
BRANCHING OUT

Volume 6, Issue 2

Santa Clara County Division of Agriculture

March 2007

Santa Clara County Enforcement Committee Meeting

February 13, 2007 meeting

During our last structural enforcement committee meeting on February 13th, we gave an update on the structural notice of intent bill, AB 126. Assembly member John Beall introduced AB 126 in January and has recently sent letters to other members of the Assembly requesting support for the bill. AB 126 will be open for comment at a legislative hearing on March 27th. There has been discussion about Ventura County and San Diego County being added to the bill, but it is unknown if these discussions will result in an amendment to the bill. We will watch this bill closely and keep you apprised of any developments.

Restricted Material Permits

Our last newsletter mentioned the possibility of legislation being introduced which would require structural companies to obtain a Restricted Materials Permit for the use of sulfuric fluoride. During our last meeting, Univar and Target asked how dealers would know if a permit has been revoked or suspended by an agricultural commissioner.

To give you some background on pesticide permits: Dealerships must have a copy of a pesticide permit before they are allowed to sell California Restricted Pesticides. When a customer purchases a pesticide, the dealership makes a copy of the customer's permit and keep it on file for 3 years. If a permit were suspended or revoked, the County would contact the pesticide dealerships in the area and notify them of the change in the permit status.

Inspection Numbers

Our office compiled the inspection statistics for the first half of this 06/07 fiscal year and gave the printout to the group at the meeting. We have performed 70 inspections, 20 of which were tarp checks. The inspection statistics are located on page two of this newsletter.

Civil Penalty Guideline

During the February meeting, we provided a copy of our civil penalty guideline to the companies in attendance. The regulations divide civil penalties into three categories: Minor, Moderate, and Serious. Each category has a corresponding monetary fine range. When a penalty is proposed, the county needs to determine an appropriate fine level within the assigned range for each violation. In an effort to maintain consistency, Santa Clara County utilizes a civil penalty fine assignment guideline. We have provided a copy of the guideline on page three of this newsletter.

Our next meeting will be held on April 10th.



Santa Clara County Structural Fumigation Inspections
July 1, 2006 - December 31, 2006

VIOLATIONS FOUND			ISSUED TO:		Compliance Action	Civil Penalty	Action Pending
Code Section	Number of Non-compliances	Type of Violation	Company	Licensee			
8538	2	Written Notice to Occupant					
1970.4	3	Pesticide Disclosure		1	1		
6602	0	Label Available at the Use Site					
12973	3	Label - Site / Rate / Other *		2	2		
12973	1	Label - Aeration / Reentry **	1	1	2		1
12973	0	Label - Bagging, Pets Removed, etc					
12973	0	Label PPE					
6738	1	PPE Provided and Worn		1	1		
6600	1	Suitable Methods					
6604	0	Accurate Measurement					
6614	0	Protection of Persons, Animals, etc					
6724	0	Employees Trained					
6726	2	Medical Posting					
6734	0	Soap, Water, Single Use Towels					
6780 (b)(c)	0	TRAP Plan					
6780 (d)	0	Accident Response Plan at Worksite					
6782	0	Two Trained Employees					
6782	0	Proper Entry/Mgmt Fumigated Space					
1971	0	Safety kit / Test Equipment Available					
1973	0	Re-entry Requirements: Certification					
8505.2	0	Direct Supervision at Fume & Aeration					
8505.7	0	Secondary Locks					
1974	1	Warning signs on all sides of structure		1	1		
8505.1	0	Required information on warning signs					
8505.12	0	Warning Agent Used					
8505.15	0	Two SCBAs Available					

* 12973 Label – site/rate/other:
 1 noncompliance for a faulty thermometer
 1 for not using enough pic (>.1oz)
 1 for not locking the primary lock on a door

** 12973 Label – aeration / reentry: ground crewmember entered a fumigated space

Civil Penalty Fine Assignment Guideline

“Class C / Minor Violations”

\$50.00 \$120.00

\$190.00 \$260.00

\$330.00 \$400.00

CELL 1

CELL 2

CELL 3

“Class B / Moderate Violations”

\$250.00 \$400.00

\$550.00 \$700.00

\$850.00 \$1000.00

CELL 1

CELL 2

CELL 3

“Class A / Serious Violations”

\$700.00 \$1560.00

\$2420.00 \$3280.00

\$4140.00 \$5000.00

The initial fine assignment shall be cell 1 position 1 of the appropriate class with the following exceptions:

A) Performance of pest control prior to registration shall be assigned a minimum fine of \$120.00

Fine level adjustment criteria:

Apply “aggravating” factors first

“Aggravating” factors causing fine to adjust upward:

1. Violation involved multiple counts of same code section – *fine moves up one position*
2. Violation affected 2-4 individuals – *fine moves up one position* or Violation affected 5 or more individuals – *fine moves up two positions*
3. Violation had potential for significant (wide scope) environmental effects – *fine moves up one position*
4. Violator was uncooperative or lacked forthrightness during investigation – *fine moves up one position*
5. Proposed penalty action encompasses more than 3 contributing violations (6702 / 6600 etc) – *fine moves up one position*
6. Violation resulted in a doctor verified illness – *fine moves up one position*

“Mitigating” factors causing the fine to adjust downward:

7. Violator voluntarily initiated corrective action prior to knowledge or proposed civil penalty action – *fine moves down one position*
8. Violator alerted Department to subject incident – *fine moves down one position*

Do you have any questions or comments? Please feel free to write or call:

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