

Santiago, 24 de Febrero de 2014.

**A SEÑORES EXPORTADORES ASOCIADOS  
SEÑORES EXPORTADORES A LOS ESTADOS UNIDOS DE AMÉRICA**

**De ASOCIACIÓN DE EXPORTADORES DE FRUTAS DE CHILE A.G.**

**Ref : Plan de Mitigación para la Fruta Chilena Fumigada en la Costa Oeste de USA**

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Estimados señores:

Como consecuencia de algunas situaciones producidas durante el año 2010, en instalaciones de frío que almacenaban fruta fumigada en destino, se involucraron las autoridades del California Department of Pesticidas Regulation (CDPR), con el objeto de evaluar lo ocurrido, determinando en forma inmediata un incremento de los tiempos de ventilación del proceso de fumigación.

Así mismo se constituyó un Comité de Trabajo integrado por las empresas de fumigación de Los Ángeles, los operadores de las instalaciones de frío, los importadores y el abogado de ASOEX en USA, con el objeto de responder a las inquietudes expuestas por la CDPR, respecto del actual proceso de fumigación y el posterior almacenamiento de la fruta fumigada, definiéndose con las diferentes autoridades en California la elaboración e implementación de un Programa de "Buenas Prácticas para el Manejo de la Fruta Fumigada" (BMPs), el cual está siendo aplicado en ambas costas en los Estados Unidos de América.

Este Programa que involucra a toda la fruta chilena fumigada en destino ha sido exitoso en la Costa Oeste de USA, permitiendo cumplir con las exigencias y expectativas de las diferentes entidades regulatorias, reduciendo los niveles de bromuro en el ambiente en las cámaras de almacenamiento de la fruta fumigada, producto de proceso conocido como "off-gas".

En este sentido, deseamos recordar que los importadores sólo deben utilizar frigorífico que se encuentran aprobados por la CDPR de California, en lo relativo a la implementación de las "Buenas Prácticas para el Manejo de Fruta Fumigada", así como realizar los procesos de fumigación en instalaciones autorizadas y que cumplan con los procedimientos definidos para la realización del respectivo tratamiento de fumigación con bromuro de metilo, de acuerdo a las instrucciones especificadas en la comunicación adjunta del "California Department of Pesticide Regulation".

En consecuencia, deseamos reiterar que resulta de mayor importancia que todas las empresas exportadoras chilenas que fumiguen sus productos en destino y en forma especial en la Costa Oeste de USA se contacten con sus respectivos importadores, con el fin de cumplir con la normativa vigente.

Saludamos atentamente a Ustedes

**ASOCIACIÓN DE EXPORTADORES DE FRUTAS DE CHILE, A.G.**



**MIGUEL CANALA-ECHEVERRÍA V.  
GERENTE GENERAL**

MCE/cbb



## Regulatory Plan for Handling Fruit Imported from Chile to California *Best Management Practices to Comply with California Department of Pesticide Regulation Requirements February 5, 2014*

### Introduction

Protection from the hazards of pesticides are normally regulated and enforced by the County Agricultural Commissioner (CAC), under the direction of the Department of Pesticide Regulation (DPR) through restrictions imposed directly on the user of the pesticide. Under this regulatory structure, potential hazards are mitigated before the user releases control of the pesticide treated item. However, in some situations, such as when fruit is fumigated with methyl bromide, the fumigant continues to off-gas in measurable quantities for hours and even days after the treatment has been completed. Due to perishability, costs, and throughput requirements given the quantities shipped and available cold storage facilities, it is not feasible to hold the commodity at the fumigation site until the off-gassing process is complete. Therefore, a modified regulatory structure that includes adoption of Best Management Practices (BMPs) must be implemented to address the potential for exposure from such treated commodities. The criteria established for BMPs are structured to allow flexibility to address the many different entities handling imported commodities and the various mitigation measures necessary for their particular facility operations and business needs.

The responsibilities of key entities in handling of imported commodities are outlined below. The intent is to ensure that fumigated fruit is only stored by facilities that are prepared to mitigate the potential hazard until off-gassing no longer poses risk for workers handling fumigated commodities. If further air monitoring identifies potential health hazards in other similar settings, this program may be expanded to include other commodities and distribution centers that receive and store fumigated commodities.

