CalChamber®
CALIFORNIA CHAMBER OF COMMERCE

December 3, 2018

Ms. Monet Vela
Regulations Coordinator
Office of Environmental Health Hazard Assessment
1001 "I" Street
Sacramento, CA 95812

Sent via email: P65Public.Comments@oehha.ca.gov

RE: Proposed Amendments to Title 27, California Code of Regulations Section 25821(a) and (c): Calculating the "Level in Question for a Food Product and the Intake by the Average Consumer of a Product"

Dear Ms. Vela:

The California Chamber of Commerce and the below-listed organizations (hereinafter, "Coalition") thank you for the opportunity to submit comments regarding the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposed Amendment to Title 27, California Code of Regulations Section 25821(a) and (c). Our Coalition consists of more than 200 California-based and national organizations and businesses of varying sizes that, collectively, represent nearly every major business sector that would be directly impacted by OEHHA's proposed regulation.

OEHHA's proposed Section 25821(a) would prohibit averaging of concentration levels for a company's food product across different facilities or across different manufacturers or producers ("Average Concentration Proposal"). OEHHA's proposed Section 25821(c)(2) would establish an assumption that the arithmetic mean shall be used to calculate the rate of intake or exposure for average users of a consumer product unless more specific and scientifically appropriate data are available ("Arithmetic Mean Proposal").

1. Overview

OEHHA should not adopt these proposals, which place additional and unjustified burdens solely on the backs of businesses. Businesses already face the problem of a significant disparity in the burdens of proof in Proposition 65 cases in which a plaintiff does not need to prove the exposure level or show that anyone has been harmed. These proposals exacerbate the problem.

In addition, the proposals are inconsistent with the longstanding principle in Proposition 65's average exposure-based approach. For more than 25 years, the regulations have required compliance with Proposition 65 to be measured based on "the reasonably anticipated rate of intake or exposure for average users of the consumer product" at issue. Proposition 65's unique approach to regulation, which is based on exposure thresholds for warnings and not concentration thresholds, recognizes that different consumers may use the same product in a way

that results in different exposure levels. Any use of the average will necessarily overstate or understate actual exposure levels to certain individuals. Furthermore, the 1,000-fold uncertainty factor embedded into the Maximum Allowable Dose Level ("MADL") ensures a very conservative and protective application of Proposition 65's exposure-based approach to warnings.

OEHHA's proposals threaten the law's longstanding average exposure-based approach to warnings – without justification and with significant cost and risk to California businesses. Far from being a mere "clarification" to existing regulations, the proposals present entirely new regulatory requirements that will directly affect businesses in their Proposition 65 compliance efforts, as well as placing additional obstacles to a defendant meeting its burden of proof in litigation.

- The Average Concentration Proposal solves no actual problem that OEHHA can identify, yet it will impact manufacturers and have ripple effects upstream on agricultural growers through increased production costs, testing costs, and litigation risk. To evaluate exposure levels under Proposition 65, concentration data – just like consumption data – must reflect what is typical. It is not scientifically appropriate for OEHHA to exclude this important variable (across manufacturing facilities) from a case-specific consideration of the data. The proposal will distort the determination of the reasonably anticipated rate of exposure and render it unreliable.

- The Arithmetic Mean Proposal is also a solution in search of a problem. There is no need for OEHHA to put its thumb on the scale and favor one measure of average over all others in all instances. This proposal is inconsistent with sound principles of statistics and data evaluation. The appropriate measure of average depends on the facts and data in specific cases and is not amenable to a one-size-fits-all proposal. It will lead to increased litigation risk to companies and to overwarning.

The questions of how to determine the most appropriate measure of the average and how to average concentration data should continue to be left to a case-by-case determination. In any dispute about the data, courts are fully capable of evaluating the relevant evidence. *See generally Duran v. US Bank Nat'l Ass'n*, 59 Cal. 4th 1, 32 (2014). Indeed, the trial court in *Beech-Nut* evaluated the evidence presented by the parties concerning whether to use the geometric or arithmetic mean. *Environmental Law Found. v. Beech-Nut Nutrition Corp.*, 235 Cal. App. 4th 307, n.8 (2015). *See also Bell v. Farmers Ins. Exh.*, 115 Cal. App. 4th 715 (2014).

