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Via portal at: <https://oehha.ca.gov/comments>

RE: PROPOSED AMENDMENT TO SUBSECTION 25607.2(b) WARNING CONTENT FOR ACRYLAMIDE EXPOSURE FROM FOOD

The California Chamber of Commerce (“CalChamber”) and the organizations listed below (hereinafter, “Coalition”) submit the following comments regarding the Office of Environmental Health Hazard Assessment’s (“OEHHA’s”) Proposed Amendment to Article 6, Subsection 25607.2(b) regarding warnings for acrylamide exposure from food (“Proposed Rulemaking”). The membership of the Coalition consists of thousands of California-based and national businesses that produce, process, and prepare foods consumed by virtually all Californians.

The Coalition opposes the Proposed Rulemaking because it is a radical departure from OEHHA’s long-standing approach to safe harbor warnings, will foster confusion among consumers and businesses alike, and is not based in sound policy or science. Instead, it is a strategic tactic in litigation, a late effort to delay the federal district court’s consideration of the merits of CalChamber’s challenge to acrylamide warnings for food, and an attempt to authorize so many possible warnings—320 in all—as to overwhelm the resources of CalChamber to contest each of them.

But the fact remains: Proposition 65 warnings for acrylamide in food and beverages are inappropriate because neither the State of California nor any authoritative body

knows that dietary acrylamide causes cancer in humans. OEHHA should abandon this effort to fine-tune the wording of warnings intended to convey to consumers the same essential message – which is clearly controversial – that eating foods containing acrylamide increases their risk of cancer.

As discussed below, OEHHA’s change in position is nothing more than a litigation tactic designed to require more litigation of the issue of acrylamide warnings and delay the ultimate judgment that compelled Proposition 65 warnings for this chemical, whose carcinogenicity via human dietary consumption has not been established, are unconstitutional. It is an expedient reversal of OEHHA’s unwavering practice over decades, is necessary only for OEHHA’s litigation goals, and is not sound policy. The Proposed Rulemaking should be withdrawn.

I. Acrylamide in Food and Beverages Is Not Known to Increase Consumers’ Risk of Cancer.

Although acrylamide at high doses is known to cause cancer in laboratory animals, the relevance of those findings to humans has not been established. Indeed, because humans have been consuming acrylamide as part of their diet for millennia, there is a robust body of epidemiological data that shows, in the words of the National Cancer Institute, “no consistent evidence that dietary acrylamide exposure is associated with the risk of any type of cancer.”¹ The American Cancer Society likewise explains: “So far, reviews of studies done in groups of people (epidemiological studies) suggest that dietary acrylamide isn’t likely to be related to risk for most common types of cancer.”²

Despite its awareness of the same studies cited by OEHHA, the U.S. Food & Drug Administration (FDA) has not recommended warnings on foods containing acrylamide and indeed has cautioned that such warnings may confuse consumers and result in harm to their health from alternative dietary choices.³ For example, the FDA has directly opposed warnings for acrylamide in whole grain foods because “[l]abeling whole grain foods with a cancer warning may cause American consumers to avoid foods that would have a benefit to their health, including avoiding foods that may reduce cancer

¹ National Cancer Institute, Acrylamide and Cancer Risk (Dec. 5, 2017), <https://www.cancer.gov/about-cancer/causes-prevention/risk/diet/acrylamide-fact-sheet> (concluding that “a large number of epidemiologic studies (both case-control and cohort studies) in humans have found no consistent evidence that dietary acrylamide exposure is associated with the risk of any type of cancer” and noting that “toxicology studies have shown that humans and rodents not only absorb acrylamide at different rates, they metabolize it differently as well”).

² See American Cancer Society, *Acrylamide and Cancer Risk* (Feb. 11, 2019), <https://www.cancer.org/cancer/risk-prevention/chemicals/acrylamide.html> (further noting, “It’s not yet clear if the levels of acrylamide in foods raise cancer risk . . .”).

