

FINAL STATEMENT OF REASONS AND PUBLIC REPORT
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations
Amend Section 6860
Pertaining to Toxic Air Contaminants

UPDATE OF THE INITIAL STATEMENT OF REASONS

The originally proposed regulatory action was noticed in the *California Regulatory Notice Register* on September 28, 2007.

During the 45-day public comment period, no comments were received.

With the enactment of California's Toxic Air Contaminant Act, the Legislature created the statutory framework for the evaluation and control of chemicals as toxic air contaminants (TACs). The statutes are contained in Food and Agricultural Code (FAC) sections 14021-14027. FAC section 14021 defines a TAC as "an air pollutant that may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health."

The Department of Pesticide Regulation (DPR) evaluates pesticides as TACs pursuant to FAC section 14022. FAC section 14022 requires the evaluations to be conducted in consultation with the Office of Environmental Health Hazard Assessment (OEHHA) and the Air Resources Board. Upon completion of a pesticide evaluation, FAC section 14023(a) requires DPR, in consultation and with the participation of OEHHA, to prepare a report on the health effects of the pesticide due to airborne emissions resulting from its use. The report assesses the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance. The report must include OEHHA's written findings. FAC section 14023(b) requires a review of the report by a panel of independent scientists known as the Scientific Review Panel (SRP). The SRP reviews the scientific data upon which the report is based, the supporting scientific procedures and methods used, and the conclusions and assessments on which the report is based. The SRP then submits its written findings to DPR. Based on the results of this comprehensive evaluation and review, the law requires the DPR Director to determine whether the candidate pesticide is a TAC. Title 3 California Code of Regulations (3 CCR) section 6890 provides the criteria the Director must use. If the candidate pesticide is determined to be a TAC, FAC section 14023(d) requires the Director to list that pesticide as a TAC in regulation.

Methidathion is a non-systemic, organophosphate insecticide/acaricide used to control sucking and chewing insects such as scale, moths, and aphids, on a wide variety of crops. Methidathion is applied by aerial or calibrated power-operated ground equipment at rates varying from 0.25 to 5.0 pounds of active ingredients per acre.

Methidathion is moderately water-soluble and has the potential to run off into surface water depending on use conditions and environmental factors. Methidathion has been detected in

California surface water as a result of rain runoff from wintertime dormant spray applications. In the atmosphere in the gas phase, methidathion is expected to undergo rapid atmospheric reaction to form the corresponding oxon, methidaoxon which is physiologically active. This conversion of methidathion to methidaoxon may also occur on surfaces. Methidathion has been reported to travel a significant distance from application sites.

DPR conducted an evaluation and risk assessment of methidathion. It is contained in the report, "*Methidathion (Supracide®) Risk Characterization Document*, February 2007." The SRP has reviewed the draft version of the methidathion report and submitted its written findings to DPR on April 25, 2007. In its findings, the SRP concluded:

The Panel reviewed the draft version of report "*Methidathion (Supracide®) Risk Characterization Document*," prepared by DPR and reviewed by the Office of Environmental Health Hazard Assessment, as well as the scientific procedures and methods used to support the data, the data itself and the conclusions and assessments on which the report is based. The Panel has also reviewed and considered public comments, and agency responses to comments. The Panel concludes that the report, with the revisions specified by the SRP, is based upon sound scientific knowledge, and represents a balanced assessment of our current scientific understanding.

Based on the *Methidathion (Supracide®) Risk Characterization Document*, February 2007, the Panel recommends that the Director of DPR initiate regulatory steps to list methidathion as a Toxic Air Contaminant pursuant to FAC section 14023(d).

Based on the results of the evaluation of methidathion, the findings of the SRP, and the criteria listed in 3 CCR section 6890 for identifying pesticides as TACs, the Director declared methidathion to be a TAC (DPR, 2007).

This regulatory action added methidathion to section 6800(a).

SUMMARY AND RESPONSE TO COMMENTS RECEIVED

No comments were received during the 45-day public comment period.

PUBLIC HEARING

DPR scheduled and held a public hearing on November 13, 2007. No one testified. A transcript of the hearing is contained in the rulemaking file.

CONSULTATION WITH OTHER AGENCIES

As described above, DPR has consulted with OEHHA and the Air Resources Board. In addition, DPR has consulted with the California Department of Food and Agriculture during the development of the text of proposed regulations as specified in FAC section 11454.2, and the February 6, 1992, Memorandum of Agreement which was developed as provided in FAC section 11454.2.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts requiring reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a "new program or higher level of service of an existing program" within the meaning of section 6 of Article XIII B of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from this regulatory action.

ALTERNATIVES DETERMINATION

The Director has determined that no alternative considered by DPR would be more effective in carrying out the purpose for which this regulation is proposed, or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory change.

POSTING REQUIREMENT

3 CCR, section 6110, states in part that, "The public report shall be posted on the official bulletin boards of the Department, and of each commissioner's office, and in each District office of the DPR [Division of Pest Management, Environmental Protection and Worker Safety] for 45 days." DPR has posted its Initial Statement of Reasons and Public Report on its official bulletin board, which consists of the Department's Internet Home Page <<http://www.cdpr.ca.gov>>. In addition, copies were provided to the offices listed above for posting.