



September 26, 2016

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

Re: Proposed regulation regarding BPA in canned food and beverages

Dear Acting Director Lauren Zeise:

As undersigned organizations who are deeply concerned about environmental justice and reproductive health issues, we are writing to urge OEHHA not to adopt the proposed regulation concerning Bisphenol-A (BPA) warning requirements. We ask, as a matter of public health and safety, that any regulation require product-specific BPA warnings that are consistent with California law.

Since its approval by California voters in 1986, the Safe Drinking Water and Toxic Enforcement Act (Proposition 65) has effectively removed toxic chemicals from thousands of consumer products such as toys, candy, wooden play structures and shampoos. In the first decade after the law was passed, data collected through the federal Toxic Release Inventory also showed that emissions of chemicals on the Proposition 65 list decreased twice as fast in California than elsewhere in the country. Proposition 65 is one of the nation's oldest successful Right to Know laws. We are deeply concerned that if adopted, the agency's proposed regulation for BPA under Prop 65 could undermine the law when new chemicals are listed going forward.

We oppose the Office of Environmental Health Hazard Assessment's (OEHHA) regulatory action to amend Section 25603.3 Title 27, California Code of Regulations for warnings for exposures to Bisphenol A (BPA) – a known reproductive toxicant- from canned and bottled food and beverages.

As many of us have argued in our previous comments, the proposed regulation is bad public policy and is in direct conflict with the intent of Proposition 65. The proposed regulation undermines consumers' Right to Know and denies consumers their right to protect themselves from toxic BPA exposure.

1. OEHHA's proposal will delay industry's transition to safer products.

Canned food and beverage manufacturers have had sufficient time to provide product-specific warnings or transition from toxic BPA epoxy linings in their products. Eden Foods is an industry leader in canned food products, is also at the forefront of transparency, disclosing its can and can liner suppliers, and has already fully transitioned from BPA. According to the Breast Cancer Fund's Buyer Beware report, no BPA was found in Eden Foods cans that were tested in



2015.¹ By the end of the emergency regulation period in October 2016, companies will have had 18 months to transition away from BPA, or adopt clear and reasonable warnings as required under Prop 65. It is important to note that this is six months longer than any other industry has been given since Proposition 65 was enacted by California voters.

In June, the Center for Environmental Health conducted a small survey of canned food brands which we knew from previous testing had been using BPA linings in 2015. We found that over 80% of cans (26 of 32) still were using BPA linings, indicating that the emergency regulation adopted in April 2016 had not speeded the transition to alternative linings. (See Appendix A.)

OEHHA's proposal also sets a bad precedent for innovation. A number of leading food companies have made the transition from BPA. The emergency rule and the current BPA proposal rewards companies that continue to use this toxic chemical in their canned food linings at the expense of these innovative leaders, which is contrary to the intent of Proposition 65 and to the principles of California's Green Chemistry Initiative.

2. OEHHA's proposal denies consumers their Right to Know about toxic exposures as guaranteed by Proposition 65

The proposed warnings will not provide consumers with the information they need when they need it - on canned foods at the time that consumers select them. This will prevent consumers from making informed decisions about their exposure to BPA. The proposed BPA warning regulations are inconsistent with OEHHA's newly adopted general warning regulations, which provide a safe harbor for warnings that are product-specific and in appropriate languages.

It is especially important that any Proposition 65 warning for BPA in canned food be provided in the languages spoken by California's diverse communities. The proposed regulation must ensure consumers have equal access to information that allows them to avoid exposure to a known reproductive toxicant.

The proposed regulation directly undermines consumers' Right to Know, as written in Proposition 65. The statute requires companies to provide consumers with a "clear and reasonable" warning when products expose consumers to chemicals known to cause cancer or reproductive harm. OEHHA's proposal, allowing warnings on generic five-by-five inch point-of-sale signs that ambiguously reference "many cans" is neither clear nor reasonable. Without information about which canned foods contain BPA, consumers are denied their Right to Know about BPA exposure. Moving forward with the proposed regulation sets a bad precedent for future hazardous chemicals regulated under Proposition 65.

¹ Breast Cancer Fund. "BPA Buyer Beware." (2015)
<http://www.breastcancerfund.org/assets/pdfs/publications/buyer-beware-report.pdf>



General Proposition 65 warnings in commercial retail outlets are not effective. When such warnings fail to specify the product and/or chemical in question, consumers are desensitized to the real and avoidable harm from chemical hazards.

