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U.S. Should Take Steps Now to Begin Protecting Public from BPA, a Ubiquitous Endocrine-Disrupting Chemical, Says New CPR Report

FDA, EPA, and OSHA Can Use Existing Laws to Warn the Public while Preparing Longer-Term Regulatory Controls

(Washington) – Federal health and safety agencies can and should use a set of existing legal tools to begin protecting the public from the chemical bisphenol-A (BPA), says a new report today issued by a network of regulatory law scholars. The white paper from the Center for Progressive Reform provides a series of recommendations for the Food and Drug Administration (FDA), Environmental Protection Agency (EPA), and Occupational Safety & Health Administration (OSHA).

"We know this chemical is entering our bodies and disrupting our endocrine systems, but the federal government hasn't yet shown enough urgency in dealing with it," said report co-author Noah Sachs, a Member Scholar of CPR and Associate Professor at the University of Richmond School of Law. "The good news is FDA, EPA, and OSHA have the authority to start warning the public about BPA and move toward reducing our exposure to it. It's important to address health threats like BPA carefully – but without delay."

Bisphenol-A is a ubiquitous industrial chemical found in everything from baby bottles to cash register receipts; the majority of human exposure comes through food and beverage consumption. BPA is an endocrine disruptor, meaning that it interferes with the body's hormone system, and its health risks include increased susceptibility to prostate and breast cancers, reproductive system defects and abnormalities, hormonal imbalances, brain development abnormalities, heart disease, and diabetes.

Several states and countries have instituted laws banning BPA in baby products. In response to consumer concerns, some individual companies have voluntarily eliminated the chemical from their products. Such developments are welcome, but there is no substitute for federal broad-spectrum protections for the unaware public or for the individuals who struggle to pay premium prices for "kid-safe" products. Even labels promoting "BPA-Free" don't promise protection as even less is known about some common substitute chemicals, such as Bisphenol-S (BPS), and what little is known shows potential endocrine-disrupting effects.

Federal agencies have established protocols that are designed to investigate chemicals that impact human health in relatively straightforward ways – the larger the dose, the bigger the harm. But with BPA and some other chemicals, researchers have found adverse effects at very low doses. This makes it more difficult for federal agencies to respond to the chemical, but the challenges are not insurmountable.

The CPR white paper, *Protecting the Public from BPA: An Action Plan for Federal Agencies*, recommends a two-phase approach to BPA regulation. During the first phase the FDA would pursue an aggressive research agenda on BPA, while at the same time issuing labeling standards for consumer products and more stringent guidance to industry on new uses of BPA in products that will come in contact with food. The second phase would include long-term regulatory controls, standards, and protections, to be promulgated once missing information about BPA becomes available.

Among the report's specific recommendations:

- **FDA** should pursue additional scientific study and data collection efforts, and issue guidance on BPA-specific safety testing and data submission requirements. The agency should issue guidance effectively prohibiting companies from using other endocrine disrupting chemicals while touting the products in labels as "BPA-Free," and issue guidance stating that any new Food Contact Substance Notification Applicants applying for a new BPA use will most likely face denial if the new use involves contact with certain foods, such as infant formula. In the longer term, FDA should rewrite the "Redbook" Protocols for BPA and other endocrine disruptors, which do not fit the traditional risk assessment mold due to their unique low-dose adverse affects. Ultimately, the agency should issue new regulations outlining specific use and safety parameters for BPA.
- **EPA** should update the existing IRIS toxicological database to reflect BPA's known low-dose risks, and it should aggressively pursue development of its proposed BPA "test rule" and Chemicals of Concern list. The agency should study both environmental and human health risk assessments. In the longer term, the agency should consider promulgating BPA regulatory safeguards, such as warning labels, specific use restrictions, and a potential ban.
- **OSHA** should protect workers from BPA risks, assessing workplace exposures and informing workers of risk through Material Safety Data Sheets (MSDS) in line with the new Hazard Communication standards. In the longer term, OSHA should use the General Duty Clause to establish Permissible Exposure Limits for BPA.

The white paper was written by Sachs and fellow CPR Member Scholars Thomas O. McGarity and Rena Steinzor, and CPR Policy Analysts Aimee Simpson and Matthew Shudtz. A previous CPR white paper issued in 2011, *Opening the Industry Playbook: Myths and Truths in the Debate Over BPA Regulation*, explored the state of the science on the chemical and the availability of alternatives.

The Center for Progressive Reform (www.progressivereform.org) is a nonprofit research and educational organization dedicated to protecting health, safety, and the environment through analysis and commentary. Visit CPR on the web at www.progressivereform.org and read CPRBlog at www.progressivereform.org/cprblog.

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