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CALIFORNIA LEGISLATURE—1983-84 REGULAR SESSION

ASSEMBLY BILL

No. 1807

Introduced by Assemblywoman Tanner

(Principal coauthor: Assemblyman Davis)

(Principal coauthor: Senator Keene)

~~(Coauthors: Assemblymen Calderon and Hayden)~~

~~(Coauthor: Senator Alquist)~~

(Coauthor: Assemblyman Calderon)

(Coauthors: Senators Alquist, Beverly, McCorquodale, and Rosenthal)

March 4, 1983

An act to add Article 1.5 (commencing with Section 14021) to Chapter 3 of Division 7 of the Food and Agricultural Code, and to add Chapter 3.5 (commencing with Section 39650) to Part 2 of Division 26 of the Health and Safety Code, relating to air pollution.

AB 1807

— 2 —

LEGISLATIVE COUNSEL'S DIGEST

AB 1807, as amended, Tanner. Air pollution: toxic air contaminants.

(1) Under existing law, the State Air Resources Board is required to adopt ambient air quality standards for each air basin in the state. Standards relating to health effects are required to be based upon the recommendations of the State Department of Health Services. Air pollution control districts and air quality management districts are required to adopt and enforce rules and regulations which assure that reasonable provision is made to achieve and maintain ambient air quality standards. The Department of Food and Agriculture has general authority to regulate pesticides.

This bill would require, upon request of the state board, the State Department of Health Services, in consultation with and with the participation of the state board, to evaluate and prepare recommendations on the health effects of substances, *other than pesticides in their pesticidal use*, emitted into the ambient air which may be determined to be toxic air contaminants, and would require the state board, in consultation with and with the participation of, the State Department of Health Services, to prepare a report which would serve as the basis for regulatory action and to determine, by regulation, whether a substance is a toxic air contaminant. The Director of Food and Agriculture, in consultation with the State Department of Health Services and the state board, would be required to evaluate health effects of pesticides which may be or are emitted into the ambient air and may be hazardous to human health. It would define the terms "toxic air contaminant," "airborne toxic control measure," and "pesticide." The state board would be required to adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources below the threshold exposure level, if any, at which no significant adverse health effects are anticipated.

The Director of Food and Agriculture would be required to *determine which pesticides are toxic air contaminants and to determine, in consultation with the State Department of Health Services, the state board, and districts, the appropriate degree of control measures needed for identified pesticides*

identified as toxic air contaminants. The director, in consultation with county agricultural commissioners and districts in the affected counties, would be required to develop and adopt control measures designed to reduce emissions from those pesticide sources.

The bill would require the state board, based on its determination of toxic air contaminants, to determine whether revisions are needed in vehicular emission standards and motor vehicle fuel additives standards to prevent harm to the public health from vehicular emissions.

The bill would impose a state-mandated local program by requiring districts to propose regulations enacting airborne toxic control measures on nonvehicular sources not later than 120 days after their adoption by the state board, except that districts would be authorized to adopt and enforce equally effective or more stringent control measures. A district would be required to adopt regulations implementing airborne toxic control measures on nonvehicular sources within 6 months after adoption by the state board. District new source review rules and regulations would be required to control emissions of toxic air contaminants, except that processors of food and fiber operating 6 months or less in any calendar year would be exempt until January 1, 1987.

The bill would require the appointment of a ~~7~~⁹-member Scientific Review Panel on Toxic Air Contaminants to advise the state board in its evaluation of the health effects toxicity of substances.

The bill would make any person who violates any rule or regulation, emission limitation, or permit condition adopted to control a toxic air contaminant liable for a civil penalty not exceeding \$10,000 per day.

(2) The bill would declare legislative intent that the state board, the State Department of Health Services, and the Department of Food and Agriculture perform functions required by the bill in the 1983-84 fiscal year within their existing resources and budgetary authorizations.

(3) Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other

provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

However, this bill would provide that no appropriation is made and no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Article 1.5 (commencing with Section
2 14021) is added to Chapter 3 of Division 7 of the Food and
3 Agricultural Code, to read:

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Article 1.5. Pesticides

14021. As used in this article, "pesticide" means any economic poison as defined in Section 12753.

14022. (a) In consultation with the State Department of Health Services and the State Air Resources Board, the director shall evaluate the health effects of pesticides which may be or are emitted into the ambient air of California and which may be determined to pose a present or potential hazard to human health. Upon request of the State Air Resources Board, the director shall include a pesticide for evaluation.