Furthermore, vague and ineffective warnings contribute to on-going criticisms of the statute itself, weakening the public perception of the law and Californians' faith in the agencies responsible for regulations. As a result of these criticisms, the undersigned organizations have over the last four years repeatedly had to defend Proposition 65 from legislative proposals that would have weakened the law and harmed public health in California.

Proposition 65's most important contributions to public health are the innumerable instances of "quiet compliance," in which companies pro-actively reformulate their products to comply with the law. The proposed BPA rule undermines this compliance incentive and instead encourages food companies to postpone reformulation to safer can linings.

OEHHA's proposed regulation also undermines Proposition 65's embedded compliance incentive by giving retailers a grace period after they are found in violation of the law (the cure provision).

3. OEHHA's proposal undermines CalEPA's commitment to Environmental Justice

California Government Code Section 65040.12 section defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."² For this reason, we believe the agency's proposed regulation shows a reckless disregard for the standard enshrined by Executive Order 12898 and therefore poses a threat to the environmental health and safety of the public. The proposed amendment to Proposition 65 will result in a disproportionate burden of harm on low income California communities because consumption of canned food is related to income: people with incomes over \$70,000 per year consume canned foods less frequently than lower income Americans do. Participants in the Supplemental Nutrition Assistance Program (SNAP) consume canned food more frequently than others.³ Over 30% of all fruit consumed in SNAP and Women, Infants, Children program (WIC) households is canned, as compared to 25% of other households. Almost 40% of vegetables in SNAP and Women, Infants, Children program (WIC) households are canned, as compared to 31% in other households.⁴ BPA body burdens are negatively associated

² US Environmental Protection Agency <https://www.epa.gov/environmentaljustice>

³ Kevin B. Comerford. Frequent Canned Food Use is Positively Associated with Nutrient-Dense Food Group Consumption and Higher Nutrient Intakes in US Children and Adults. *Nutrients*. 2015 Jul; 7(7): 5586-5600. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4517017/>.

⁴ U.S. Department of Agriculture, Food and Nutrition Service, Office of Research and Analysis, "SNAP Food Security In-Depth Interview Study," by Kathryn Edin et al.. Project Officer: Sarah Zapolsky, Alexandria, VA: March 2013.



with income (meaning they are higher in people with lower incomes) and higher in people who report food insecurity.⁵

Without product-specific warnings, low-income consumers will have no way to know if they and their families are exposed to BPA from canned foods. OEHHA has argued that its rule is needed to insure that low-income families do not avoid canned foods altogether, yet its policy is likely to create avoidance of such foods. With product-specific labeling, low-income consumers would know the BPA content of canned foods and have the option to choose cans without BPA. Under the agency's proposal, low-income consumers' only option to avoid BPA would be to avoid **all** canned fruits and vegetables. Since OEHHA is mandated to uphold **CalEPA's commitment to Environmental Justice**, it must require product specific labeling of BPA in canned foods.

In a small informal survey of East Bay Area shoppers about BPA labeling and Prop 65 warnings (See Appendix B), CEH found shoppers in traditionally low-income, budget stores held the strongest opinions on the importance of labeling and concern about the presence of BPA in canned foods and beverages. In the brief survey of shoppers in 6 retail locations, 67 percent of shoppers said that a BPA warning on a canned product would be an important factor in their decision to purchase.

- “Yes, it’s important. I wouldn’t want to eat anything that causes harm” - 91 year old cancer survivor, 99 Cents Only, West Oakland, CA
- “I would not buy that, I’d look for BPA free. When I was pregnant I was always careful about plastic water bottles” - Mid-30s woman, 99 Cents Only, West Oakland, CA
- “It should be labeled like cigarettes” - Mid-20s woman, Trader Joe’s, Oakland, CA

The survey suggested that low income communities may be the most concerned about BPA and would use product specific information in their purchasing decisions.

The digital divide increases equity concerns for access to product information in low-income communities. Under the proposed regulation, a five-by-five, point-of-sale sign directs consumers to OEHHA’s website for further information about BPA exposure. The success of this rule assumes consumers have access to and the capacity to use a smartphone or other digital device before purchasing products.

This is an undue burden for low-income Californians who have less internet access than higher-income Californians, the “digital divide.” According to a 2013 multilingual survey by the Public Policy Institute of California, 58 percent of Californians report they have a smartphone and 56% use their cell phones to access the Internet or email. They report that the share of Californians using cell phones to go online declines with age and increases with income.

