Introduction:

On January 17th, 2023, a complaint, see attachment A, was forwarded to my office from DPR’s headquarters regarding some allegations against the Los Angeles Unified School District (LAUSD). The complaint alleged non-compliances of the Healthy School Act (HSA) and possible pesticide misuse in the schools. There are more than 1000 schools in LAUSD.

Investigation Summary:

On January 25th, I contacted Richard Avendano, IPM Coordinator with LAUSD and a Qualified Applicator Licensee (QAL) and requested to meet with him to discuss the nature of allegations against the LAUSD.

On February 1st, I met with R. Avendano, his manager, Eddie Sanchez, Area Facilities Services Director, Dennis M. Bradburn, Deputy Director for Facilities Maintenance and Operations, and Jennifer Flores, Deputy Environmental Health & Safety Director. I introduced myself and explained that I’m investigating allegations against the school district. I asked how many schools are included in the school districts and R. Avendano responded that the school district includes over 1000 schools. He added that there are three maintenance areas or districts, North, South, and Central, that provide maintenance, including pest control work to schools. I asked who makes pest control decisions for the schools? R. Avendano responded that in each district, there is a senior pesticide technician who supervises the pest management activities in the schools within the district. The senior also is responsible for making decisions for the pesticides use, sometimes with the assistance of R. Avendano.

I asked about the LAUSD’s approved list of pesticides that the three maintenance areas are using and R. Avendano provided me with the list, attachment #1. The current list includes 22 pesticide products. Part of R. Avendano’s responsibility is to oversee the use of pesticides in the three areas to ensure that only pesticides from the approved list are used in schools. In general, when a school experiences a pest problem, the IPM administrator, an employee of a school who is administering the IPM program in the school, a plant manager, or a parent, would submit a “service call”, a request of the pest problem to the Maintenance area, by using kiosk at schools. The senior pesticide technician for the maintenance area, would assign a technician to visit the school and inspect the pest problem. The technician with some guidance from the senior pesticide technician would try to first mitigate the pest problem without the use of pesticides, for instance, using traps as an alternative to pesticide. If the alternative pest management (mechanical/ manual) was not sufficient to control the pest problem, then the technician would use pesticides from the approved list, after receiving instruction from the senior pesticide technician. The maintenance management would notify the school principal at least 72 hours before the application. This will allow the principal to notify parents, staff, and students before the use of pesticides. Also, a posting notice, pesticide application warning signs, for the application needs to be posted at least 24 hours prior to the application, a blank notice is attached, attachment # 2. In some emergency cases where the pest problem is serious, the senior pesticide technicians would call R. Avendano to ask for assistance or guidance to deal with the pest issue. I have reviewed some of the warning signs in the office of the maintenance areas, all warning signs I reviewed were meeting sign requirements of HSA.

I asked about the approved pesticide list and how a pesticide could be added to the list. J. Flores and R. Avendano explained that the pesticides were added to the list after discussions, research, and approval of the LAUSD and the IPM Committee. The IPM Committee has been meeting with the school district officials regularly to discuss different issues including the approved list and if there is a need for adding more pesticides to the list. When there is any need to add a pesticide to the list, the least toxic pesticide would be added. The pesticide applications usually take place either after the business hours or on the weekends to avoid potential exposure to the students or school staff.

On February 13th, 2023, I visited LAUSD, Maintenance area North. I met with R. Avendano, Aldo Moran, Environmental Safety Officer with Office of Environmental Health and Safety, Abiram Sridhar, Accident Prevention Officer with Office of Environmental Health and Safety, and Omar Medina, Senior Pesticide Technician. I introduced myself and explained the purpose of my visit.

I interviewed O. Medina, a Qualified Agricultural License (QAL) holder, who informed me that all technicians in the LAUSD are licensed by the Structural Pest Control Board (SPCB), for Branch II or III pest control. It is a part of the job requirement for the technicians in LAUSD to possess a valid field representative license prior to obtaining a job with the school district. All technicians obtained their individual structural license while working for structural pest control businesses prior to obtaining a job with LAUSD. I reviewed the handlers’ written training program for the last two years, attachment # 3 & 4. Attachment # 3 is for sign-in sheet for training records of 2021 and attachment # 4 is the sign-in sheet for training records of 2022. The training in 2021 was conducted in March 2021 by Agri-Turf. However, the training in 2022 was conducted in August 2022 by R. Avendano. The training records indicated that the training was not conducted every twelve months, a non-compliance with Title 3 California Code of Regulation (3 CCR), Section 6724.

