

ASSEMBLY BILL

No. 1176

**Introduced by Assembly Member Williams
(Coauthor: Assembly Member Monning)**

February 18, 2011

An act to amend Sections 14023 and 14024 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

AB 1176, as introduced, Williams. Pesticides: toxic air contaminant.

Under existing law, the Director of Pesticide Regulation, upon completion of an evaluation of a pesticide, is required to prepare a report on the health effects of any pesticide determined to be a toxic air contaminant which poses a present or potential hazard to human health due to airborne emission from its use, as specified. This report is required to be made available to the public, as specified. The director is also required to determine, in consultation with specified entities, the need for and appropriate degree of control measures for each pesticide listed as a toxic air contaminant.

This bill would require that the report on the health effects of a pesticide be completed within 180 days after the director's receipt of the evaluation. This bill would further require that the director's written determination regarding control measures for each pesticide be completed within 180 days after the listing of the pesticide as a toxic air contaminant and shall be made available to the public.

Existing law provides that, for those pesticides for which a need for control measures has been determined, the director, in consultation with specified entities, is required to develop control measures designed to reduce emissions sufficiently so that the source will not expose the

public to the levels of exposure which may cause or contribute to significant adverse health effects. Existing law provides that, after a public hearing, the director shall adopt, by regulation, control measures, including application of the best practicable control techniques for those pesticides for which a need has been determined.

This bill would include pesticides identified by the director as toxic air contaminants within the list of pesticides for which the director is required to develop control measures, as specified above. The bill would specify that the director shall develop the control measures within 180 days after the completion of the director’s written determination of the need for, and appropriate degree of, control measures for each pesticide listed as a toxic air contaminant.

This bill would further provide that if it is determined that there is no need for control measures to protect human health from airborne emission of a pesticide identified by the director as a toxic air contaminant, the director shall follow specified consultation procedures and shall each year adopt, by regulation, control measures to protect human health with respect to at least 2 pesticides meeting the definition of toxic air contaminant, as specified. Moreover, the bill would provide that the director shall adopt control measures no later than 180 days after development of the control measures.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14023 of the Food and Agricultural Code
 2 is amended to read:
 3 14023. (a) Upon completion of the evaluation conducted
 4 pursuant to Section 14022, the director shall, in consultation and
 5 with the participation of the State Department of ~~Health Services~~
 6 *Public Health*, prepare a report on the health effects of the pesticide
 7 which may be determined to be a toxic air contaminant which
 8 poses a present or potential hazard to human health due to airborne
 9 emission from its use. The report shall assess the availability and
 10 quality of data on health effects, including potency, mode of action,
 11 and other relevant biological factors, of the substance. The report
 12 shall also contain an estimate of the levels of exposure which may
 13 cause or contribute to adverse health effects and, in the case where
 14 there is no threshold of significant adverse health effects, the range

1 of risk to humans, resulting from current or anticipated exposure.
2 The report shall include the findings of the State Department of
3 ~~Health Services~~ *Public Health*. The report shall be *completed*
4 *within 180 days after the director's receipt of the evaluation*
5 *conducted pursuant to Section 14022 and shall be made available*
6 to the public, subject to subdivision (d) of Section 14022.

7 (b) The report prepared pursuant to subdivision (a) shall be
8 formally reviewed by the scientific review panel established
9 according to Section 39670 of the Health and Safety Code. The
10 director shall also make available the data deemed necessary to
11 the scientific review panel, according to departmental procedures
12 established to ensure confidentiality of proprietary information.
13 The panel shall review, as appropriate, the scientific data on which
14 the report is based, the scientific procedures and methods used to
15 support the data, and the conclusions and assessments on which
16 the report is based. The panel shall submit its written findings to
17 the director within 45 days after receiving the report, but it may
18 petition the director for an extension of the deadline, which may
19 not exceed 15 working days.

20 (c) If the scientific review panel determines that the health
21 effects report is seriously deficient, the report shall be returned to
22 the director who shall revise and resubmit the report, within 30
23 days following receipt of the panel's determination, to the panel
24 prior to development of emission control measures.

