

Office of Environmental Health Hazard Assessment



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Gray Davis
Governor

January 8, 2002

Mr. Gary M. Roberts
O'Donnell & Shaeffer LLP
633 West Fifth Street, Suite 1700
Los Angeles, California 90071

RECEIVED
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GARY M. ROBERTS

Re: Methyleugenol

Dear Gary:

Thank you for your letter of December 21, 2001, concerning the application of 22 CCR § 12501 to methyleugenol.

I understand from assertions in your letter that basil and other natural herbs and spices contain methyleugenol (CAS No. 93-15-2) as a natural constituent, and that naturally occurring methyleugenol may be separated from other constituents of basil through various chemical or physical processes. Your letter also contains representations that the separated methyleugenol has the same chemical identity (i.e., CAS number) as the methyleugenol found in the natural sources. This letter relies upon these assertions and representations, and applies only to the extent such assertions and representations are accurate.

As a natural constituent of basil and other natural herbs and spices, methyleugenol is a "naturally occurring" chemical within the meaning of 22 CCR § 12501.

Methyleugenol is a food within the meaning of 22 CCR § 12501 because it is used to flavor jellies, baked goods and other items. See Californian Health & Safety Code § 109935(a) ("Food" means . . . : (a) Any article used or intended for use for food, drink, confection, condiment, or chewing gum by man or other animal."). Further support for the status of methyleugenol as a food can be found in the Food Chemicals Codex, 4th Edition (1996), which recognizes methyleugenol as a flavor chemical. Methyleugenol also is a natural constituent of food within the meaning of 22 CCR § 12501 because it is a natural constituent of basil, a food.

You further have asserted that methyleugenol found in natural herbs and spices results from the natural process of plant growth, not from any known human activity that would alter its "naturally occurring" status. Nor does the action of adding methyleugenol to another food or consumer product constitute "human activity" within the meaning of 22 CCR § 12501(a)(3).

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.



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The Final Statement of Reasons for 22 CCR § 12501 explains "it is evident from the regulation as a whole that once a chemical is exempt as a naturally occurring chemical in food, the exempt status of that particular chemical will 'carry over' to any other food to which it is added. Subdivision (b) provides that this exempt status will even 'carry over' to other consumer products." Final Statement of Reasons for Section 12501 at 9. Thus, adding methyleugenol to another food or a consumer product does not create an "exposure" within the meaning of 22 CCR § 12501, when that food or consumer product is consumed or used.

Because methyleugenol is a food, not a "chemical contaminant," 22 CCR § 12501(a)(4) does not apply.

Thus, any methyleugenol found in or separated from basil leaves or other natural herbs or spices does not cause an "exposure" for purposes of Health and Safety Code section 25249.6 when consumed in food or when found in a consumer product. Since no exposure arises from consuming naturally occurring methyleugenol in food or from naturally occurring methyleugenol in consumer products other than food, the warning obligation of Proposition 65 would not apply to naturally occurring methyleugenol.

Sincerely,


Colleen Heck
Chief Counsel