OEHHA should not adopt these proposals. What OEHHA characterizes as a lack of clarity on these issues is not a problem that needs a solution. Instead, it represents the appropriate flexibility needed for a reliable determination of average exposure levels.

Finally, we are concerned that the Initial Statement of Reasons ("ISOR") contains a confusing statement that in the context of food, the average consumption amount "would be the amount of a food eaten on the day in question." OEHHA should clarify that the issue of averaging

exposures over a period longer than a single day is not addressed in the proposals or the regulatory materials accompanying them.

2. Average Concentration Proposal

The longstanding principle behind Proposition 65's exposure-based approach is that warnings for consumer products are based on the "reasonably anticipated rate of exposure" by "average users." 27 Cal. Code Regs. § 25821(c)(2). The exposure level is a product of both the concentration level and intake rates. 27 Cal. Code Regs. § 25821(b). As a starting point for any consistent and workable application of the warning exemption, the "level in question" must be determined by estimating the typical concentration of the chemical in a product.

OEHHA tries to suggest that concentration data is not subject to averaging by implying that an exposure to a single individual exceeding the MADL can trigger liability. *See* ISOR at 11 (stating that "the intent of OEHHA's regulations [and] Proposition 65 . . . is focused on an individual exposure from a specific product."). This implication is incorrect and it cannot serve as any justification for the Average Concentration Proposal (or the Arithmetic Mean Proposal). If an exposure to a single individual exceeding the MADL could trigger a warning, it could mean that an outlier concentration result on a single unit of a product would necessitate warnings. It is entirely impractical to require warnings on an individual-by-individual basis, i.e., for some units of a product and not for others. If a business decides to warn for California consumers, it can only practically do so for all units of the product as a whole, which would result in overwarning in the scenario above.

The history of the current, long-standing regulations further demonstrates that the warning exemption is not tied to individual exposures because it requires category-specific intake instead of brand-specific intake:

> One commentator recommended that the regulation clarify that, for product exposures, only exposures of persons to the product of the individual business is to be used in calculating the risk. This was not the Agency's intention. The calculation of exposure to a chemical in a consumer product is based upon the reasonably anticipated intake. The reasonably anticipated rate of intake is based upon the degree of exposure to a particular medium. In the case of consumer products, the medium of exposure is the product category, not any particular brand of product. While this may require that calculations assume that an exposed individual will purchase only a single brand or label in a product category, this assumption does not appear unreasonable, since the advertising programs of most businesses aim to achieve exactly that result.

Final Statement of Reasons §§ 12701, *et seq.* and 12801, *et seq.*, p. 65 (June 1989) (emphasis added). Some individuals may consume one brand at a higher rate than other brands, yet those brand-specific intake rates do not override the intake rates for the general category *even if* the exposure level using brand-specific intake data exceeds the MADL.

Thus, concentration data is a variable that should be considered fully in determining the exposure level. There are a number of factors that can be variable in calculating the exposure level. In this proposal, OEHHA has chosen one possible variable to exclude in all cases from averaging, and for no good reason. As OEHHA recognized in the ISOR, other factors such as timing of manufacturing, which may affect "variability of chemicals in the product … is not directly discussed in the proposed amendments, as it does not lend itself to a rule of general application at this time." ISOR at 5. The same is true of variability that may come from production at different facilities. Yet this is precisely what OEHHA is targeting in this proposal. OEHHA's focus on variability from cross-facility production is misguided.