⁵ J. W. Nelson et al., 2012. Social disparities in exposures to bisphenol A and polyfluoroalkyl chemicals: a cross-sectional study within NHANES 2003-2006 Environmental Health 11:10.
<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3312862/pdf/1476-069X-11-10.pdf>



In a 2016 statewide poll, the California Emerging Technology Fund reports smartphone usage is rising, but smartphones are still limited devices. There is an “under-connected” class of internet users, so that income, ethnic/racial differences, and modes of access pose critical barriers to online access. While rates of user access to the internet at home is higher, consumers need access this information as they are about to pay for their purchase, not at home after they have already purchased the product.

4. Online information is not sufficient to replace product or shelf-tag warnings.

In addition to the smartphone access problems for low-income Californians, it is not reasonable to expect consumers to check a website about BPA in canned foods as required under the agency’s proposal. In particular, it is not reasonable to expect consumers to find and interpret online information about BPA in canned food while they are standing at the cash register in a grocery store. In practice, few consumers will check the proposed web page before making their purchases.

Any information provided online should be in addition to, not in place of, product specific warnings. If OEHHA develops a database of food and beverage products that contain BPA, we recommend that any information on the website should have requirements for accuracy and be consistently updated.

There is a minimal cost to labeling specific canned products. Some product manufacturers are already labeling their products as “BPA-free.”

5. OEHHA’s proposal sets a bad precedent for Proposition 65

BPA was added to the Proposition 65 list in May of 2015—leaving ample time for the standard regulatory process and public input. The proposed regulation will unnecessarily prolong Californians’ exposure to BPA. Businesses should comply with the newly adopted general warning regulations and provide product-specific warnings for food packaged in cans with BPA-epoxy linings to protect workers, low-income populations, pregnant women, children and other vulnerable populations. Products containing newly-listed chemicals in the future should provide the same product-specific information.

6. Conclusion

While the market is in transition away from BPA linings, safe harbor warnings should

- be product-specific,
- be available before the customer is in line to make a final purchase
- not require customers to look up additional food safety information on a website / smart-phone.



We urge OEHHA, as a leader for California and the nation, to take decisive action to protect communities- especially the most vulnerable ones - from the public health hazard of ingesting BPA. We thank you for your consideration of these concerns. Please withdraw this proposed regulation and take immediate action to provide consumers with the product-specific warnings that will equip them to protect their health and the health of their families.

Sincerely,

Michael Green, Center for Environmental Health
Kathryn Alcantar, Californians for a Healthy and Green Economy (CHANGE)

TBD:

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Alyssa Figueroa, Breast Cancer Action
Jaime McConnell, Women's Voices for the Earth
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Appendix A

BPA: Sample Can Testing Summary

June 2016

Method

In 2016, Breast Cancer Fund, Campaign for Healthier Solutions, Clean Production Action, Ecology Center, and Mind the Store Campaign produced a report titled *BPA: Buyer Beware*. In this report, 192 cans were tested for the chemical bisphenol A (BPA) and 129 (67%) contained BPA in the epoxy lining of the can and/or lid. Center for Environmental Health tested a sample size of 32 cans selected at random from the 129 that *Buyer Beware* reported to contain BPA. After purchase, each can was emptied, its contents were composted, and cans were washed with dish soap and water. A 4-5 square centimeter sample was collected from both the body and the lid of each can. Each sample was tested using an FT IR spectroscope and matched to a library of spectrums compiled for CEH by the Ecology Center.

Results

Twenty six of the 32 cans showed a 95% or higher match for BPA epoxy linings. Six of the eight remaining cans showed a 95% or higher match for non-BPA linings indicating a transition from the time cans were tested for *Buyer Beware*. The last two cans were not able to be matched to any spectrum in our library, and therefore did not match the spectrum for BPA.

Analysis

Though some companies have begun to transition away from BPA linings, the majority of cans tested from this sample (26 cans—81%) indicated that **no initiative has been taken to make a transition**, even after the emergency regulation to Prop 65 took effect. The highlighted items in the chart below are products manufactured by Campbell Soup Company. In 2012, this company projected a transition, and 4 years later, both the *Buyer Beware* report and testing by CEH indicate that no transition has been made. Major distributors such as Del Monte, General Mills, and J.M. Smuckers Company continue to use cans with BPA lining. There is some concern about this testing being redundant because certain cans were purchased at Grocery Outlets and retailers with slow turn around for products, especially because of their long shelf-life. However, most cans were purchased at retailers with a faster turn around such as Target, Safeway, and Lucky. Moreover, of cans purchased at Grocery Outlets, 29% indicated no match to BPA in their linings, proving that a transition has been made.

