

Section 5.7

Closing Remarks

Questions posed at HO Roundtable

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

- What should closing remarks include?
 - Should comments be made to counter the Respondent's remarks?
 - Should you request a recess to prepare your closing remarks?
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Closing remarks

Closing remarks should be brief, but capture the theory of your case and highlight the relevant evidence in support of the county agricultural commissioner's (CAC's) action.

Highlight the violation(s), the evidence, and the proposed penalty

Briefly describe the issues for the Hearing Officer:

- Summarize the violation(s) and main evidence supporting it (them), i.e., review the facts and explain how they prove the Respondent committed the alleged violations, citing specific documents, testimony or other evidence.
 - Explain why the violation(s) warrant(s) imposition of a civil penalty in the Class C (formerly *minor*), Class B (formerly *moderate*), or Class A (formerly *serious*) range proposed by the CAC, i.e., refer to the fine guidelines (Title 3, California Code of Regulations [3CCR] section 6130 or Title 16, California Code of Regulations [16 CCR] section 1922) and briefly explain how and why the CAC arrived at the proposed penalty for each violation.
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Closing Remarks, Continued

Countering the Respondent's evidence or remarks

- If you think it is necessary, respectfully remind the Hearing Officer that the standard of proof for levying an administrative civil penalty is “the preponderance of the evidence,” i.e., “it is more likely than not” that the Respondent committed the alleged violation(s).
 - If it seems appropriate or desirable, respectfully and politely point out any inconsistencies in the Respondent's case or contradictions to the Respondent's evidence provided by the CAC's evidence.
 - If you think it is necessary given the facts of your case, you could remind the Hearing Officer that the Respondent received the Notice of Proposed Action (NOPA) and had an opportunity to review the evidence before the hearing; and/or
 - Note that the Respondent had sufficient opportunity to gather his/her evidence and to present it at the hearing to refute the allegations in the NOPA.
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Recess to prepare closing remarks?

The Hearing Officer is in charge of running the hearing. If you feel it is necessary, ask the Hearing Officer to grant a short recess so you could prepare your closing remarks. However, you should, and probably can, develop most of your closing remarks before the hearing and make minor adjustments to them, if necessary, as the evidence is presented during the course of the hearing.

Conclude your remarks

After discussing the violation(s), the evidence, and the penalty, and countering the Respondent's evidence or remarks, you may want to conclude by asking the Hearing Officer to make the findings of fact based upon the evidence that support the CAC's action.
