

# BRANCHING OUT

Volume 6, Issue 3

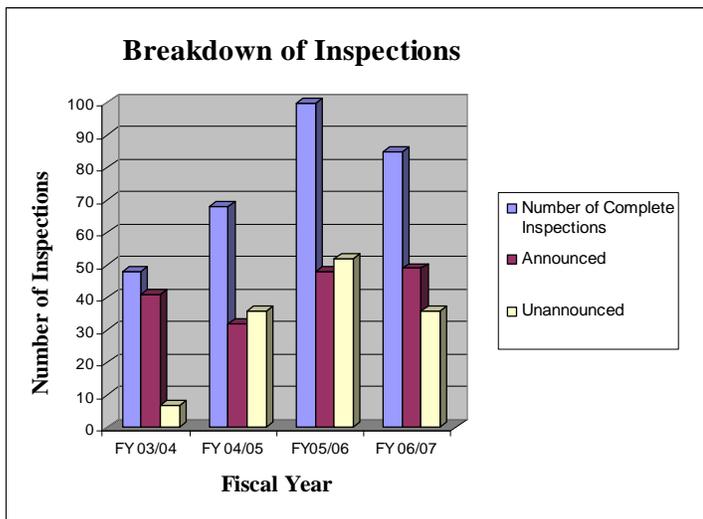
Santa Clara County Division of Agriculture

October 2007

## Fumigation Inspections

### Branch 1 Inspections

Last fiscal year, Santa Clara County Division of Agriculture performed 85 fumigation inspections - 48 "announced" inspections and 37 "unannounced" inspections. Fumigation crews are aware of the biologist's presence during "announced" inspections, and unaware we are observing them during "unannounced" inspections. In addition to these inspections, we also documented 37 passive aeration / tarp checks.



## Number of Fumigations in Santa Clara County

Fiscal Year	Number of Applications	Number of Inspections	# of Tarp / Aeration Inspections
<b>06-07</b>	<b>7612</b>	<b>85</b>	<b>37</b>
05-06	8092	100	*(Not recorded)
04-05	8987	68	*
03-04	9294	48	*
02-03	8068	68	*
01-02	7409	139	*
00-01	6166	101	*

## Industry Compliance

### Fiscal Year 2006-2007

### Announced Inspections

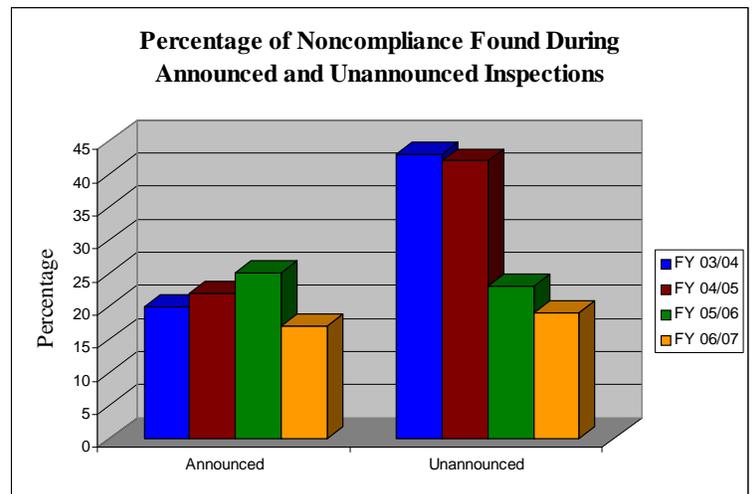
Out of the 48 announced inspections, 40 inspections were in full compliance! The remaining 8 announced inspections had minor non-compliances some of which were addressed with Violation Notices.

### Unannounced Inspections

The compliance rate for unannounced inspections is significantly greater than in prior years. Out of 37 unannounced inspections, 30 inspections had no non-compliances!!! The remaining 7 inspections had violations that resulted in several Notices of Violation and 2 civil penalties.

In addition to the 37 unannounced inspections, we also performed 37 passive aeration / tarp checks. Two inspections had violations. One licensee was given a warning and the other a civil penalty.

Because no one is on-site when we perform passive aeration / tarp inspections, they are categorized as "partial inspections".



# Industry Compliance

## Common code section violations

Out of the 122 full and partial fumigation inspections performed in Santa Clara County, 17 inspections had one or more non-compliances. As a result, we issued 9 Violation Notices, and 3 civil penalty actions are pending. One Field Rep is charged with a secondary lock violation, another for entering a fumigated house without a SCBA, and the third action may be brought against a company for a groundsman going under the tarps during an aeration.

The following table lists the code sections and corresponding number of non-compliances.

