



November 12, 2015

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**RE: PRE-REGULATORY PROPOSAL TO ADD SECTION 25501.1  
(NATURALLY OCCURRING CONCENTRATIONS OF LISTED  
CHEMICALS IN UNPROCESSED FOODS)**

Dear Ms. Vela:

On behalf of the California Rice Commission (“Commission”) and in response to the request for comments regarding the Office of Environmental Health Hazard Assessment (“OEHHA”) Pre-Regulatory proposal to add section 25501.1 to the California Code of Regulations, the Commission submits the following in support of the naturally occurring concentration of inorganic arsenic in white rice grain and brown rice grain.

By statute, the Commission represents the entirety of the state's rice industry including the 2,500 rice growers and handlers who farm and process rice produced on approximately 500,000 acres annually and is subject to oversight by the California Department of Food and Agriculture. Rice is grown in the finer-grained (primarily clay) soils in the central portion of the Sacramento Valley. The majority of rice is grown in eight Sacramento Valley counties (Butte, Colusa, Glenn, Placer, Sacramento, Sutter, Yolo and Yuba) and is sometimes grown (less than 1,000 acres) in Tehama County.

The Draft Proposal is a newly added section to Article 5, Extent of Exposure located at Title 27 §25501.1 as follows:

Naturally Occurring Concentrations of Listed Chemicals in Unprocessed Foods

- (a) For purposes of Section 25501(a) (2), the following levels of chemicals in food are deemed to be naturally occurring.

<u>Chemical</u>	<u>Food</u>	<u>Concentration</u> <u>(parts per billion)</u>
<u>Inorganic Arsenic</u>	<u>White rice grain</u>	<u>60</u>
	<u>Brown rice grain</u>	<u>130</u>

The Commission recognizes that developing information needed to quantify background levels of naturally occurring concentrations of chemicals is a difficult process and appreciates the efforts OEHHA has taken to develop this regulation. Generally, arsenic exists everywhere naturally and variably in soil. Recently, at OEHHA's request, the University of California-Davis (UC-Davis) conducted a study to ascertain a background level of arsenic in rice and to determine if the arsenic present in rice originates from anthropogenic or natural sources.

The study reported that arsenic is naturally present in soil, that rice plants take up arsenic from soil and as a result, it is apparent that arsenic grain values are related to arsenic soil values. The study focused on states that produce the most rice for United States consumption: Arkansas, California, Louisiana, Texas, Mississippi and Missouri, and compiled data analyzed by the United States Food and Drug Administration (FDA), the Commission and the United States Geological Survey (USGS). To accurately determine a natural background level, rice grain samples from the Commission and soil samples from USGS were compared. The UC-Davis study concluded that the concentration of arsenic in rice is much smaller than that in soil and that levels of arsenic in rice are due to natural sources. The study confirmed that natural background levels of total arsenic and inorganic arsenic can be determined for all of the United States. UC-Davis established a background level for total and inorganic arsenic in the United States rice at 0.2 parts per million (ppm) and 0.08 ppm, respectively.

The safe harbor naturally occurring levels listed above bracket the value proposed by UC-Davis which did not separate white and brown rice grains. The Commission agrees that the proposed regulation will provide guidance to our industry and the public by establishing a default natural background level for inorganic arsenic in rice and the Commission encourages OEHHA to consider setting additional background levels for other chemicals and foods. In this case, the level of exposure by the average consumer to inorganic arsenic from the consumption of rice is below the warning threshold under Proposition 65 and the proposed regulation will eliminate the need for unwarranted warnings and will reduce meritless litigation.

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As stated above, the Commission supports the proposed regulation and encourages OEHHA to broaden its approach to naturally occurring backgrounds in foods. The Commission appreciates the opportunity to participate in this pre-regulatory process.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy A. Johnson". The signature is fluid and cursive, with a large initial "T" and "J".

Timothy A Johnson  
President and CEO  
California Rice Commission