Results also reveal inconsistency in some companies' lining composition. For example, one product manufactured by Del Monte Foods indicated no match to BPA, compared to the other three Del Monte cans tested which still contained BPA.

The intent of CEH's testing was to decipher whether the emergency regulation to Proposition 65 (not requiring companies to disclose the presence of BPA to consumers in their



product packaging until they have had time to transition) had prompted companies to take advantage of the time allowed and transition away from BPA linings, so that consumers would not be deterred from purchasing their products. **Overwhelmingly, results indicate that companies have *not* begun a transition, emphasizing that the emergency regulation has been ineffective.**



PRODUCT	RETAILER	PARENT COMPANY	PRIOR BPA DETECTION	UPDATED BPA RESULTS
365 Everyday Value Organic Jelified Cranberry Sauce	Whole Foods Market	Whole Foods Market (P. LP.	BPA, Epoxy/Styrene-Acrylic2 (Body), BPA, Epoxy (Lid)	Body: BPA, Epoxy-Styrene-Acrylic; Lid: BPA, Epoxy/BPA, Epoxy-Styrene-Acrylic
Aunt Penny's Organic Black Beans	Grocery Outlet	Teasdale Quality Goods, Inc.	BPA Epoxy (Body); Oleoresin-BPA Epoxy2 (Lid)	Body: Polyester; Lid: Polyester3
Campbell's Chicken Broth	Grocery Outlet	Campbell Soup Company	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy; Lid: BPA Epoxy-Styrene-Acrylic-BPA Epoxy
Campbell's Cream of Mushroom Soup	Grocery Outlet	Campbell Soup Company	BPA Epoxy/Styrene-Acrylic2 (Body), BPA Epoxy/Polyester+PVC (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy; Lid: BPA Epoxy-Styrene-Acrylic-BPA Epoxy
Campbell's Pork and Beans	99 Cents Only Store	Campbell Soup Company	Epoxy (Body), Epoxy2 (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: BPA Epoxy-Styrene-Acrylic
Campbell's Spaghetti O's	Lucky	Campbell Soup Company	BPA Epoxy/Styrene-Acrylic2 (Body), BPA Epoxy/Styrene-Acrylic (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: Polyester (weak match)
Campbell's Tomato Soup	Target	Campbell Soup Company	BPA Epoxy/Styrene-Acrylic2 (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy; Lid: PVC2 (weak match)
Carnation Evaporated Milk	Grocery Outlet	Nestle S.A.	BPA Epoxy (Body); BPA Epoxy 1 (Lid)	Body: Polyester2; Lid: Polyester2
Del Monte Sliced Peaches	Target	Del Monte Foods, Inc.	Uncoated (Body); BPA Epoxy/Polyester+PVC (Lid)	Body: Oleoresin (weak match); Lid: Polyester (weak match)
Del Monte Cut Green Beans	Safeway	Del Monte Foods, Inc.	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy/PBC+P Polyester (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: Polyester (weak match)
Del Monte French Style Green Beans	Grocery Outlet	Fried Meier	BPA Epoxy (Body), BPA Epoxy (Lid)	Body: BPA Epoxy; Lid: BPA Epoxy
Del Monte Whole Kernel Corn	Safeway	Del Monte Foods, Inc.	BPA Epoxy/Styrene-Acrylic2 (Body); Polyester3 (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: Polyester3
Eagle Brand Sweetened Condensed Milk	Lucky	J.M. Smuckers Company	BPA Epoxy (Body), BPA Epoxy +PVC2-Acrylic3 (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: BPA Epoxy2 (weak match)