Violations Found		
Code Section	Type of Violation	Number of Non-compliances
12973	Label-Site/Rate/Other*	5
8538	Written Notice	3
1970.4	Pesticide Disclosure	3
12973	Label- PPE	3
6738	PPE Provided and Worn	3
6726	Medical Posting	3
1974	Warning Signs on all sides of the structure	2
12973	Label- Aeration / Reentry	1
6600	Suitable Methods	1
6782	Proper Entry/ Management of Fumigated Space	1
8505.7	Secondary Locks	1

\* Label - Site / Rate / Other:

- 1 -Thermometer broken
- 2- Wrong amount of pic on the fume log. Company corrected the decimal point, but amount was still incorrect for the size of the site by a tenth of an ounce.
- 3 - Not locking the primary lock (secondary lock was deployed)
- 4 - Groundsman went into the house - The FR on site and company were issued VN
- 5- FR didn't open the front door during aeration.

# Definition of a Handler

## Groundsmen Need to be Trained!

We recently conducted an inspection and found a groundsman on an aeration crew who did not have documented training. When we encounter such situations, a civil penalty action is typically proposed against the company.

The definition of “handle” includes “removing treatment site coverings.” Fumigation crew members need to be trained on proper TRAP procedures and the dangers of the fumigant they are working around. Failing to train employees is a serious violation!

If you need a copy of a training form, please visit our website or contact your biologist. (The training form on our website will be changed soon. There will be no medical condition statement on the new training form.)

# Emergency Medical Care Posting



*When is it required?*

During several recent certification inspections, we have found vehicles at the use site without the required emergency medical care posting. The companies erroneously thought if the licensee isn't carrying fumigant with them, there's no need to post the emergency medical care information.

Even if a Field Representative isn't carrying gas, they are working in a pesticide-use situation until the fumigated structure is cleared for re-entry. Every truck that performs shoots, downs, or certifications needs to be posted with emergency medical care information.

## What is required?

Title 3, California Code of Regulations Section 6726 requires the employer to post in a prominent place at the work site, or work vehicle, “the name, address and telephone number of a facility able to provide emergency medical care.”

## Open, Open Open...

*Appliances in a structure*



The label for sulfuryl fluoride requires fumigators to open the doors of all appliances when preparing for a fumigation. The only exception is for running refrigerators. Refrigerators can remain closed during a fumigation with the condition they be checked with a detection device before clearing the structure.

Sulfuryl fluoride is easily trapped in appliances and can be found in high concentrations when they are left closed. So, be sure to open washers, dryers, microwaves, ovens, and any other appliance that may trap gas. Failure to open appliances during a fumigation is a label violation.

## Tarpaulin Rips

*How big of a rip constitutes a violation?*

Tarpaulin rips has been an interesting topic during recent Structural Enforcement Meetings. One southern California county will issue a Violation Notice for rips totaling 6-inches and has fined companies for rips totaling more than 12 inches in length.



It seems fumigators in southern California tend to use older tarps than what is used up in this area. On occasion we find small holes and rips in tarps, but we don't come across it very often.

If we find a significant hole or rip during a tarp check inspection, we will call the company out to the site and discuss options to assure the fumigation job has been effective. We currently do not have a size standard for rips and holes in tarps. We hope the industry working in Santa Clara County will continue to maintain their high standards so we won't have to start making judgment calls or policies about tarpaulins.

## From the Question Files

*Questions from industry...*

**Is it okay to use a J-Lock when it won't let a primary lock engage?**

No. There are other kinds of secondary locks you will have to use such as a pin or split key, etc. You must be able to engage the primary lock if it is present.

**Does the Enforcement Response Regulation extend beyond county lines? Does it cross from one branch to another?**

When implementing the Enforcement Response Regulation, the county's review of a company's compliance history is limited to that specific county. If a company's poor work practices span several counties, the State may take action and can consider the company's compliance history in multiple counties.

In regards to the question about compliance history crossing from one branch to another, the answer depends on whether the company treats each branch as a separate entity. If the company submits reports of pesticide use together and shares employees or equipment, then each branch is an extension of one another and will be considered a single entity.

If each branch has their own group of employees and equipment, conducts their own business from each site, and separately reports their pesticide use, then they will be considered separate entities and non-compliances will not be shared between sites. You may wish to contact your district biologist about your situation and clearly state your intentions.

**Can an apartment manager sign an OFN for a tenant?**

Yes. A designated agent can sign the OFN for apartment tenants or condominium owners. Title 16 of the California Code of Regulations, Section 1970.4(a) states:

“The primary contractor for fumigation shall have in his or her possession...a form (Form 43M-48...) signed by the occupants or designated agent of a structure.”

\* Be sure to give the tenant information about the fumigation as required by 8538! Their designated agent can sign the OFN, but the tenant still needs to be given notice. (It's a benefit to have the tenants sign the OFN so you have written proof they received the notice.)

# Effective Secondary Locks

*Making sure the structure is secured*

We documented 37 tarp and passive aeration inspections this last fiscal year, one of which resulted in a civil penalty action. We found one house under passive aeration with not one, not two, but three unsecured doors! We're glad to see that this situation is the exception and not the rule, but it was troubling to find this particular house unsecured.

## What do we look for during tarp / aeration checks?

When we inspect a tarped structure, we first look for fumigation signs. We expect to see a sign at every seam and on each side of the structure. We inspect tarps and make sure there are no large rips or tears, and we also look for overlapping snakes and a good ground seal. The most common noncompliance found during this kind of inspection is missing signs.