First, facility equipment is not a factor that typically affects concentration levels of reproductive toxicants. Food manufacturing facilities must meet Good Manufacturing Practices ("GMPs") for their operations under 21 C.F.R. Part 110. GMPs specify methods, equipment, facilities, and controls for producing processed foods for food safety. U.S. FDA guidance also specifies that food facilities should follow Hazard Analysis & Critical Control Points ("HACCP")[1] or Food Safety Modernization Act ("FSMA") safety plans, depending on the food or ingredient.[2] These plans are designed to avoid chemical, microbiological, and physical hazards in food production and address not only processing and manufacturing of food but also raw materials used by food manufacturing facilities. Indeed, OEHHA has not identified any widespread issue with contamination of reproductive toxicants through facility equipment or the processing and manufacturing aspects of food production. This cannot be a rationale to justify OEHHA's proposal in any event.

Thus, the only real potential source for variability is the ingredients that the facilities use to make foods. But there is variability of substances in food ingredients *even when a product is made at the same facility.* For example, products made at the same facility may use different ingredient suppliers over time depending on agricultural availability.[3] There may be even greater variability in concentration levels of food products made at a single facility as opposed to food products made at different facilities, depending on the supply chain. OEHHA has not provided any actual data establishing (1) the levels of variability from facility-to-facility and (2) why it is

---

[1] https://www.fda.gov/Food/GuidanceRegulation/HACCP/ucm2006801.htm
[2] https://www.fda.gov/food/guidanceregulation/fsma/ucm539791.htm
[3] OEHHA has indicated separately that it does not intend for the Average Concentration Proposal to extend upstream of the business in question to cover foods or ingredients supplied to it, and anticipates an amendment to the regulation to clarify this. For example, if a food manufacturer uses ingredients or foods supplied to it to make a finished product at a particular facility, the prohibition on cross-facility averaging does not prohibit the food manufacturer from averaging concentration results of the finished products that it makes with those ingredients (even if the upstream suppliers used multiple facilities). For the reasons discussed in this letter, this clarification does not solve the problems created by this proposal, nor does it avoid impacts to upstream agricultural growers.

not appropriate to average this supposed variability over all of the other factors in the exposure analysis that will be variable and can be averaged (such as consumption rates or usage rates among various brands in a category of products).

In fact, prohibiting averaging of concentration results across different facilities will often lead to unreliable estimates of typical concentration levels for purposes of Proposition 65. The only way the level of exposure can reflect the reasonably anticipated rate of exposure is if concentration levels also reflect what is typical. This exercise is not amenable to an absolute prohibition on cross-facility averaging, which draws the line at variability at the facility level in all cases. Just as a single product pulled from a shelf for testing or a single lot does not necessarily reveal typical concentration levels because of variability, the levels in an individual unit produced at a particular facility may not be typical of the product as a whole if it is made in multiple facilities. For example, a manufacturer may ship for distribution a food product made at Facility A one week and the next week ship the same product made at Facility B. Isolating a single facility in that instance will not capture typical exposure levels to average users.

There may be instances in which it is not appropriate to average concentration results across facilities. The possibility that it may not be appropriate in certain instances does not mean, however, that OEHHA must prohibit it in all instances, thereby distorting the relevant exposure level for many other products or businesses. Courts are fully capable of considering any relevant factors that affect how and whether to average across facilities under the facts of a case, and courts are well-equipped to address evidentiary and statistical issues involving the characterization of variable data sets.

OEHHA is simply wrong to argue that the court in the *Beech-Nut* case reached an incorrect decision on averaging concentration results across facilities or in any other manner. The *Beech-Nut* court did not evaluate the concentration data at all because "both sides stipulated to the admission of the underlying sampling data that was used by their expert witnesses." *Beech-Nut*, 235 Cal. App. 4th at n.8. That the private parties in this one case chose to stipulate to this issue, rather than litigate it, does not justify OEHHA's attempt to change the rules. The *Beech-Nut* court was not even called upon to apply the regulation that OEHHA proposes to change.

Moreover, OEHHA's proposal raises many practical problems.

