

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

**NOTICE OF SECOND MODIFICATION OF TEXT OF PROPOSED
REGULATION AND
ADDITION OF DOCUMENTS AND INFORMATION TO RULEMAKING FILE**

**TITLE 27, CALIFORNIA CODE OF REGULATIONS, NEW SECTION 25506
(ORIGINALLY PROPOSED AS SECTION 25505)**

**EXPOSURES TO ACRYLAMIDE IN COOKED OR HEAT PROCESSED
FOODS**

October 6, 2022

Public Availability of Modifications and Additional Documents: October 6, 2022
Deadline for Public Comment: October 21, 2022

Pursuant to the requirements of Government Code section 11346.8(c) and (d), 11346.9(a), 11347.1 and Title 1, section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes made to the proposed regulation on exposures to Proposition 65 chemicals formed when food is cooked or heat processed, Title 27, California Code of Regulations, section 25506. The text of the regulation with proposed modifications is attached to this Notice. OEHHA is also providing notice that documents and other information which the department has relied upon in adopting the proposed regulation have been added to the rulemaking file and are available for public inspection and comment.

This notice initiates a public comment period beginning October 6, 2022, that will close on October 21, 2022. Details on how to comment are given below.

Process to Date

OEHHA first proposed this new regulatory section by publishing a Notice of Proposed Rulemaking in the California Regulatory Notice Register on August 7, 2020. Written comments were received during the public comment period that was extended from the original date of October 6 to October 21, 2020.

After the close of the initial comment period, OEHHA determined that modifications to the proposed text were needed and published a notice of modification on its website and provided notice to all required parties on April 16, 2021, with comments due on May 7, 2021.

The final rulemaking was submitted to the Office of Administrative Law (OAL) on September 21, 2021. OAL issued a disapproval decision on March 11, 2022.

Modifications to Proposed Regulation

OEHHA determined that changes to the April 16, 2021, modified proposed regulation were needed following review of the disapproval decision.

In summary, the second modifications to the proposal change the section number for the proposed regulation from Section 25505 to 25506, narrow the chemicals covered from all listed chemicals created by cooking or heat processing to acrylamide in food created by cooking or heat processing, and improve clarity. The list of foods/food groups and the safe harbor levels of acrylamide were not changed in this modification.

The second modified regulation text is included as Attachment 1. It is also available on the OEHHA website at www.oehha.ca.gov or on request from Monet Vela in the OEHHA Legal Office at monet.vela@oehha.ca.gov or (916) 323-2517.

An Addendum to the Initial Statement of Reasons (ISOR) provides the rationale for these modifications and further information on the proposal (Attachment 2). The Addendum is being added to the rulemaking record.

Documents Added to the Record

This document is proposed for incorporation by reference in Section 25506(a):

- Codex Alimentarius Code of Practice for the Reduction of Acrylamide in Foods ([CAC/RCP 67-2009](https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCXC%2B67-2009%252FCXP_067e.pdf)). Available at: https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCXC%2B67-2009%252FCXP_067e.pdf

OEHHA is adding the following additional documents relied on to the administrative record for this action:

- Office of Environmental Health Hazard Assessment (OEHHA, 2016), Final Statement of Reasons, Title 27, California Code of Regulations, Proposed Repeal of Article 6 and Adoption of New Article 6 Regulations for Clear and Reasonable Warnings. Available at: <https://oehha.ca.gov/media/downloads/cnr/art6fsor090116.pdf>
- Department of Finance (DOF, 2022), Consumer Price Index Forecast – Annual and Monthly (Excel Spreadsheet), on Economic Forecasts, U.S. and California webpage. DOF, State of California. Available at: <https://dof.ca.gov/wp-content/uploads/Forecasting/Economics/Documents/US-CA-Inflation-Forecast-MR-2022-23.xlsx>
- United States Census Bureau (2022), US & State 6 digit NAICS (Excel Spreadsheet), on webpage: 2019 SUSB Annual Data Tables by Establishment Industry, February 2022. Available at: https://www2.census.gov/programs-surveys/susb/tables/2019/us_state_6digitnaics_2019.xlsx
- Office of Environmental Health Hazard Assessment, Acrylamide (webpage). Available at: <https://oehha.ca.gov/proposition-65/chemicals/acrylamide> (last accessed on October 5, 2022)

Submission of Comments

OEHHA will address written comments received by October 21, 2022, which pertain to the indicated modifications of regulatory text, document incorporated by reference, and documents added to the record. Such comments will be summarized and responded to in the Final Statement of Reasons as part of the rulemaking file.

All written comments must be submitted to OEHHA by electronic submission, mail, or hand-delivery, by October 21, 2022, as indicated below. OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments>, rather than in paper form. Alternatively, comments can be submitted in paper form, by either mail or delivered in person.

Electronic Submission (preferred):

Though OEHHA website at: <https://oehha.ca.gov/comments>

Mailed Submission:

Attention: Monet Vela

Office of Environmental Health Hazard

Assessment
P. O. Box 4010
Sacramento, California 95812-4010

In-person delivery submission:

Attention: Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
Sacramento, California 95814

OEHHA encourages all commenters to submit their comments in a format compliant with Section 508 of the federal Rehabilitation Act, Web Content Accessibility Guidelines 2.0¹ and California Government Code sections 7405 and 11135, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and e-mail may be available to third parties.

Inquiries concerning the action described in this notice may be directed to [Monet Vela](#), in writing, at the address given above, or by telephone at (916) 323-2517.

¹ <https://www.w3.org/WAI/standards-guidelines/wcag/>