



Kurt E. Floren
Agricultural Commissioner
Director of Weights and Measures

COUNTY OF LOS ANGELES

Department of Agricultural Commissioner/ Weights and Measures

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Richard K. Iizuka
Chief Deputy

May 12, 2009

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF A MEMORANDUM OF UNDERSTANDING WITH THE CALIFORNIA
DEPARTMENT OF PESTICIDE REGULATION PERTAINING TO INCREASED
ENFORCEMENT ACTIVITIES REGARDING STRUCTURAL FUMIGATIONS
(ALL DISTRICTS) (3 VOTES)**

SUBJECT

Revised statutes resulting from the chaptering of Assembly Bill 2223 authorize the County Agricultural Commissioner (CAC) in designated counties to collect a fee from Branch 1 (fumigation) structural pest control companies. This authority is granted in Business & Professions Code Section 8698.1, which authorizes each designated County that has contracted with the California Department of Pesticide Regulation (DPR) to collect a \$5.00 fee for each fumigation performed in that county to fund increased structural fumigation, inspection, and enforcement activities.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve and instruct the Agricultural Commissioner/Director of Weights and Measures to sign the attached Memorandum of Understanding (MOU) with the DPR, which provides the statutorily required contractual agreement and facilitates reimbursement of the cost of the Structural Fumigation Enforcement Program (SFEP) incurred by the Los Angeles County Department of Agricultural Commissioner/Weights and Measures (ACWM).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

Structural fumigation uses the highly toxic fumigants Sulfuryl Fluoride and Methyl Bromide which are regulated by Titles 3 and 16 of the California Code of Regulations and the California Food and Agricultural Code and the Business and Professions Codes.

The SFEP regulates the structural fumigation industry to ensure compliance with these regulations. Each year, the ACWM enforces these regulations by inspecting approximately 2,000 fumigations. It is estimated that 30,000 properties are fumigated annually throughout Los Angeles County by 80 companies. The Department inspects these companies to ensure compliance with all applicable regulations to protect the public, industry workers, and the environment. The revenue generated by the fees facilitates increased monitoring of pesticide use through undercover inspections and surveillance.

The attached MOU with DPR allows the ACWM to enforce these regulations countywide. This MOU is required to authorize collection of the fumigation fees, which fund the Agricultural Commissioner/Weights and Measures Department to inspect fumigated properties.

The Board has approved similar agreements with DPR for enforcement of pesticide regulations since 1993.

Implementation of Strategic Plan Goals:

This agreement supports the County's Strategic Plan Goal #1 of Service Excellence. The SFEP's goal is to ensure that structural fumigations are conducted safely and in compliance with all laws and regulations. Effective review, control, and enforcement fulfill the Department's mission to protect workers, public health, and the environment from improper and illegal use of fumigants.

FISCAL IMPACT/FINANCING:

This program is 100% revenue offset and there is no effect on the Department's net County cost.

The fumigation companies pay a \$5.00 fee directly to ACWM for each fumigation performed in Los Angeles County. An average of 30,000 fumigations are performed at \$5.00 each, generating \$150,000 in revenue in each fiscal year to continue the operation of the SFEP.

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FACTS AND PROVISIONS/ LEGAL REQUIREMENTS:

The ACWM is required to perform structural fumigation inspections, as prescribed in Sections 8698-8698.6 of the Business and Professions Code. Newly passed legislation, Assembly Bill 2223 extends the provisions of the SFEP to January 1, 2011.

IMPACT ON CURRENT SERVICES:

These fees support three Inspectors who are assigned to our SFEP in Los Angeles County. The Department would be unable to sustain these positions if the MOU were not approved. The SFEP helps to ensure the safety of the workers and residents when these lethal gases are used.

CONCLUSION:

Upon approval, it is requested that the Executive Office/Clerk of the Board return to the Department an adopted copy of this Board Letter.