³ See Letter from Lester M. Crawford, Deputy Commissioner, U.S. Food & Drug Administration, to Joan E. Denton, Director, OEHHA (July 14, 2003, p. 2).

risks.”⁴ Based on similar reasoning, the FDA also enthusiastically supported OEHHA’s proposed regulation, now adopted, exempting coffee from Proposition 65 cancer warnings for acrylamide.⁵

It is telling that the one food group that is a significant source of exposure to acrylamide in the human diet and that has been studied the most extensively – coffee – has been determined by esteemed scientific bodies, consistently and emphatically, to **not** cause cancer in humans. OEHHA of course adopted a regulation specifically finding that chemicals in coffee that are inherently created by roasting and brewing – including acrylamide – “do not pose a significant risk of cancer and do not require a warning under Proposition 65.”⁶ It is not clear why, based on the data noted above, acrylamide in other foods and beverages should be treated any differently.

In fact, numerous scientific studies support the conclusion that exposure to acrylamide from food does not increase cancer risk in humans. In a 2012 systematic review published in the *European Journal of Cancer Prevention*, for example, researchers evaluated the association between dietary acrylamide and cancer.⁷ The researchers explained that “[c]onjectured associations between dietary acrylamide intake and cancer have been evaluated in more than 15 epidemiologic studies examining almost every major cancer site.”⁸ After critically reviewing the available studies, the researchers concluded:

After an extensive examination of the published literature, we found no consistent or credible evidence that dietary acrylamide increases the risk of any type of cancer in humans, either overall or among nonsmokers. In particular, the collective evidence suggests that a high level of dietary acrylamide intake is not a risk factor for breast, endometrial, or ovarian cancers. . . . In conclusion, epidemiologic studies of dietary acrylamide intake have failed to demonstrate an increased risk of cancer. In fact, the sporadically and slightly increased and decreased risk ratios reported in more than two dozen papers examined in this review strongly suggest the pattern one would expect to find for a true null association over the course of a series of trials.⁹

⁴ [Statement from FDA Commissioner Scott Gottlieb, M.D., on FDA’s Support for Exempting Coffee from California’s Cancer Warning Law \(Aug. 29, 2018\)](#), .

⁵ *Id.* See also 27 Cal. Code Regs. § 25704.

⁶ OEHHA, Final Statement of Reasons, Adoption of New Section 25704 Exposures to Listed Chemicals in Coffee Posing No Significant Risk (June 7, 2019), <https://oehha.ca.gov/media/downloads/cnr/fsorcoffee060719.pdf>.

⁷ See L. Lipworth, et al., Review of Epidemiologic Studies of Dietary Acrylamide Intake and the Risk of Cancer, *European Journal of Cancer Prevention*, Vol. 21:375-386 (2012).

⁸ *Id.*

⁹ *Id.*

The many options for warnings that OEHHA provides with the Proposed Rulemaking all communicate the same essential message: that consuming food containing acrylamide poses an increased risk of cancer. In light of the state of the science on acrylamide and cancer, that message is false, at best misleading, and undeniably controversial.

II. The First Amendment Prohibits Compelled Cancer Warnings for Acrylamide in Food and Beverages.

Almost five years ago, based on the strength of this data and analysis showing that dietary acrylamide does not cause cancer in humans, and in light of extensive litigation and expensive burdens on food and beverage manufacturers and retailers, CalChamber filed suit against the California Attorney General to bar enforcement of Proposition 65 as to acrylamide in food and beverages on the basis that any warning for such exposures that complies with Proposition 65 violates the First Amendment's prohibition on the government compelling false, misleading, and controversial speech.¹⁰ The federal district court ruled that CalChamber was likely to succeed on the merits and issued a preliminary injunction.¹¹

Furthermore, consistent with a prior ruling granting summary judgment against OEHHA's Proposition 65 safe harbor warning for glyphosate, the district court held that it is the State's burden under the First Amendment to fashion an acrylamide warning that complies with Proposition 65. In the words of the court, "[t]he State cannot 'put the burden on commercial speakers to draft a warning that both protects their right not to speak and complies with Proposition 65.'"¹² For decades prior to this ruling, both the California Attorney General and private enforcers of Proposition 65 had argued that the safe harbor warnings are merely optional, and that if the safe harbor warning were found to be unconstitutional – whether as violating the free speech rights of businesses guaranteed by the First Amendment or as preempted by conflicts with federal law under the Supremacy Clause – then businesses could just craft their own “clear and reasonable” warning. That argument is no longer viable: it is the State's burden to craft the warning and to defend it as compliant with the First Amendment.