Goja Black Beans	Safeway	Goja Foods, Inc.	BPA Epoxy2-Styrene-Acrylic (Body), BPA Epoxy/PVC2-Acrylic3 (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy; Lid: PVC (weak match)
Goja Coconut Milk	Target	Goja Foods, Inc.	BPA Epoxy (Body), BPA Epoxy+PVC2-Acrylic3 (Lid)	Body: BPA Epoxy-BPA Epoxy-Styrene-Acrylic; Lid: PVC (weak match)
Green Giant French Style Green Beans	Safeway	General Mills, Inc.	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic; BPA Epoxy; Lid: BPA Epoxy/BPA Epoxy-Styrene-Acrylic
Libby's 100% Pure Pumpkin	Lucky	Seneca Foods Corporation	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: BPA Epoxy
Market Pantry Evaporated Milk	Target	Target Corporation	BPA Epoxy (Body); BPA Epoxy (Lid)	Body: Polyester2; Lid: Polyester2
Market Pantry Garbanzo Beans	Target	Target Corporation	BPA Epoxy2 (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy2; Lid: BPA Epoxy; BPA Epoxy-Styrene-Acrylic
Market Pantry Petite Diced Tomatoes	Target	Target Corporation	BPA Epoxy (Body); BPA Epoxy+PVC (Lid)	Body: Polyester; Lid: Polyester4
Market Pantry Whole Kernel Corn	Target	Target Corporation	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy; Lid: Polyester
Ocean Spray Whole Berry Cranberry Sauce	Safeway	Supervalu Inc.	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: BPA Epoxy/BPA Epoxy-Styrene-Acrylic
Progresso Chicken and Homestyle Noodles	Target	General Mills, Inc.	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy+PVC+PVC2 (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy; Lid: Polyester+PVC (weak match)
Progresso Light Chicken Corn Chowder	Target	General Mills, Inc.	BPA Epoxy/Styrene-Acrylic2 (Body); Polyester+BPA Epoxy+PVC2 (Lid)	Body: BPA Epoxy-Styrene-Acrylic-BPA Epoxy; Lid: Polyester (weak match)
Progresso Vegetable Classics Hearty Tomato	Safeway	General Mills, Inc.	BPA Epoxy/Styrene-Acrylic (Body), BPA Epoxy+PVC+PVC2 (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: Polyester (weak match)
S&W Black Beans	Safeway	La Costena	BPA Epoxy2 (Body), BPA Epoxy2 (Lid)	Body: BPA Epoxy2; Lid: BPA Epoxy2
Safeway (Signature) Kitchens Diced Tomato	Safeway	AB Acquisition, LLC	BPA Epoxy+Styrene-Acrylic (Body); BPA Epoxy (Lid)	Body: Polyester; Lid: Polyester3
Safeway (Signature) Kitchens Kidney Beans	Safeway	AB Acquisition, LLC	BPA Epoxy2 (Body), BPA Epoxy (Lid)	Body: BPA Epoxy2; Lid: BPA Epoxy
Swanson Chicken Broth	Grocery Outlet	Campbell Soup Company	BPA Epoxy/Styrene-Acrylic2 (Body), BPA Epoxy/Styrene-Acrylic (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: BPA Epoxy/BPA Epoxy-Styrene-Acrylic
Thai Kitchen Coconut Milk	Lucky	McCormick & Company, Inc.	BPA Epoxy (Body), BPA Epoxy (Lid)	Body: BPA Epoxy-Styrene-Acrylic; Lid: BPA Epoxy-Styrene-Acrylic-BPA Epoxy
Trader Joe's Coconut Cream	Trader Joe's	Aldi Nord	BPA Epoxy (Body); PVC2-BPA Epoxy (Lid)	Body: PVC; Lid: Polyester3
Trader Joe's Organic Joe's O's Pasta	Trader Joe's	Aldi Nord	BPA Epoxy+Styrene-Acrylic2 (Body); Polyester (Lid)	Body: Styrene-Acrylic (weak match); Lid: Polyester1



