CSPI Center for Science in the Public Interest
Publisher of *Nutrition Action Healthletter*

May 6, 2005

Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

Re: Acrylamide

Dear Ms. Oshita:

The Center for Science in the Public Interest appreciates the opportunity to comment on OEHHA's proposed action regarding acrylamide. CSPI, a nonprofit organization that focuses on food safety and nutrition, has 100,000 subscribers/members in California (900,000 in North America) and has been participating in policy debates about acrylamide since 2002. CSPI commissioned tests of acrylamide levels in foods in May 2002 and in June 4, 2003, petitioned the U.S. Food and Drug Administration (FDA) to take specific regulatory actions to reduce acrylamide levels in processed foods. We also filed comments (which included the petition to the FDA) with OEHHA EPA on September 18, 2003.

Acrylamide is a recognized carcinogen in animals and a probable carcinogen in humans. We are pleased that OEHHA recognizes those aspects of acrylamide. Judging from OEHHA's risk estimates, it appears that the acrylamide in food causes on the order of 1,500 cancers per year. Another way of expressing that is that of the almost 300 million Americans, roughly 100,000 will develop cancer due to acrylamide.

While OEHHA recognizes that acrylamide poses a cancer threat to consumers, the action that it is proposing appears not to provide any meaningful protections. OEHHA would exempt the application of Proposition 65 by stating that "exposure does not occur" if acrylamide is:

- "formed solely from constituents naturally present in food and as a result of the food being cooked or heat processed." That represents a new exemption that runs contrary to previous applications and that would appear to violate the spirit, if not the letter, of the law;

- "reduced to the lowest level currently feasible using good cooking and manufacturing processes." We suspect that each food manufacturer and restaurant may argue that it is using good cooking and manufacturing processes and that the acrylamide levels in its

Tel: (202) 332-9110
Fax: (202) 265-4954
Home Page: www.cspinet.org
E-mail: cspi@cspinet.org

Suite 300
1875 Connecticut Ave., N.W.
Washington, D.C. 20009-5728

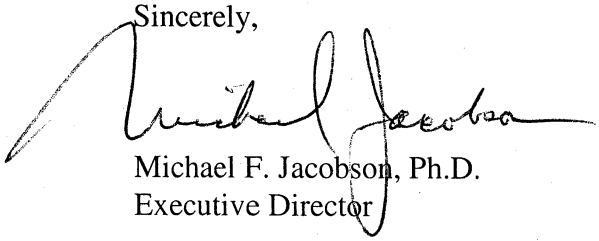
Michael F. Jacobson, Ph.D.
Executive Director

foods cannot be lowered. However, judging from the fact that acrylamide levels in different brands of the same food vary widely, it appears that makers of more-contaminated foods could modify their cooking and manufacturing processes or use different ingredients to achieve lower levels of acrylamide.

We recognize OEHHA's reluctance to require the labeling of thousands of foods that are contaminated with amounts of acrylamide in excess of what the state considers to be an acceptable cancer risk. But there are options between labeling everything and doing nothing, which the current proposed action would do. We suggest that OEHHA do something similar to what CSPI petitioned the FDA to do. We petitioned the FDA to (a) identify the median level of acrylamide in the most-contaminated categories of food (French fries, coffee, white bread, potato chips, etc.); (b) require companies whose products contain more than the median level of acrylamide to reduce those levels to the median. (Germany has required makers of the most-contaminated 10 percent of foods in a given category to lower acrylamide to get down to at least the 90th percentile.) At that point, the FDA would again survey foods, identify the median levels, and order another round of reductions. California could undertake a similar program, except that it would require labeling of foods that contain more than the median level of contamination within a category (and would be above OEHHA's threshold for labeling acrylamide contamination).

In a related proceeding, OEHHA will hold a public hearing on May 24th to discuss a special exemption for breads and cereals and the wording of a possible warning sign. We will provide our comments on those matters separately.

Sincerely,



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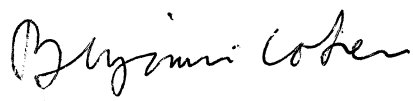

Benjamin Cohen
Senior Staff Attorney