

Second Modified Regulation Text

Title 27. Environmental Protection
Division 4. Office of Environmental Health Hazard Assessment
Chapter 1. Safe Drinking Water and Toxic Enforcement Act of 1986
Article 5. Extent of Exposure

Section 25506

NOTE: The section below is new and being adopted in this rulemaking. Original proposed changes are indicated in plain text and **bold** text not underlined. The first set of modifications to the originally proposed text are indicated in double underline for additions and ~~double strikeout~~ for deletions. The second and newest set of modifications to the originally proposed text are indicated in **bold single underline** for additions and ~~bold single strikeout~~ for deletions.

§ 255056. Exposures to ~~Listed Chemicals~~Acrylamide in Cooked or Heat Processed Foods.

- (a) A person otherwise responsible for an exposure to ~~a listed chemical~~ **acrylamide** in a food does not “expose” an individual within the meaning of Section 25249.6 of the Act, to the extent the chemical was created by cooking or other heat processing, if the ~~producer, manufacturer, distributor, or holder~~ **producer, manufacturer, distributor, or holder** of the food has ~~utilized quality control measures that reduce the chemical~~ **reduced the levels of acrylamide** to the lowest level currently feasible. ~~by utilizing applicable practices recommended in Codex Alimentarius Code of Practice for the Reduction of Acrylamide in Foods CAC/RCP 67-2009 (2009), hereby incorporated by reference.~~ **by utilizing applicable practices recommended in Codex Alimentarius Code of Practice for the Reduction of Acrylamide in Foods CAC/RCP 67-2009 (2009), hereby incorporated by reference.** ~~If a person does not reduce the level of the chemical in a food to the lowest level currently feasible, the resulting exposure must be calculated without regard to the levels set out in subsection (d).~~
- (b) Nothing in this section shall preclude a person ~~in the course of doing business~~ **otherwise** responsible for an exposure to ~~a listed chemical~~ **acrylamide in a food** from using evidence, standards, risk assessment methodologies, principles, assumptions, or levels described in Articles 7 and 8 to establish ~~an alternative~~ **an alternative** concentration for ~~a listed chemical~~ **acrylamide** in a food that is created by cooking or other heat processing ~~that is different from the concentrations provided in subdivision subsection (d).~~
- (c) Nothing in this section shall apply to parties to ~~an existing a~~ **an existing a** court-ordered settlement or final judgment ~~entered before~~ **entered before [OAL add the effective date**

of the regulation] to the extent that such settlement or judgment establishes a concentration of ~~the chemical~~acrylamide in a specific product ~~covered in the settlement or judgment~~that is different from the concentrations provided in subsection (d).

- (d) The concentration levels for ~~chemicals~~acrylamide in foods in this subsection are deemed to comply with subsection (a) if both the average concentration and unit concentration are less than or equal to those listed in subsection (d)(4). ~~In this subsection, ‘average concentration’ refers to the average of concentrations measured in multiple items or individual packaging units of the specific food product in the form the product is sold to California consumers. The unit concentration is the concentration measured in a single food item or individual packaging unit of the specific food product in the form the product is sold to California consumers.~~

(1) In this subsection, ‘unit concentration’ is the concentration of acrylamide measured in a single food item or individual packaged unit, such as a bag, box, or carton, of the specific food product in the form the product is sold to consumers in California. The unit concentration is based on a representative composite sample taken from the individual packaged unit.

A ‘representative composite sample’ is made up of portions of the food in the same proportion as in the whole individual packaged unit, e.g., equivalent proportions of crust and crumb (the inner portion) in the sample as in the whole loaf of bread.

(2) In this subsection, ‘average concentration’ refers to the average of unit concentrations measured. The average concentration is determined by adding together the unit concentrations of at least five samples taken over a period of no less than 60 days with no less than 10-day intervals between sampling and then dividing this total by the total number of samples.

(3) The measurement of the concentrations described in subsection (d) must be conducted by a chemical analysis laboratory with International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) standard ISO/IEC 17025 accreditation.

(4) (1) Acrylamide concentrations are given in the table below in parts per billion by weight (ppb).

Foods/Food groups	Maximum average concentration level (ppb)	Maximum unit concentration level (ppb)
Almonds, <u>specifically</u> roasted almonds, roasted almond butter, and chocolate-covered <u>roasted</u> almonds	225	---
Bread, non-wheat-based products including loaves, rolls, buns, baguettes; <u>a. non-wheat-based products</u> <u>b. wheat-based products</u>	100 <u>100</u> <u>50</u>	---
Bread, wheat-based products including loaves, rolls, buns, baguettes	50	---
Cookies; <u>a. animal and animal crackers (sweet)</u> <u>b. thin and crispy</u> <u>c. sandwich wafers</u>	75 <u>75</u> <u>281</u> <u>115</u>	100 <u>100</u> <u>300</u> ---
Cookies, thin and crispy	281	300
Cookies, sandwich wafers	115	---
Crackers, <u>specifically</u> savory <u>crackers</u> , including crispbread	350	490
Potato <u>or sweet potato</u> products; <u>a. French fried potatoes</u> <u>b. sliced chips</u> <u>c. all other products, including hash browns and potato puffs</u>	280 <u>280</u> <u>281</u> <u>350</u>	400 <u>400</u> <u>350</u> <u>490</u>
Potato or sweet potato products, not otherwise specified, such as hash browns and potato puffs	350	490
Potato or sweet potato products, sliced chips	281	350

Foods/Food groups	Maximum average concentration level (ppb)	Maximum unit concentration level (ppb)
Prune juice, 100% (not from concentrate)	---	250
Prune juice, made with concentrate	---	150
Waffles	280	---

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.6, Health and Safety Code.