

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986**

**PROPOSITION 65**

**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**

**MODIFICATION TO TEXT OF PROPOSED REGULATION**

**July 5, 2019**

NOTE: Changes to the proposed regulatory text are identified herein as follows. The amended regulatory text as proposed in October 2018 is indicated by underline, thus: added language. Additions to the amended regulatory text as modified in July 2019 are indicated by double underline, thus: added language. Deletions from the amended regulatory text as modified in July 2019 are indicated by a double strikeout, thus: ~~deleted language~~.

**§ 25821. Level of Exposure to Chemicals Causing Reproductive Toxicity**

(a) For purposes of the Act, "level in question" means the chemical concentration of a listed chemical for the exposure in question. The exposure in question includes the exposure for which the person in the course of doing business is responsible, and does not include exposure to a listed chemical from any other source or product. ~~For purposes of this section, where~~ Where a business presents evidence for the "level in question" of a listed chemical in a food product based on the average of multiple samples of that food, the level in question may not be calculated by averaging the concentration of the chemical in food products from different manufacturers or producers, or that were manufactured or packaged in different manufacturing facilities from the product at issue. The level in question may be based on the concentration of the chemical in a food product as it is offered for sale to the end consumer, even if that product contains ingredients sourced from different manufacturers or producers.

(c) The following assumptions shall be used to calculate the reasonably anticipated rate of exposure to a chemical listed as causing reproductive toxicity, unless more specific and scientifically appropriate data are available:

(2) For exposures to consumer products, the level of exposure shall be calculated using the reasonably anticipated rate of intake or exposure for average users of the consumer product, and not on a per capita basis for the general population. ~~This rate of intake or exposure is calculated as the arithmetic mean of the rate of intake or exposure for users of the product.~~ The rate of intake or exposure shall be based on data for use of a general category or categories of consumer products, such as the United States

Department of Agriculture Home Economic Research Report, Foods Commonly Eaten by Individuals: Amount Per Day and Per Eating Occasion, where such data are available.

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.