kern County Agricultural Commissioner from Emma De  
La Rosa of Leadership Counsel as informational background for the  
Arvin/Lamont AB 617 Steering Committee**

**Q: Please walk us through the Notice of Intent process.**

A: A grower or their agent wishes to apply a restricted material. They submit an NOI to our office a minimum of 48 hours in advance of their desired application date (in the case of fumigants, this notification might need to come in as much as four days in advance). When received, a biologist reviews the NOI to ensure all information that is required is included on the NOI. They then enter it into our computer system and review the GIS map to identify any types of sensitive areas and/or buffer zones that are required to be abided by for the application. If everything seems to be ok, the NOI is submitted and 24 hours prior to the application time, an email is sent which includes a map to the neighboring growers with contact information for the applying grower and other information. If there is something missing and/or if the biologist believes something about the application is unsafe, they will contact the applicant to address the concerns to see if the corrections can be made. If so, the NOI is then 'resubmitted' with the necessary changes and the NOI is entered into our system. In the case of NOIs for fumigants, a biologist will physically visit the application field (called a pre-site inspection) for **EVERY** NOI to see the conditions and determine that all safety precautions are able to be complied with and to see any physical conditions of the field which could not otherwise be seen from our aerial imagery. In the case of non-fumigant NOIs, our office is able to physically visit approximately 50% of locations to conduct pre-site inspections.

**Q: Are NOIs posted on a public website soon after being received?**

A: NOIs are not posted anywhere. They are logged into our system and placed in a grower's file.

**Q: What communication systems do you have in place to notify schools or other public entities?**

A: We currently have no 'systems' in place for this. In certain situations, school sites may be contacted and given application information depending on permit conditions, label requirements, etc.

**Q: When are schools or public entities contacted? For example, are they notified of each NOI or when violations occur, etc?**

A: Growers with fields within ¼ mile of a school are required to provide a list of ALL pesticides they believe may be applied to their field during the upcoming June to July annual period. This notice must be submitted to the school by April 30 of each year. The grower is able to submit supplemental lists to schools should they find the need to add materials to this list during the relevant time period. In Kern County, a grower making an application of a restricted material within ¼ mile of a school can only make the application when there are no activities occurring at the school. To verify this, they are required to contact a responsible party at the school and verify that no school activities are taking place at the time of the application and the applicant

must include this information on the NOI that they submit to our office. Even if the application takes place in the middle of the night, the applicant must still contact the school to verify that no activities are taking place. Additionally, many growers who farm near or adjacent to schools voluntarily take it upon themselves as good neighbors and in the interest of avoiding incidents to contact school officials ahead of applications to let them know what they are doing.

Other than the above, schools receive no NOIs, nor are they notified of violations unless it is a violation that occurs on their property and they have requested to be notified of the outcome of an investigation (This is the case with all of our violations or investigations. Unless specifically asked by a participant to be informed, the only entities notified of violations are the Department of Pesticide Regulation and the individual/operation receiving the violation.).

**Q: Please share about the grower notification system. How has it been successful? Are there any gaps that you see could be addressed through this process?**

A: The notification system process was described earlier with the NOI question. To be honest, we have no way of quantifying whether or not this system has been a success. Realistically, there are no metrics to measure how many incidents and/or illnesses have been avoided thanks to this system. Theoretically, we can assume that such is the case, but we really have no proof of that. We might be able to say overall that there is a reduction in incidents, but that isn't necessarily the case, nor is it something that we couldn't attribute to normal variation or randomness.

As I have mentioned multiple times before, the primary flaw in the system is that it relies on the buy-in of the participants as to the value of the program in order to work properly. There is no cost involved with submitting an NOI and there is no penalty for submitting an NOI that contains 'false' information, i.e. – notice of an application that the grower has no intention of completing. What this means is that there is no impediment to a grower/applicator submitting unlimited NOIs for the same location which would essentially allow them the autonomy to treat at any time on any day of the year. We have one grower in the county who currently does this. If any other growers became disillusioned with a notification system, or they were the target of protests or challenges to their application permit, I could easily foresee that their solution would be to overwhelm the system with NOIs, rendering the notification useless to everyone, including to the farmers who rely on our current system to protect their farmworkers.

**Q: Please provide data on the commonly used restricted material within the Arvin/Lamont 617 Boundary. Please provide the brand and/or chemical name and the crop associated with the restricted material.**

A: We did an analysis on the current list of crops in the area and have compiled a list of the top restricted materials that are used on the crops which are present or could be present within the Arvin/Lamont AB 617 boundary. Please keep in mind that there might be some omissions as it is common for row crops to be routinely rotated. Nevertheless, you can go to our Kern crop map:

<https://maps.kerncounty.com/H5/Index.html?Viewer=Agriculture>

This is also linked on our main webpage as well at kernag.com.

You can zoom in to the map and find out what the permitted crop is at a location you are interested in, then cross reference with the following list to find the most common restricted materials for that crop. For the most part, fields that do not contain the word 'organic' in their label on the crop map would be considered to be conventional agriculture and *could* use restricted materials. Fields labeled as 'organic' would most likely only use organic pesticides.

<http://www.kernag.com/ep/forms/AB617-Commodities-Top10-CA-Restricted-Materials-2021.pdf>

As you can see from the above list, generally speaking, restricted materials rarely make it to the top 10 of commonly applied pesticides. Therefore, in the interest of providing a better idea of pesticide use in the area we also compiled the following list of top 10 pesticides (restricted, conventional, organic, etc.) on the same crops within the boundary:

<http://www.kernag.com/ep/forms/Commodities-Top10-Materials-2021.pdf>

Of particular note to the top pesticides applied is that many (which are highlighted in yellow) are adjuvants which are not pesticides by themselves, but become reportable pesticides when used in conjunction with another material.