Undeterred, the Attorney General and his client OEHHA have now adopted a new approach: as each safe harbor warning is struck down by the courts, they propose another, and another, requiring further rounds of litigation in a seemingly endless merry-go-round. That approach was unsuccessful in the litigation over Proposition 65 warnings for glyphosate, which OEHHA cites as its basis for the Proposed

¹⁰ *California Chamber of Commerce v. Becerra*, No. 2:19-CV-02019-KJM (E.D. Cal., filed Oct. 7, 2019).

¹¹ *Cal. Chamber of Commerce v. Becerra*, 529 F. Supp. 3d 1099, 1103 (E.D. Cal. 2021).

¹² *Id.* at 1119 (quoting *Nat'l Assn. of Wheat Growers v. Becerra*, 468 F. Supp. 3d 1247, 1261 (E.D. Cal. 2020)).

Rulemaking,¹³ and it also should be unsuccessful in the litigation over Proposition 65 warnings for acrylamide in food and beverages. The Proposed Rulemaking merely wastes the resources of OEHHA, the district court, and the business community.

In the glyphosate litigation, Judge Shubb grew weary of the State's approach:

The court cannot condone the state's approach here, where it continues to argue that the warning requirement poses no First Amendment concerns and then repeatedly proposes iterations of alternative warnings that the state would never allow under normal circumstances, absent this lawsuit. Even assuming the state may continue to propose alternative warnings, as it has in this case, none of them qualify as purely factual and uncontroversial.¹⁴

By the time this decision reached the Ninth Circuit, OEHHA had adopted an alternative safe harbor warning for glyphosate, which reads as follows:

CALIFORNIA PROPOSITION 65 WARNING: Using this product can expose you to glyphosate. The International Agency for Research on Cancer classified glyphosate as probably carcinogenic to humans. USEPA has determined that glyphosate is not likely to be carcinogenic to humans; other authorities have made similar determinations. A wide variety of factors affect your potential risk, including the level and duration of exposure to the chemical. For more information, including ways to reduce your exposure, go to www.P65Warnings.ca.gov/glyphosate.¹⁵

The Ninth Circuit found that this warning, and indeed “no version of the Prop 65 glyphosate warning,” satisfies the First Amendment.¹⁶ Refusing the Attorney General's request to remand the issue for consideration by the district court, the Ninth Circuit concluded that “the issues plaguing the OEHHA Warning could not be cured by any sort of factual development,” and that “changes [to] the wording” of the safe harbor “do[] not change the fact that a deep scientific debate still exists.”¹⁷ As a result, the alternative glyphosate warning was struck down as unconstitutional. Although that judgment is now final, the unconstitutional warning is still found in OEHHA's Proposition 65 regulations.

In the acrylamide litigation, OEHHA has implemented this same tactic, proposing an alternative safe harbor warning for acrylamide in food and beverages after the district

¹³ OEHHA, Initial Statement of Reasons, Proposed Amendments to Section 25607.2 (April 5, 2024), at 8.

¹⁴ *Nat'l Assn. of Wheat Growers v. Becerra*, 468 F. Supp. 3d 1247, 1262 (E.D. Cal. 2020).

¹⁵ 27 Cal. Code Regs. § 25607.49 (effective Jan. 1, 2023).

¹⁶ *Nat'l Assn. of Wheat Growers v. Bonta*, 85 F.4th 1263, 1282-83 (9th Cir. 2023).

¹⁷ *Wheat Growers*, 85 F.4th at 1282.

court issued the injunction sought by CalChamber.¹⁸ CalChamber and other stakeholders commented on that proposal in a letter dated November 8, 2021, which is hereby incorporated by reference. While the proposal was pending, the Ninth Circuit upheld the preliminary injunction, which addressed only the standard safe harbor warning, ruling that, “[b]ecause California and CERT did not meet their burden to show the warning requirement was lawful under *Zauderer*, the district court did not abuse its discretion when it concluded that CalChamber was likely to succeed on the merits of its First Amendment claim.”¹⁹ The Ninth Circuit also found the standard safe harbor warning for acrylamide in food to be “likely unconstitutional.”²⁰

OEHHA subsequently finalized its alternative warning, without any changes, on November 1, 2022. It became effective on January 1, 2023, the same day as the alternative warning for glyphosate, and reads as follows:

CALIFORNIA WARNING: Consuming this product can expose you to acrylamide, a probable human carcinogen formed in some foods during cooking or processing at high temperatures. Many factors affect your cancer risk, including the frequency and amount of the chemical consumed. For more information, including ways to reduce your exposure, go to www.P65Warnings.ca.gov/acrylamide.²¹

This alternative warning is almost indistinguishable from the alternative warning for glyphosate that the Ninth Circuit struck down. Indeed, the most substantive difference between them is that the glyphosate warning contains a sentence noting the controversy over whether the chemical causes cancer: “US EPA has determined that glyphosate is not likely to be carcinogenic to humans; other authorities have made similar determinations.” That sentence would tend to make the warning less misleading or controversial, but OEHHA included no similar statement in its alternative warning for acrylamide.