- There may be manufacturers that use the same ingredients from the same suppliers across different facilities. The manufacturers cannot average the concentration results across the two facilities in that instance, which makes little sense. Yet to determine the level of exposure under OEHHA's proposal, the manufacturer would have to increase testing to test samples made at both facilities, which raises costs.

- A manufacturer may make the product at two facilities and receive ingredients from different regions or suppliers based on regional agricultural supply.

- To ensure a consistent concentration level across facilities, certain ingredients may need to be transported to other more distant facilities, which increases transportation costs and has adverse environmental impacts.

- Alternatively, manufacturers may need to reject certain lots of agricultural commodities supplied to them if they cannot average. This will have adverse impacts on agricultural growers as well as on the environment.

- A manufacturer may need to consolidate the agricultural suppliers it uses, which will also have adverse impacts on the grower community.

The proposal is also ambiguous and will lead to further disputes. For example, it refers to "different manufacturers or producers" as well as "different manufacturing facilities." It is not clear what is meant by a "manufacturing facility." Is it a production line, or a physical plant (which may have different production lines)? Is it a single building or an assemblage of buildings that are located on the same property? The proposal will add to the many issues that are already part of a business's burden of proof, increasing the likelihood that businesses will simply warn rather than risk litigation.

OEHHA's proposal significantly increases costs and has adverse environmental impacts without any showing of why this proposal is necessary or why it would have any benefit. Ultimately, it should be left to businesses to decide the most appropriate way to obtain representative concentration levels on a case-by-case basis, to make their own compliance determinations, and to be prepared to defend those determinations in court if challenged. For some businesses, this may indeed mean single-facility testing, but this is not a question that can be answered correctly by a "one-size-fits-all" rule. OEHHA should not adopt this proposal.

3. Arithmetic Mean Proposal

The Arithmetic Mean Proposal is also unnecessary, and OEHHA's approach is wrong as a statistical matter. We agree that the measure of average "should be based on the full range of exposures experienced by Californians." ISOR at 8. This does not mean that the arithmetic mean is necessarily the best way to capture average exposure levels. OEHHA should not adopt this proposal.

<u>The Arithmetic Mean Proposal Is Not Based in Statistics or Science</u>

There are various approaches to determining this exposure level, and no single approach is more appropriate in all cases than any other. OEHHA's draft proposal would favor the arithmetic mean in all cases as the correct measure of the average. This is a policy decision on OEHHA's part, and it is bad policy. Estimates of consumer exposure are only as good as the data and methods used to evaluate the data.

As explained in the attached analysis by Exponent, it is the data -- not a prescriptive rule -- that must determine whether the arithmetic mean, geometric mean, or another measure best

represents the average. For example, if a distribution of data follows the standard bell-shaped curve of a normal distribution, the arithmetic mean would typically be the statistically appropriate estimate of the average. If the distribution of the data is not bell shaped (i.e., is skewed), the arithmetic mean will be more influenced by the highest (and lowest) statistical values on the distribution curve and becomes less representative of the "average" value. Therefore, for skewed data, including intake or exposure data, estimates based on the geometric mean instead of the arithmetic mean may be more appropriate since the geometric mean is less influenced by the highest and lowest statistical values.[4]

As also explained in Exponent's analysis, OEHHA's proposed default that the arithmetic mean be used to determine exposures is not supported by other risk assessment agencies in averaging data across individuals. The guidance from these agencies is relevant to Proposition 65's exposure-based approach, which relies on calculating the exposure level based on exposures to "average users." In particular, OEHHA's ISOR fails to address the comments provided by the Coalition to a similar pre-regulatory proposal in November 2015 that pointed OEHHA to directly relevant guidance by the U.S. Centers for Disease Control and Prevention ("CDC"). The CDC manages the National Health and Nutrition Examination Survey ("NHANES"), which is referenced in the same regulatory provision at issue in OEHHA's draft proposal, and has specific guidance recommending the use of the geometric mean instead of the arithmetic mean in cases where the distribution of data is skewed:

