

The Notice of Decision

If the Hearing Officer is the County Agricultural Commissioner, he or she will send you a copy of his or her decision within approximately 30 days.

If the Hearing Officer is a person designated by the Commissioner, the Hearing Officer will submit a Proposed Decision in writing to the County Agricultural Commissioner. The Commissioner will review and adopt or not adopt the Proposed Decision. You will receive a copy of the Commissioner's Notice of Decision and Order within approximately 45 days.

Appeals

The Commissioner's Notice of Decision and Order will include appeal procedures.

Other Hearing Details

- The hearing will not be transcribed by a court reporter. If you wish, you may make your own arrangements to have a court reporter present at your expense. You must notify the County five days before the hearing if you have arranged for a court reporter."
- The Hearing Officer will administer an oath to all witnesses.
- The Hearing Officer will keep any items submitted as evidence until the case is final and any appeal has been resolved.
- The hearing process is informal and may vary at the Hearing Officer's discretion.
- Administrative pesticide penalty hearings are authorized by Food and Agricultural Code section 12999.5 and Business and Professions Code section 8617. The Notice of Proposed Action will identify the authorizing statute for the hearing.

The Evidence

If the County does not transmit the evidence to you at the time you are notified of the hearing date. Please call the County to make an appointment to see the evidence.

Hearing Dates and Changes

If you have any questions about your hearing date or time, please call the County.

Any changes to your hearing date must be requested in writing and received by the County five days before your hearing date, except in cases of emergency.

Accessibility of the Hearing Location

Hearing locations must be accessible to persons with disabilities. If you have special needs that require reasonable accommodation, advise the County in advance to assure accessibility.

This brochure was prepared by the California Department of Pesticide Regulation. It is intended for use by County Agricultural Commissioners.

Preparing for Your Administrative Pesticide Penalty Hearing
PR-ENF -086 (Rev. 04/08)

Preparing for Your Administrative Pesticide Penalty Hearing

You have an opportunity to be heard at an administrative hearing regarding alleged violations pertaining to unlawful pesticide use. At the hearing, you will have an opportunity to present evidence and testimony to refute the violation(s) presented in the Notice of Proposed Action.

Your hearing will be held before a Hearing Officer who will make a decision based upon evidence and testimony presented at the hearing. The role of the Hearing Officer is to determine if the violation(s) occurred and whether the penalty should be reduced or kept at the proposed level.

The hearing is your opportunity to come and present your evidence and testimony. You can review all the evidence of the County Agricultural Commissioner (County) before the hearing. Evidence submitted at the hearing will be evaluated by the Hearing Officer for its credibility and relevance. Additional evidence and testimony may not be introduced after the hearing has concluded.

If you request a hearing and do not appear, the hearing will proceed as scheduled and the Hearing Officer will base the decision on the County's evidence only; you will forfeit your rights to an appeal.

The formal hearing provisions of Chapter 5 of the Administrative Procedure Act (Government Code sections 11500-11529) do not apply to this hearing.

Who's Who

The Department of Pesticide Regulation regulates all aspects of pesticide use, sales and manufacturing in California.

The County Agricultural Commissioner is responsible for enforcing the laws and regulations pertaining to pesticide use within the County.

An advocate assigned by the County Agricultural Commissioner will present the case for the County.

The Hearing Officer will write a decision. The Hearing Officer is a person chosen by the Commissioner to hear the case fairly, impartially, and without bias.

The Respondent is the person and/or business charged with the violation(s). The Respondent:

- Is entitled to review the evidence.
- Is entitled to hear the evidence that is the basis for any fine or penalty action.
- Is entitled to question witnesses on relevant matters.
- Is entitled to produce evidence in his/her behalf.
- Is entitled to full and fair consideration of relevant evidence by an impartial hearing officer.
- Is entitled to an appeal if he/she participates in the hearing.
- May represent him/herself or be represented by an attorney, a family member, or an officer or employee of the Respondent at the hearing.

The Hearing Process

During the hearing, testimony and evidence will be taken on violations not agreed to in the pre-hearing conference. Clearly state why the evidence you present is relevant.

The Pre-Hearing Conference

At the request of the Respondent or County, immediately before the hearing, you have an opportunity to meet with the County. At this time, you may be able to agree on specific facts concerning all or part of your case. The pre-hearing conference generally will proceed as follows:

- Introductions and filling out the "Sign-in" or "Appearance" sheet.
- You and the County discuss the violations in the Notice of Proposed Action. Violations you acknowledge occurred can be agreed to (stipulated) and included as part of the hearing record.
- Bring any evidence you have to support your case. Evidence is testimony, writings, material objects, or other things that are offered to prove the existence or nonexistence of a fact. Examples of evidence include documents such as pesticide labels, invoices, correspondence, sales records, and photographs. Please bring three copies of any document.

To simplify the hearing process, Respondent and the County can "stipulate" or "agree" to facts and the relevance and authenticity of evidence.

The Hearing Begins

- The Hearing Officer will open the hearing and turn on the recording device.
- The Hearing Officer's record of the hearing is the official record.
- The Hearing Officer will state the date and time.
- All persons present will identify themselves and spell their names for the record.
- If applicable, the Hearing Officer states, "Prior to the hearing, a pre-hearing conference was held and the parties stipulated to the following.... Do all parties agree?"

Opening Statements

An opening statement is a summary of what you intend to show or prove. An opening statement is optional. The County will make their opening statement first, followed by the Respondent.

Presentation of Testimony and Evidence

Since the County has the burden of proving its case, the County presents its case first. The hearing begins with the County's advocate presenting his or her evidence and calling any witnesses. You are allowed to question the County's witnesses. After the County's presentation of evidence and witnesses, you may present your evidence and witnesses. The County's advocate can question your witnesses. Throughout this process, the Hearing Officer may question any witness to clarify points.

Closing Statements

A closing statement summarizes the evidence you presented to support your case. Your closing statement should be brief and direct. At the close, the Hearing Officer should be told exactly what you are requesting. As before, the County's statement is heard first, followed by the Respondent's statement. A closing statement is optional.

The Hearing is Closed