Since then, CalChamber has been preparing to move for summary judgment based on the original safe harbor warning and the alternative warning. Among other tasks, CalChamber commissioned an expert to conduct a second consumer survey to evaluate consumer understanding of the alternative warning. The parties had exchanged expert reports, which included that consumer survey, and were preparing for depositions of experts ahead of a May 10, 2024 deadline for CalChamber to file its summary judgment motion when OEHHA, apparently lacking confidence in the

¹⁸ See Proposed Amendments to Article 6: New subsection 25607.2(b), Initial Statement of Reasons (Sept. 19, 2021).

¹⁹ *Cal. Chamber of Commerce v. Council for Educ. and Rsch. on Toxics*, 29 F.4th 468, 480 (9th Cir. 2022).

²⁰ *Id.*

²¹ 27 Cal. Code Regs. § 25607.2(b).

alternative warning's ability to pass First Amendment muster, issued the notice for the instant Proposed Rulemaking on April 5, 2024.²²

OEHHA's alternative warning seeks to evade the science and force businesses who make and sell food products to take one side in the controversy over whether acrylamide in foods and beverages causes cancer in humans. The multiple warnings set forth in the Proposed Rulemaking do the same thing, albeit in a multitude of ways. They also fail to comply with the First Amendment's requirements. OEHHA should abandon this effort.

III. The Proposed Rulemaking Is a Radical Departure from OEHHA's Longstanding Approach To Safe Harbor Warnings.

A. OEHHA Fails to Justify Its Proposal to Specify More Than 320 Different Wording Combinations for Acrylamide Warnings.

The warning in the Proposed Rulemaking is exactly the sort of warning that Judge Shubb decried in striking down the State's proposed warnings for glyphosate: a repeated iteration of "alternative warnings that the state would never allow under normal circumstances, absent this lawsuit."²³ In fact, it is an extreme version of OEHHA's tactic because it would authorize the use of more than 320 different wording combinations for acrylamide warnings. The Proposed Rulemaking departs radically from OEHHA's past practice on safe harbor warnings. Although OEHHA's safe harbor warnings in some instances allow minor differences in wording to be used as options, none of them provides more than a few possible combinations of statements to form different warnings.

The Proposed Rulemaking specifies 320 different combinations. It sets out three sets of sentences. For the first set, there are two options. For the second set, there are three options, but they can be used in any order and two options or three options can be used. For the third set, there are three options, none of which must be used, and they can also be in any order and two options or three options can be used. As a result, there are two options for the first sentence, 10 options for the second set of sentences, and 16 options for the third set of sentences, which means there are 320 combinations in total. These are on top of the several existing options, including the alternative warning described above that OEHHA adopted in the course of this litigation. And this count ignores the less substantial options of stating either "**CA**" or "**CALIFORNIA**" before the initial "**WARNING**" signal.

²² OEHHA does not propose to eliminate the first alternative warning, but instead to supplement it with the additional safe harbor warning options in the Proposed Rulemaking.

²³ *Wheat Growers*, 468 F. Supp. 3d at 1262.

Nowhere in the ISOR does OEHHA acknowledge this major shift in its approach to safe harbor warnings, which for all other circumstances permits only minor variations within the warning language. OEHHA fails to explain why this specific circumstance, apart from the dozens of other exposures for which OEHHA provides a tailored Proposition 65 safe harbor warning, justifies this departure from past practice.

B. OEHHA’s Proposed “Mix and Match” Warning Is Bad Policy.

The Proposed Rulemaking, if finalized, would approve warnings for acrylamide in food and beverages that vary widely. At one end of the spectrum, if not using the short-form warning,²⁴ businesses could use the original safe harbor warning:

WARNING: Consuming this product can expose you to acrylamide, which is known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov.