(b) In conducting this evaluation, the director shall consider all available scientific data, including, but not limited to, relevant data provided by the State Department of Health Services, the Occupational Safety and Health Division of the Department of Industrial Relations, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. At the request of the director, the State Air Resources Board shall document the level of airborne emissions and the State Department of Health Services shall provide an assessment of related health effects of pesticides which may be determined to

1 exposure which may cause or contribute to adverse
2 health effects and; in the case where there is no threshold
3 of significant adverse health effects; the range of risk to
4 humans; resulting from current or anticipated exposure.
5 The report shall include the findings of the State
6 Department of Health Services. The report shall be made
7 available to the public; subject to subdivision (c) of
8 Section 14022.

9 (c) The report prepared pursuant to subdivision (b)
10 shall be formally reviewed by the scientific review panel
11 established according to Section 39670 of the Health and
12 Safety Code. The director shall also make available the
13 data deemed necessary to the scientific review panel;
14 according to departmental procedures established to
15 ensure confidentiality of proprietary information. The
16 panel shall review, as appropriate, the scientific data on
17 which the report is based; the scientific procedures and
18 methods used to support the data; and the conclusions
19 and assessments on which the report is based.

20 (d) If the scientific review panel determines that the
21 health effects report is seriously deficient, the report
22 shall be returned to the director who shall revise and
23 resubmit the report to the panel prior to development of
24 emission control measures.

25 (e) The director shall determine, in consultation with
26 the State Department of Health Services, the State Air
27 Resources Board, and the air pollution control districts or
28 air quality management districts in the affected counties,
29 the need for and appropriate degree of control measures
30 for each pesticide identified in subdivision (a). Any
31 person may submit written information for consideration
32 by the director.

33 14024. (a) For those pesticides for which a need for
34 control measures has been determined pursuant to
35 subdivision (e) of Section 14023 and pursuant to
36 provisions of this code, the director, in consultation with
37 the agricultural commissioners and air pollution control
38 districts and air quality management districts in the
39 affected counties, shall develop and adopt control
40 measures designed to reduce emissions sufficiently so

1 that the source will not expose the public to the levels of
2 exposure which may cause or contribute to significant
3 adverse health effects. Where no demonstrable safe level
4 or threshold of significant adverse health effects has been
5 established by the director, the control measures shall be
6 designed to adequately prevent an endangerment of
7 public health through the application of best practicable
8 control techniques.

9 (b) Control measures may include, but are not limited
10 to, the following:

11 (1) Label amendments;

12 (2) Applicator training;

13 (3) Restrictions on use patterns or locations;

14 (4) Changes in application procedures;

15 (5) Reclassification as a restricted material;

16 (6) Cancellation.

17 14025. Any person may petition the department to
18 review a determination made pursuant to this article.
19 The petition shall specify the additional scientific
20 evidence regarding the health effects of a pesticide
21 which was not available at the time the original
22 determination was made and any other evidence which
23 would justify a revised determination.

24 SEC. 2.

25 SECTION 1. Chapter 3.5 (commencing with Section
26 39650) is added to Part 2 of Division 26 of the Health and
27 Safety Code, to read:

28 CHAPTER 3.5. TOXIC AIR CONTAMINANTS

29 Article 1. Findings, Declarations and Intent

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33 39650. The Legislature finds and declares the
34 following:

35 (a) That public health, safety, and welfare may be
36 endangered by the emission into the ambient air of
37 substances which are determined to be carcinogenic,
38 teratogenic, mutagenic, or otherwise toxic or injurious to
39 humans

40 (b) That persons residing in California may be

1 exposed to a multiplicity of toxic air contaminants from
 2 numerous sources which may act cumulatively to
 3 produce adverse effects, and that this phenomenon
 4 should be taken into account when evaluating the health
 5 effects of individual compounds.

6 (c) That it is the public policy of the state that
 7 emissions of toxic air contaminants should be controlled
 8 to levels which prevent harm to the public health.

