

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
PROPOSITION 65**

**NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION
TITLE 27, CALIFORNIA CODE OF REGULATIONS**

**PROPOSED AMENDMENT TO SECTIONS 25821(A) AND (C)
LEVEL OF EXPOSURE TO CHEMICALS CAUSING REPRODUCTIVE TOXICITY:
CALCULATING INTAKE BY THE AVERAGE CONSUMER OF A PRODUCT**

JULY 5, 2019

As required by Government Code section 11346.8(c), and Title 1, section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes to the proposed regulatory action to amend Sections 25821(a) and 25821(c) of Title 27 of the California Code of Regulations. Section 25821 addresses calculating the level of exposure to chemicals listed under Proposition 65 as known to cause reproductive toxicity.

The proposed regulation was originally the subject of a Notice of Proposed Rulemaking published on October 5, 2018, in the California Regulatory Notice Register (Register No. Z2018-0925-07), which initiated a 45-day public comment period. A public hearing was held on November 19, 2018. OEHHA received oral comments from four commenters. The California Chamber of Commerce and the Grocery Manufacturers Association requested an extension of the comment period, which OEHHA granted. Ten written comments were received during the extended comment period that ended December 3, 2018.

After carefully reviewing the comments received, OEHHA has modified the proposed regulation in Section 25821(a) to state that the concentration of a listed chemical in a food product may be based on the concentration in the product as it is offered for sale to the end consumer, even if the product contains ingredients sourced from different manufacturers or producers. For example, where grains are harvested from multiple farms and are then mixed together at a manufacturing facility, the concentration of a listed chemical in the mixture can be measured in the finished product as it is offered for sale to the consumer (i.e., in a bag, box or other container).

In addition, OEHHA is not proceeding at this time with the amendment to Section 25821(c)(2), which would have established the arithmetic mean as a default in calculating the reasonably anticipated rate of intake or exposure for average users of a consumer product. Therefore, OEHHA is no longer proposing a change to Section 25821(c)(2) as part of this rulemaking.

The full regulatory text with the modified language provided in double underline and double strikeout format is available on request from Monet Vela in the OEHHA Legal Office at monet.vela@oehha.ca.gov or (916) 323-2517.

OEHHA is requesting comments on the modifications to the regulatory text. In order to be considered, **OEHHA must receive comments by July 22, 2019, which is the designated close of the comment period.** All comments will be posted on the OEHHA website at the close of the public comment period.

Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be submitted by mail, fax, or hand-delivered to the address below.

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OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.