

AMENDED IN ASSEMBLY JANUARY 4, 2012

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**

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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 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 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. *The bill would provide, with respect to any pesticide for which a determination of the need for control measures was made prior to January 1, 2013, that the 2-year period described above commences on January 1, 2013.*

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.
- 11 (b) The director shall complete the evaluation of a pesticide
- 12 within 90 days after receiving the scientific data specified in

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

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

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

36 (e) The director shall give priority to the evaluation and  
37 regulation of substances based on factors related to the risk of harm  
38 to public health, amount or potential amount of emissions, manner  
39 of usage of the pesticide in California, persistence in the  
40 atmosphere, and ambient concentrations in the community.

1 SEC. 2. Section 14023 of the Food and Agricultural Code is  
2 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 Office of Environmental Health Hazard  
6 Assessment, 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  
15 of risk to humans, resulting from current or anticipated exposure.  
16 The report shall include the findings of the Office of Environmental  
17 Health Hazard Assessment. The report shall be made available to  
18 the public, subject to subdivision (d) of Section 14022.

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

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

37 (d) Within 10 working days following receipt of the findings  
38 of the scientific review panel pursuant to subdivision (b), the  
39 director shall prepare a hearing notice and a proposed regulation  
40 which shall include the proposed determination as to whether a

1 pesticide is a toxic air contaminant. After conducting a public  
2 hearing pursuant to Chapter 3.5 (commencing with Section 11340)  
3 of Part 1 of Division 3 of Title 2 of the Government Code, the  
4 director shall list, by regulation, pesticides determined to be toxic  
5 air contaminants.

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

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

18 14024. (a) For pesticides identified by the director as toxic air  
19 contaminants described in subdivision (b) of Section 14021 and  
20 for those pesticides for which a need for control measures has been  
21 determined pursuant to subdivision (e) of Section 14023 and  
22 pursuant to provisions of this code, the director, in consultation  
23 with the agricultural commissioners, air pollution control districts,  
24 and air quality management districts in the affected counties, shall  
25 develop control measures designed to reduce emissions sufficiently  
26 so that the source will not expose the public to the levels of  
27 exposure which may cause or contribute to significant adverse  
28 health effects. If no demonstrable safe level or threshold of  
29 significant adverse health effects has been established by the  
30 director, the control measures shall be designed to adequately  
31 prevent an endangerment of public health through the application  
32 of best practicable control techniques.

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

- 35 (1) Label amendments.
- 36 (2) Applicator training.
- 37 (3) Restrictions on use patterns or locations.
- 38 (4) Changes in application procedures.
- 39 (5) Reclassification as a restricted material.
- 40 (6) Cancellation.

1 (c) The director shall follow the consultation procedures set  
2 forth in subdivision (a) and shall, within two years of the  
3 determination of the need for control measures pursuant to  
4 subdivision (e) of Section 14023 or following a risk assessment  
5 of a pesticide identified as a toxic air contaminant pursuant to  
6 Section 14021, adopt control measures to protect human health or  
7 submit a report to the Legislature setting forth the reasons that this  
8 requirement has not been met. Reports submitted pursuant to this  
9 subdivision shall be submitted in compliance with Section 9795  
10 of the Government Code.

11 *(d) For purposes of this section, with respect to any pesticide*  
12 *for which a determination of the need for control measures was*  
13 *made prior to January 1, 2013, the two-year period described in*  
14 *subdivision (c) commences on January 1, 2013.*

15 ~~(e)~~

16 (e) After conducting a public hearing pursuant to Chapter 3.5  
17 (commencing with Section 11340) of Part 1 of Division 3 of Title  
18 2 of the Government Code, the director shall adopt, by regulation,  
19 control measures, including application of the best practicable  
20 control techniques enumerated in subdivision (b) or any other best  
21 applicable control technique, for those pesticides for which a need  
22 has been determined.