

BRANCHING OUT

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Santa Clara County Division of Agriculture

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Inspection Results

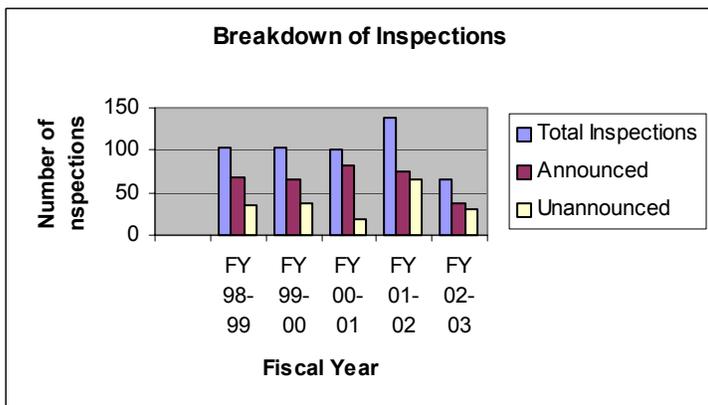
History of Branch I Inspections

The end of this last fiscal year marked our 5th year of focused Branch 1 fumigation inspections. We performed 68 fumigation inspections, 37 inspections were announced and 31 were unannounced. Of the 31 unannounced inspections, 11 civil penalties were issued.

Our office performed fewer fumigation inspections this last fiscal year due to a shift in inspection focus. We increased the number of inspections on branch II & III companies, agricultural PCO's, and farmers.

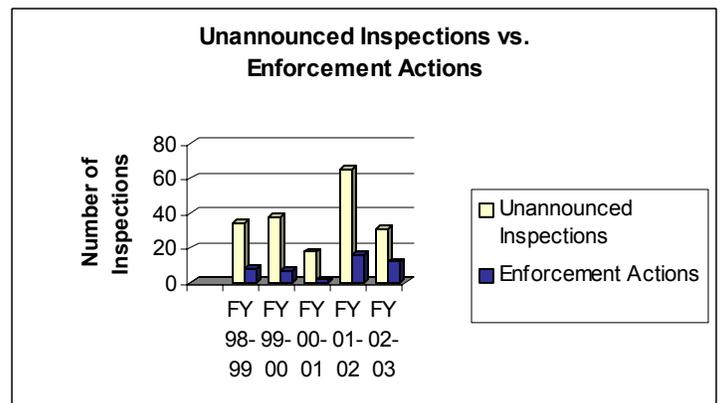
Due to the decrease in the number of fumigation inspections, our office will continue to perform a high rate of unannounced inspections. The high compliance rate of announced inspections tells us that licensees know what they are doing. The fact that unannounced inspections have a higher non-compliance rate tells us licensees are either knowingly cutting corners or are under so much pressure to get their work done they are rushing through the job site and are not taking the needed time and precautions.

Our ultimate goal is to ensure fumigations are performed in compliance with applicable laws and regulations. Based upon the current rate of non-compliance, we will continue to perform a high number of fumigation inspections with an emphasis on unannounced inspections.



Industry Compliance

Over the past five years, we found unannounced inspections have a lower compliance rate than announced inspections. On average, one civil penalty action would result from every 5 unannounced inspections. Unfortunately, this last fiscal year saw an increase in non-compliance. Even though we performed fewer unannounced inspections than last year, we came close to having the same number of civil penalties. A contributor to the large increase in non-compliance was the number of homes under fumigation left unlocked or with ineffective secondary locks.



Fiscal Year	Number of Unannounced Inspections	Number of Enforcement Actions
98-99	34	8
99-00	38	7
00-01	18	2
01-02	65	16
02-03	31	11

Quick Facts

A review of inspection findings

The following is a breakdown of non-compliances found during announced and unannounced inspections. The table lists code sections that were found in non-compliance in two or more inspections.