Passive aeration inspections are simply a check for signs, effective secondary locks, and we look into windows to see if any food or improperly bagged items are present.

## How much force is applied to test secondary locks?

The amount of force used to test a secondary lock is the normal pressure expected to be used to open the door. If we see an old sliding glass door, we may give it a good yank for the obvious reason that many old sliding doors need extra pressure to move. Do we sit there and yank on the door repeatedly to try and jar them loose? No! We apply a reasonable amount of force and if the door doesn't move, we move on to the next door.

We realize that many sliding doors can be troublesome to barricade, especially those with an ineffective latch and if the track for the door is on the outside of the structure.

During a recent passive aeration inspection, we snapped this picture of a clever way to barricade an old slider with an outside track. When normal pressure was applied to this door, it didn't budge.



Other things we look for are pins in locks. Are they sticking out? If we can remove them with our fingers, it's not an effective lock! If you use pins, make sure they are flush inside the lock and can't be pulled out without using a special tool or a magnet.



Another note about pins: If you use pins and place tape over the lock, be sure the tape can't pull the pin out! We performed an announced inspection recently where the company used pins as their secondary lock. When the inspector went over to inspect the secondary locks, the pins came right out when the tape was peeled back! If this situation occurred after the licensee left the site, he would have been fined!



We have heard of county inspectors in southern California encountering locks during certifications that have been taped shut. Thankfully, we have not come across this situation and do not want to see locks secured in this manner!

## Branch 3 Companies Advertising Fumigations

*Business and Professions Code Section 8651*

We understand that the Structural Pest Control Board is actively pursuing Branch 3 companies that advertise fumigations. If a company is licensed in a certain branch, they can only advertise work encompassing their specific license. Branch 3 companies can therefore not advertise for fumigations!

Coincidentally, we recently met a Branch 3 Operator who showed us the citation and \$750 fine he just received from the Structural Board. - He had listed fumigation along with other treatment options in his advertisements.

Please forward this information to your independent termite inspectors and Branch 3 companies.

\* As a side note – all termite inspection companies, regardless whether they apply pesticides or not, have to be registered with each County! Inspecting for a pest problem is considered to be pest control for hire.

## Southern Update

### *Violations in Los Angeles and Orange*

Our County attended the June 12<sup>th</sup> and September 11<sup>th</sup> Structural Enforcement Meetings in Los Angeles. It has been interesting listening to the southern counties give their report on the types of violations they have been observing in the field.

Orange reported two recent civil penalty actions for TRAP violations. One company removed the snakes before the vent tube was erected and the second company started the TRAP without using a SCBA. Orange also took action for an improper secondary lock. The company was using a split key and left their half of the split key on the ground in front of the door. Not too effective if you have the means to undo the secondary lock right in front of the door!

Los Angeles County reported on a complaint relating to a potential human “exposure to a fumigant”. Apparently, the fumigation company shot a detached garage that was connected to the home by a conduit. The company plugged the conduit with tape and proceeded with the fumigation knowing the family was going to be present in the house. Several hours after the fumigation began; the homeowners complained of illness and went to the doctor. (They didn’t feel any affects of chloropicrin.) When the company responded to the site, they brought three Interscans and they didn’t detect any gas in the house. County inspectors had the same findings, so didn’t charge the company with a violation. However, the County expressed concern about the methods in which the company employed to do the job. Using tape to plug a conduit can be risky and, in this situation, the risk was probably not worth the reward.

Do you have any questions or comments about Branching Out? Please feel free to write to:

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Or, you can e-mail us:

[scc.agriculture@aem.sccgov.org](mailto:scc.agriculture@aem.sccgov.org)

\* This newsletter is available electronically on our website: <http://sccagriculture.org>

## Southern Reports

### *Fiscal Year Reports for Orange and Los Angeles Counties*

During the September 11<sup>th</sup> meeting, Orange and Los Angeles Counties reported their yearly statistics to the group.

### Los Angeles County: Fiscal Year 06/07

Fumigations Reported:	44,009
Fumigation Inspections:	1407
Notices of Violation:	67
Notices of Proposed Action:	58
Fines Assessed:	\$16,906

### Orange County: Fiscal Year 06/07

Fumigations Reported:	15,014
Fumigation Inspections:	801
Notices of Violation:	62
Notices of Proposed Action:	46
Fines Assessed:	\$11,435

## Fumigation Protests

### *Demonstrations by tenants*



Orange County reported episodes of tenants demonstrating their disapproval of the pending fumigation of their apartment and condominium complexes. These demonstrators have called both the County and DPR to try and stop the fumigation of their buildings. After being told that the County and the State cannot stop a legal pesticide application, some complainants have taken to demonstrating their disapproval. One such group picketed while the fumigation company fumigated one of the apartment complex buildings.

This is the first time we have heard of problems such as this and we wanted to give you all a heads up to what is happening in some parts of southern California.