> "Question 6. When should you use geometric means instead of arithmetic means?
>
> Answer: In instances where the data are highly skewed, geometric means should be used. A geometric mean, unlike the arithmetic mean, minimizes the effect of very high or low values, which could bias the mean if a straight average (arithmetic mean) were calculated."[5]

Moreover, the CDC notes that "many continuous variables, like food intakes, are by their nature very skewed."[6] Throughout its guidelines, the CDC highlights the importance of considering the shapes of the distribution of values and applying appropriate statistical methods. It makes no sense for OEHHA to prohibit geometric mean calculations of "the rate of intake or exposure" using NHANES data when the lead agency maintaining the NHANES data specifically endorses its use.

OEHHA attempts to justify the Arithmetic Mean Proposal as follows:

> For example, the geometric mean is used for a rating system that scores products based on two or more criteria, such as price, availability and sales data. However,

---

[4] Bernard Rosner, *Fundamentals of Biostatistics* 15-16 (5th ed. 1999).
[5] http://www.cdc.gov/nchs/tutorials/nhanes/faqs.htm.
[6] https://wwwn.cdc.gov/nchs/data/nhanes3/manuals/nh3gui.pdf

> the geometric mean is not typically used for identifying average consumption or usage levels of a food or consumer product.

ISOR at 8. OEHHA has cited no authority for this proposition, which is incorrect in any event. There is no distinction in statistical theory or practice between distributions based on one criterion versus distributions based on two or more criteria. Instead, the appropriate way to determine the average tendency of a distribution is to evaluate the shape of the distribution curve -- for example, whether it is a bell curve or a skewed distribution -- regardless of the number of criteria on which that distribution is based.

Nevertheless, distributions that combine two or more criteria can become more skewed by the combination of skewed distributions that are each based on a single criterion. The existing regulation describes how to determine the "reasonably anticipated rate of intake or exposure" for "average users" of the consumer product. For many consumer products, including food products, data on the "rate of intake" is available in two criteria: amount consumed per consumption occasion and number of consumption occasions per day. Individual consumers vary in both dimensions. For example, some consumers may eat a particular food very infrequently but in relatively large quantities when they do eat it; other consumers may eat small quantities of that same food every day. The "rate of intake" is therefore a combination of these two factors -- the same situation that OEHHA's discussion describes as "acceptable" for use of the geometric mean.

OEHHA's cited examples of the U.S. Environmental Protection Agency ("EPA") and California Department of Pesticide Regulation ("DPR") using the arithmetic mean for certain programs are not relevant here. ISOR at n. 14-15. Those references involve instances in which the agency is estimating average data on an individual-specific basis, and not across a population. As discussed above, for over 25 years, Proposition 65 warnings for consumer products have been triggered based on the exposure level to "average users," not to individual users. Moreover, the agency that maintains the survey data specifically referenced in Section 25821(c) -- CDC -- recognizes that the geometric mean is appropriate when distribution data for intake across multiple survey respondents are skewed. Furthermore, the cited EPA and DPR programs do not involve exposures to foods but rather long-term environmental exposures and occupational exposures, respectively. In any event, the 1,000-fold uncertainty factor incorporated into the MADL provides an additional and highly conservative protection for individuals who may exceed average use rates.

The best measure of the average must be determined on a case-by-case basis. Courts have applied the term "average" in specific cases, and without difficulty, based on expert testimony and other evidence. Notably, the Arithmetic Mean Proposal would directly contradict the court's finding in *Beech-Nut*. In that case, after taking expert testimony and considering other evidence, the Superior Court determined that the use of the geometric mean was more appropriate than the arithmetic mean in calculating the reasonably anticipated rate of intake for average users of the food products at issue. The Court of Appeal upheld this determination. The decision in *Beech-Nut* illustrates how OEHHA's proposal would lead to incorrect results in specific cases.

