

Title 27, California Code of Regulations

ARTICLE 5. Extent of Exposure

§ 25501. Exposure to a Naturally Occurring Chemical in a Food

(a) Human consumption of a food shall not constitute an “exposure” for purposes of Section 25249.6 of the Act to a listed chemical in the food to the extent that the person responsible for the exposure can show that the chemical is naturally occurring in the food.

(1) For the purposes of this section, a chemical is “naturally occurring” if it is a natural constituent of a food, or if it is present in a food solely as a result of absorption or accumulation of the chemical which is naturally present in the environment in which the food is raised, or grown, or obtained; for example, minerals present in the soil solely as a result of natural geologic processes, or toxins produced by the natural growth of fungi.

(2) The “naturally occurring” level of a chemical in a food may be established by determining the natural background level of the chemical in the area in which the food is raised, or grown, or obtained, based on reliable local or regional data.

(3) A chemical is naturally occurring only to the extent that the chemical did not result from any known human activity. Where a food contains a chemical, in part naturally occurring and in part added as a result of known human activity, “exposure” can only occur as to that portion of the chemical which resulted from such human activity. For purposes of this section, “human activity” does not include sowing, planting, irrigation, or plowing or other mechanical preparation of soil for agricultural purposes; but does include the addition of chemicals to irrigation water applied to soil or crops.

(4) Where a chemical contaminant can occur naturally in a food, the chemical is naturally occurring only to the extent that it was not avoidable by good agricultural or good manufacturing practices. The producer, manufacturer, distributor, or holder of the food shall at all times utilize quality control measures that reduce natural chemical contaminants to the “lowest level currently feasible,” as this term is used in Title 21, Code of Federal Regulations, Section 110.110, subdivision (c) (2001).

(b) A person otherwise responsible for an exposure to a listed chemical in a consumer product, other than food, does not “expose” an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the chemical was a naturally occurring chemical in food, and the food was used in the manufacture, production, or processing of the consumer product. Where a consumer product contains a listed chemical, and the source of the chemical is in part from a naturally occurring chemical in food and in part from other sources, “exposure” can only occur as to that portion of the chemical from other sources.

NOTE: Authority cited: Section 25249.12, Health and Safety Code Section. Reference: Section 25249.6, Health and Safety Code.

§ 25502. Exposure to a Listed Chemical in Drinking Water

(a) A person otherwise responsible for an exposure to a listed chemical which involves the use of drinking water, including the use of drinking water in food or any other consumer product, does not “expose” an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the listed chemical was contained in drinking water which was received from:

(1) a public water system, as defined in Section 116275 of the Health and Safety Code (1997);

(2) a commercial supplier of drinking water, or

(3) a source of drinking water in compliance with all applicable primary drinking water standards for all listed chemicals and the chemical in question is the result of treatment of the water in order to achieve compliance with primary drinking water standards.

Where the source of the listed chemical is in part from such drinking water and in part from other sources, “exposure” can occur only as to that portion of the listed chemical from sources other than such drinking water.

(b) For purposes of subsection (a), the amount of a listed chemical contained in drinking water shall be determined by sampling of the drinking water at the point of delivery and by testing pursuant to Section 25901. If sampling and testing is impractical, the amount of a listed chemical shall be based on test results of the most recent sample of the drinking water taken by the public water system or the commercial drinking water supplier, provided that all sampling and testing has been conducted at the frequency and in the manner required by law, or alternatively, such amount shall be calculated at five percent of the maximum contaminant level set forth in the primary drinking water standard for the listed chemical.

NOTE: Authority cited: Section 25249.12, Health and Safety Code Section. Reference: Section 25249.6 and 25249.11, Health and Safety Code.

§ 25503. Exposure to Water

A person otherwise responsible for an exposure to a listed chemical does not “expose” an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the listed chemical was contained in water which the person moved or which was handled in the manner described in Section 25401. Nothing in this section shall be interpreted to affect the responsibility for an exposure which arises from any activity other than that described in Section 25401.

NOTE: Authority cited: Section 25249.12, Health and Safety Code Section. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25504. Exposure to Air

A person otherwise responsible for an exposure to a listed chemical in air does not “expose” an individual within the meaning of Section 25249.6 of the Act to the extent that the person can show that the listed chemical was contained in air that the person received from the ambient air. Where the source of the listed chemical is in part from the ambient air and in part from other sources, “exposure” does not occur as to that portion of the listed chemical from the ambient air to the extent that the person did not put the listed chemical into the ambient air.

NOTE: Authority cited: Section 25249.12, Health and Safety Code Section. Reference: Section 25249.6, Health and Safety Code.

§ 25505. Miscellaneous

NOTE: Authority cited: Section 25249.12, Health and Safety Code Section. Reference: Section 25249.6 and 25249.11 Health and Safety Code.