25 (d) Within 10 working days following receipt of the findings
26 of the scientific review panel pursuant to subdivision (b), the
27 director shall prepare a hearing notice and a proposed regulation
28 which shall include the proposed determination as to whether a
29 pesticide is a toxic air contaminant. After conducting a public
30 hearing pursuant to Chapter 3.5 (commencing with Section 11340)
31 of Part 1 of Division 3 of Title 2 of the Government Code, the
32 director shall list, by regulation, pesticides determined to be toxic
33 air contaminants.

34 (e) The director shall determine, in consultation with the State
35 Department of ~~Health Services~~ *Public Health*, the State Air
36 Resources Board, and the air pollution control districts or air
37 quality management districts in the affected counties, the need for
38 and appropriate degree of control measures for each pesticide listed
39 as a toxic air contaminant pursuant to subdivision (d). Any person
40 may submit written information for consideration by the director

1 in making determinations on control measures. *The director's*
2 *written determination shall be completed within 180 days after*
3 *listing a pesticide as a toxic air contaminant and that written*
4 *determination shall be made available to the public.*

5 SEC. 2. Section 14024 of the Food and Agricultural Code is
6 amended to read:

7 14024. (a) For *pesticides identified by the director as toxic air*
8 *contaminants described in subdivision (b) of Section 14021 and*
9 *for those pesticides for which a need for control measures has been*
10 *determined pursuant to subdivision (e) of Section 14023 and*
11 *pursuant to provisions of this code, the director, in consultation*
12 *with the agricultural commissioners and air pollution control*
13 *districts and air quality management districts in the affected*
14 *counties, shall develop, within 180 days after the completion of*
15 *the director's written determination pursuant to subdivision (e)*
16 *of Section 14023, control measures designed to reduce emissions*
17 *sufficiently so that the source will not expose the public to the*
18 *levels of exposure which may cause or contribute to significant*
19 *adverse health effects. Where no demonstrable safe level or*
20 *threshold of significant adverse health effects has been established*
21 *by the director, the control measures shall be designed to*
22 *adequately prevent an endangerment of public health through the*
23 *application of best practicable control techniques.*

24 (b) Best practicable control techniques may include, but are not
25 limited to, the following:

- 26 (1) Label amendments.
- 27 (2) Applicator training.
- 28 (3) Restrictions on use patterns or locations.
- 29 (4) Changes in application procedures.
- 30 (5) Reclassification as a restricted material.
- 31 (6) Cancellation.

32 (c) *Unless the director, the State Air Resources Board, and the*
33 *Office of Environmental Health Hazard Assessment concur in*
34 *writing that there is no need for control measures to protect human*
35 *health from airborne emission of a pesticide identified by the*
36 *director as a toxic air contaminant, as described in subdivision*
37 *(b) of Section 14021, the director shall follow the consultation*
38 *procedures set forth in subdivision (a) and shall each year adopt,*
39 *by regulation, control measures to protect human health with*
40 *respect to at least two pesticides meeting the definition of a toxic*

1 *air contaminant, as described in subdivision (b) of Section 14021.*
2 *The director shall give priority to the regulation of a pesticide*
3 *meeting the definition of a toxic air contaminant, as described in*
4 *subdivision (b) of Section 14021, based on the pesticide's risk of*
5 *harm to the public health, the amount or potential amount of*
6 *emissions of the pesticide in any community or statewide, the*
7 *manner and quantity of usage of the pesticide in any community*
8 *or statewide, and the ambient concentrations of the pesticide in*
9 *any community or statewide.*

10 (e)

11 (d) After conducting a public hearing pursuant to Chapter 3.5
12 (commencing with Section 11340) of Part 1 of Division 3 of Title
13 2 of the Government Code, *and no later than 180 days after the*
14 *development of control measures required by subdivision (a), the*
15 *director shall adopt, by regulation, control measures, including*
16 *application of the best practicable control techniques enumerated*
17 *in subdivision (b) or any other best applicable control technique,*
18 *for those pesticides for which a need has been determined.*