Appendix B

Shopper Survey on BPA and Prop 65 Warnings

East Bay, CA

Survey Dates: June 26-27, July, 5 2016

Background

Top officials from the California EPA have informed the public that they plan to extend the 6 month BPA Emergency regulation for Prop 65, thus delaying BPA labeling on canned products and pushing retailers to transition to safe alternative materials for the epoxy lining of canned food and beverages. In discussions with the Governor's Office, CEH was asked:

- “What is going on (in the marketplace), are we seeing the shift to safe alternatives? Do we have an idea about what kind of timeline the industry is on? What kind of compliance is going on (with Prop 65 - BPA Warning signs), even with the emergency regulation?
 - **Are we seeing signs from industry that they are transitioning? That people are changing habits? (not buying BPA)**
 - Are people shipping non-BPA products to CA? (And BPA-cans elsewhere)
 - Information about how industry is reacting

Survey

The purpose of this short survey is to gather anecdotal information about the effectiveness of the existing Prop 65 warning on BPA in retail stores informing Bay Area shoppers.

We'd like to get a better understanding if product labeling would be more effective. We think yes, and then shoppers/consumers can exercise their Right to Know and make shopping choices accordingly.

Methods

Sample

The sample population targeted for this investigation was people doing their grocery shopping in common retail grocery outlets. The interviewer approached shoppers at random, and simultaneously made an effort to approach people of a wide variety of ages, genders, and cultural backgrounds, as well as parents with babies and small children. The diversity of the sample reflects that of the socio-economic and cultural diversity of the metropolitan area of the East Bay. Estimated: age range was 19 - 91 years old; all genders; and ethnicities included African-American, Latinx, South Asian, East Asian, and Caucasian.

Locations



The interviewer (Corinne) visited grocery locations around Oakland and San Leandro. Time of visits were determined by the interviewer’s availability. Time surveyed, store locations, and presence of Prop 65 Warning signs are listed below:

Sunday evening June 26, 2016

Trader Joe’s Lake Merritt 3250 Lakeshore Ave, Oakland, CA 94610	No Prop 65 Warning signs posted
Lucky 247 E 18th St, Oakland, CA 94606	Prop 65 Warning (BPA) on each register
Grocery Outlet 2900 Broadway, Oakland, CA 94611	Prop 65 Warning (BPA) on entrance door

Monday morning June 27, 2016

99 Cents Stores West Oakland 1440 7th St, Oakland, CA 94607	No Prop 65 Warning signs posted
Safeway Rockridge Shopping Center, 5130 Broadway, Oakland, CA 94611	Prop 65 Warning at each register

Tuesday morning July 5, 2016

Walmart West Gate San Leandro, 1919 Davis St, San Leandro, CA 94577	Prop 65 Warning on entrance door - generic, not BPA specific
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Protocol

The interviewer visited retail grocery stores near downtown Oakland, chosen based on local popularity and proximity to busy urban centers. The grocery stores were also chosen based on a affordability, and the San Leandro Walmart was chosen especially because it caters to low-income and budget shoppers.

The interviewer approached shoppers at random, while shopping inside and exiting the store. Simultaneously she made an effort to approach people of a wide variety of ages, genders, and cultural backgrounds, as well as parents with babies and small children.

Each survey with individual shoppers lasted approximately 1 to 5 minutes. The interviewer engaged shoppers on the topic of the Prop 65 Warning signs and BPA labeling in canned food and beverage products by asking the following questions:

Interview Questions:



1. Have you seen the Prop 65 warning sign referencing BPA?
 - a. Y/N

2. Proposition 65, the Drinking Water and Toxic Enforcement Act of 1986, requires businesses to notify Californians about significant amounts of chemicals they are exposed to. This enables the public to make informed decisions about protecting themselves from exposure to these chemicals.
 - a. Have you heard about Prop 65 before today? Y/N

3. Are you aware of BPA and its harmful health effects?

4. Do you think that if BPA were **labeled on canned food and beverage products** it would influence your decision about whether to purchase?
 - a. Y/N
 - b. How?

Limitations/Bias

An important purpose of the survey was prompt feedback and therefore **the major limitation was time** for a variety of reasons. 1) The survey was designed to be a short conversation, and therefore shoppers’ answers were brief and extensive opinions about the warning signs, BPA in canned products, and the consumer’s Right to Know were few. 2) The interviewer visited grocery stores at various times of day, i.e. Sunday evening and Monday morning, based on her own availability. 3) Therefore, the different shopping times had shoppers in a varied state of busyness. Some were in a rush, while others took more time to engage on the topic. However busy, shoppers’ interest varied across between/among grocery locations.

Lastly, the **small sample size** only reveals very limited feedback. A larger sample size of shoppers on multiple days would garner a better representation of regular shoppers’ views on the Prop 65 warning signs and BPA labeling.