### Fumigators and Facility Operators

Fumigators and facility operators are currently issued a joint Restricted Material Permit (RMP) by Los Angeles CAC to fumigate commodities under supervision of USDA, usually at the docks where ships are unloaded. Fumigations take approximately 4 hours, followed by 4 hours of aeration. The following condition will be added to the existing RMPs:

1. Commodities shall only be released to the Importer of Record (IOR) in possession of a RMP.

### Importer of Record

The IOR controls movement of imported commodities from the fumigator to the cold storage or distribution facilities. The IOR has detailed knowledge of the physical location of the commodity



for the 48- to 72-hour period after fumigation. For the purpose of tracking post-fumigated commodities, the IOR must obtain a RMP, as the operator of the property to be fumigated, from the Los Angeles CAC. The permit will be conditioned as follows:

1. Commodities shall only be fumigated by fumigators in possession of a RMP.
2. The IOR must assure each person contracted and/or employed to transport fumigated fruit from the fumigation site is provided with written notification of the potential hazards associated with these commodities.
3. Fumigated commodities shall only be shipped to Cold Storage Facilities (CSF) operating in accordance with BMPs that have been reviewed by the Director of DPR and determined sufficient to mitigate worker exposure hazards associated with off gassing fumigant.
4. Records of commodity movement for 72 hours post-fumigation must be made available for audit by State or County pesticide regulatory staff for 6 months after the commodities are fumigated. The expeditor used to facilitate commodity handling must be authorized to release records of commodity movement.

#### Cold Storage Facilities

CSFs receive and store imported commodities in large quantity before forwarding it to distribution facilities, generally operated by grocery retailers or produce wholesalers. The BMPs are primarily established for the protection of the workers in CSFs (all employees, not just those of the CSF, but also the employees of other employers, such as contract produce inspectors).

Each CSF must develop and implement facility-specific BMPs. The following elements must be included in the CSF-specific BMPs, and accepted by the DPR Director, before receiving fumigated commodities:

1. Employees must be informed that potentially hazardous levels of methyl bromide may be present in fumigated commodities.
2. Work area monitoring of methyl bromide sufficient to inform and evaluate the mitigation measures of the BMP.
3. Specific mitigation measures that will be taken to provide compliance with the Cal/OSHA permissible exposure limit of 1 ppm as an 8-hour time weighted average. These measures may include any combination of administrative and engineering controls appropriate for the facility.
4. Record keeping, as specified by the BMPs.
5. Agreement to participate in regulatory monitoring consisting of:
  - a. Inspection/audit of records required by BMPs.
  - b. Spot Sampling by CAC or DPR staff for air levels of methyl bromide.

#### Enforcement and Legal Authority

These regulatory requirements are designed to provide protection to employees from potentially hazardous levels of methyl bromide that accumulate during storage of previously-fumigated commodities. RMPs are issued by County Agricultural Commissioners, with guidance from DPR, under statutory authority of the California Food and Agricultural Code (FAC) sections 14001-14015. In particular, the authority to issue RMPs for non-agricultural fumigations is Title 3 of the California Code of Regulation (3CCR) section 6420(b). The authority to attach conditions to the RMP for the purpose of mitigating environmental impacts is 3CCR section 6432.

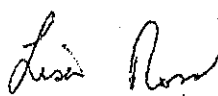
Holders of RMPs are subject to audit/inspection by Agricultural Commissioners under authority of 3CCR section 6140. Importers, Facility Operators, and Fumigators are liable for administrative civil penalties (fine) of up to \$5,000 under statutory authority in FAC section 12999.5. Los Angeles County and/or DPR will audit/inspect for compliance with permit conditions, as required by FAC section 12973.

CSFs agree voluntarily to participate in this program, including participation in county/state audit of records for compliance with the BMP. If the CSF is found to be out of compliance with its BMP, county and/or state scientists will notify the facility and a follow-up audit will be conducted. If the CSF remains out of compliance with its BMP it is liable for the following actions:

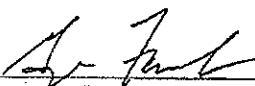
1. Notification to the California Department of Industrial Relations; and,
2. Notification to the IORs in this program.

Approval

This plan is approved for implementation by signature below:

  
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Lisa Ross, Chief  
Worker Health and Safety Branch

2/10/14  
Date

  
\_\_\_\_\_  
George Farnsworth, Chief  
Enforcement Branch

2/7/14  
Date