

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1176**

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

February 18, 2011

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An act to amend Sections 14022, 14023, and 14024 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

AB 1176, as amended, 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 *director complete at least one report per year* 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 all findings made by consulting agencies~~ 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 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 by regulation ~~no later than 180 days after development of the control measures, as specified. The Department of Pesticide Regulation would have no obligation to adopt control measures for specified pesticides if the director, the State Air Resources Board, and the Office of Environmental Health Hazard Assessment concur in writing that there is no need for control measures to protect human health from airborne emission of that specific pesticide.~~

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 14022 of the Food and Agricultural Code
- 2 is amended to read:
- 3 14022. (a) In consultation with the Office of Environmental
- 4 Health Hazard Assessment and the State Air Resources Board, the
- 5 director shall evaluate the health effects of pesticides which may
- 6 be or are emitted into the ambient air of California and which may
- 7 be determined to be a toxic air contaminant which poses a present

1 or potential hazard to human health. Upon request of the State Air  
2 Resources Board, the director shall include a pesticide for  
3 evaluation.

4 (b) The director shall complete the evaluation of a pesticide  
5 within 90 days after receiving the scientific data specified in  
6 subdivision (c) from the Office of Environmental Health Hazard  
7 Assessment and the State Air Resources Board. The director may  
8 extend the 90-day deadline for a period not to exceed 30 days if  
9 the director transmits to the Assembly Committee on Rules and  
10 the Senate Committee on Rules, for transmittal to the appropriate  
11 standing, select, or joint committee of the Legislature, a statement  
12 of reasons for extension of the deadline.

13 (c) In conducting this evaluation, the director shall consider all  
14 available scientific data, including, but not limited to, relevant data  
15 provided by the Office of Environmental Health Hazard  
16 Assessment, the Occupational Safety and Health Division of the  
17 Department of Industrial Relations, international and federal health  
18 agencies, private industry, academic researchers, and public health  
19 and environmental organizations. At the request of the director,  
20 the State Air Resources Board shall document the level of airborne  
21 emissions and the Office of Environmental Health Hazard  
22 Assessment shall provide an assessment of related health effects  
23 of pesticides which may be determined to pose a present or  
24 potential hazard and each agency shall provide technical assistance  
25 to the department as it conducts its evaluation.

26 (d) The director may request, and any person shall provide,  
27 information on any substance which is or may be under evaluation  
28 and which is manufactured, distributed, or used by the person to  
29 whom the request is made, in order to carry out his or her  
30 responsibilities pursuant to this chapter. Any person providing  
31 information pursuant to this subdivision shall, at the request of the  
32 director, identify that portion of the information submitted to the  
33 department which is a trade secret and, upon the request of the  
34 director, shall provide documentation to support the claim of the  
35 trade secret. Information supplied which is a trade secret, as  
36 specified in Section 6254.7 of the Government Code, and which  
37 is so marked at the time of submission shall not be released to the  
38 public by the director, except in accordance with Section 1060 of  
39 the Evidence Code and Section 21160 of the Public Resources  
40 Code.

1 (e) The director shall give priority to the data requests and the  
2 evaluation and regulation of substances based on factors related  
3 to the risk of harm to public health, amount or potential amount  
4 of emissions, manner of usage of the pesticide in California,  
5 persistence in the atmosphere, and ambient concentrations in the  
6 community.

7 SEC. 2. Section 14023 of the Food and Agricultural Code is  
8 amended to read:

9 14023. (a) Upon completion of the evaluation conducted  
10 pursuant to Section 14022, the director shall, in consultation and  
11 with the participation of the Office of Environmental Health Hazard  
12 Assessment, prepare a report on the health effects of the pesticide  
13 which may be determined to be a toxic air contaminant which  
14 poses a present or potential hazard to human health due to airborne  
15 emission from its use. The report shall assess the availability and  
16 quality of data on health effects, including potency, mode of action,  
17 and other relevant biological factors, of the substance. The report  
18 shall also contain an estimate of the levels of exposure which may  
19 cause or contribute to adverse health effects and, in the case where  
20 there is no threshold of significant adverse health effects, the range  
21 of risk to humans, resulting from current or anticipated exposure.  
22 The report shall include the findings of the Office of Environmental  
23 Health Hazard Assessment. ~~The report shall be completed within~~  
24 ~~180 days after the director's completion of the evaluation~~  
25 ~~conducted pursuant to Section 14022 and shall be made~~ *director*  
26 *shall complete at least one report per year, and shall make the*  
27 *report available to the public, subject to subdivision (d) of Section*  
28 *14022.*

29 (b) The report prepared pursuant to subdivision (a) shall be  
30 formally reviewed by the scientific review panel established  
31 according to Section 39670 of the Health and Safety Code. The  
32 director shall also make available the data deemed necessary to  
33 the scientific review panel, according to departmental procedures  
34 established to ensure confidentiality of proprietary information.  
35 The panel shall review, as appropriate, the scientific data on which  
36 the report is based, the scientific procedures and methods used to  
37 support the data, and the conclusions and assessments on which  
38 the report is based. The panel shall submit its written findings to  
39 the director within 45 days after receiving the report, but it may

1 petition the director for an extension of the deadline, which may  
2 not exceed 15 working days.

