

OEHHA Again Proposes Naturally Occurring Lead Levels for Chili and Tamarind Candies

PROPOSITION 65, OEHHA, RULEMAKING

By FIONA SMITH, July 13, 2020

The Office of Environmental Health Hazard Assessment (OEHHA) has **re-issued a proposed rule**¹⁾ to set the level of lead that is naturally-occurring in candies flavored with chili or tamarind. OEHHA first proposed the rule last year, but has reissued it because it was unable to complete the rulemaking within the required 12-month window, according to the agency [see **OEHHA Proposes Level for Naturally Occurring Lead in Candy Containing Chili or Tamarind**²⁾, April 16, 2019].

The rule would set the naturally-occurring level at 0.02 parts per million—meaning that candies with more than that would be deemed adulterated by the California Department of Public Health and would be banned for sale in the state. The rulemaking came after the **Center for Environmental Health petitioned OEHHA**³⁾ to use its regulatory power under **Health and Safety Code Section 110552**⁴⁾ to set a naturally-occurring lead level for chili and tamarind candies [see **OEHHA Holds Public Hearing on Setting Naturally Occurring Lead Level in Candy**⁵⁾, July 17, 2017].

Tests of candies manufactured in California show no detectable levels of lead and "the vast majority" of the candies manufactured in Mexico likewise show undetectable levels, according to OEHHA.

"For any manufacturer that might be impacted, OEHHA believes this proposed naturally occurring level is achievable with minimal cost to the manufacturer by following good agricultural, manufacturing, and procurement practices, or by other currently feasible practices," according to OEHHA's Initial Statement of Reasons for the proposed rule.

OEHHA will schedule a public hearing on the proposal if a member of the public requests one by Monday, August 3, 2020. Public comments are due by Tuesday, August 18, 2020.

Resources for this article

1. re-issued a proposed rule

<https://oehha.ca.gov/risk-assessment/crn/proposed-adoption-new-chapter-and-section-naturally-occurring-lead-candy>

2. OEHHA Proposes Level for Naturally Occurring Lead in Candy Containing Chili or Tamarind

<https://prop65clearinghouse.com/articles/13800>

3. Center for Environmental Health petitioned OEHHA

<https://oehha.ca.gov/risk-assessment/hearing-petition-requesting-adoption-regulations-setting-naturally-occurring-lead>

4. Health and Safety Code Section 110552

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=110552.&lawCode=HSC

5. OEHHA Holds Public Hearing on Setting Naturally Occurring Lead Level in Candy

<https://prop65clearinghouse.com/articles/13125>