



***PROP 65 AND  
NOXIOUS WEED SEEDS***

John Hallagan, General Counsel

# California Proposition 65

## California Proposition 65 and Spices

- Posted on the ASTA website in July 2016
- Basic background on Prop 65 as relevant to spices
- Recent developments are included in a revision to the web post

Recent Prop 65 regulation revisions are to the warning requirement regulations and civil enforcement action reform



# Prop 65

Prop 65 requires warnings for any exposure to a listed carcinogen or reproductive toxin

- A Prop 65 listing is not a “ban”
- Prop 65 list has 500+ substances listed but few are relevant to spices
- Relevant listed substances that are constituents of spices include acetaldehyde, estragole, methyl eugenol, B-myrcene, pulegone, safrole, and styrene
- Naturally occurring exemption means warning is not required for these

# Prop 65

Lead is listed as a carcinogen and reproductive toxin and has been a problem for many industries with numerous civil enforcement actions (“bounty hunter lawsuits”)

- There have been several enforcement actions involving lead in spices
- Will there be more involving turmeric?

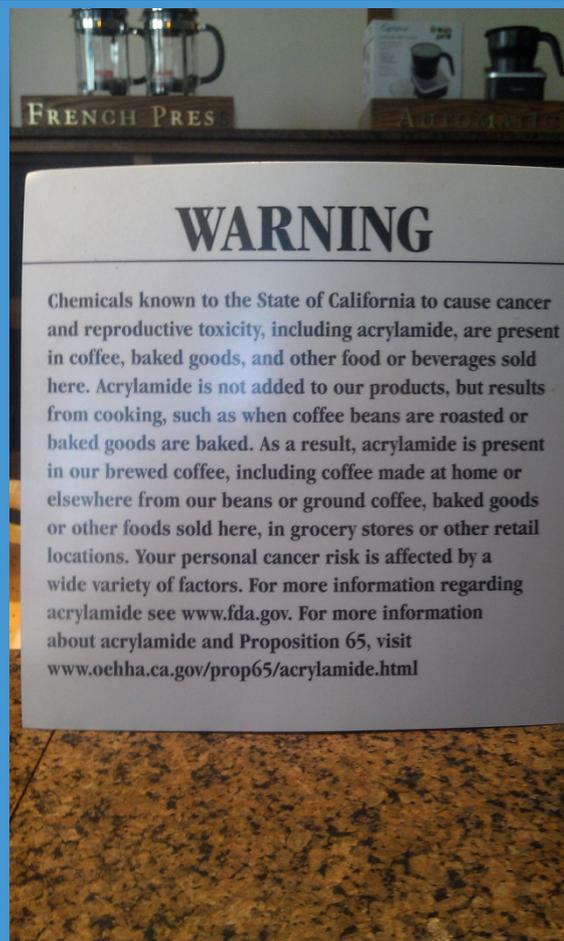
# Prop 65 Warning Revisions

The Office of Environmental Health Hazard Assessment (OEHHA) published revisions to the Prop 65 warning regulations in June 2016 with an implementation date of August 2018

- Changes will have a minimal effect on spices because of small number of listed spice constituents and the naturally occurring exemption
- Side-by-side comparison available on the OEHHA website and the ASTA web post



# Currently Permitted Prop 65 Warning



# A real warning!

## **MOUNTAIN LION**

**A MOUNTAIN LION HAS KILLED  
A GOAT ON THE RIDGE TO THE  
EAST, JUST ABOVE THESE  
MAILBOXES THIS MORNING  
AROUND 5AM. THE  
COLORADO FISH AND GAME  
HAS BEEN NOTIFIED**

# Prop 65 Warning Revisions

Consumer products are subject to new requirements for warning content

- Name of listed substance
- Appearance of the warning
- Contact information

Specific Prop 65 warning website making more information available

- Will include a searchable database of listed substances and warnings



# Prop 65 Civil Enforcement Reform

Primary mechanism for Prop 65 enforcement has been civil lawsuits (“bounty hunter” lawsuits)

- Much dissatisfaction with this among state government and industry
- Regulations revised effective 1 October 2016
- Revisions are intended to assure that the state receives the appropriate funds from civil enforcement actions and that civil enforcement actions have a public health benefit.
- Time will tell on effectiveness



# Noxious Weed Seed Update

We're making slow but steady progress with this long-term project

## Objective

Development of weed seed devitalization method validation study protocols, approved by APHIS, that can be used by private companies to gain inclusion of methods in the USDA Treatment Manual

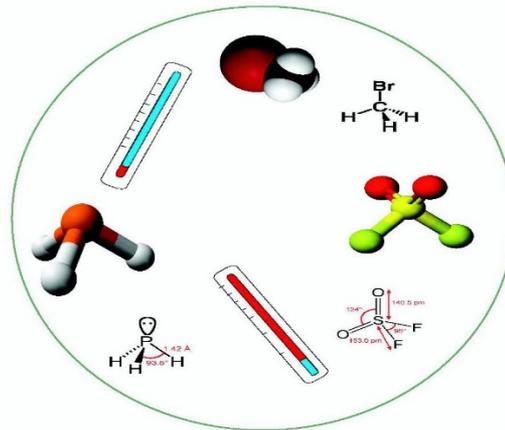
- Goal is to have protocols that can test multiple methods – Heat/steam, EtO, irradiation, CO<sub>2</sub>

# USDA Treatment Manual currently contains one method for *Cuscuta*



United States Department of Agriculture

## Treatment Manual



# Project Status

Final protocol development discussions underway with APHIS

- Likely to take some time given our experience

Remaining questions

- How many and which noxious weed species do we have to test? More than 20 species of *Cuscuta* listed!
- Can surrogates be used?
- How can we import seeds for testing?

# Noxious Weed Seed Confusion?

Last year we heard that perhaps APHIS was misidentifying onionweed at the ports

- APHIS says that they're not sure of the species but are looking into it
- *Asphodelus fistulosus* vs. *A. tenuifolius*
- *A. fistulosus* is listed but *A. tenuifolius* isn't
- We will continue to discuss with APHIS

# Questions?

Please contact me if you would like to discuss Prop 65 or noxious weed seeds.

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**Thank you!**

