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# Acrylamide law set for June vote

**By Sara Lewis**

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A draft regulation rendering industry codes of good practice for lowering the naturally-occurring contaminant acrylamide mandatory is scheduled for a 19 June vote in the newly-renamed 'Novel food and toxicological safety' section of the Standing Committee on Plants, Animals, Food and Feed (PAFF), a key Commission official handling the proposal revealed on 21 March.

Frans Verstraete, from the Food Processing Technologies and Novel Food Unit in the Commissions directorate general for health and food safety (DG SANTE), explained the timing for the draft law to the Safe Food Advocacy Europe (SAFE) annual conference on "EU food safety regulation: Putting consumers first." The vote could even come earlier as Member States want the acrylamide measure adopted as soon as possible. The Commission would adopt the regulation immediately after the PAFF vote, provided it was positive.

Verstraete said the proposal, for a Commission regulation, is up for discussion at the section's next meeting on 27 March. After that, the Commission has to put the draft law out for a four-week public consultation on the 'Better Regulation portal', reporting back to the PAFF on the comments received and including any changes thought necessary. The Commission has to send the draft regulation to Member States two weeks before a vote in the PAFF so that is a minimum six weeks, Verstraete said. The Commission is currently going for a 19 June vote but it will not wait for a meeting if, a vote can be scheduled earlier, although he did not expand on whether a different section would handle the vote or it would be done electronically or by post.

Verstraete also showed that the Commission would not be moved on the legal basis to be used for the upcoming law, despite wide criticisms from non-governmental organisations, including SAFE that it was wrong to use a hygiene regulation (852/2004) rather than contaminants legislation (regulation 1881/2006).

Indeed, SAFE Secretary General Floriana Cimmarusti opened the 21 March conference by flagging up NGO concerns about the draft regulation notably this question of legal basis.

But Verstraete insisted that the food hygiene regulation also has as its objective a high level of food safety including tackling chemical hazards and "acrylamide is a chemical hazard."

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Verstraete further stuck to his guns on the benchmark limits for acrylamide in the proposal, against calls for them to be made mandatory upper levels, so that foods exceeding the maximum amount set would be barred from the market.

Again, Cimmarusti had raised the question in opening the conference, but Verstraete said that they will allow regulators – and the food companies themselves – to check if mitigation measures are effective in bringing acrylamide down to levels that are as low as reasonably achievable (ALARA). The benchmarks reflect levels that can be achieved.

He added that it was "explicitly foreseen" that national authorities will have to enforce the requirement to apply mitigation measures, with companies having to provide evidence that they have done so when acrylamide levels exceed the benchmarks.

However, it is not only NGOs that are sceptical about the benchmark limits as some Member States, such as Belgium, point out that they will be harder for inspectors to enforce during official controls than binding maximum levels. NGOs say that the Commission is delegating controls to food business operators, a charge that Verstraete rejects as "not true." He insisted that operators will have a different and separate role from Member State competent authorities. "It does not have any effect on the responsibilities of Member States to perform official controls on the presence of acrylamide in food," he stressed.

Verstraete further dismissed claims that having only benchmark levels would mean food with high levels of acrylamide could still be kept on the market, telling the conference: "This is not true because even without maximum levels the rule is food when it is not safe cannot be placed on the market."

Nevertheless, Verstraete showed that the Commission had taken on board the criticism that the benchmarks in an earlier draft were based on old figures and said the most recent version of the regulation was based on the latest data, some of which was not yet published. The Commission further will start reviewing the benchmark levels immediately after the regulation's adoption.

Verstraete acknowledged that acrylamide, which forms when aspargine in high starch foods such as cereals or potatoes is heated and undergoes the Maillard reaction, browning the surface, was a genotoxic carcinogen. He said that it was not possible to set safe intake levels and that as a result the European Food Safety Authority (EFSA) had followed a margin of exposure approach in its June 2015 opinion.