9 (d) That the identification and regulation of toxic air
 10 contaminants should utilize the best available scientific
 11 evidence gathered from the public, private industry, the
 12 scientific community, and federal, state, and local
 13 agencies, and that the scientific research on which
 14 decisions related to health effects are based should be
 15 reviewed by a scientific review panel and members of the
 16 public.

17 (e) That, while absolute and undisputed scientific
 18 evidence may not be available to determine the exact
 19 nature and extent of risk from toxic air contaminants, it
 20 is necessary to take action to protect public health.

21 (f) That the state board has adopted regulations
 22 regarding the identification and control of toxic air
 23 contaminants, but that the statutory authority of the state
 24 board, the relationship of its proposed program to the
 25 activities of other agencies, and the role of scientific and
 26 public review of the regulations should be clarified by the
 27 Legislature.

28 (g) That the Department of Food and Agriculture has
 29 jurisdiction over pesticides to protect the public from
 30 environmentally harmful pesticides by regulating the
 31 registration and uses of pesticides.

32 (h) *That while there is a statewide program to control*
 33 *levels of air contaminants subject to state and national*
 34 *ambient air quality standards, there is no specific*
 35 *statutory framework in this division for the evaluation*
 36 *and control of substances which may be toxic air*
 37 *contaminants.*

38 (i) *That the purpose of this chapter is to create a*
 39 *program which specifically addresses the evaluation and*
 40 *control of substances which may be toxic air*

1 *contaminants and which complements existing authority*
 2 *to establish, achieve, and maintain ambient air quality*
 3 *standards.*

4 (j) *That this chapter is limited to toxic air*
 5 *contaminants and nothing in the chapter is to be*
 6 *construed as expanding or limiting the authority of any*
 7 *agency or district concerning pesticides which are not*
 8 *identified as toxic air contaminants.*

9 (k) That a statewide program to control toxic air
 10 contaminants is necessary and desirable in order to
 11 provide technical and scientific assistance to the districts,
 12 to achieve the earliest practicable control of toxic air
 13 contaminants, to promote the development and use of
 14 advanced control technologies and alternative processes
 15 and materials, to identify the toxic air contaminants of
 16 concern and determine the priorities of their control, and
 17 to minimize inconsistencies in protecting the public
 18 health in various areas of the state.

19 Article 2. Definitions

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 22 39655. For purposes of this chapter, "toxic air
 23 contaminant" means an air pollutant which may cause or
 24 contribute to an increase in mortality or an increase in
 25 serious illness, or which may pose a present or potential
 26 hazard to human health. Substances which have been
 27 identified as hazardous air pollutants pursuant to Section
 28 7412 of Title 42 of the United States Code shall be
 29 identified by the state board as toxic air contaminants.
 30 ~~Pesticides which may be toxic air contaminants shall be~~
 31 ~~regulated~~ *Toxic air contaminants which are pesticides*
 32 *shall be regulated in their pesticidal use* by the
 33 Department of Food and Agriculture pursuant to Article
 34 1.5 (commencing with Section 14021) of Chapter 3 of
 35 Division 7 of the Food and Agricultural Code.

36 39656. For purposes of this chapter, "airborne toxic
 37 control measure" means recommended methods, and
 38 where appropriate a range of methods, of reducing the
 39 emissions of a toxic air contaminant, including, but not
 40 limited to, emission limitations, control technologies, the

1 use of operational and maintenance conditions and closed
2 system engineering.

3 39657. For purposes of this chapter, "pesticide"
4 means any economic poison as defined by Section 12753
5 of the Food and Agricultural Code.

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7 Article 3. Identification of Toxic Air Contaminants

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9 39660. (a) Upon the request of the state board, the
10 State Department of Health Services, in consultation
11 with and with the participation of the state board, shall
12 evaluate the health effects of and prepare
13 recommendations regarding substances, other than
14 pesticides in their pesticidal use, which may be or are
15 emitted into the ambient air of California which may be
16 determined to be toxic air contaminants.

17 (b) In conducting this evaluation, the State
18 Department of Health Services shall consider all
19 available scientific data, including, but not limited to,
20 relevant data provided by the state board, the
21 Occupational Safety and Health Division of the
22 Department of Industrial Relations, international and
23 federal health agencies, private industry, academic
24 researchers, and public health and environmental
25 organizations.

