



Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, California 95812-4010

Re: CMI PROP 65 COMMENTS TO OEHHA FOR BISPHENOL-A (BPA) BEING
CONSIDERED FOR LISTING BY THE AUTHORITATIVE BODIES MECHANISM

Dear Ms. Oshita:

1730 Rhode Island
Avenue, N.W.
Suite 1000

Washington, D.C.
20036

T. 202-232-4677
F. 202-232-5756

The Can Manufacturers Institute (CMI) appreciates the opportunity to submit these comments on the Office of Environmental Health Hazard Assessment for BPA being considered for listing by the Authoritative Bodies Mechanism. CMI is the national trade association of the metal can manufacturing industry and its suppliers in the United States. CMI members account for over 86 percent of annual domestic production of 135 billion food, beverage and general line metal cans; together they employ some 35,000 people with plants in 36 states. CMI member companies have more plants, 26, and more employees, 3650, in the state of California than in any other state in the nation.

CMI fully endorses the comments submitted to you on this matter by the Grocery Manufacturers Association.

CMI is commenting today to inform you its opposition to the listing of bisphenol-A (“BPA”) under Proposition 65. An unwarranted label on food and beverage cans could greatly disrupt the manufacture of metal cans and significantly reduce the availability of food and beverage products in California and hinder consumer ability to find nutritious, valuable and shelf stable foods and beverages, which represents about total canned edibles are 20% of unit sales for total edible categories, especially in these difficult times.

BPA has been used for over 40 years and is a key ingredient of the epoxy resins used in metal food packaging to prevent spoilage and contamination. The can coatings are produced by coating suppliers that use FDA approved materials. The Obama Administration and FDA say BPA is safe for current uses. FDA’s position on the safety of BPA concurs with the European Union, Canada, Australia, New Zealand, Japan and even California (for now).

Because adequate alternatives are not currently available, actions such as a Prop 65 listing, would severely impact an exceptionally wide range of canned, glass and other packaged food, from fruits and vegetables to soft drinks and beer.

FDA has begun working with the food industry to reduce or eliminate BPA exposure.

This important partnership should be encouraged to help reinforce the research efforts underway. The Prop 65 activity would undermine the authority of the FDA and Obama Administration to effectively regulate the safety of food, including packaging. FDA is expected to complete a safety assessment within the next 18 to 24 months. In addition, the National Institutes of Health has devoted \$30 million in ‘stimulus’ money to study the safety of BPA. Our industry welcomes FDA and NIH scientific review of BPA.

In its January 2010 BPA statement, both the HHS/NIH and the FDA urged consumers, including infants, not to change dietary behaviors because nutritional benefits outweigh any potential risk from BPA exposure.

A Prop 65 warning label that would be imposed by this Office would undermine FDA’s goal of limiting warnings on food labels to only those deemed necessary to protect the public health, based on credible scientific evidence. The Prop 65 warning label would convey a threat to human health that is unsupported by appropriate scientific evidence and is not supported by the conclusions about the safety of BPA drawn by FDA and other federal and international public health bodies.

Furthermore, any renewed efforts to restrict or malign the use of BPA in food can linings would undermine broader federal and state public health goals relating to food safety and encouraging a diet rich in fruits and vegetables. Cans are the most tamper-resistant and traceable food packaging, and are readily traceable throughout the distribution system. Canning sterilizes food and therefore avoids the risks of *listeria*, *E. coli*, or other pathogens of public health concern that may be found in fresh produce. Canned food also offers the lowest cost, most efficient means of delivering fruits and vegetables to the U.S. population, helping citizens meet the fruit and vegetable intake goals advised by the USDA/HHS Dietary Guidelines for Americans. These nutritional goals remain a priority for FDA, which, as noted above, emphasized that it is currently taking steps regarding BPA only as a “precaution” and is not recommending industry or consumer changes in food packaging or consumption.

Inexpensive and nutritious canned foods have become even more important in the current economic climate, with sales of canned foods increasing as Americans on tight budgets look to feed their families well at lower cost. The Prop 65 listing would mandate an erroneous warning on canned foods that is not supported by appropriate scientific studies, but could scare consumers away from these important and affordable sources of nutrition. The action would thereby frustrate the federal and state objectives of not changing consumption of fruits and vegetables, and ensuring the safety and affordability of a wholesome food supply.

The Metal Can Industry is an Important Part of California's Economy

California companies that manufacture metal cans are an important part of the state's economy. Manufacturers of cans along with the companies that provide supplies and materials for the cans provide well paying jobs in California and pay significant amounts in tax to the State and Federal governments.

Companies that manufacture metal cans employ approximately 3,650 people in the state and generate an additional 22,000 jobs in supplier and ancillary industries. These include jobs in companies supplying goods and services to can manufacturers.

These are good jobs, paying an average of \$53,470 in wages and benefits. And today, every job is important. In fact, in California the unemployment rate has reached over 12 percent. This means that there are already 2.2 million people trying to find jobs in the state, and collecting unemployment benefits.

Not only does the manufacture of cans create good jobs in California but the industry also contributes to the economy as a whole. In fact, in 2008 the metal can industry was responsible for as much as \$5.7 billion in total economic activity in the state. The broader economic impact flows throughout the economy, generating business for firms seemingly unrelated to cans. Real people, with real jobs, working in industries as varied as banking, retail, accounting, metalworking, even printing all depend on the metal can industry for their livelihood.

Not only does the metal can industry create jobs, it also generates sizable tax revenues. In California the industry and its employees pay over \$97.2 million in taxes including property, income, and sales based levies.

In sum, we are very concerned that a Prop 65 rule to needlessly list BPA in products would severely impact consumer confidence and severely restrict the wide range of canned (and glass) food and beverages available to consumers; shut down our facilities and put workers out of jobs in your state and the nation.

Please contact me at 202-232-4677 or gcullen@cancentral.com with any questions.

Sincerely,



Geoffrey Cullen
Vice President of Government Relations