

## Section 3.2

### Factors to Consider When Setting a Fine Amount

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**Question posed at the Roundtable**

This document provides guidance on the following question posed at the Hearing Officer Roundtable:

- What factors should the county agricultural commissioner (CAC) consider when choosing a fine amount?
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**Fine range set by regulation**

Title 3, California Code of Regulations (3CCR) section 6130 establishes the criteria and fine range for each violation class designated in the regulation. The Department of Pesticide Regulation (DPR) provides guidance on selecting the type of compliance or enforcement action in the Enforcement Guidelines. After reviewing the evidence and selecting the most appropriate violation class, the CAC must then select a fine amount that falls within the fine range established for that violation class.

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**Fine amount according to CAC discretion**

3CCR section 6130 does not provide specific fines for specific violations, but only a fine range for each class of violation as defined by the regulation. This is a sensible approach since there is no way DPR could foresee the circumstances of each violation. For that reason, within the range established for each class of violation, the actual fine is left solely to the discretion of the CAC who will be familiar with the circumstance of each case.

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**Fine amount supported by evidence**

In selecting an appropriate fine amount, the CAC must exercise care to assure that the fine amount is commensurate with the documented circumstances of the violation. While developing the Notice of Proposed Action (NOPA), the CAC should document how they used the available evidence to establish a logical and appropriate fine amount. By incorporating this information into the NOPA, the CAC assures the Respondent that discretion was used fairly and within the bounds of the CAC's authority. This action will also prepare the CAC for an administrative hearing or an appeal to the Director, should the Respondent request them.

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**References**

- 3CCR section 6130, Civil Penalty Actions by Commissioners
  - Enforcement Guidelines, Technical Revision, December 2002
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