26 (c) The evaluation shall assess the availability and
27 quality of data on health effects, including potency, mode
28 of action, and other relevant biological factors, of the
29 substance.

30 The evaluation shall also contain an estimate of the
31 levels of exposure which may cause or contribute to
32 adverse health effects and, in the case where there is no
33 threshold of significant adverse health effects, the range
34 of risk to humans resulting from current or anticipated
35 exposure.

36 (d) The State Department of Health Services shall
37 submit its written evaluation and recommendations to
38 the state board within 90 days after receiving the request
39 of the state board pursuant to subdivision (a). The State
40 Department of Health Services may, however, petition

1 the state board for an extension of the deadline, not to
2 exceed 30 days, setting forth its statement of the reasons
3 which prevent the department from completing its
4 evaluation and recommendations within 90 days. Upon
5 receipt of a request for extension of, or noncompliance
6 with, the deadline contained in this section, the state
7 board shall immediately transmit to the Assembly
8 Committee on Rules and the Senate Committee on Rules,
9 for transmittal to the appropriate standing, select, or joint
10 committee of the Legislature, a statement of reasons for
11 extension of the deadline, along with copies of the
12 department's statement of reasons which prevent it from
13 completing its evaluation and recommendations in a
14 timely manner.

15 (e) The state board or a district may request, and any
16 person shall provide, information on any substance which
17 is or may be under evaluation and which is
18 manufactured, distributed, emitted, or used by the
19 person of whom the request is made, in order to carry out
20 its responsibilities pursuant to this chapter. To the extent
21 practical, the state board or a district may collect the
22 information in aggregate form or in any other manner
23 designed to protect trade secrets.

24 Any person providing information pursuant to this
25 subdivision may, at the time of submission, identify a
26 portion of the information submitted to the state board or
27 a district as a trade secret and shall support the claim of
28 a trade secret, upon the written request of the state board
29 or district board. Information supplied which is a trade
30 secret, as specified in Section 6254.7 of the Government
31 Code, and which is so marked at the time of submission,
32 shall not be released to the public by the state board or
33 district, ~~except in accordance with Section 21160 of the~~
34 ~~Public Resources Code and Section 1060 of the Evidence~~
35 ~~Code.~~ *any member of the public. This section shall not*
36 *be construed to prohibit the exchange of properly*
37 *designated trade secrets between public agencies when*
38 *those trade secrets are relevant and necessary to the*
39 *exercise of their jurisdiction provided that the public*
40 *agencies exchanging those trade secrets shall preserve*

1 *the protections afforded that information by this*
2 *paragraph.*

3 Any information not identified as a trade secret shall be
4 available to the public unless exempted from disclosure
5 by other provisions of law. The fact that information is
6 claimed to be a trade secret is public information. Upon
7 receipt of a request for the release of information which
8 has been claimed to be a trade secret, the state board or
9 district shall immediately notify the person who
10 submitted the information, and shall determine whether
11 or not the information claimed to be a trade secret is to
12 be released to the public. The state board or district
13 board, as the case may be, shall make its determination
14 within 60 days after receiving the request for disclosure,
15 but not before 30 days following the notification of the
16 person who submitted the information. If the state board
17 or district decides to make the information public, it shall
18 provide the person who submitted the information 10
19 days' notice prior to public disclosure of the information.

20 (f) The State Department of Health Services and the
21 state board shall give priority to the evaluation and
22 regulation of substances based on factors related to the
23 risk of harm to public health, amount or potential amount
24 of emissions, manner of usage of the substance in
25 California, persistence in the atmosphere, and ambient
26 concentrations in the community.

27 39661. (a) Upon receipt of the evaluation and
28 recommendations prepared pursuant to Section 39660,
29 the state board, in consultation with and with the
30 participation of the State Department of Health Services,
31 shall prepare a report in a form which may serve as the
32 basis for regulatory action regarding a particular
33 substance pursuant to subdivisions (b) and (c) of Section
34 39662.

35 The report shall include and be developed in
36 consideration of the evaluation and recommendations of
37 the State Department of Health Services.