At the other end of the spectrum, businesses could use the following warning:

WARNING: Consuming this product can expose you to acrylamide. The International Agency for Research on Cancer has found that acrylamide is probably carcinogenic to humans. The United States Environmental Protection Agency has found that acrylamide is likely to be carcinogenic to humans. The United States Toxicology Program has found that acrylamide is reasonably anticipated to cause cancer in humans. Acrylamide has been found to cause cancer in laboratory animals. Many factors affect your cancer risk, including the frequency and amount of the chemical consumed. For more information including ways to reduce your exposure, see www.P65Warnings.ca.gov/acrylamide.

And midway along the spectrum, businesses could use a warning like this:

WARNING: Consuming this product can expose you to acrylamide. The US Toxicology Program has found that acrylamide is reasonably anticipated to cause cancer in humans.

Supplemental information is not permitted in any of these warnings unless “it identifies the source of the exposure or provides information on how to avoid or reduce exposure to the identified chemical or chemicals.”²⁵

²⁴ The original short-form warning is also a current option and reads:

WARNING: Cancer -- www.P65Warnings.ca.gov.

OEHHA has pending a separate proposal that would void this option and replace it with two options:

WARNING: Cancer risk from exposure to acrylamide. See www.P65Warnings.ca.gov.

WARNING: Can expose you to acrylamide, a carcinogen. See www.P65Warnings.ca.gov.

As a result, if the Proposed Rulemaking is finalized, consumers will be presented with a wide variety of possible warnings on products at the supermarket or in the online marketplace. Similar products – for example, different brands of potato chips – will bear very different warnings, with consumers left to wonder whether one is more dangerous than the other, whether there is something different about the levels of acrylamide in the two products, whether there was some finding by a court or a regulatory agency that prompted one warning versus the other. This is a recipe for confusion among consumers, resulting in anything but “clear and reasonable” warnings as Proposition 65 requires.²⁶ In its apparent attempt to increase its chances in litigation by proposing more possible warnings for acrylamide in food than for any other circumstance covered by Proposition 65, OEHHA has failed to consider the real-world impacts on consumers.

C. The Proposed Warnings Deviate from the Attorney General’s Requirements for Proposition 65 Warnings in Settlements.

In comments on the alternative acrylamide warning, CalChamber and other stakeholders noted its deviation from longstanding OEHHA practice on safe harbor warnings, which almost uniformly required the chemical to be identified as “known to the state to cause cancer.”²⁷ The Proposed Rulemaking continues that deviation by instead requiring use of one or more of the following options:

- The International Agency for Research on Cancer has found that acrylamide is probably carcinogenic to humans.
- The United States Environmental Protection Agency has found that acrylamide is likely to be carcinogenic to humans.
- The United States Toxicology Program has found that acrylamide is reasonably anticipated to cause cancer in humans.
- Acrylamide has been found to cause cancer in laboratory animals.

CalChamber incorporates its prior comments on this point and notes that OEHHA again has failed to explain its reasons for deviating from past practice as well as from the Attorney General’s guidelines regarding clear and reasonable warnings in Proposition 65 settlements by private enforcers.²⁸

²⁵ 27 Cal. Code Regs. § 25601(e).

²⁶ Cal. Health & Safety Code § 25249.5.

²⁷ See CalChamber Coalition comments (Nov. 8, 2021).

²⁸ See 11 Cal. Code Regs. § 3202(b) (advising that “[c]ertain phrases or statements in warnings are not clear and reasonable, such as . . . **use of the adverb ‘may’ to modify whether the chemical causes cancer or reproductive toxicity** (as distinguished from use of “may” to modify whether the product itself causes cancer or reproductive toxicity). . . .” (emphasis added)).

IV. The Proposed Rulemaking Is Founded on Litigation Strategy, And Not on Sound Policy.

It is clear from the context and timing of the Proposed Rulemaking, as well as its direct reference to the final appellate ruling in *Wheat Growers* that the pending *CalChamber* litigation is the reason for OEHHA's break with its historical practices regarding safe harbor warnings. OEHHA's proposal is not a well-considered policy change, but a strategic litigation move in a misguided attempt to improve the State's chances in the *CalChamber* litigation.

