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June 15, 2010

VIA E-MAIL & U.S. MAIL

Ms. Carol J. Monahan-Cummings
Chief Counsel
Office of Environmental Health Hazard
Assessment
California Environmental Protection Agency
1001 I Street
23rd Floor, MS # 25B
Sacramento, CA 95814

Re: Draft Food Warning Regulations

Dear Carol:

On behalf of the American Beverage Association, thank you for your emails of May 17 and May 25 in which you invited comment on possible regulatory language for a Proposition 65 food warning safe harbor program by June 15. As you know, ABA has participated in each step of the food warning project, participating in workshops and working group meetings, submitting substantive comments, submitting draft regulations, and attending numerous meetings with OEHHA and other stakeholders.

ABA believes that the only way to move development of food warning regulations forward would be to meet with you and to then provide substantive comments.

The possible regulatory language that you circulated has several components that fundamentally depart from Proposition 65's structure and operation over more than twenty years and that place substantial, unjustifiable burdens on food manufacturers, distributors, and retailers. Furthermore, the proposed regulatory language and other information from OEHHA do not explain the need for these departures or the need to utilize a system so radically different from the compromise approach that ABA and others proposed last year.

We would like to meet with you and others at OEHHA to better understand how OEHHA envisions the proposed new food warning system working. Only after we better understand

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OEHHA's intent concerning the regulations can we offer the proper mix of substantive comments and suggested changes. If the May 17 language were to become OEHHA's position and be introduced in an APA process, we would need to oppose that language, but we believe a more productive path will be to meet and discuss the agency's thinking before substantive comments are made or a formal position is taken. We look forward to meeting with you and other interested parties as soon as possible and to then submitting substantive comments on or before September 1, 2010.

Sincerely,



Gary Roberts

cc: Dr. Joan Denton
Ms. Fran Kammerer
Ms. Patricia Vaughan