Results

Store	Yes - BPA label would affect decision to buy product (negatively)	No - BPA label would not affect decision on whether to buy product	Unsure	Aware of warning sign	Familiar w/ BPA and health impacts	Not familiar with BPA

Trader Joe's *No sign	4	1	0	0% (0 of 5)	5	0
Lucky's *Sign at register	3	1	1	0% (0 of 5)	4	1
Grocery Outlet *Sign on door	3	1	1	40% (2 of 5)	1	4
99 Cent Store *No sign	4	1	0	20% (1 of 5)	1	4
Safeway *Sign at register	2	0	3	0% (0 of 5)	2	3
Walmart *Sign on door (not BPA)	4	1	0	40% (2 of 5)	3	2
Total: 30 shoppers	67% (20 of 30)	16% (5 of 30)	16% (5 of 30)	16% (5 of 30)	43% (13 of 30)	57% (17 of 30)

* 3 shoppers declined to state in Walmart and were not included in the sample

In the brief survey of shoppers at a variety of corporate retail grocery stores, the majority were very concerned about BPA in canned foods. Of the 30 shoppers surveyed, **67% said the BPA label would be an important factor in their decision to purchase**, and would mostly likely influence them to avoid the product.

Although the majority expressed concern about BPA after being asked about the warning sign, **most people (57%) were not familiar with BPA** and had not seen the warning signs.

Analysis

Very concerned

The majority of grocery shoppers in this brief anecdotal survey expressed a high degree of concern about BPA in canned foods and beverages. Of the 30 shoppers surveyed at 6 retail locations, **67 percent of shoppers answered yes, a BPA label on a canned product would be an important factor in their decision to purchase**, and would most likely influence them to



avoid the product. Those who expressed the most concern were shopping in the 99 Cent Store (4 of 5) and Walmart (4 of 5) and engaged on the topic expressing strong opinions:

- “Yes, it’s important. I wouldn’t want to eat anything that causes harm” - 91 year old cancer survivor, 99 Cent Store
- “I would not buy that, I’d look for BPA free. When I was pregnant I was always careful about plastic water bottles” - Mid-30s woman, 90 Cent Store
- Not familiar with BPA but “Good to know, I don’t want to have cancer!” - Mid-30s man, Walmart
- “Yes, it should be labeled like cigarettes”

Although the majority of those surveyed expressed concern about BPA after being asked about the warning sign, **most people (57%) were not familiar with BPA** and had not seen the warning signs.

Surprisingly, **among those who expressed the most concern** most had no knowledge of BPA, its health impacts, nor had seen the Prop 65 warning signs posted at stores. At Grocery Outlet, **4 of 5 shoppers had never heard of BPA but said if there could be a warning label, they would be concerned about the contents of the product.**

Not Very Concerned: “Labels Make No Difference”

Those individuals that said **no, a label made no difference in their purchasing decision were the minority (~17%)** and shopping in Lucky’s, Grocery Outlet, the 99 Cent Store, and Walmart. Their answers varied, some said labels don’t matter unless people are informed about the contents; price makes more of a difference in influencing their decision to purchase; or expressed indifference:

- “You can get cancer from anything” - Early 30s woman, Lucky’s
- “There’s danger in everything...I’m not very confident in any of the foods we buy, like my meat...” Mid 40s woman, 99 Cent Store
- “It doesn’t concern me...price is more of a factor (between buying BPA vs BPA-free labeled products) Late 20s trans woman

Those that expressed indifference engaged with the interviewer’s questions, but expressed no will to change their shopping behavior based on labeling. Some claimed they were familiar with BPA but expressed no alarm at the potential health impacts.

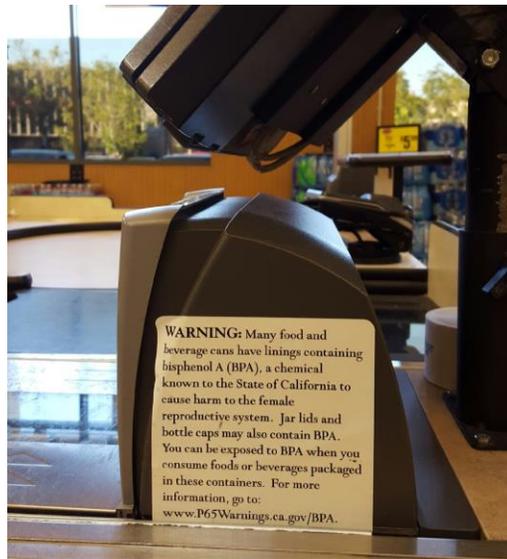
Unsure/Declined to State

Some shoppers said they were **unsure** of how they would react to the BPA label on a product (~17%). Of those who were unsure (5 of 30) the majority (4 of the 5) were not familiar with BPA and its health effects. They were shopping in Lucky’s, Grocery Outlet, and Safeway.