38 (b) The report, together with the scientific data on
39 which the report is based, shall, with the exception of
40 trade secrets, be made available to the public and shall be

1 formally reviewed by the scientific review panel
2 established pursuant to Section 39670. The panel shall
3 review the scientific procedures and methods used to
4 support the data, the data itself, and the conclusions and
5 assessments on which the report is based. Any person
6 may submit any information for consideration by the
7 panel which may, at its discretion, receive oral testimony.
8 The panel shall submit its written findings to the state
9 board within 45 days after receiving the report. The
10 panel may, however, petition the state board for an
11 extension of the deadline, which may not exceed 15
12 working days.

13 (c) If the scientific review panel determines that the
14 health effects report is seriously deficient, the report shall
15 be returned to the state board, and the state board, in
16 consultation with and with the participation of the State
17 Department of Health Services, shall prepare revisions to
18 the report which shall be resubmitted, within 30 days
19 following receipt of the panel's determination, to the
20 scientific review panel which shall review the report in
21 conformance with subdivision (b) prior to a formal
22 proposal by the state board pursuant to Section 39662.

23 39662. (a) Within 10 working days following receipt
24 of the findings of the scientific review panel pursuant to
25 subdivision (c) of Section 39661, the state board shall
26 prepare a hearing notice and a proposed regulation
27 which shall include the proposed determination as to
28 whether a substance is a toxic air contaminant.

29 (b) After conducting a public hearing pursuant to
30 Chapter 3.5 (commencing with Section 11340) of Part 1
31 of Division 3 of Title 2 of the Government Code, the state
32 board shall list, by regulation, substances determined to
33 be toxic air contaminants.

34 (c) If a substance is determined to be a toxic air
35 contaminant, the regulation shall specify a threshold
36 exposure level, if any, below which no significant adverse
37 health effects are anticipated.

38 (d) In evaluating the nature of the adverse health
39 effect and the range of risk to humans from exposure to
40 a substance, the state board shall utilize scientific criteria

1 which are protective of public health, consistent with
2 current scientific data.

3 (e) Any person may petition the state board to review
4 a determination made pursuant to this section. The
5 petition shall specify the additional scientific evidence
6 regarding the health effects of a substance which was not
7 available at the time the original determination was
8 made and any other evidence which would justify a
9 revised determination.

10 ~~39663. Nothing in this chapter shall preclude any~~
11 ~~district from taking action to ensure compliance with all~~
12 ~~applicable provisions of law and regulations with respect~~
13 ~~to any air pollutant other than pesticides which has not~~
14 ~~been determined, or is under consideration for~~
15 ~~determination as, a toxic air contaminant.~~

16 Article 4. Control of Toxic Air Contaminants

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18 39665. (a) Following adoption of the determinations
19 pursuant to Section 39662, the executive officer of the
20 state board shall, with the participation of the districts,
21 and in consultation with affected sources and the
22 interested public, prepare a report on the need and
23 appropriate degree of regulation for each substance
24 which the state board has determined to be a toxic air
25 contaminant.
26 contaminant.

27 (b) The staff report shall address all of the following
28 issues, to the extent data can reasonably be made
29 available:

30 (1) The rate and extent of present and anticipated
31 future emissions and estimated levels of human exposure.

32 (2) The stability, persistence, transformation
33 products, dispersion potential, and other physical and
34 chemical characteristics of the substance when present in
35 the ambient air.

36 (3) The categories, numbers, and relative contribution
37 of present or anticipated sources of the substance,
38 including mobile, industrial, agricultural, and natural
39 sources.

40 (4) The availability and technological feasibility of

1 airborne toxic control measures to reduce or eliminate
2 emissions, and the anticipated effect of airborne toxic
3 control measures on levels of exposure.

4 (5) The approximate cost of each airborne toxic
5 control measure and the magnitude of risks posed by the
6 substances as reflected by the amount of emissions from
7 the source or category of sources.

8 (6) The availability, suitability, and relative efficacy of
9 substitute compounds of a less hazardous nature.

10 (7) The potential adverse health, safety, or
11 environmental impacts that may occur as a result of
12 implementation of an airborne toxic control measure.

13 (c) The staff report, and relevant comments received
14 during consultation with the districts, affected sources,
15 and the public, shall be made available for public review
16 and comment at least 45 days prior to the public hearing
17 required by Section 39666.