Code Section	Areas of Non-Compliance
8505.7	Secondary Locks
12973	Label - following aeration requirements
1974	Warning Signs
6600	Suitable Methods
12973	Label - site / rate
8538	Written Notice to Occupant
6780	Accident Plan
6726	Medical Care Posting
8505.15	Two SCBA's at the use site
8505.1	Info on warning signs
6782	Proper management of use site
6602	Label available at use site

As in previous years, the non-compliance rate for unannounced inspections is higher than that of announced inspections. Fifty-eight percent of all non-compliances were identified during unannounced inspections. Within that 58% of non-compliance, there were 11 instances where the violation was serious enough to warrant a civil penalty.



Secondary Locks

Securing against re-entry



Secondary locks accounted for 10 civil penalties this past fiscal year. It was disappointing to find so many unlocked or improperly installed secondary locks. We would like to review some of our findings to bring attention to some of these problem areas.

- Sliding glass doors accounted for 7 secondary lock civil penalties. Many sliding glass doors do not have a keyway so many have to be secured from the inside. The problem we found is that many sliding glass door latches were worn out and didn't latch at all. In some cases, replacing the door latch may be required. An easy and inexpensive solution to doors with inside tracks would be to use a dowel as a barricading device. Placing a properly sized dowel inside the tracks of a sliding glass door will effectively stop the door in its tracks. We would like to point out that a small window screw-on security latch is generally too small for a sliding glass door. Glass doors are normally too heavy for these devices.
- French doors: We had an instance where a licensee bolted a set of french doors together but forgot to slide the locking mechanism to the floor to secure the doors.
- Clamshells: Be sure to lock the door you are securing before putting on a clamshell. A clamshell on top of an unlocked doorknob does nothing to secure a fumigated space. (The picture up above was taken by an inspector who found an unlocked door with a clamshell.)
- Chain: If you need to chain a door to secure it, make sure your chain can't be lifted off the door. We had a front door of a house chained closed but the chain was not properly secured and the inspector was able to easily lift it off the door.

Perfect Inspection Record!

Last fiscal year, one company had a perfect inspection record. This company had both announced and unannounced inspections performed on their jobs and there were no non-compliances!

**GOOD JOB
DISCOUNT FUMIGATION!!**

Supervising & Disciplining Employees

Holding companies accountable for employee actions

Last year we issued a civil penalty to a company for multiple employee non-compliances. This company had several employees that received civil penalties for serious infractions. It is necessary that companies supervise and discipline their employees to ensure they follow the law. When our office finds several employees within a company with compliance issues and the company has not taken any steps to correct their behavior, our office will take action against the company.

There are several code sections that require employers to supervise employees.

California Code of Regulations Section 6702 (b)(3) states:

"The employer shall supervise employees to assure that safe work practices, including all applicable regulations and pesticide product labeling requirements are complied with"

Structural Pest Control Act Section 8616.9 states:

"If an employee is found during an inspection or investigation not wearing personal protective equipment required by regulation, the commissioner shall have the option to use discretion in citing an employer only if evidence of all of the following is provided:

- (a) The employer has a written training program, has provided training to the employee, and has maintained a record of training as required by regulation.
- (b) The employer provided personal protective equipment required by regulation, the equipment was available at the site when the employee was handling the pesticide or pesticides, and the equipment was properly maintained and in good working order.
- (c) The employer is in compliance with regulations relating to the workplace and supervision of employees.
- (d) The employer has implemented and adheres to a written company policy of disciplinary action for employees who violate company policy or state or local laws or regulations.
- (e) The employer has no history of repeated violations of this section."

These code sections state that a company must have a supervision and disciplinary program, but there are no

written guidelines in the regulations for companies to follow.

What does the County consider to be a good supervision program?

1. Perform a ride-a-long with your employees to assure they are applying pesticides the way they were trained.
2. Perform periodic undisclosed oversight inspections of your employees and their equipment. Document your observations.
3. Keep records of your inspections for at least two years with the employee training records.
4. Have a written disciplinary program and enforce it.
5. Clearly document all efforts taken to correct unacceptable employee actions.