I asked R. Avendano about the charter schools and how they manage controlling the pest problem, he explained that there are two different types of charter schools. The first type of charter schools are schools that located on the LAUSD’s property. The second type of charter schools are schools that are not located on the LAUSD’s properties. The charter schools that are not on the LAUSD’s property independently manage the pest problems including hiring pest control businesses to conduct pesticide applications, if needed. According to LAUSD’s policy, no other schools among the LAUSD, including charter schools that are located on the LAUSD’s property, are allowed to use pest control businesses to deal with pest problems.

I then checked the Hazard Communication for pesticide handlers: N-8, SDSs, labels, and application specific information. The N-8 was posted, completed and accessible to the technicians at a central location, the Maintenance area. All documents were in a binder on the senior’s desk and accessible to the technicians. When I checked the PPE storage, chemical resistance (CR) gloves, goggles or face shields were not available. When I asked R. Avendano about the lack of CR gloves which is required by 3 CCR, Section 6738.3, he explained that the maintenance areas share with each other their PPEs and he will ensure that the CR gloves, goggles, and face shields, if required by pesticide product labels, will be purchased, or borrowed from the other maintenance areas.

I asked O. Medina if they had ever applied pesticides that were not on the LAUSD’s approved list and he said yes, they did. He informed me that his office had used a Wilco Ground Squirrel Ag Bait (Wilco Ag) pesticide product, EPA Registration # 36029-17, accidently in four different schools in 2017 through 2020, attachment # 5, LAUSD 2017-2021 PURs. Wilco Ag is not on the LAUSD’s approved list of pesticides and is not a California restricted material. O. Medina admitted the mistake that he accidently ordered the products from Agri-Turf, a licensed pest control dealer. When I asked R. Avendano about how the error occurred, he explained he was a technician in 2017 and was not the IPM coordinator, he became an IPM coordinator in 2022. R. Avendano stated that in 2020 the LAUSD realized that the Wilco Ag product was not on the approved list. Therefore, they stopped using it and returned the remaining amount to Agri-Turf. The Wilco Ag product was used in Ulysses Grant High School, Dixie Canyon Community Charter School, Lemay Street Elementary, and Verdugo Hills Senior High for exterior uses.

When I asked R. Avendano what measures were taken to ensure that no other unapproved products would be used in the schools, he stated that the LAUSD has changed the purchasing process. Only Senior pesticide technicians are allowed to prepare a purchase order request. The request would be submitted to R. Avendano. When R. Avendano approves the request, the request would be submitted to the Area Facility Service Director to finalize it and process the purchase of the pesticide product.

I also reviewed the Wilco Ag product label and determined that school sites were not listed on the product label, a violation of Food and Agricultural Code (FAC), section 12973.

I asked R. Avendano, what was done to control the rodent problems. He said, in some schools there were some issues with proper sanitation in the schools’ neighborhood, they increased cleaning the area around the cafeterias, inside the kitchens and removed the food sources. In addition, they added more staff to assist in cleaning the kitchens and areas around the kitchens.

I also inspected the pesticide storage, attachment # 6. The pesticide storage was posted and the pesticides inside the storage were among the LAUSD’s approved list. O. Medina informed me that the Emergency Medical Care (EMC) facility list was posted in all technicians’ vehicles.

