



NORTH AMERICAN METAL PACKAGING ALLIANCE, INC.
2200 Pennsylvania Avenue NW, Suite 100W - Washington, DC 20037-1701 - www.metal-pack.org

April 7, 2016

Via E-Mail

Office of Administrative Law Reference Attorney
300 Capitol Mall
Suite 1250
Sacramento, California 95814

Re: Revised Notice of Emergency Action -- Warnings for Exposures to BPA

Dear Sir or Madam:

The North American Metal Packaging Alliance, Inc. (NAMPA)¹ provides this letter in response to the Office of Environmental Health Hazard Assessment's (OEHHA) revised notice of emergency action to amend Section 25603.3 Title 27 of the California Code of Regulations warnings for exposures to bisphenol A (BPA) from canned and bottled food and beverages, issued on March 31, 2016, which superseded the March 17, 2016, notice.

NAMPA remains fundamentally opposed to the listing of BPA under Proposition 65 (Prop 65). The listing is inconsistent with current risk assessments recently performed by the U.S. Food and Drug Administration (FDA) and the European Food Safety Authority. While the updated warning language in the revised notice addresses a few minor concerns, our members continue to be fearful of the underlying problem created by OEHHA when it opted not to set a safe harbor level/maximum allowable dose level (MADL) for oral exposure to BPA. We understand that OEHHA intends to develop a safe harbor level after the completion of studies being performed by FDA, which should conclude in late 2017. We urge the California Environmental Protection Agency (CalEPA), legislators, and administrative leadership to ensure that OEHHA sets an appropriate science-based BPA oral MADL by the expiration of the warning sign regulation(s). Otherwise, all food packaging, including those that do not directly use BPA, will be subject to legal challenge.

¹ NAMPA is a not-for-profit corporation committed to protecting health through the safety of metal packaging and metal packaged foods. NAMPA's membership includes companies and associations representing various sectors along the supply chain for the food and beverage packaging industry.

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The North American Metal Packaging Alliance is an organization whose objectives are to support risk-based regulations in North America; influence regulation in other geographies, provide customers with needed information regarding well-founded technologies, and advocate risk-based decision-making in technology decisions.



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Immediately after listing BPA in April 2015, OEHHA had indicated it would develop an oral MADL and did not announce its decision to abandon that effort until March 2016. Given the circumstance of no safe harbor level from OEHHA, the existence of potentially impacted products, and the impending enforcement deadline of May 12, 2016, NAMPA agrees that an emergency action related to required warning language is necessary. The point of sale warning is preferable over shelf warning signs that would result in multiple signs throughout a retail establishment.

Thank you for this opportunity. If you or your staff has any questions regarding this letter, please do not hesitate to contact me. I can be reached at kroberts@metal-pack.org

Regards,

Kathleen M. Roberts
Executive Director