

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

March 3, 2016

Linda S. Birnbaum, Ph.D.
Director
National Institute of Environmental Health Sciences
111 T.W. Alexander Drive
Rall Building
Research Triangle Park, NC 27709

Dear Director Birnbaum:

Bisphenol A, more commonly known as BPA, is a chemical component used in the manufacturing of certain beverage containers and food can liners.¹ Consumers are interested in the safety of BPA due to its widespread use.² The results of a recent study on the health effects of BPA contradicted the findings of government-funded research that suggested BPA is harmful to consumers, including research funded by the National Institute of Environmental Health Sciences.³ In light of the findings of the most recent study, which was conducted by the Food and Drug Administration (FDA), the Committee has questions about NIEHS's prior work on BPA.

Widespread consumer exposure to BPA created the need for reliable research on whether exposure to BPA is safe. NIEHS has touted the importance of its BPA research, and the NIEHS website itself proclaims "BPA exposures may have adverse health effects."⁴ Scientific analysis conducted by the FDA,⁵ the European Food Safety Authority,⁶ and Health Canada,⁷ however, found BPA is in fact safe for consumer use. These findings are incompatible with the NIEHS

¹FDA website, "Questions & Answers on Bisphenol A (BPA) Use in Food Contact Applications," *available at* <http://www.fda.gov/Food/IngredientsPackagingLabeling/FoodAdditivesIngredients/ucm355155.htm> (last accessed Feb. 18, 2016).

²NIEHS website, "Bisphenol A (BPA) Research Program," *available at* <http://www.niehs.nih.gov/research/supported/exposure/bpa/> (last accessed Feb. 18, 2016).

³John Hamilton, *Maybe That BPA In Your Canned Food Isn't So Bad After All*, NAT'L PUBLIC RADIO, Apr. 30, 2014.

⁴NIEHS website, "NIEHS-supported Bisphenol A Research Articles," *available at* http://www.niehs.nih.gov/research/programs/endocrine/bpa_initiatives/bpa-related/index.cfm (last accessed Feb. 24, 2016).

⁵FDA website, "Questions & Answers on Bisphenol A (BPA) Use in Food Contact Applications," *available at* <http://www.fda.gov/Food/IngredientsPackagingLabeling/FoodAdditivesIngredients/ucm355155.htm> (last accessed Feb. 18, 2016).

⁶European Food Safety Authority website, "Bisphenol A," *available at* <http://www.efsa.europa.eu/en/topics/topic/bisphenol> (last visited Feb. 18, 2016).

⁷Health Canada website, "Bisphenol A," *available at* <http://www.hc-sc.gc.ca/fn-an/securit/packag-embal/bpa/index-eng.php> (last accessed Feb. 18, 2016).

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position that BPA may be causing adverse health effects for consumers who come into contact with the compound.⁸

To help the Committee understand how and why NIEHS made its findings related to BPA, please provide the following documents and communications:

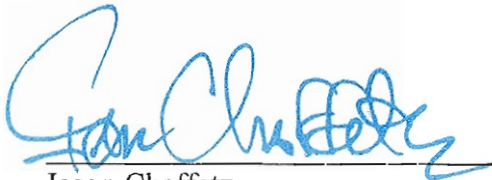
1. All communications referring or relating to BPA between any NIEHS employee and any FDA employee since April 1, 2008;
2. All documents and communications referring or relating to BPA research funded, or denied funding by NIEHS;
3. All communications between any NIEHS employee and any BPA research grantee(s) referring or related to press statements or public releases about BPA since April 1, 2008; and
4. All documents and communications referring or relating to NIEHS policies, procedures, or requirements that apply to grantees that release findings from research funded by NIEHS.

Please provide the requested information as soon as possible, but no later than by 5:00 p.m. on March 17, 2016. When producing documents to the Committee, please deliver production sets to the OGR Majority staff in room 2157 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Bill McGrath of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

⁸NIEHS website, "Bisphenol A (BPA) Initiatives," available at http://www.niehs.nih.gov/research/programs/endocrine/bpa_initiatives/index.cfm (last accessed Feb. 18, 2016).

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.