

AMENDED IN ASSEMBLY MAY 12, 2011

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1176

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

February 18, 2011

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. This bill would further require that the written determination regarding control measures for each pesticide and 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 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, as specified.~~ *would require the director, within 2 years of the determination of the need for control measures or following a risk assessment of a pesticide identified as a toxic air contaminant, to adopt control measures to protect human health or report to the Legislature why control measures have not been adopted.*

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
8 or potential hazard to human health. Upon request of the State Air
9 Resources Board, the director shall include a pesticide for
10 evaluation.

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

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

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

38 (e) The director shall give priority to the ~~data requests and the~~
39 evaluation and regulation of substances based on factors related
40 to the risk of harm to public health, amount or potential amount

1 of emissions, manner of usage of the pesticide in California,
2 persistence in the atmosphere, and ambient concentrations in the
3 community.

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

6 14023. (a) Upon completion of the evaluation conducted
7 pursuant to Section 14022, the director shall, in consultation and
8 with the participation of the Office of Environmental Health Hazard
9 Assessment, prepare a report on the health effects of the pesticide
10 which may be determined to be a toxic air contaminant which
11 poses a present or potential hazard to human health due to airborne
12 emission from its use. The report shall assess the availability and
13 quality of data on health effects, including potency, mode of action,
14 and other relevant biological factors, of the substance. The report
15 shall also contain an estimate of the levels of exposure which may
16 cause or contribute to adverse health effects and, in the case where
17 there is no threshold of significant adverse health effects, the range
18 of risk to humans, resulting from current or anticipated exposure.
19 The report shall include the findings of the Office of Environmental
20 Health Hazard Assessment. ~~The director shall complete at least~~
21 ~~one report per year, and shall make the report~~ *shall be made*
22 available to the public, subject to subdivision (d) of Section 14022.

23 (b) The report prepared pursuant to subdivision (a) shall be
24 formally reviewed by the scientific review panel established
25 according to Section 39670 of the Health and Safety Code. The
26 director shall also make available the data deemed necessary to
27 the scientific review panel, according to departmental procedures
28 established to ensure confidentiality of proprietary information.
29 The panel shall review, as appropriate, the scientific data on which
30 the report is based, the scientific procedures and methods used to
31 support the data, and the conclusions and assessments on which
32 the report is based. The panel shall submit its written findings to
33 the director within 45 days after receiving the report, but it may
34 petition the director for an extension of the deadline, which may
35 not exceed 15 working days.

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

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

10 (e) The director shall determine, in consultation with the Office
11 of Environmental Health Hazard Assessment, the State Air
12 Resources Board, and the air pollution control districts or air
13 quality management districts in the affected counties, the need for
14 and appropriate degree of control measures for each pesticide listed
15 as a toxic air contaminant pursuant to subdivision (d). Any person
16 may submit written information for consideration by the director
17 in making determinations on control measures. The written
18 determination and all findings made by the consulting agencies
19 shall be made available to the public.

20 SEC. 3. Section 14024 of the Food and Agricultural Code is
21 amended to read:

22 14024. (a) For pesticides identified by the director as toxic air
23 contaminants described in subdivision (b) of Section 14021 and
24 for those pesticides for which a need for control measures has been
25 determined pursuant to subdivision (e) of Section 14023 and
26 pursuant to provisions of this code, the director, in consultation
27 ~~with the Office of Environmental Health Hazard Assessment, the~~
28 *with the* agricultural commissioners, air pollution control districts,
29 and air quality management districts in the affected counties, shall
30 develop control measures designed to reduce emissions sufficiently
31 so that the source will not expose the public to the levels of
32 exposure which may cause or contribute to significant adverse
33 health effects. If no demonstrable safe level or threshold of
34 significant adverse health effects has been established by the
35 director, the control measures shall be designed to adequately
36 prevent an endangerment of public health through the application
37 of best practicable control techniques.

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

40 (1) Label amendments.

- 1 (2) Applicator training.
- 2 (3) Restrictions on use patterns or locations.
- 3 (4) Changes in application procedures.
- 4 (5) Reclassification as a restricted material.
- 5 (6) Cancellation.

6 (c) The director shall follow the consultation procedures set
7 forth in subdivision (a) and shall each year adopt, by regulation,
8 control measures to protect human health with respect to at least
9 two pesticides meeting the definition of a toxic air contaminant,
10 as described in subdivision (b) of Section 14021. The director shall
11 give priority to the regulation of a pesticide meeting the definition
12 of a toxic air contaminant, as described in subdivision (b) of
13 Section 14021, and to those pesticides for which a need for control
14 measures has been determined pursuant to subdivision (e) of
15 Section 14023, based on the pesticide's risk of harm to the public
16 health, the amount or potential amount of emissions of the pesticide
17 in any community or statewide, the manner and quantity of usage
18 of the pesticide in any community or statewide, and the ambient
19 concentrations of the pesticide in any community or statewide.
20 *forth in subdivision (a) and shall, within two years of the*
21 *determination of the need for control measures pursuant to*
22 *subdivision (e) of Section 14023 or following a risk assessment of*
23 *a pesticide identified as a toxic air contaminant pursuant to Section*
24 *14021, adopt control measures to protect human health or submit*
25 *a report to the Legislature setting forth the reasons that this*
26 *requirement has not been met. Reports submitted pursuant to this*
27 *subdivision shall be submitted in compliance with Section 9795*
28 *of the Government Code.*

29 (d) After conducting a public hearing pursuant to Chapter 3.5
30 (commencing with Section 11340) of Part 1 of Division 3 of Title
31 2 of the Government Code, ~~the director shall, notwithstanding any~~
32 ~~timelines imposed by Chapter 3.5 (commencing with Section~~
33 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code,~~
34 ~~adopt, by regulation, control~~ *the director shall adopt, by regulation,*
35 *control* measures, including application of the best practicable
36 control techniques enumerated in subdivision (b) or any other best
37 applicable control technique, for those pesticides for which a need
38 has been determined.

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