

Section 6.1

The Decision

Questions posed at the Roundtable

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

- What are the differences in the “Notice of Decision” and “Final Decision”?
 - Who writes and mails the “Notice of Decision” and the “Final Decision”?
 - Whose letterhead should be used (Hearing Officer’s or the county agricultural commissioner’s [CAC’s])?
 - When is each of these required?
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Decision terminology

Terms such as Decision, Notice of Decision, Commissioner’s Decision, etc., seem to be a source of confusion. They are all “labels” intended to signify that a decision has been made at some point in the administrative process, which may or may not be a “final” decision.

- Decision, or Notice of Decision, is the CAC’s decision. An underlying, proposed decision may have been written by the Hearing Officer who may or may not be a CAC. Decision may also refer to a decision of the Director of DPR.
 - Commissioner’s Decision is the decision issued by the CAC.
 - Decision Adopted by the Commissioner is the CAC’s decision where an underlying proposed decision of a Hearing Officer was adopted by the CAC as his/her decision in the matter.
 - Director’s Decision is the decision made by the Director (such as in an appeal of a CAC’s decision pursuant to FAC section 12999.5).
 - Docket No. or Administrative Docket No. refers to the number assigned by the Department of Pesticide Regulation’s Office of Legal Affairs to track certain civil penalty decisions of the Director.
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Final decision

A decision can become “final” at various points after the issuance of the CAC’s decision at the county level. A decision becomes “final” only if:

1. No appeal is made to the appropriate body within the time period allowed by statute or
 2. All possible appeals have been taken and decisions rendered on those appeals.
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The Decision, Continued

Director's Decision and Final Order

When a Commissioner's Decision is appealed to the Director, the Director's Decision may also be referred to as the "Director's Appeal Decision" or "Final Order." The Director's Decision can only be considered a "Final Order" if it is not appealed to the Superior Court within the time period permitted by statute.

When should the decision be forwarded to parties?

The Hearing Officer's proposed decision should be mailed or delivered to the CAC in a timely manner. There is no "time limit" per se, but in fairness to all parties, the written decision should be forwarded to the CAC within 20 days of the hearing. The CAC should process the proposed decision, (adopting the decision, issuing the order, and mailing along with the statement of appeal rights to the Respondent) in a timely manner. Again, there is no "time limit" but 10 to 15 days should be sufficient.

Who writes and mails what?

The Hearing Officer writes his or her proposed decision on his/her county's letterhead, signs and dates it, then mails or delivers the proposed decision to the CAC.

The CAC "adopts" the proposed decision on his/her letterhead, "orders" the fine to be paid, and provides the Respondent with written appeal instructions. Then, the CAC mails or delivers the decision, order, appeal rights, and any other pertinent instructions related to closing the matter, i.e., how to pay, who the check should be made payable to, etc. The CAC should attach the Hearing Officer's proposed decision to the Commissioner's Decision, order, and appeal rights.

Summary

Some of the terms mentioned above have similar meanings but are qualified in each case to clarify who exactly issued the decision and where exactly it fits in the whole scheme of the administrative and appeal process. The correct usage depends on the situation.

References

- Code of Civil Procedure
 - Hearing Officer Sourcebook, Second Edition, May 1995
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