Despite this Verstraete made clear that in drawing up the draft regulation and any legislation, risk managers – so the Commission plus the Member States through the PAFF in this case – have to take "other legitimate factors" into account, such as the costs and benefits of a measure. For example, the health benefits of eating fish have to be weighed against the risks of consuming methylmercury and in the case of acrylamide, Verstraete pointed out that high fibre products, which are generally better for health, contain higher levels that those with low levels.

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Moreover, he stressed that when setting any requirements, regulators had to make sure that it was feasible to achieve them. Since acrylamide forms in products during cooking then it is not present in the raw material, only the precursor aspargine, so it can be difficult to set maximum limits for manufacturers apart from in ready to eat products.

Verstraete said that "in the case of acrylamide the setting of maximum levels is not straightforward," pointing to crisps and fries where the potatoes had been stored over the winter allowing aspargine levels to rise. Freshly-harvested potatoes contain low levels of aspargine but it builds up over time.

Another problem was posed by traditional products which might contain higher acrylamide levels and a maximum limit would mean them being wiped from the market. Similarly, certain processing aides that help keep acrylamide levels down might not be permitted in organic foods. "We have to clearly assess all these consequences," Verstraete explained.

Nevertheless, the Commission will start work on a follow-up law setting maximum limits for ready to eat products such as baby foods and cereals as soon as this regulation is adopted.

The reason behind the regulation due for adoption in June is that FoodDrinkEurope's Acrylamide Toolbox, with its codes of practice for lowering acrylamide through choice of low aspargine varieties where possible, storage conditions and processing was "very variably implemented by food business operators."

Some companies were not even aware of acrylamide despite the products they made, Verstraete told the conference, "so it was clear that there was a need for regulatory measures."

The regulation will make it mandatory for all food business operators from the multinational to the local chip shop to apply mitigation measures to reduce the presence of acrylamide in food. But, Verstraete said: "It is important measures are tailored to the size of the establishment."

However, since home cooking is also responsible for a large part of acrylamide formation, consumers need to be made aware of the dangers. Verstraete said that as well as regulating, the Commission was working with Member States and consumer organisations on information campaigns.

The regulation will also require manufacturers to label foods with instructions for preparing them in a way that avoids acrylamide formation (so going for golden not mahogany).

Verstraete underlined that if regulators look for acrylamide in fries on the market as sold "you will not find it – it is in the baking," he said, noting that it was "sometimes a question of seconds."

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Moreover, responding to criticism in some quarters that the Commission was regulating on acrylamide rather than leaving it up to voluntary efforts, Verstraete explained that it was a processing contaminant that can be mitigated by good practices but that certain steps "required effort by the food business operator so are not going to be applied on a voluntary basis." For this reason, mitigation measures are included in the regulation as a mandatory requirement, "so it is not a voluntary approach."

Verstraete made clear that if the regulation is adopted in June, "we at EU level will have the strictest regulation on acrylamide" in the world.

Nevertheless, speaking after Verstraete Nusa Ubancic, Campaigns Director at Changing Markets, was unconvinced pointing out that the FoodDrinkEurope Toolbox was first developed 10 years ago, so could be expected to be widely applied and to see a reduction in acrylamide levels but this has not happened.

Ubancic flagged up studies showing that baby food and fries were placed on the market with high acrylamide levels and argued that benchmarks "are a bit arbitrary." She also criticised the legal basis, arguing "since acrylamide is a food contaminant we don't understand why the Commission decided to regulate acrylamide" under the food hygiene regulation.

For Ubancic "We see the regulation as a continuation of the self-regulatory approach which has so far failed to lower acrylamide levels."

Another concern that Ubancic raised was that how the regulation would be applied to imports from third countries.

Camille Perrin, Senior Food Policy Officer at the European consumer organisation (BEUC) also argued that the regulation should impose legally-binding maximum limits noting: "We really see important variations in similar foodstuffs." Perrin added: "Some manufacturers manage to do it so we don't see why all of them can do it."

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