OEHHA recites the policies of a number of food regulatory bodies, mainly outside the United States, to encourage the reduction of acrylamide in food products. But OEHHA omits that none of these public health and food regulatory bodies has called for consumer warnings for acrylamide, despite the broad authority that many of them have to require such warnings. Indeed, as noted above, the U.S. FDA has specifically opposed warnings for acrylamide in food because of their potentially harmful consequences for consumers' health and dietary choices.²⁹

That public health agencies, faced with the widespread presence in food of a chemical that is at best suspected of causing cancer, would take prudent action to encourage means of reducing levels of exposure in no way supports the entirely different, even extreme, policy choice proposed by OEHHA: to warn consumers about this uncertain risk without regard for other consequences to public health.

OEHHA has many areas of expertise, with well-qualified scientists in numerous fields that are relevant to its mission. But a key area in which OEHHA lacks expertise is risk communication – an entire field of academic study devoted to the formulation and transmission of health and safety data to consumers. The Attorney General retained an expert in risk communication in the *CalChamber* litigation, but OEHHA apparently has never done the same, much less asked the Attorney General's litigation expert or anyone else in the field to provide advice on how best to craft the Proposition 65 warnings for acrylamide in food that OEHHA is now revising, for the second time since the original safe harbor warnings were overhauled six years ago.

OEHHA therefore has no basis to determine current consumer perceptions around its proposed warnings for acrylamide. Nor does OEHHA understand how the Proposed Rulemaking may confuse consumers on dietary choices, or how consumers will understand its multitude of proposed acrylamide warnings or modify their behavior, if at all, in response to it. OEHHA has not even considered whether the multitude of

²⁹ See [Statement from FDA Commissioner Scott Gottlieb, M.D., on FDA's support for exempting coffee from California's cancer warning law](#) (August 29, 2018).

warnings it proposes are understandable to the average Californian, a crucial consideration given the low literacy rate in California and the fact that the average American reads at an 8th grade level.

Fundamentally, “[b]ecause warnings are an important tool to inform and remind consumers about potentially harmful consequences of product use, any warning must be worded to avoid creating confusion.”³⁰ This is well known by other agencies who formulate and prescribe consumer warnings. For example, the U.S. Consumer Products Safety Commission provides the following guidance for drafting product warnings: “Warnings should be conspicuous, legible, durable, clear, concise, and motivating.”³¹ And this is consistent with Proposition 65’s requirement that warnings be “clear and reasonable.”

Poorly drafted, misleading, and unnecessary warnings can have unintended consequences. In the *Wheat Growers* appeal that OEHHA says prompted the Proposed Rulemaking, the amicus brief of risk mitigation experts discusses the research on consumer reaction to warnings as follows:

There is a growing body of research that shows that consumers react to warnings in complex and sometimes counterintuitive ways. Indeed, the research shows that ubiquitous warnings can actually decrease public safety, particularly when those warnings are based on unproven hypotheses that ultimately turn out to be false alarms.³²

The amicus brief also describes how the research has shown that consumers’ reactions to warnings can be detrimental:

Warnings “often cause consumers to react in ways that are not optimal, such as by discounting the extent of the potential risk, overreacting to the risk, ignoring the message altogether, or engaging in the precise behavior that the warning is designed to prevent. Each of these factors must be considered when determining whether a warning will promote increased public safety and well-being.”³³

OEHHA’s primary consideration appears to be to design a warning that OEHHA thinks has a better chance – compared with the prior alternatives proposed to the federal court

³⁰ Amicus Curiae Brief of Risk Mitigation Scholars in Support of Appellees and Affirmance, filed in *National Association of Wheat Growers v. Bonta*, Ninth Circuit Court of Appeals, Case No. 20-16758 at p. 19.

³¹ Guidance on the Application of Human Factors to Consumer Products, Division of Human Factors, U.S. Consumer Product Safety Commission (February 2020) at p. 17.

³² *Supra* n. 30 at pp. 3-4.

³³ *Id.* at p. 6.

– of surviving review under the First Amendment. OEHHA appears to have done nothing to determine whether the plethora of warnings it proposes results in increased consumer understanding or increased consumer confusion, much less what consumers will understand each of these many warnings to convey. In short, OEHHA does not know how consumers will react to any of the 320 acrylamide safe harbor warnings it is now proposing, and therefore its Proposed Rulemaking lacks any sound policy basis.

V. The Proposed Rulemaking Should Be Withdrawn.

In conclusion, for the foregoing reasons, the Coalition respectfully requests that OEHHA withdraw the Proposed Rulemaking amending Article 6 to add Subsection 25607.2(b).

Respectfully submitted,



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