

Public comment for clarification of the “Naturally Occurring” Exemption located at Section 25501 - Exposure to a Naturally Occurring Chemical in a Food.

27 Cal. Code Regs. Section 25501 regarding Exposure to a Naturally Occurring Chemical in a Food is sufficiently clear as drafted at Subsections (a) (1) through (4). The second sentence in Subsection (3) reads, “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.” That sentence is sufficiently clear to convey the meaning of the Regulation with regard to the source (anthropogenic or not) of parts added to a food product. The proposed addition of a fourth sentence to Subsection (3) is not necessary to make this meaning any more clear.

If it is determined that additional language is actually needed for clarification, this comment proposes revisions to the proposed language being considered for addition to Section 25501(a)(3) of the Regulations as follows:

Where a listed chemical only has been extracted or concentrated by human activity from any source, such as a plant, and then added to a product, that chemical may be present in the product as the result of human activity even if the extraction or concentration did not change the Chemical Abstract Services Registry Number; but this does not include the extraction or concentration of part or all of the naturally occurring level of the listed chemical in the source.

The purpose of the additional language is to clarify that the proposed language addresses circumstances limited to the extraction or concentration of only the listed chemical in the source for addition to a product. The additional language clarifies that it is not the intent of the new language to mean that where a food source contains naturally occurring levels of listed chemicals, such as a plant, and is concentrated or extracted (such as an orange for orange juice, cocoa from cocoa beans for chocolate, a kernel of corn from a corn cob for canned corn), the listed chemicals in that part of the plant extracted or concentrated are not present in the product as a result of human activity. It is not scientifically supportable to suggest that naturally occurring listed chemicals in a plant lose their character as naturally occurring if a part or concentrated portion of the plant source is added to a product.