The Arithmetic Mean Proposal Will Lead to Overwarning

As OEHHA recognizes, "The distribution of food intake rates is most often skewed to the right, meaning that a relatively smaller number of people consume the product at significantly higher amounts than other consumers of the product." For such distribution curves, the arithmetic mean will always be higher than the geometric mean. How much higher it is depends on the shape of the distribution curve. But because the distribution of contaminants in food products is also often quite variable and skewed, for some food products the arithmetic mean of exposure can be at the 65th to 80th percentile, as compared to the geometric mean, which is expected to be similar to the median or 50th percentile.

When businesses elect to provide Proposition 65 warnings for a product, a warning is provided to all users of the product, not just those who use the product above a certain rate. Indeed, it would be impossible to provide warnings only to those who use the product above a certain rate. Using the geometric mean for products with skewed exposure distributions (such as most food products) leads to warnings for all users when approximately 50 percent of users are above the threshold level of exposure. This amounts to overwarning for the other half of users whose exposure is below the threshold. But using the arithmetic mean for such products would lead to warnings for all users when only 20 to 35 percent of users, for example, are above the threshold level, overwarning 65 to 80 percent of users. This result is bad policy and unjustifiable from both a scientific and public health standpoint. The usage data for users of a given category of products should be evaluated to determine the correct metric to use in determining exposure for average users of the product.

We understand based on discussions with OEHHA officials that the proposal is intended to create a default presumption rather than mandate use of the arithmetic mean in all circumstances. OEHHA points to its decision to preserve the prefatory "savings clause" in Section 25281 subsection (c) as a basis for this interpretation. This section states that "[t]he following assumptions shall be used to calculate the reasonably anticipated rate of exposure to a chemical listed as causing reproductive toxicity, unless more specific and scientifically appropriate data are available." 27 Cal. Code Regs. § 25821(c).

If it is indeed OEHHA's intent to create a default presumption rather than a mandate, then further clarification is needed in both the regulatory text and the FSOR in the event that OEHHA elects to move forward with the proposal. In that event, the regulatory text could benefit from specificity as follows (underlined):

> The following assumptions shall be used to calculate the reasonably anticipated rate of exposure to a chemical listed as causing reproductive toxicity, unless more specific and scientifically appropriate data <u>or methodologies</u> are available.

Likewise, if OEHHA elects to move forward with this proposal, any FSOR should also make clear that entities may rely on the prefatory clause in Section 25281 subsection (c) in using an alternative methodology to calculate the exposure to the average user.

To be clear, the most appropriate option is for OEHHA to withdraw the Arithmetic Mean Proposal in its entirety. Even if OEHHA's intent is not to require the use of the arithmetic mean in all cases but rather make it a safe harbor method for calculating the average, if a business determines that another measure of the average is more "scientifically appropriate," it faces more litigation risk. 27 Cal. Code Regs. § 25821(c). Therefore, the obvious practical effect of the Arithmetic Mean Proposal would be to significantly increase the number of Proposition 65 warnings on products and the number of consumers who are unnecessarily receiving Proposition 65 warnings. Otherwise, the burden is on the business to overcome the presumption. Presumptions have weight, and relying on them reduces litigation risk.

This is evidenced by OEHHA's safe harbor warning regulations and how heavily businesses have relied on them in the past 30 years. Indeed, the California Court of Appeal held that a Proposition 65 enforcer could not seek as court-ordered relief any warnings that differ from the safe harbor warnings. *Physicians Comm. for Responsible Medicine v. McDonald's Corp.*, 187 Cal. App. 4th 554 (2010). Likewise, businesses have relied greatly on OEHHA's published "safe harbor" MADLs and No Significant Risk Levels. Thus, even if OEHHA clarifies that the use of the arithmetic mean is a presumption rather than a mandate, it will still lead to incorrect determinations of the relevant exposure level and therefore to overwarning.

OEHHA should not adopt the Arithmetic Mean Proposal.