Later that same day, I visited Maintenance area South. I met with R. Avendano, A. Moran, and Carlos Medina, Senior Pesticide Technician, a QAL holder. I interviewed C. Medina and asked about the handler training records for the technicians. The handler training for 2021 was conducted in March 2021 by Agri-Turf but there was no sign-in sheet to document the trainees, this is a violation of 3CCR section 6724. However, the records showed that in August 2022, the training was conducted by R. Avendano, the sign-in sheet attachment # 7. The training to the pesticide handlers was not conducted within twelve months during March 2021 to August 2022, this is a violation of 3 CCR, Section 6724. All N-8, labels, SDSs, and application specific information were available and accessible to the technicians. I inspected the PPE storage; all PPE were available and, in a pesticide-free area. I also inspected the pesticide storage, attachment # 8. The pesticide storage was posted and all pesticide containers in the storage were in good condition and on the LAUSD’s approved list of pesticides. In addition, C. Medina showed me the EMC facility list for all his district and informed me that the EMC facility list was posted in all technicians’ vehicles.

On February 22nd, I visited the Maintenance area Central, and met with R. Avendano, A. Moran, Cynthia Sauced, Environmental Safety Officer, and Anthony Vargeson, Senior Pesticide Technician. I introduced myself and explained the purpose of my visit.

I interviewed A. Vargeson, a QAC holder, his certificate was expired at the time of my visit. A. Vargeson’s name was on the list of handlers who received handler training in 2022. I requested the handler training records for the technicians for the last two years. The training records indicated that the handlers received training in August 2022 by R. Avendano, attachment # 9. No handler training was conducted for the technicians during 2021, a violation of 3 CCR, Section 6724.

I asked A. Vargeson if his office had purchased or applied any pesticide that was not on the LAUSD’s approved list and he said no. I asked to review the N-8, SDSs, pesticide product labels, and application specific information for the pesticide products that the handlers used. The N-8 was complete and posted in the hallway, near the main entrance. I reviewed the SDSs, labels, and application specific information, all were in a binder near the area where N-8 was posted and accessible to the handlers. I inspected the PPE storage. All PPE that are required by the pesticide product labels were in the PPE storage area. I also inspected the pesticide storage, attachment # 10. All pesticide containers in the storage were in good condition and on the LAUSD’s approved list of pesticides. In addition, A. Vargeson informed me that the emergency medical care facility list was posted in all technicians’ vehicles. I was able to check the EMC posting in one vehicle that was in the parking lot, the rest of the vehicles were in the field, attachment # 11.

After my inspection of the facility, I had a meeting with R. Avendano and A. Moran. I requested purchase invoices from R. Avendano for the Wilco Ag. I was informed that I need to submit a public record request to LAUSD to obtain a copy of the invoices for the purchased Wilco Ag product and the returned amount to Agri-Turf. I asked A. Moran to provide me with the Respiratory Protection Written Program (RPP) and he said he will email it to me. Later that same day, I received the RPP by an email, but the program was designed to meet Cal OSHA requirements which did not meet the requirements of 3CCR, section 6739. On March 2nd, I emailed RPP template from DPR’s Website for A. Moran to follow and offered my assistance in completing the forms for a written program.

On February 28th, Christine Belden with the Los Angeles County Agricultural Commissioner’s (LA CAC) Office emailed me the purchase orders made by the LAUSD for 2020-2022, from Target Specialty, attachment # 12.

On March 1st, I visited Agri-Turf and met with Rich Records, President. I introduced myself and asked if Agri-Turf had sold Wilco Ag products, EPA Registration number 36029-17, to the LAUSD and he said yes. I requested records for the Wilco Ag products that were sold to the LAUSD in 2017 and the following years. I also asked for records of the returned amount of Wilco Ag to his store and he said he will prepare them and email them to me.

Later that same day, R. Avendano emailed me the pesticide use reports for 2021 and 2022, attachment # 13 & 14, respectively.

On March 2nd, I telephoned R. Avendano and recommended contacting the LA CAC to obtain an Operator Identification number (OP ID), LAUSD obtained several pesticides and had several pesticide applications every year, and he said he will. I also followed up with the LA CAC to ensure that an OP ID will be issued to the LAUSD.

On March 6th, I received a list of the Wilco Ag products from Agri-Turf that were sold to LAUSD and the unused amount that was returned to Agri-Turf, attachment # 15.

