December 1, 2006

The Honorable Andrew C. von Eschenbach, M.D.
Acting Commissioner
Food and Drug Administration
Room 14-71
Parklawn Building
5600 Fishers Lane
Rockville, MD 20857

Dear Acting Commissioner von Eschenbach:

On behalf of our 800,000 United States members, we write to urge that the Food and Drug Administration ("FDA") immediately resume reporting the amounts of acrylamide in major brands of cereals, potato chips, French fries, unbrewed coffee, cookies, and other foods so that consumers can choose those brands that have the lowest amounts of this likely carcinogen. The FDA must act because, as discussed below, food companies have cast a veil of secrecy over how much acrylamide is in their products.

In 1991 the Environmental Protection Agency set an upper limit of 0.5 parts per billion ("ppb") for acrylamide in drinking water because acrylamide may cause cancer in people. In 1994 both the World Health Organization ("WHO") International Agency for Research on Cancer and the United States National Toxicology Program (comprised of the National Institutes of Health, the FDA, and the Centers for Disease Control) concluded that acrylamide is probably carcinogenic in people. Following the discovery in several countries of acrylamide in a variety of foods in early 2002, an expert meeting convened by the WHO and the United Nations Food and Agriculture Organization concluded in June 2002 that the presence of acrylamide in food is "a major concern."[1]

In December 2002 and March 2003 the FDA announced the results of its exploratory survey of products in 27 classes of foods sold in this country.[2] There were two principal results from this survey:

- There were high median levels of acrylamide for several categories of foods, including cereals (71 ppb), home-baked French fries (77 ppb), unbrewed coffee (196 ppb), cookies (199 ppb), restaurant French fries (288 ppb), and potato chips (400 ppb).

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[1] *Health Implications of Acrylamide in Food, Report of a Joint FAO/WHO Consultation* (June 25-27, 2002) at 1.

[2] The results are in Tables 1 and 2 at www.cfsan.fda.gov/~dms/acrydata.html (visited October 5, 2006).

- There were large differences in the amounts of acrylamide in different products within a class of foods. For example, among the 21 brands of cereal tested, the highest level – 1,057 ppb in Wheatena Toasted Wheat Cereal– was 96 times the lowest level in Familia Original Recipe Swiss Muesli (11 ppb). Among the 12 brands of unbaked French fries (excluding fast-food restaurants), the highest level – 218 ppb in Ore Ida Crispers – was 11 times greater than the lowest in Ore Idea Golden Twirls (20 ppb). Among the 16 brands of potato chips tested, the highest level – 2,510 ppb in Pringles Sweet Mesquite BBQ Flavored Potato Chips – was 21 times greater than the lowest in Utz's Homestyle Kettle Cooked Potato Chips (117 ppb). Among the nine brands of restaurant French fries tested, the highest level – 606 ppb in Popeyes– was three times the lowest in KFC (216 ppb). Among the seven brands of cookies tested, the highest level – 432 ppb in Stauffer's Animal Crackers – was 12 times the lowest in Archway Oatmeal Cookies (36 ppb). Among the 23 unbrewed coffees tested, the highest level – 359 ppb in Folgers Classic Roast – was seven times the lowest in Yuban 100% Columbian Coffee (51 ppb).

Unfortunately for consumers, the FDA has stopped publishing such detailed surveys on acrylamide levels. The most recent detailed FDA data for various brands of different foods (published in July 2006[3]) are for November 2003-October 2004, and those data are for different brands than those first examined by the FDA in 2002/2003.

In July 2003 the FDA also urged California's Office of Environmental Health Hazard Assessment to abandon its proposal – pursuant to California's Proposition 65 – to require labeling of foods with high levels of acrylamide until the FDA finished its analysis – which it said "is expected to take 2-3 years."[4] As you know, the FDA has not met its deadline.

Our recent survey (enclosed) of 30 products reveals that manufacturers are refusing to tell consumers how much acrylamide is currently in their products. (We contacted the makers of the three products with the highest amounts of acrylamide and the two products with the lowest amount of acrylamide in the 2002/2003 FDA surveys for each of the six classes of foods that are, according to the FDA's most recent analysis,[5] the most important sources of acrylamide for the average American: restaurant French fries, home-baked French fries, potato chips, breakfast

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[3] www.cfsan.fda.gov/~dms/acrydata.html (Table 4)(visited October 5, 2006). The acrylamide data for FY 2006 published by the FDA in October 2006 are averages for particular types of food and do not reveal the amounts for different brands of the same food. www.cfsan.fda.gov/~dms/acrydat2.html (Table 4)(visited November 3, 2006).

[4] See July 14, 2003 letter from Deputy Commissioner Lester M. Crawford to Joan E. Denton, Director of Office of Environmental Health Hazard Assessment at 3.

[5] http://www.cfsan.fda.gov/~dms/acryexpo/acryex4.htm(slide 4) (visited October 5, 2006).

cereals, cookies, and coffee.)

Archway, Chick-fil-A, General Mills, Heinz, Kellogg's, Popeyes, and Richfood said they do not test for acrylamide. Utz said its last testing for acrylamide in its potato chips was done several years ago. Wheatena said it currently tests for acrylamide levels in its cereal but would not reveal the amount. The other 14 companies – ConAgra, Familia, Fuddruckers, Hill Bros., Kettle, KFC, Kraft, McKee, Melitta, Procter & Gamble, Stauffer, Sunbelt, Wendy's, and Whole Foods – did not answer our question.

We believe that it is imperative that the FDA immediately resume testing and then publishing the amounts of acrylamide in the major brands of the foods that are the most important sources of acrylamide so that consumers (including parents of young children) can pressure the companies with the most-contaminated products to reduce the amount of this likely carcinogen.

Of course, more important than testing for acrylamide would be for the FDA to behave as a regulatory agency and set limits on acrylamide in various categories of food, as CSPI requested in its petition filed June 4, 2003. The FDA's initial enthusiasm to minimize acrylamide levels has certainly flagged from the days when the FDA stated "Regulatory options. FDA will develop and revise regulatory options as additional knowledge is gained on acrylamide in food." (Draft Action Plan for Acrylamide in Food, September 20, 2002); "It's alarming – nobody wants it in the food supply....We're trying to do it [form a consensus with international scientists on how to eliminate acrylamide] in as few months as possible." (Lester Crawford, in Reuters article, October 1, 2002); and "We want to reduce these levels to the greatest extent feasible." (Joe Leavitt, USA Today article, October 8, 2002). We hope that with your interest in preventing cancer, the FDA will revive its efforts to reduce acrylamide levels as soon as possible.

Sincerely,

Michael F. Jacobson, Ph.D.
Executive Director

Benjamin Cohen
Senior Staff Attorney

enclosure

cc: Robert E. Brackett
Director
Center for Food Safety and Applied Nutrition
Food and Drug Administration