4. Cost Analysis

As discussed above, the proposals will have significant economic impacts in the form of increased testing, production costs, warnings, and supply chain impacts to manufacturers and to upstream agricultural growers. After conducting member surveys by our coalition partners, there was overwhelming consensus that both proposals would have significant increased costs to their Prop 65 compliance obligations. The Coalition disagrees in the strongest possible terms with OEHHA's conclusory statement that the proposals "will not have a significant statewide adverse impact directly affecting businesses…." ISOR at 12. The Coalition also disagrees with OEHHA's assertion that these proposals are necessary. The only necessity cited by OEHHA is an abstract one – i.e., a need for clarity without factual demonstration of how the current flexibility in the regulations has impeded Proposition 65's purposes. Contrary to OEHHA's assertion, a lack of clarity is not a problem that needs a solution; rather, it represents the flexibility needed to determine accurate estimates of the relevant exposure level under Proposition 65.

OEHHA should not adopt these proposals. If, however, OEHHA intends to advance this proposal, it must first conduct a cost analysis and provide evidence of an actual need for this proposal that justifies the costs.

* * *

Thank you for considering our comments.

Sincerely,

Adam Regele
Policy Advocate, California Chamber of Commerce

On behalf of the following organizations:

Advanced Medical Technology Association (AdvaMed)
Agricultural Council of California
Alliance of Automobile Manufacturers
Allwire, Inc.
Alpha Gary
American Apparel & Footwear Association
American Architectural Manufacturers Association
American Beverage Association
American Brush Manufacturers Association
American Chemistry Council
American Cleaning Institute
American Coatings Association
American Composites Manufacturers Association
American Fiber Manufacturers Association
American Forest & Paper Association
American Frozen Food Institute
American Herbal Products Association
American Home Furnishing Alliance
American Insurance Association
American Lighting Association
American Wood Council
Amway
APA – The Engineered Wood Association
Apartment Association of Greater Los Angeles
Apartment Association, California Southern Cities
Apartment Association of Orange County
Associated Roofing Contractors of the Bay Area Counties, Inc.
Association of California Egg Farmers
Association of Global Automakers
Association of Home Appliance Manufacturers
AXIALL LLC
Auto Care Association

Automotive Specialty Products
BayBio
Belden
Berk-Tek
Bestway
Betco Corporation
Bicycle Product Suppliers Association
Biocom
Biotechnology Industry Organization
Brawley Chamber of Commerce
Breen Color Concentrates
Building Owners and Managers Association of California
Burton Wire & Cable
California Automotive Business Coalition
California Construction and Industrial Materials Association
California Apartment Association
California Asphalt Pavement Association
California Association of Boutique & Breakfast Inns
California Association of Firearms Retailers
California Association of Health Facilities
California Association of Wheat Growers
California Attractions and Parks Association
California Building Industry Association
California Business Properties Association
California Cement Manufacturers Environmental Coalition
California Citizens Against Lawsuit Abuse
California Citrus Mutual
California Cotton Ginners Association
California Cotton Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Fuels and Convenience Alliance
California Furniture Manufacturers Association
California Grain and Feed Association
California Grocers Association
California Healthcare Institute
California Hospital Association
California Hotel & Lodging Association
California Independent Oil Marketers Association
California Independent Petroleum Association
California League of Food Producers
California Life Sciences Association
California Manufacturers and Technology Association
California Metals Coalition

California/Nevada Beverage Association
California New Car Dealers Association
California Paint Council
California Pear Growers Association
California Restaurant Association
California Retailers Association
California Seed Association
California Self Storage Association
California Small Business Alliance
California State Floral Association
California Travel Association
California Warehouse Association
Can Manufacturers Institute
CAWA – Representing the Automotive Parts Industry
Chambers of Commerce Alliance Ventura and Santa Barbara Counties
Chemical Fabrics and Film Association
Chemical Industry Council of California
Civil Justice Association of California
Coast Wire & Plastic Tec., LLC
Communications Cable and Connectivity Association
Composite Panel Association
Computing Technology Industry Association (CompTIA)
Consumer Electronics Association
Consumer Healthcare Products Association
Consumer Technology Association
Copper & Brass Fabricators Council, Inc.
Council for Responsible Nutrition
Del Monte Foods, Inc.
East Bay Rental Housing Association
Family Winemakers of California
Far West Equipment Dealers Association
Fashion Accessories Shippers Association
Federal Plastics Corporation
Flexible Vinyl Alliance
Footwear Distributors & Retailers of America
Fragrance Creators Association
Frozen Potato Products Institute
Fullerton Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Grocery Manufacturers Association
Grower-Shipper Association of Central California
Halogenated Solvents Industry Alliance, Inc.
Hardwood Plywood Veneer Association
Household and Commercial Products Association