On March 8th, I met with R. Avendano, E. Sanchez, and J. Flores at their main office and updated them with my findings. I also provided some recommendations on how they can correct the non-compliances. In addition, I explained to J. Flores that the current LAUSD’s Respiratory Protection Program (RPP) is not in compliance with DPR RPP’s requirements. I informed her that I’ll discuss LAUSD’s RPP with some specialists in DPR’s headquarters and will get back to her with DPR’s recommendations on how LAUSD can correct the RPP to meet the requirements of 3 CCR section 6739.

When I met with J. Flores on February 1st, and requested the RPP, she informed me that she will have one of her staff, A. Moran, email it to me. On February 22, I reminded A. Moran that I haven’t received the RPP and he said that he will email me the information. Later that same day, I received the RPP from A. Moran. My review of the RPP found the respiratory program follows CAL OSHA’s requirement, however, it doesn’t meet DPR RPP’s requirement. The LAUSD’s RPP, attachment # 16, explained the procedures and requirements of Title 8, but was not compatible to DPR’s RPP. In addition, the LAUSD’s RPP did not include important information, for instance, who conducted the medical evaluation and when. Also, the list of employees who were cleared by a Physician or other license health care provider before utilizing the respirators. The LAUSD’s RPP also did not include information about when the fit testing was conducted and the name of the employees who passed the test. On March 3rd, I emailed A. Moran the generic DPR’s RPP and offered my assistance to explain the requirements and did not receive any response until I spoke with J. Flores on March 8th.

On March 9th, I contacted Lisa Estridge, DPR Environmental Program Manager I with Integrated Pest Management Branch and discussed with her some allegations against LAUSD’s HSA compliance. On March 14th, L. Estridge responded as listed below:

I asked L. Estridge about the LAUSD mandatory notification of pesticide applications to DPR, she responded: School districts do not have to notify DPR of pesticide products expected to be applied. The annual notification requirement of the HSA is detailed in CA Education Code 17612 (a). The requirement for providing the opportunity to register and receive notification of individual pesticide application is detailed in CA Education Code 17612 (a) (1-2). It should be noted that neither DPR nor CAC have the authority to enforce HSA Education Codes.

In response to pesticide application posting, L. Estridge replied: School districts are supposed to post warning signs at the area of the application when pesticides are applied (CA Education Code 17612 (d)). However, some pesticides are exempt from this requirement - see CA Education Code 17610.5 for a list of the exempt categories.

In my meeting with R. Avendano on March 8th, I asked him about the cyber-attack that caused LAUSD online pesticide reporting records to be lost, he responded that the online system was down from September-December 2022. During this time, they were documenting the pesticide application records manually and when the online recording system became available, they started to upload the records from the backup, manual records. I consulted with L. Estridge regarding A. Avendano’s response. She stated that School districts are required to maintain records of the pesticide use at the school site for four years per CA Education Code 17611. If a school district’s records are lost, district staff can contact the DPR School IPM Program to request electronic records stored in the CA School Pesticide Use Reporting Database.

In response to annual notifications, L. Estridge stated that School districts are required to provide annual notification to parents/guardians and staff about the pesticides expected to be applied during the upcoming school year per CA Education Code 17612 (a). School districts are also required to provide the opportunity for parents/ guardians and staff to register to receive notification of individual pesticide application throughout the year per CA Education Code 17612(a)(1-2).

During the week of 9/5/2022, DPR’s School IPM Program staff assessed LAUSD’s compliance with HSA requirements of the law, attachment # 17. They found that LAUSD complied with the HSA and provided more information online than most school districts in California, LAUSD has identified an IPM Coordinator whose name and contact information are available on the district’s website. The assessment found that LAUSD’s Annual Notification, as required by the HSA, is available on the district’s website and Parents/ guardians/ staff can register for advanced notification of pesticide applications at their school on the district’s website. Under HSA/ “who needs HSA training?” on DPR’s website, the IPM Coordinator and anyone expected to use a pesticide at a school site must complete training. The IPM Coordinator and technicians had completed the HSA training as part their employment requirements. I verified the information when I interviewed the senior pesticide technicians during my inspections on the maintenance districts.

I also verified LAUSD’s compliance with some aspects of HSA with Eric Denemark, Senior Environmental Scientist with DPR’s School IPM Program, attachment # 18.