Also, if you are interested on searching for labels for these materials, you can go to the following link on DPR's website:

<https://apps.cdpr.ca.gov/docs/label/labelque.cfm>

**Q: Please provide data on the number of violations received within the 617 boundary. Please also share the reason for the violations.**

A: Within the last two years, there have been **NO** violations regarding pesticide drift within the Arvin/Lamont AB 617 boundary. Further, we received no complaints of drift either. During this same time period, our office conducted four (4) inspections or investigations that contained violations of pesticide laws/regulations. Of these four instances, one involved an application which started before the time which was stated on the NOI, one involved various worker safety violations including not having the necessary personal protective equipment, inadequate decontamination area, and the pesticide label not being available at the use site, one involved a grower allowing a researcher to enter a field to collect leaf samples before the Restricted Entry Interval had elapsed, and one involved a resident who illegally obtained a fumigant rodenticide and used it at his home, resulting in several illnesses including both him and members of his family.

All reports of alleged pesticide misuse and/or pesticide related incidents made to our department are investigated promptly and are fully documented whether they result in a violation of pesticide laws/regulations or not.

**Q: How does your office guarantee that growers are following what is listed in the NOI?**

A: My office can no more guarantee that growers are following what is on the NOI than law enforcement can guarantee that motorists follow the speed limit. However, our normal surveillance inspections on pesticide applications, coupled with verification checks after the fact

once the pesticide use reports are submitted allow us to uncover if there were or are any violations, which we then follow through with by issuing fines.

**Q: Are there any processes for using pesticides not under restricted materials? In other words, are growers able to use pesticides that are not restricted materials freely?**

A: There are many restrictions on the use of non-restricted materials. Growers are able to apply them freely in the sense that they don't have to give prior notice to my office before they make an application. They are still required to submit use reports after the fact, however. While there are some permit conditions that might govern such applications either in terms of buffer zones, method of application, or time of year of application, there are also material-specific application requirements that are listed on the label that the grower must adhere to as well.

I realize that most people want a simple answer like: "the buffer zone is 'X' feet," or "no ground applications of pesticides within 'X' miles, etc." However, there is no hard and fast rule like a standard buffer zone or setback. Every application of ANY pesticide has a myriad of conditions that they must abide by depending on a variety of factors such as application method (fumigation, chemigation, aerial, ground, sprinkler, etc), formulation, crop type, weather, time of year, etc. These restrictions are either label restrictions, regional restrictions (such as citrus bee protection regulations that only exist in the San Joaquin valley), regional permit conditions, or statewide recommended permit conditions, in addition to state regulations such as the school application restrictions. For a list of the permit conditions for Kern County, I encourage you to familiarize yourself with the following:

[http://kernag.com/dept/forms/dept-forms.asp#ep\\_top](http://kernag.com/dept/forms/dept-forms.asp#ep_top)

**Q: Does your office require NOIs/permits for pesticides not in the restricted material list that would require a permit due to an 'undue hazard?'**

A: No.

**Q: What practices, if any, does your office enforce or recommend to growers for the protection of farmworkers and residents, such as hours of use, application method, buffer zones, etc?**

A: Please refer to the above link to our permit conditions for these recommendations.

**Q: What are the application controls in place for restricted materials?**

A: I think this question has been covered in some of the other answers in addition to being able to review the permit conditions on our website.

**Q: Anything else that you can add that can support the 617 process not reflected in these questions?**

A: The AB 617 process is designed to help reduce emissions in the selected communities. Public notification prior to pesticide applications will not reduce pesticide emissions. Therefore, AB 617 funds would be put to much better use by exploring programs aimed at reducing pesticide usage, such as funding studies on the use of beneficials like natural predators. Similarly, these funds could be used to establish a large number of permanent pesticide air monitors to augment DPR's current air monitoring to ensure that unhealthy levels of pesticides are not being

released into the air. More data can help DPR design better and more effective regulations to eliminate exposures as best as possible.

The governor has allocated \$10 million dollars to design and implement a statewide pesticide notification system. Utilizing AB 617 funding towards a local system in Arvin/Lamont would therefore be redundant and better utilized in other programs targeted at emissions reduction.

As I have said before, and as DPR has reiterated, there is an extensive process that the State has regarding approving a pesticide for use in California. As part of this process, DPR analyzes various conditions including health and environmental impact of the various application methods. In addition to specific analysis of emissions related to pesticides, there are ongoing air monitoring studies and collections to determine if the restrictions are effective enough at reducing emissions and/or exposures.

There is a misconception that organic farms do not use pesticides. A pesticide is any material applied to a crop to control a pest, whether that pest is a weed, insect, disease, or even sunlight. In California there are several hundred materials registered as organic pesticides which can be used on organic crops. Organic does not mean pesticide-free.

Restricted materials are not classified solely based on their acute toxicity to humans. They can also be classified as restricted materials due to propensity to leech into the groundwater or because they pose a greater risk to surrounding crops. For example, 2, 4-D is a restricted material not because of its toxicity, but because so many crops are sensitive to the effects of this herbicide. It is one of the most common broad leaf herbicides used on home lawns (over which my department has no jurisdiction).

Symptoms and/or effects of pesticide exposure which are listed on the pesticide labels and/or Safety Data Sheets are based on exposure to the UNDILUTED material. Undiluted pesticides are really only present during a pesticide mix/load. As such, particular requirements for the safety of workers are most stringent during this time. Nearly WITHOUT EXCEPTION, pesticides which are being applied to commercial crop locations have been dramatically diluted from their concentrated/undiluted form. Only fumigants (which are essentially delivered to the grower in their final useable form) are used at full concentration, which is why oversight on fumigant applications is so strict.