Independent Lubricant Manufacturer Association
Industrial Environmental Association
Information Technology Industry Council
International Council of Shopping Centers
International Franchise Association
IPC – Association Connecting Electronics Industries
ISSA, The Worldwide Cleaning Industry Association
J.R Simplot Company
Juvenile Products Manufacturers Association
Loes Enterprises, Inc.
Lonseal, Inc.
Medical Imaging & Technology Alliance
Metal Finishing Association of Northern California
Metal Finishing Association of Southern California
Mexichem
Monterey County Farm Bureau
NAIOP of California, the Commercial Real Estate Development Association
National Association of Chemical Distributors
National Association of Manufacturers
National Confectioners Association
National Council of Textile Organizations
National Electrical Manufacturers Association
National Federation of Independent Business
National Lumber and Building Material Dealers Association
National Shooting Sports Foundation
Natural Products Association
Nisei Farmers League
NorCal Rental Property Association
North American Home Furnishing Association
North Orange County Chamber
Nutraceutical Corporation
OCZ Storage Solutions
Orange County Business Council
Outdoor Power Equipment Institute
Oxnard Chamber of Commerce
Pacific Egg and Poultry Association
Pacific Water Quality Association
Pacific Coast Producers
Pactiv Corporation
Parterre Flooring Systems
PepsiCo
Personal Care Products Council
PhRMA
Plastic Industry Association

Plumbing Manufacturers International
Polyurethane Manufacturers Association
Procter & Gamble
Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce
Resilient Floor Covering Institute
Retail Industry Leaders Association
San Diego County Apartment Association
San Diego Regional Chamber of Commerce
Santa Barbara Rental Property Association
Searles Valley Minerals
Sentinel Connector System
Seneca Foods Corporation
Sika Corporation
Simi Valley Chamber of Commerce
Society of the Plastics Industry
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Specialty Equipment Market Association
SPRI, Inc.
Sporting Arms and Ammunition Manufacturers' Institute
Styrene Information and Research Center
Superior Essex
TechNet
The Adhesive and Sealant Council
The Art & Creative Materials Institute
The Chamber of the Santa Barbara Region
The Coca-Cola Company
The Kitchen Cabinet Manufacturers Association
The Vinyl Institute
The Worldwide Cleaning Industry Association
Toy Industry Association
Travel Goods Association
Treated Wood Council
USANA Health Sciences, Inc.
USHIO America, Inc.
Ventura County Agricultural Association
Visalia Chamber of Commerce
Water Quality Association
WD-40
West Coast Lumber & Building Materials Association
Western Agricultural Processors Association
Western Growers Association
Western Independent Refiners Association

Western Mining Alliance
Western Plant Health Association
Western Propane Gas Association
Western State Petroleum Association
Western Wood Preservers Institute
Window & Door Manufacturers
Wine Institute
Writing Instrument Manufacturers Association

Attachment

cc: Matthew Rodriguez, Secretary, CalEPA
Julie Henderson, Deputy Secretary for Science and Health, CalEPA
Lauren Zeise, Director, OEHHA
Allan Hirsch, Chief Deputy Director, OEHHA
Carol Monahan-Cummings, Chief Counsel, OEHHA
Mario Fernandez, Staff Counsel, OEHHA
Keely Bosler, Cabinet Secretary, Office of the Governor
Saul Gomez, Deputy Cabinet Secretary, Office of the Governor