18 39666. (a) Following a noticed public hearing, the
19 state board shall adopt airborne toxic control measures to
20 reduce emissions of toxic air contaminants from
21 nonvehicular sources.

22 (b) For toxic air contaminants for which the state
23 board has determined, pursuant to Section 39662, that
24 there is a threshold exposure level below which no
25 significant adverse health effects are anticipated, the
26 airborne toxic control measure shall be designed, in
27 consideration of the factors specified in subdivision (b) of
28 Section 39665, to reduce emissions sufficiently so that the
29 source will not result or contribute to ambient levels at
30 or in excess of the threshold exposure.

31 (c) For toxic air contaminants for which the state
32 board has not specified a threshold exposure level
33 pursuant to Section 39662, the airborne toxic control
34 measure shall be designed, in consideration of the factors
35 specified in subdivision (b) of Section 39665, to reduce
36 emissions to the lowest level achievable through
37 application of best available control technology or a more
38 effective control method, unless the state board or a
39 district board determines, based on an assessment of risk,
40 that an alternative level of emission reduction is adequate

1 or necessary to prevent an endangerment of public
2 health.

3 (d) Not later than 120 days after the adoption by the
4 state board of an airborne toxic control measure pursuant
5 to this section, the districts shall propose regulations
6 enacting control measures on nonvehicular sources
7 within their jurisdiction which meet the requirements of
8 subdivisions (b), (c), and ~~(f)~~ (e), except that a district
9 may, at its option, adopt and enforce equally effective or
10 more stringent control measures than the airborne toxic
11 control measures adopted by the state board. A district
12 shall adopt rules and regulations implementing airborne
13 toxic control measures on nonvehicular sources within its
14 jurisdiction in conformance with the requirements of
15 subdivisions (b), (c), and ~~(f)~~ (e), not later than six
16 months following the adoption of airborne toxic control
17 measures by the state board.

18 (e) District new source review rules and regulations
19 shall require new or modified sources to control
20 emissions of toxic air contaminants consistent with
21 subdivisions (b), (c), and (d) except for processors of
22 food and fiber that operate for six months or less in any
23 calendar year. The exception for processors of food and
24 fiber shall become inoperative on January 1, 1987. On or
25 before January 1, 1986, the state board, in consultation
26 and with the participation of the Department of Food
27 and Agriculture, shall report to the Legislature on the
28 feasibility of implementation and the economic impact of
29 this section on processors of food and fiber.

30 39667. Based on its determinations pursuant to
31 Section 39662, the state board shall determine if revisions
32 are needed in the emission standards for vehicular
33 sources, or in the standards for motor vehicle fuel
34 additives, adopted pursuant to Part 5 (commencing with
35 Section 43000), in order to prevent harm to the public
36 health from vehicular emissions.

37 Article 5. Scientific Review Panel

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39 39670. (a) A ~~seven-member~~ *nine-member* Scientific

1 Review Panel on Toxic Air Contaminants shall be
2 appointed to advise the state board and the Department
3 of Food and Agriculture in their evaluation of the health
4 effects toxicity of substances pursuant to Article 3
5 (commencing with Section 39660) of this chapter and
6 Article 1.5 (commencing with Section 14021) of Chapter
7 3 of Division 7 of the Food and Agricultural Code.

8 (b) The members of the panel shall be highly qualified
9 and professionally active or engaged in the conduct of
10 scientific research, and shall be appointed as follows for
11 a term of three years:

12 (1) ~~Three~~ *Five* members shall be appointed by the
13 Secretary of the Environmental Affairs Agency, one of
14 whom shall be qualified as a pathologist, one of whom
15 shall be qualified as an oncologist, ~~and~~ one of whom shall
16 be qualified as an epidemiologist, *one of whom shall be*
17 *qualified as an atmospheric scientist, and one who shall*
18 *have relevant scientific experience and shall be*
19 *experienced in the operation of scientific review or*
20 *advisory bodies.*

21 (2) Two members shall be appointed by the Senate
22 Committee on Rules, one of whom shall be qualified as a
23 biostatistician and one of whom shall be a physician or
24 scientist specializing in occupational medicine.

