

Office of Environmental Health Hazard Assessment



Matthew Rodriguez
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Edmund G. Brown Jr.
Governor

January 22, 2013

Drew Johnson
Acting Division Chief
Division of Chronic Disease and Injury Control
California Department of Public Health
P.O. Box 997377 MS 7200
Sacramento, California 95899-7377

Dear Mr. Johnson:

This letter is in response to a memorandum Dr. Donald Lyman sent on April 30, 2010 responding to the Office of Environmental Health Hazard Assessment's (OEHHA) Request for Relevant Information on the possible listing of bisphenol A (BPA) under Proposition 65.¹ BPA is a candidate for listing as known to cause reproductive toxicity. The potential listing would be by the authoritative bodies provision² of Proposition 65, based on findings by the National Toxicology Program (NTP). NTP made its findings in a report³ by the NTP Center for the Evaluation of Risks to Human Reproduction (NTP-CERHR) that BPA causes developmental toxicity at "high" doses.

After review of all the submissions received in response to the Request for Relevant Information, OEHHA has determined that BPA meets the criteria for listing under the authoritative bodies provision of Proposition 65. Accordingly, a Notice of Intent to List BPA will be published on the OEHHA website at www.oehha.ca.gov and in the California Regulatory Notice Register in the near future. Following its publication, there will be a 30-day public comment period regarding the possible listing. Comments should focus on whether or not the criteria for listing the chemical under Proposition 65 have been met (Title 27, Cal. Code of Regulations, section 25306). In the event that OEHHA finds the criteria have not been met after review of the comments, the chemical will be referred to the Developmental and Reproductive Toxicant Identification Committee (DARTIC) for its consideration as required by regulation (Title 27, Cal. Code of Regulations, section 25306 (i)).

¹ The California Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.5 et seq.

² Health and Safety Code section 25249.8(b) Title 27, Cal. Code of Regulations, section 25306.

³ National Toxicology Program – Center for the Evaluation of Risks to Human Reproduction (NTP-CERHR, 2008). *NTP-CERHR Monograph on the Potential Human Reproductive and Developmental Effects of Bisphenol A*. NIH Publication No. 08 – 5994.

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.

Your comments concern the importance of dental sealants in the protection of public health in California, and you request that OEHHA consider the public health benefits of dental sealants as we consider the listing of BPA. The listing of BPA under Proposition 65 would not prohibit use of BPA in any product and, consequently, would not require replacement of BPA in dental sealants. Rather, warnings would be required if levels of BPA released from dental sealants were above a Maximum Allowable Dose Level (MADL).⁴ If the chemical were to be listed, we would make it a priority to develop a MADL for BPA. This would reduce the likelihood of unnecessary litigation and warnings. In cases where the average use of a product by the average consumer does not result in exposure to a listed chemical that exceeds the MADL, no warning is required.

OEHHA's general practice, when feasible, is to propose a MADL within one year of the listing of a chemical. In many cases, we have been able to finalize a MADL at or near the time the warning requirement for a newly listed chemical takes effect.⁵ As you may be aware, Proposition 65 provides a "grace period" of 12 months after the chemical is listed before any interested party can sue for alleged violations of the Act. During that time, product manufacturers can evaluate their product exposures against the MADL and determine whether or not a warning is necessary. In some instances, OEHHA has been able to propose MADLs concurrent with or even prior to the listing of a chemical. If OEHHA makes a final determination to add BPA to the Proposition 65 list, we will consider whether it is feasible to release a draft MADL concurrent with the listing. At a minimum, we would make it a priority to develop and adopt a MADL for BPA at the earliest possible date following the chemical's listing.

OEHHA also can develop interpretive guidelines and safe use determinations to provide further guidance to businesses and the public concerning the applicability of Proposition 65 to specific products or uses of a chemical.⁶ OEHHA will consider developing these materials as appropriate if BPA is listed.

Thank you for your interest in Proposition 65. If you have any questions or concerns, please contact me at (916) 322-6325 or by email at Lauren.Zeise@oehha.ca.gov.

Sincerely,



Lauren Zeise, Ph.D.
Deputy Director for Scientific Affairs

⁴ Health and Safety Code section 25249.10(c) and Title 27, Cal Code of Regs., section 25821(c)(2).

⁵ Health and Safety Code section 25249.5(10)(b).

⁶ See Title 27, Cal. Code of Regs., sections 25203 and 25204.