caramelos Don picoso

Caramelos Don Picoso SA de CV
Calle Corregidora 69, Colonia Tepeyac
Puebla, Pue. México 72210

17 May 2019

Office of Environmental Health Hazard Assessment
Sacramento, California

Our comments regarding the Proposed adoption of New Chapter and Section
(Title 27, California Code of Regulations) Chapter 3:
Naturally occurring Lead in Candy Section 28500: Naturally occurring levels of lead in Candy.

Dear Sirs,

We are opposed to a maximum level of 0.02 ppm for candies containing chili and / or tamarind, because of the following reasons:

1. The current guideline of FDA of 0.1 ppm was established since 2006. Having in force this low maximum for more than a decade, there are not known any reports of health damage in any person ever.

2. The federal office: Center for Food Safety and Applied Nutrition CFSAN has not been consulted for their opinion on this matter.

3. To regulate a level of lead content in candies with chili and tamarind as a category, is discriminatory because candy is not the only thing human beings consume, so the regulation should apply to any foodstuff a person can ingest, such as: vegetables, peanuts, dairy products, meats, fish, prepared foods, beverages, cookies, apple juice, baby food, etcetera.

4. The studies OEHHA has presented as evidence are not sufficient and are only focused in candy with chili and tamarid, when a full study for all kind of foodstuffs should be conducted before regulating a lead content that should be for all kind of foodstuffs, not only candy with chili and tamarind. A representative study should include analyses of chili in all Mexican Territory and to include raw materials coming from other countries around the globe, not only Mexico otherwise it is a discriminatory regulation.

5. Also within the OEHHA study, you establish a naturally occuring level of 0.01 ppm. The chilis used and the washing practices in the lab do not represent either the chilis used in the chili powder or washing practices that are practical for bulk chili. The chili used in your study only represent the smooth skinned chili. Most chili powder includes at least 20% arbor chili which is a very rough skinned chili and very difficult to wash using roller brushes and water. Also when washing the smooth skinned chili, the chili industry used the number 2 chili, which includes broken, wrinkled or misformed product. Your study only evaluated the best chili which is too expensive for the chili powder industry to use. The average lead in our chili used for powder range from 80 to 100 ppb. If the 0.01 ppm level is also adopted by the regulatory industry, it would put the chili powder out of business.

6. The method of analysis ICP-MS of current equipment with which Laboratories around the world work with, has a limit of detection (LOQ) of 0.005 ppm for finished product but for some raw materials that limit is 0.02 ppm, making impossible to know what the real figure is and therefore the results lead to error.

7. The natural occurance of lead in the environment around the world, in the air, in the soil, into the sea and water springs are beyond our control and our supplier from whom we by raw materials.

8. The proposed level of 0.02 ppm by OEHHA is far below what the CODEX ALIMENTARIUS requires.

9. We as producers of candies are aware and committed to eliminate if possible or get the lowest possible levels of any risky element to human health, but we cannot go beyond what is present in Nature. We propose that the limit can be lowered to 0.05 ppm but not less than that, since the natural occurance can be from that level down.

Sincerely yours

Atanasio Menéndez M.
CARAMELOS DON PICOSO, S.A. DE C.V.
expo@dulcesanahuac.com