



September 26, 2016

Office of Environmental Health Hazard Assessment  
Sacramento office  
1001 I Street,  
Sacramento, CA 95814  
(916) 324-7572

Re: Opposition to proposed regulation regarding BPA in canned food and beverages

Dear Acting Director Lauren Zeise:

On behalf of the Breast Cancer Fund, I am writing to strongly urge OEHHA not to adopt the proposed regulations concerning Bisphenol A (BPA) warning requirements, which would allow vague signage to replace clear and product-specific warnings to customers about the presence of BPA in a product. The proposed regulation does not accomplish the policy outcome the state and public health advocates share, and that the Safe Drinking Water and Toxic Enforcement Act (Proposition 65) requires – clear and reasonable warning about public health risk. Instead, the proposed regulation is in direct conflict with the intent of Proposition 65 and undermines a consumer’s Right to Know.

The Breast Cancer Fund is a science based non-profit national organization focused solely on preventing breast cancer by reducing exposure to chemicals and radiation linked to the disease. Today, an astonishing 1 in 8 women will be diagnosed with breast cancer in her lifetime. We work with advocates and decision-makers to encourage research and policy initiatives to better understand, and respond to, exposures to toxic environmental chemicals that contribute to increased rates of breast cancer and other disease.

Scientific evidence clearly links exposure to BPA with increased risk of breast cancer. BPA is a synthetic estrogen that can disrupt the hormone system, particularly when exposures occur in the womb or in early life. Studies have found that even miniscule exposures can increase risks for breast cancer, prostate cancer, infertility, early puberty, metabolic disorders and type-2 diabetes. Some laboratory studies have even indicated that BPA may interfere with the efficacy of some breast cancer treatment drugs, such as Tamoxifen.

The Breast Cancer Fund was a leader in passing California legislation to ban BPA in baby bottles and sippy cups, and supported the passage of 11 similar state laws. We advocated for federal legislation to ban BPA in food packaging and tested consumer products for the presence of BPA. We authored reports on the level of BPA exposure from food packaging and published a study showing that changes in dietary intake of BPA can reduce levels of BPA in humans by over 60%. As a result of state legislative action and growing consumer awareness, the chemical industry asked the FDA to ban BPA from baby bottles, and infant formula packaging was later added to that ban. The Breast Cancer Fund has also launched *Cans Not Cancer*, a market campaign that aims to pressure manufacturers to stop using BPA in can linings. We successfully pressured Campbell’s Soup Company to publically state that they will stop using BPA in their can linings. Despite that public commitment to phase out BPA, our recent report – *Buyer Beware- Toxic BPA and regrettable substitutes found in the lining of food cans* – found that 67% of cans still have BPA, including 100% of Campbell’s cans. BPA’s continued prevalence in the market means that OEHHA still has much to do to protect California consumers from BPA exposure in can linings as

well as other products. Consumers have a right to know which specific cans contain this toxic chemical so they can make more informed decisions about what they will feed themselves and their families.

OEHHA's new proposal would allow general warnings at check-out stands regarding the presence of BPA in some canned foods and plastic bottles. This is not sufficient to protect public health for one key reason: it does not provide consumers with access to the information they need while comparing items on a shelf, which is the time at which they make a purchasing decision. Consumers cannot make safer choices for their families if they do not have information on the product itself at the time they are comparing products. A warning at a check-out counter while waiting to leave the store is simply too late. Customer warnings about the presence of BPA should be made available either directly on the individual products themselves or on the shelf, next to the products. Further, customer warnings should be product specific, instead of providing a general warning that some canned or bottled products might contain BPA.

Additionally, this proposed extension still provides retailers who fail to meet the warning display requirement the opportunity to remedy this failure within 24 hours. This unequal treatment of retailers as compared to general warning regulations is unwarranted in either this proposed regulation or the emergency regulation. Regulations should always design to incentivize regulatory compliance at all times. OEHHA has provided no reason for the allowance of this opportunity to cure while it is not permitted under general regulations, nor Proposition 65. As a result, we urge the elimination of the opportunity to cure provision in the proposal.

For these reasons, we urge OEHHA to reject the rule and require manufacturers and retailers to provide consumers with the information they deserve – and that the law requires. The proposed regulation will not achieve the public health goals of the state and will only further confuse consumers looking to make safer choices at the grocery store.

Thank you for your time on this important public health issue. Please contact Emily Reuman, Public Policy Coordinator, at (415) 321-2907 with any questions.

Very truly yours,

A handwritten signature in black ink that reads "Jeanne Rizzo". The signature is written in a cursive, flowing style.

Jeanne Rizzo, RN  
President and CEO