Regarding the clarification of the RCO Omega Gopher Grain Bait product and information about the product use records. Please see the RCO Omega label that include the EPA Registration number on it, attachment # 19, and the RCO Omega use records in attachment # 5.

On March 13th, J. Flores emailed me more information about the LAUSD’s RPP. The email included a sample of blank medical questionnaire, a list of employees that undergone the Fit Testing, information about the voluntary use of N95 respirators, and information was pertaining to Cal-OSHA requirements. On March 14th, I responded to J. Flores after I reviewed the attached documents in her email and informed her that the medical questionnaire does not meet DPR requirements for the use of pesticides. LAUSD’s RPP also is not in compliance with DPR’s RPP for the use of respirators for voluntary use, a noncompliance with 3 CCR, Section 6739. I informed her that I’ll confirm my findings with a specialist from my headquarters.

On March 15th, I contacted Harvard Fong, Senior Industrial Hygienist with DPR/Worker Health, and Safety Branch (WHS) and asked him to review the LAUSD’s RPP and provide me with his feedback. On March 16th, H. Fong notified me that according to LAUSD’s RPP, the employees appear to be under Title 8 jurisdiction, which does not have pesticides as part of their “Applications”. The LAUSD’s RPP is not in compliance with DPR’s RPP. The medical questionnaire is inadequate and lacks critical medical questions on the DPR’s Medical Questionnaire. In addition, the Medical Questionnaire is not adequate, even by Cal/OSHA standards. H. Fong suggested that either LAUSD use the correct Cal-OSHA Medical Questionnaire or use DPR’s Medical Questionnaire and fulfill DPR regulatory requirements.

On March 16th, I contacted R. Avendano and requested contact information for different schools to confirm compliance with Notification requirements. On March 21st, R. Avendano responded to my emails stated that he will provide me with the information. I was unable to visit some schools because of the LAUSD strike.

After several attempts to visit school sites to verify compliance of warning signs and notifications for pesticide applications with HSA, LAUSD scheduled a visit to John B. Monlux Elementary School.

On May 2, I visited Monlux Elementary School and met with Brenda Bustos, School Administrative Assistant, R. Avendano and O. Medina. After I introduced myself and explained the purpose of my visit, I asked B. Bustos to explain the process of posting the warning sign and providing notification to interested parties for scheduled pesticide applications in her school. B. Bustos informed me that the maintenance district usually notifies her with the date of the scheduled application, the applications usually occur in the weekends, so that she can send a notification out. Then, a technician would come over to school and post a warning sign at the application location about 72 hours prior to the application, HSA requires posting at least 24 hours prior to application. B. Bustos would notify parents, school staff and students 72 hours prior to application through the school website. All parents, staff and students have access to the school website to receive the notification. I obtained a copy of an actual warning sign and notification from the school for the most recent pesticide application that was conducted on April 23, see attachment # 20. I reviewed the warning sign and notification form and found them in compliance with HSA requirement.

**Conclusion**:

In mid-January 2023, DPR’s headquarter received a complaint regarding alleged violations of Healthy School Act and pesticides use that were handled by LAUSD’s technicians.

Upon receiving the complaint from my headquarters, I contacted LAUSD and requested a meeting with some of their managers. I met with LAUSD, explained to them the nature of the allegations, and requested some visits/audits to the three maintenance areas, districts, that maintain the pest control activities and implement big part of the healthy school act in LAUSD.

After I concluded my audits to the maintenance areas, I noted some non-compliances of pesticide use. The Wilco Ag product was not registered for use on school or institutional sites, use of this product on school sites constitutes a violation of FAC, Section 12973. In 2020, the LAUSD staff realized that the Wilco Ag product was mistakenly ordered, with another Wilco product that was on the approved list of pesticides in LAUSD, by the Maintenance area North, directly from Agri-Turf. The LAUSD returned the unused Wilco Ag product at the end of Calendar year 2020 to Agri-Turf and established a system in place to ensure that such mistakes will no longer occur. The pesticide dealer, Agri-Turf sold Wilco Ag product to LAUSD without ensuring that LAUSD obtained an OP ID prior to the purchase, a violation of 3 CCR, Section 6568 (c).

