



SNAC International
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Arlington, VA 22209

May 7, 2021

Submitted Electronically

Monet Vela
Office of Environmental Health Hazard Assessment
P. O. Box 4010
1001 I Street
Sacramento, California 95812-4010
Fax: 916-323-2610

Re: Comments on Modification of Text Proposed Amendments to Section 25505 Exposures to Listed Chemicals in Cooked or Heat Processed Foods

Dear Ms. Vela:

SNAC International is writing to comment on the California Environmental Protection Agency Office of Environmental Health and Hazard Assessment (OEHHA) Notice of Modification of Text Proposed Amendments to Article 5 Section 25505 Exposures to Listed Chemicals in Cooked or Heat Processed Foods pursuant to the Safe Drinking Water and Toxic Enforcement Act ("Proposition 65"). ^{1/} SNAC International is the international trade association of the snack food industry representing snack manufacturers, marketers, and suppliers. Founded in 1937, SNAC represents over 400 companies worldwide including but not limited to, manufacturers of potato chips, tortilla chips, cereal snacks, pretzels, popcorn, kettle corn, cheese snacks, snack crackers, meat snacks, pork rinds, snack nuts, party mix, corn snacks, pellet snacks, fruit snacks, snack bars, granola, snack cakes, cookies, and various other snacks.

SNAC commends OEHHA on its efforts to address the complexities presented by listed substances that form during the heat processing of foods and fully supports the proposed changes. In particular, OEHHA has modified the language in subsections (a) and (b) in such a way that, once the modified language is adopted, food manufacturers would have the flexibility to use evidence, standards, risk assessment methodologies, principles, assumptions, or levels described in Articles 7 and 8 of the Proposition 65 regulations to establish an alternative concentration for a listed chemical that is different from those specified in the table in subsection (d).

SNAC views the proposed change as providing the flexibility that is needed to account for the multitude of variables that can impact acrylamide formation. SNAC encourages OEHHA to provide further guidance in the final regulation or the associated Final Statement of Reasons on the type of quality

^{1/} OEHHA, "Notice of Modification of Text Proposed Amendments to Article 5 Section 25505 Exposures to Listed Chemicals in Cooked or Heat Processed Foods," (April 16, 2021), available at: <https://oehha.ca.gov/proposition-65/cnr/notice-modification-text-proposed-amendments-article-5-section-25505-exposures> (accessed on May 5, 2021).

control measures that are available to reduce listed substances that form during processing to the lowest levels currently feasible. The comment submitted by SNAC on October 21, 2020 to the original proposed rule identified the EU acrylamide toolbox (i.e., the commercial application tools) and FDA acrylamide guidance as examples of quality control measures that are available to the industry. We urge OEHHA to recognize these strategies can be considered appropriate examples of “quality control measures” under Subsection (a). Moreover, to the extent the manufacturer can demonstrate it implemented appropriate “quality control measures” and has lowered a substance to the “lowest level currently feasible,” the manufacturer should be exempt from the warning requirements regardless of whether OEHHA has established a different level for the listed substance in the specific commodity in the regulation.

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SNAC appreciates the opportunity to provide comments to OEHHA on the proposal. We would be pleased to answer any questions OEHHA has regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Avery". The signature is written in a cursive, flowing style.

Elizabeth Avery
President and CEO
SNAC International