When an applicator's error results in a violation, the company's training and supervision program will be reviewed by the Commissioner's office. A number of options may be available to the Commissioner if the company can show written proof of efforts to correct employees' behavior. A company with an active supervision / disciplinary program can open the possibility for our office to hold a compliance hearing instead of levying a civil penalty.

If you have questions regarding your supervision program, you can call and discuss your program with your district biologist.

Fumigation Gas Meter Safety Alert



We saw this article in the August 2003 PCOC (Pest Control Operators of California) newsletter and thought it would be a good piece of information to pass along.

Southern California Gas has notified PCOC that during random checks of fumigations, 56% (122) of the meter set assemblies (MSA) were completely enclosed in the tent. They found that 87% (106) of them could have been left outside the tent. **WHENEVER POSSIBLE DO NOT WRAP THE MSA!** Leaving the MSA outside the tarp will virtually eliminate the possibility of natural gas build-up inside the structure even if MSA components fail. Please get the word out to all fumigators you know.

Vikane Gas

The need to protect yourself from this odorless, colorless gas

The lack of warning properties of this material makes it particularly important that handlers follow safe work practices. According to laboratory studies, researchers believe that humans will start feeling an effect on the nervous system around 500 ppm. The level of Vikane left in a structure prior to the start of the aeration process can vary greatly. Vikane levels can be as high as 500 ppm - 2,000 ppm after a normal termite fumigation.

Entering an unknown atmosphere without protective equipment can lead to years of low-level exposure to Vikane. It is difficult to predict what the effects of prolonged exposures will do to humans.

Our office typically issues several civil penalties each year due to licensees entering unknown atmospheres. However, last year, we found only one instance where a licensee entered an unknown atmosphere without their SCBA. We hope this decline in SCBA non-compliance continues and all applicators utilize appropriate safety equipment when entering an unknown atmosphere.

Fumigation Notice of Intent

Submitting your 24 hour NOI's

If you choose to fax your fumigation notice of intent (NOI), please use this fax number: (408) 298-8397 (If this line should go down for some reason, please call us. We will fix the problem immediately and give you an alternate fax number in the interim.) This fax line feeds directly into a special computer instead of a fax machine.

To expedite filing fumigation notice of intents, you may wish to group fumigations together on one page. Grouping your NOI's in a table can save you from sending us a stack of faxes! Some companies simply send us NOI's with their company's information, the name of the fumigant they will be using, and a table with the following headings: Date, Job Address, City, Cubes, and Target Pest. Instead of sending us a stack of separate faxes, these companies are sending us just one sheet of paper.

Do you have any questions or comments about Branching Out? Please feel free to write to:
Santa Clara County Division of Agriculture - Branching Out
1553 Berger Drive, San Jose, CA 95112
Or, you can e-mail us at: sccagriculture@era.co.scl.ca.us

Nylofume Bags

When in doubt, bag it, or take it out...

When performing inspections, we sometimes find items that have been left in the house during the fumigation that should have been double bagged or removed. If the homeowner has failed to remove items as requested, it is up to the fumigation licensee on site to remove or double bag those items. If the Field Rep is unsure if an item should be bagged... "When in doubt, take it out!"

The following short lists were comprised from questions we have received from Field Reps, inspection non-compliances, and input from a Dow Agro representative.

Items that must be taken out or bagged:

- Animal food, including birdseed. Remove or bag pet food bags. Be sure to check the pet food bowls too.
- Ice cubes. -Remember to turn the automatic icemaker off.
- Fruit and eggs
- Opened bottles of alcohol
- Wine bottles that are stored upright
- Tobacco products
- Spices that have been opened
- Foods packaged in cardboard boxes
- Inflatable pillows / inflatable mattresses

Items that can stay inside:

- Toothpaste (It is not considered to be an ingestible product)
- Makeup
- Kegs (that still have their seal)
- Lotion and ointments
- Unopened wine bottles that are stored lying on their side.