

# 2014 ASTA Regulatory Workshop

ASTA

Updates on Prop 65 and Noxious Weed Seeds

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# California Proposition 65

## Safe Drinking Water and Toxic Enforcement Act of 1986 – Prop 65

- Requires warnings any exposure to carcinogens or reproductive toxins, including through food and consumer products

Several hundred individual substances are listed by the Office of Environmental Health Hazard Assessment (OEHHA)



# California Proposition 65

OEHHA has listed several substances of interest to the spice industry

- Acetaldehyde
- Estragole
- Methyl eugenol
- Pulegone

*B*-Myrcene – proposed for listing



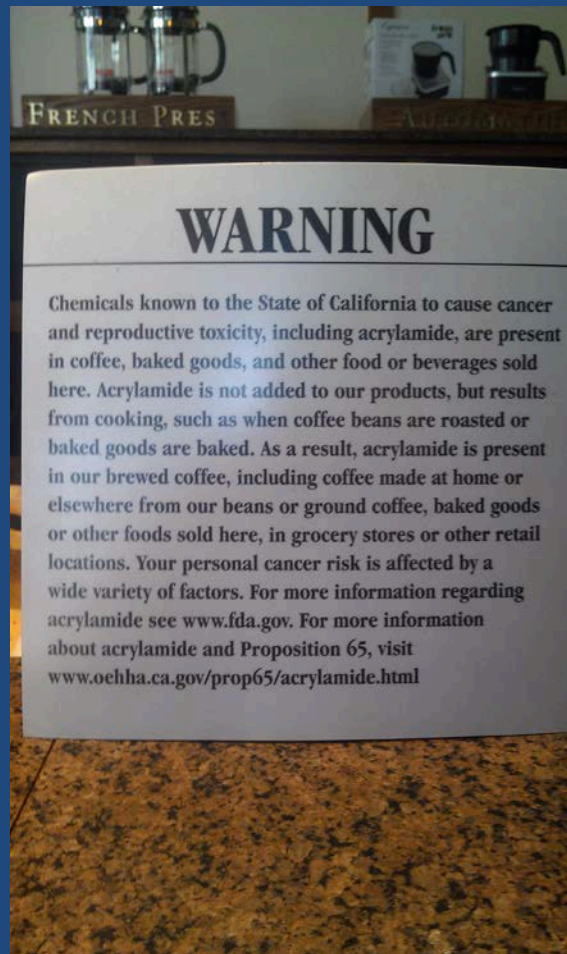
# How does Prop 65 work?

Substance is listed, warning requirement takes effect, and then the fun begins.

“Bounty hunters” evaluate the list and select products for enforcement.

- File 60-day notices with OEHHA initiating legal action akin to blackmail
- Negotiations and settlement
- Warnings implemented

# California Proposition 65



# How can Prop 65 issues be addressed?

Oppose proposed listings

- Some limited success

Litigate listings

- Very limited success

Assert available exemptions

- Naturally occurring exemption and no significant risk level

# No significant risk level

Level in products below which an exposure does not occur

- Safe harbor level may be determined by OEHHA and established by regulation
- Usually not good – too low

NRSL may be established by industry and used in defense of bounty hunter action

# Naturally occurring exemption

If a listed substance is naturally occurring in food then an exposure does not occur and no warning is required

- Current interpretation is that substances occurring naturally in food may also be present in non-food consumer products with no resulting exposure, therefore no warning required



# Natural occurrence

Acetaldehyde – many fruits, spices

Estragole – basil, tarragon, fennel

Methyl eugenol – basil, tarragon

*B*-Myrcene – thyme, bay, parsely, citrus

Pulegone - mint

# What's next?

OEHHA is reviewing Prop 65 and plans a public workshop for some time in 2015

- ⦿ Current public comment period open to allow for prioritization of issues
- ⦿ Naturally occurring exemption open for discussion.
- ⦿ Interesting times ahead!

# Noxious Weed Seed Update





# One year later





# What we're dealing with





# What we're dealing with





# What we're dealing with



# What ASTA is doing

Meeting with USDA APHIS staff in North Carolina

- These are the people to work with

APHIS provided guidelines for validation studies

- Discussed EtO, steam, irradiation
- Initial focus on EtO as currently used





# What ASTA is doing

Costs estimates and protocols are in development

- Protocols will be reviewed with APHIS

Intent is to have APHIS-approved protocols for studies to validate treatment methods to devitalize noxious weed seeds.

- Alternative to grinding

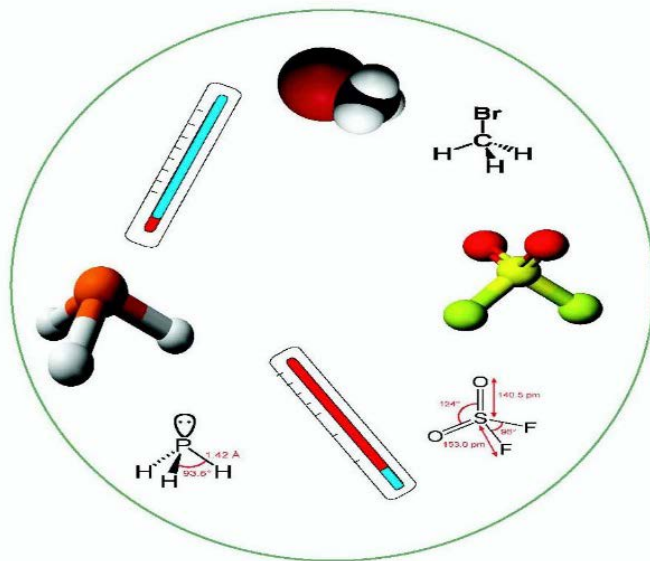


# USDA Treatment Manual



United States Department of Agriculture

## Treatment Manual



# USDA Treatment Manual

Current treatments for devitalization of noxious weed seeds – *Cuscuta spp.* (Dodder)

Two approved treatments – T412-b-2

- Dry heat – heat to 212F for 15 minutes
- Steam heat – heat to 212F for 15 minutes

# Next steps

- Development of cost estimates
- ASTA Board of Directors consideration
- If Board approves, protocol development and APHIS review and approval
- Validation studies conducted
- Treatment protocols available for private sector through USDA Treatment Manual

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## THANK YOU!