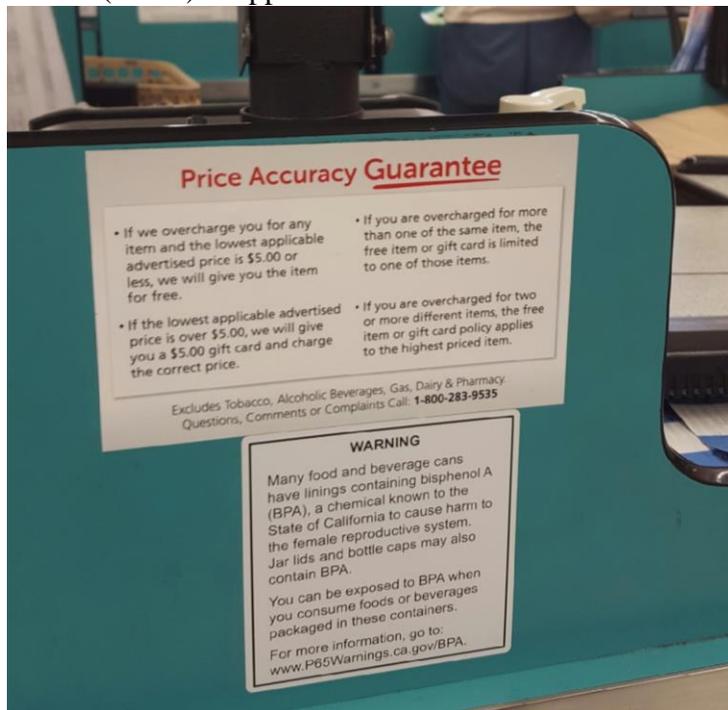
Three shoppers declined to state an opinion or answer, all located in Walmart.

Prop 65 Warning Signs

Lucky had the most noticeable signs, with warnings on the front of each register identifying BPA as the Prop 65 listed chemical. **However the majority (4 of 5) of shoppers surveyed in Lucky had not seen the warning signs and was not familiar with BPA.**



Safeway also had a BPA warning sign on each register, but posted below at about waist level and not very noticeable. Most (3 of 5) shoppers interviewed were not familiar with BPA.



Grocery Outlet posted the BPA warning sign at the entrance, on the sliding glass door. Most (4 of 5) shoppers interviewed were not aware of BPA not had seen the warning sign.



Walmart also posted the warning sign on their front door, but did not identify BPA in canned products. Most (3 of 5) shoppers interviewed were familiar with BPA and concerned about it in canned products.



The 99 Cent Store had no Prop 65 signs, and management had never heard of Prop 65 warnings for BPA in canned products (only for gardening products).

Trader Joe’s at Lake Merritt had no Prop 65 signs, although the managers looked up label info and told me a list of products that are “BPA-free.” The employee looked up canned products on their computer system and claimed the information given there is that Trader Joe’s is “transitioning away from BPA,” but no specific date was given.

Generally those shoppers interviewed in more affluent locations (Safeway and TJs) were less receptive and expressed less concern, and not interested in sharing information about their purchases.

Conclusion

Overall, there seemed to be **no a link between the presence of a Prop 65 warning signs for BPA and a higher number of shoppers who were aware of the warning signs and concerned about BPA.** Thus, the warning signs seem to be ineffective in informing customers to exercise their Right to Know and thus make purchasing decisions that could decrease their risk of exposure to BPA and its harmful health impacts. Labeling individual products with the BPA



warning would be more effective, and provide shoppers the opportunity to influence market demand.

Prior knowledge of BPA and its harmful health effects made no difference on whether shoppers thought labeling was important. All shoppers interviewed at the Lake Merritt Trader Joe's (a generally more affluent area) claimed to be familiar with BPA and its health impacts, but not all of them stated that it was important to be on the label. While in the 99 Cent Store, most had never heard of BPA (4 of 5) and were the most concerned and adamant the warning be on the label. Those concerned affirmed the Right to Know as very important.

Shoppers in traditionally low-income, budget stores shared the strongest opinions on the importance of labeling and concern about the presence of BPA in canned foods and beverages. Presumably they are more concerned about the negative health impacts of ingesting this chemical, even if unfamiliar, because the cost is higher. Studies show that low-income populations rely more heavily on canned foods to meet dietary needs, especially to subsist through the end of the month if they are receiving federal assistance (i.e. SNAP, Social Security, Unemployment, etc.) Those operating with budget incomes do not have the resources to spend on alternative foods or eliminating canned foods, or handling a health condition.