



September 26th, 2016

Ms. Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
Sacramento, California, 95814

P65Public.Comments@oehha.ca.gov

Dear Ms. Vela,

As a member of non-profit Asian minority importer association (OFA), we are writing to object the proposed amendment to Proposition 65 warning requirement for bisphenol A (BPA), and the emergency regulation (for the safe harbor warning method and content for exposures to BPA from canned foods and beverages sold at retail level).

Our reasons are as followed:

1. California is the only state that imposes a warning requirement on BPA. Contradictory to the FDA position on BPA, California is the only state among the 50 states that imposes a warning requirement on BPA for the use in food containers. On May 11, 2015, BPA was added to the Proposition 65 list of chemicals known to cause reproductive toxicity. This addition was made as a result of the voting of the meeting of a committee of this State's Qualified Experts (SQE), the Developmental and Reproductive Toxicant Identification Committee (DART IC), held on May 7, 2015. DART IC unanimously voted that BPA is a female reproductive toxicant. One must wonder why this panel of expert scientists took a totally inconsistent position, from that of the scientists at FDA.
2. FDA's position is that BPA is safe for the present use in food containers. "Based on FDA's ongoing safety review of scientific evidence, the available information continues to support the safety of BPA for the currently approved uses in food containers and packaging. People are exposed to low levels of BPA because, like many packaging components, very small amounts of BPA may migrate from the food packaging into foods or beverages. Studies pursued by FDA's National Center for Toxicological Research (NCTR) have shown no effects of BPA from low-dose exposure.... In the fall of 2014, FDA experts from across the agency, specializing in toxicology, analytical chemistry, endocrinology, epidemiology, and other fields, completed a four-year review of more than 300 scientific studies. The FDA review has not found any information in the evaluated studies to prompt

a revision of FDA's safety assessment of BPA in food packaging at this time. The studies reviewed were published or available from November 1, 2009 to July 23, 2013." See

<http://www.fda.gov/food/ingredientspackaginglabeling/foodadditivesingredients/ucm355155.htm>. "Uses of all substances that migrate from packaging into food,

including BPA, are subject to premarket approval by FDA as indirect food additives or food contact substances. FDA can make regulatory changes based on new safety or usage information. The original approvals for BPA were issued under FDA's food additive regulations and date from the 1960s."... "FDA continues to review the available information and studies on BPA. FDA will update its assessment of BPA and will take additional action if warranted. Based on FDA's ongoing safety review of scientific evidence, the available information continues to support the safety of BPA for the currently approved uses in food containers and packaging." See

<http://www.fda.gov/Food/IngredientsPackagingLabeling/FoodAdditivesIngredient/ucm064437.htm>

3. DART IC was advised not to consider the quantity of exposure at the May 7 meeting. Ms. Carol Monahan Cummings, Chief Counsel of the Office of Environmental Health Hazard Assessment (OEHHA) stated, right after the presentation by the representative of the Can Manufacturers Institution, that "the question before the Committee is not about whether or not the current human exposures to BPA are sufficiently high to be of concern....But the – whether or not the current exposures, for example, Dr. Plopper, from migration from the epoxy to the food is, you know, at any level in particular, isn't a question that would inform the Committee about whether or not the scientific evidence shows that the chemical causes a particular effect.... It's not a legal standard, and you don't have to determine today whether or not the listing will have any effect on any product or what kinds of exposures humans might have now or in the future." <http://oehha.ca.gov/media/downloads/proposition-65/transcript/may72015transcript.pdf> at 138:24 – 139:10.
4. California Asian minority communities have been suffering from various lawsuit bought by "Consumer Groups" funded by a few Southern California lawyers using "Proposition 65" and targeting minority importers. Our members often are forced to settle these frivolous lawsuits simply due to the cost to defending our imported products will most likely bankrupt our business and we will have to lay off most of our employees which are mostly minorities. Further, the cost of re-label only for California products deprive the Californian Asian communities to enjoy consuming these specialty products at a competitive cost as well as with warning labels, it only creates additional confusions in the communities.

We hope you understand that your possible actions are not legally based and it will once again place undue financial and legal burdens to the Asian communities. We strongly oppose these measures that are seem as another discriminative practices to our community!

Sincerely,

Oriental Food Association