Respectfully submitted,



Kurt E. Floren
Agricultural Commissioner
Director of Weights & Measures

KEF:RKI:MMA:GDC:el

Attachment

c: Auditor-Controller
County Counsel

STRUCTURAL FUMIGATION ENFORCEMENT PROGRAM
MEMORANDUM OF UNDERSTANDING
between
LOS ANGELES COUNTY
AND
THE DEPARTMENT OF PESTICIDE REGULATION

BACKGROUND

Numerous structures are fumigated annually using sulfuryl fluoride or methyl bromide in Los Angeles County by registered Branch 1 structural pest control companies. If used improperly, the potential for injury, or even death, is present for both of these fumigants which carry the signal word, "Danger".

The Structural Fumigation Enforcement Program (Program) was created to fund an increased level of structural pesticide enforcement in Los Angeles County by collecting a five-dollar (\$5.00) fee from each registered Branch 1 structural pest control company for each structure fumigated within Los Angeles County. Business and Professions Code (B&P Code) Division 3, Chapter 14.5 (commencing with section 8698) authorizes the Program.

PURPOSE OF THE MEMORANDUM OF UNDERSTANDING

The purpose of this Memorandum of Understanding (MOU) between the Department of Pesticide Regulation (DPR) and Los Angeles County is to establish a framework by which DPR and the Los Angeles County Agricultural Commissioner (CAC) shall jointly act to enforce the provisions of the Program.

PRINCIPLES OF THE MEMORANDUM OF UNDERSTANDING

This MOU begins January 1, 2009 and is valid only if signed by Los Angeles County and approved by DPR.

This agreement MOU may be amended or cancelled by written mutual consent, upon thirty days written notice.

**LOS ANGELES COUNTY AGRICULTURAL COMMISSIONER
RESPONSIBILITIES**

1. The CAC shall collect five dollars (\$5.00) from registered Branch 1 pest control companies for each fumigation performed in Los Angeles County, pursuant to the requirements of section 8698.1, Division 3, of the B&P Code. Pursuant to B&P Code section 8698, fees shall be paid directly to the county and used for the sole purpose of funding enforcement activities directly related to the Program.
2. The CAC shall conduct inspections, investigations, and take enforcement actions for structural fumigation activities under guidance provided by DPR. Records of these activities shall be readily available for on-site inspection by DPR staff and shall be maintained for two fiscal years.
3. The CAC shall report all structural fumigation enforcement activities monthly, on the Pesticide Regulatory Activity Monthly Report (PRAMR), including those conducted under the Program.
4. The CAC shall report annually on that portion of the structural fumigation inspection, training, and enforcement activities that are funded by this Program.
5. The CAC shall provide to DPR, upon request, copies of any documents, notices to registered structural pest control companies, notices to licensees, or other correspondence related to this Program.

**DEPARTMENT OF PESTICIDE REGULATION
RESPONSIBILITIES**

1. DPR shall provide oversight and training to CAC personnel to assist them in carrying out their enforcement duties. Since DPR does not receive any funding for the Program, oversight and training will be provided to the extent that no additional costs are placed upon the DPR pesticide regulatory enforcement program.
2. DPR shall audit, as necessary, CAC's inspections, investigations and Violation Notices conducted or issued under the Program to ensure the compliance with the obligations imposed by B&P Code Division 3, Chapter 14.5.

AUTHORIZED SIGNATURES

We, the undersigned, will comply with the terms and conditions of the Memorandum of Understanding.

COUNTY OF LOS ANGELES

Kurt Floren,
Los Angeles County Agricultural Commissioner

Date

CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION

Chuck Andrews, Assistant Director
California Department of Pesticide Regulation

Date

JoAnne Payan, Assistant Director
Administrative and Fiscal Services Branch
California Department of Pesticide Regulation

Date

APPROVED AS TO FORM
RAYMOND G FORTNER, JR., County Counsel

*County of
Los Angeles*

*Office of
County Counsel*

4/2/2009

By

Mayahuel

Deputy