During my audits to the three Maintenance areas, the following non-compliances were noted:

* The lack of handlers training in the maintenance area Central for 2021 and
* Missing sign-in sheets for handlers training in the maintenance area South for 2021, both violations of 3 CCR, Section 6724.

The Hazard Communication for Pesticide Handlers was inspected and found in compliance with 3 CCR, Section 6723: N-8, pesticide use records, copies of available Pesticide Safety Information Series Leaflets, SDSs, and pesticide product labels.

The Pesticide Storages in the three maintenance areas were inspected and found in compliance with 3 CCR, Section 6674: all storage areas were clean, organized, posted, and included only pesticide products that were in the approved pesticide list of the LAUSD.

The Emergency Medical Care Posting was found in compliance with 3 CCR, Section 6726: a technician’s vehicle was posted with the facilities where emergency medical care is available.

The LAUSD’s RPP was designed to meet the Cal-OSHA’s requirements for the use of respirators. A critical component of the RPP, medical evaluation questionnaire, did not comply with the DPR’s medical evaluation questionnaire for the use of pesticides, a violation of 3 CCR, Section 6739. The use of respirators in LAUSD is required by label and LAUSD’s policy. The LAUSD allowed the use of respirators in voluntary bases but did not provide their employees with the required information in 3 CCR, subsection 6739 (r).

The notification and posting requirements for the school that I was able to inspect in LAUSD system met HSA requirements.

DPR is working with Los Angeles County Agricultural Commissioner’s Office to follow up and correct the non-compliances that were noted during the investigation.

Violations:

1- No sign-in sheet for 2021 handler training, and not conducting handler training annually (within twelve months), two violations of 3 CCR section 6724.

2- Applying Wilco ag pesticide product on school sites, a violation of FAC section 12973

3-The Respiratory Protection Program is not incompliance with 3 CCR section 6739

4-Agri-Turf sold Wilco ag pesticide products to LAUSD without an OP ID, a violation of the 3CCR section 6568.

Witnesses:

Richard Avendano, IPM coordinator with LAUSD

Eddie Sanchez, Area Facilities Services Director

Dennis M. Bradburn, Deputy Director for Facilities Maintenance and Operations

Jennifer Flores, Deputy Environmental Health & Safety Director

Aldo Moran, Environmental Safety Officer

Abiram Sridhar, Accident Prevention Officer

Omar Medina, Senior Pesticide Technician

Carlos Medina, Senior Pest Management Technician

Cynthia Sauced, Environmental Safety Officer

Anthony Vargeson, Senior Pest Management Technician

Christine Belden, Deputy Agricultural Commissioner

Rich Records, President of Agri-Turf

Lisa Estridge, Environmental Program Manager I

Eric Denemark, Senior Environmental Scientist, Supervisor

Harvard Fong, Senior Industrial Hygienist

Brenda Bustos, School Administrative Assistant

Attachments:

1-Approved Pesticide Product List – 2022-2023

2-Blank 24-hour warning notice

3-Handler training sign in sheet by Agri-turf for March 2021, M&O area North

4-Handler training sign in sheet by R. Avendano for 2022, M&O area North

5-LAUSDA 2017 – 2021 PURs – **FILE IS A SEPARATE ATTACHMENT**

6-Pesticide Storage posting, M&O area North

7-Handler training sign in sheet for 2022, M&O area South

8-Pesticide storage posting, M&O area South

9-Handlers training sign in sheet for 2022, M&O area Central

10-Pesticide Storage posting, M&O area Central

11-Emergency medical care posting, M&O area Central

12-List of purchased items from Target Specialty

13-Pesticide use reports for 2021 - **FILE IS A SEPARATE ATTACHMENT**

14-Pesticide use reports for 2022 - **FILE IS A SEPARATE ATTACHMENT**

15-List of purchased Wilco Ag from Agri-Turf, 2015-2020

16-LAUSD’s RPP Final 07-26-2022

17-Healthy School Act Requirements: Remote Assessment

18- LAUSD’s compliance with some aspects of HSA.

19-Omega label, 5042-32-AA

20-A warning sign and notification form for a pesticide application at John B. Monlux Elementary School

A-Complaint letter to DPR about LAUSD