

PROPOSED AMENDMENTS

TITLE 22. SOCIAL SECURITY
DIVISION 2. DEPARTMENT OF SOCIAL SERVICES--DEPARTMENT OF HEALTH SERVICES
PART 2. HEALTH AND WELFARE AGENCY--DEPARTMENT OF HEALTH SERVICES
REGULATIONS
SUBDIVISION 1. HEALTH AND WELFARE AGENCY
CHAPTER 3. SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

ARTICLE 9. MISCELLANEOUS

22 CCR 12901

§ 12901. Methods of Detection

(a) For purposes of Section 25249.11, subdivision (c) of the Act, the term "any detectable amount" means a level actually detected or detectable using a method of analysis generally accepted in the scientific community or otherwise admissible under California law. ~~referred to in this section.~~ For purposes of this section, "method of analysis" refers to the method of detection or detection and calculation for a listed chemical in a specific medium, including, but not limited to, water, air, food, or soil, and shall include methods and procedures concerning the frequency, site, type of media and number of samples, ~~and the frequency and site of sampling~~ that are specific for the listed chemical in question. The medium tested must be the same as the medium in which a discharge or exposure may occur or is alleged to have occurred.

(b) For purposes of this section, "medium" means the substance, or mixture of substances, that creates the exposure (i.e. water, air or soil mixed with or containing the chemical in question) that closely duplicates the actual exposure conditions. Where the exposure may be caused through the use of a consumer product, the "medium" is the portion of the product causing the exposure (i.e. the surface of the product that is causing a dermal exposure, or the product itself where it is ingested as where a person consumes a food product).

~~(b) Where the California Department of Health Services, the California Department of Pesticide Regulation, the Air Resources Board, a local air pollution control district, the State Water Resources Control Board, or a Regional Water Quality Control Board has adopted or employs a method of analysis for a listed chemical in a specific medium, such method shall be the method of analysis for that chemical in that medium. Where more than one method of analysis has been adopted or is so employed, each may be utilized as the method of analysis.~~

~~(c) Where no state or local agency identified in subsection (b) has adopted or employs a method of analysis, a method of analysis for a listed chemical in a specific medium adopted or employed by a federal agency shall be the method of analysis for that chemical in that medium. When more than one method of analysis has been adopted or is so employed, each may be utilized as the method of analysis.~~

~~(d) Where no regulatory agency identified in subsection (b) or (c) has adopted or employs a method of analysis, a method of analysis for a listed chemical in a specific medium which is generally accepted by the scientific community, as evidenced by its publication~~

(c) For purposes of this section, a method of analysis for a listed chemical in a specific medium shall be considered “generally accepted in the scientific community” if it has been adopted or employed by a federal or state governmental entity with authority to adopt a standard testing method or procedure, or the method has been published in compilations by professional and scientific associations or societies, such as the Association of Official Analytical Chemists, or in peer-reviewed technical journals published by such associations or societies, such method shall be the method of analysis for that chemical in that medium. When more than one method of analysis is generally accepted, each may be utilized as the method of analysis.

~~(e) Where no method of analysis as described in subsection (b) or (c) has been adopted or is employed, or is generally accepted by the scientific community as described in subsection (d), and a scientifically valid method of analysis has been developed for a listed chemical in a specific medium, such method shall be the method of analysis for that chemical in that medium. Where more than one method of analysis has been developed for a chemical in a specific medium, each may be utilized as the method of analysis.~~

(d) In performing an analysis to determine the concentration of a chemical known to the state to cause cancer or reproductive toxicity in a given medium, generally accepted standards and practices for sampling, collection, storage, preparation, chemical analysis, statistical analysis of data, interpretation of results and modeling shall be observed.

(e) For purposes of section 25249.6 of the Act, if a person in the course of doing business, as defined by the Act, performs a test consistent with all the requirements of this section and determines that a listed chemical has not been detected, or is found at a level below the standard detection limit established for a test method authorized by this section, such test result creates a rebuttable presumption affecting the burden of proof that no prohibited exposure has occurred as to that chemical. Nothing in this section shall require that a person in the course of doing business perform such a test.

~~(f)~~ For purposes of Sections 25249.5 and 25249.6 of the Act, no discharge, release or exposure occurs unless a listed chemical is detectable as provided in this section.

AUTHORITY:

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6 and 25249.11, Health and Safety Code.