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

8 (d) Within 10 working days following receipt of the findings  
9 of the scientific review panel pursuant to subdivision (b), the  
10 director shall prepare a hearing notice and a proposed regulation  
11 which shall include the proposed determination as to whether a  
12 pesticide is a toxic air contaminant. After conducting a public  
13 hearing pursuant to Chapter 3.5 (commencing with Section 11340)  
14 of Part 1 of Division 3 of Title 2 of the Government Code, the  
15 director shall list, by regulation, pesticides determined to be toxic  
16 air contaminants.

17 (e) The director shall determine, in consultation with the Office  
18 of Environmental Health Hazard Assessment, the State Air  
19 Resources Board, and the air pollution control districts or air  
20 quality management districts in the affected counties, the need for  
21 and appropriate degree of control measures for each pesticide listed  
22 as a toxic air contaminant pursuant to subdivision (d). Any person  
23 may submit written information for consideration by the director  
24 in making determinations on control measures. ~~The director's~~  
25 ~~written determination shall be completed within 180 days after~~  
26 ~~listing a pesticide as a toxic air contaminant and that written~~  
27 ~~determination~~ *determination* and all findings made by the  
28 consulting agencies shall be made available to the public.

29 ~~SEC. 2.~~

30 *SEC. 3.* Section 14024 of the Food and Agricultural Code is  
31 amended to read:

32 14024. (a) For pesticides identified by the director as toxic air  
33 contaminants described in subdivision (b) of Section 14021 and  
34 for those pesticides for which a need for control measures has been  
35 determined pursuant to subdivision (e) of Section 14023 and  
36 pursuant to provisions of this code, the director, in consultation  
37 with the Office of Environmental Health Hazard Assessment, the  
38 agricultural commissioners, air pollution control districts, and air  
39 quality management districts in the affected counties, shall develop;  
40 ~~within 180 days after the completion of the director's written~~

1 ~~determination pursuant to subdivision (e) of Section 14023, control~~  
2 ~~measures designed to reduce emissions sufficiently so that the~~  
3 ~~source will not expose the public to the levels of exposure which~~  
4 ~~may cause or contribute to significant adverse health effects. It is~~  
5 ~~presumed that exposures above Reference Concentrations~~  
6 ~~established in a report completed pursuant to subdivisions (a) to~~  
7 ~~(c), inclusive, of Section 14023 may cause or contribute to~~  
8 ~~significant adverse health effects. Where *If* no demonstrable safe~~  
9 ~~level or threshold of significant adverse health effects has been~~  
10 ~~established by the director, the control measures shall be designed~~  
11 ~~to adequately prevent an endangerment of public health through~~  
12 ~~the application of best practicable control techniques.~~

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

- 15 (1) Label amendments.
- 16 (2) Applicator training.
- 17 (3) Restrictions on use patterns or locations.
- 18 (4) Changes in application procedures.
- 19 (5) Reclassification as a restricted material.
- 20 (6) Cancellation.

21 (c) The director shall follow the consultation procedures set  
22 forth in subdivision (a) and shall each year adopt, by regulation,  
23 control measures to protect human health with respect to at least  
24 two pesticides meeting the definition of a toxic air contaminant,  
25 as described in subdivision (b) of Section 14021. The director shall  
26 give priority to the regulation of a pesticide meeting the definition  
27 of a toxic air contaminant, as described in subdivision (b) of  
28 Section 14021, *and to those pesticides for which a need for control*  
29 *measures has been determined pursuant to subdivision (e) of*  
30 *Section 14023*, based on the pesticide's risk of harm to the public  
31 health, the amount or potential amount of emissions of the pesticide  
32 in any community or statewide, the manner and quantity of usage  
33 of the pesticide in any community or statewide, and the ambient  
34 concentrations of the pesticide in any community or statewide.  
35 ~~The department has no obligation to adopt control measures for~~  
36 ~~any specific pesticide described in subdivision (b) of Section 14021~~  
37 ~~if the director, the State Air Resources Board, and the Office of~~  
38 ~~Environmental Health Hazard Assessment concur in writing that~~  
39 ~~there is no need for control measures to protect human health from~~  
40 ~~airborne emission of that specific pesticide.~~

1 (d) After conducting a public hearing pursuant to Chapter 3.5  
2 (commencing with Section 11340) of Part 1 of Division 3 of Title  
3 2 of the Government Code, ~~and no later than 180 days after the~~  
4 ~~development of control measures required by subdivision (a),~~ the  
5 *the* director shall, notwithstanding any timelines imposed by  
6 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
7 3 of Title 2 of the Government Code, adopt, by regulation, control  
8 measures, including application of the best practicable control  
9 techniques enumerated in subdivision (b) or any other best  
10 applicable control technique, for those pesticides for which a need  
11 has been determined.

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