25 (3) Two members shall be appointed by the Speaker
26 of the Assembly, one of whom shall be qualified as a
27 toxicologist and one of whom shall be qualified as a
28 biochemist.

29 (4) Members of the panel shall be appointed from a
30 pool of nominees submitted to each appointing body by
31 the ~~National Academy of Sciences~~ *President of the*
32 *University of California*. The pool shall include, at a
33 minimum, three nominees for each discipline
34 represented on the panel, and shall include only
35 ~~California residents~~ *individuals who hold, or have held,*
36 *academic or equivalent appointments at universities and*
37 *their affiliates in California.*

38 (c) The panel may establish ad hoc committees, which
39 may include other scientists, to assist it in performing its
40 functions.

1 (d) Members of the panel, and any ad hoc committee
 2 established by the panel, shall submit annually a financial
 3 disclosure statement that includes a listing of income
 4 received within the preceding three years, including
 5 investments, grants, and consulting fees derived from
 6 individuals or businesses which might be affected by
 7 regulatory actions undertaken by the state board or
 8 districts pursuant to this chapter. The financial disclosure
 9 statements submitted pursuant to this subdivision are
 10 public information. Members of the panel shall be subject
 11 to the disqualification requirements of Section 87100 of
 12 the Government Code.

13 (e) Members of the panel shall receive one hundred
 14 dollars (\$100) per day for attending panel meetings, and
 15 shall be reimbursed for reasonable and necessary travel
 16 and other expenses incurred in the performance of their
 17 duties.

18 (f) The state board and the State Department of
 19 Health Services, and, in the case of pesticides, the
 20 Department of Food and Agriculture shall provide
 21 technical and clerical staff support to the panel.

22 Article 6. Penalties

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 25 39674. (a) Any person who violates any rule or
 26 regulation, emission limitation, or permit condition
 27 adopted pursuant to Article 4 (commencing with Section
 28 39665) is liable for a civil penalty not to exceed ten
 29 thousand dollars (\$10,000) for each day in which the
 30 violation occurs.

31 (b) There is no liability under subdivision (a) if the
 32 person accused of the violation alleges by affirmative
 33 defense and establishes that the violation is caused by an
 34 act which was not the result of intentional or negligent
 35 conduct.

36 *SEC. 2. Article 1.5 (commencing with Section 14021)*
 37 *is added to Chapter 3 of Division 7 of the Food and*
 38 *Agricultural Code, to read:*

1 Article 1.5. Pesticides

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 3 14021. (a) As used in this article, "pesticide" means
 4 any economic poison as defined in Section 12753.

5 (b) For purposes of this article, "toxic air
 6 contaminant" means an air pollutant which may cause or
 7 contribute to an increase in mortality or an increase in
 8 serious illness, or which may pose a present or potential
 9 hazard to human health. Pesticides which have been
 10 identified as hazardous air pollutants pursuant to Section
 11 7412 of Title 42 of the United States Code shall be
 12 identified by the director as toxic air contaminants.

13 14022. (a) In consultation with the State Department
 14 of Health Services and the State Air Resources Board, the
 15 director shall evaluate the health effects of pesticides
 16 which may be or are emitted into the ambient air of
 17 California and which may be determined to be a toxic air
 18 contaminant which poses a present or potential hazard to
 19 human health. Upon request of the State Air Resources
 20 Board, the director shall include a pesticide for
 21 evaluation.

22 (b) In conducting this evaluation, the director shall
 23 consider all available scientific data, including, but not
 24 limited to, relevant data provided by the State
 25 Department of Health Services, the Occupational Safety
 26 and Health Division of the Department of Industrial
 27 Relations, international and federal health agencies,
 28 private industry, academic researchers, and public health
 29 and environmental organizations. At the request of the
 30 director, the State Air Resources Board shall document
 31 the level of airborne emissions and the State Department
 32 of Health Services shall provide an assessment of related
 33 health effects of pesticides which may be determined to
 34 pose a present or potential hazard and each agency shall
 35 provide technical assistance to the department as it
 36 conducts its evaluation.

37 (c) The director may request, and any person shall
 38 provide, information on any substance which is or may be
 39 under evaluation and which is manufactured, distributed,
 40 or used by the person to whom the request is made, in

