

BEFORE THE HEARING

Immediately before the hearing, you will have an opportunity to meet with the agency representative and the hearing officer. At this time, you may be able to reach some agreement regarding specific facts and violations concerning all or part of your case.

1. Introductions and sign appearance sheet.
2. The hearing officer asks if there are any procedural objections.
3. You and the agency discuss the violations in the Notice of Proposed Action. Any violation you agree occurred will be stipulated to and included as part of the hearing.
4. Evidence from both you and the agency is submitted. You will need to 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 non-existence of a fact. This would include documents, labels, records, equipment, etc. Please bring three copies of any documents.

HEARING

During the hearing, the violations not agreed to in the prehearing meeting will be discussed. During the hearing, you should clearly state your objective (for example: you want charges dismissed, or fines reduced.) and present evidence to support your request.

➤ HEARING STARTS

1. Hearing officer turns on the tape recorder, states date and time.
2. All persons present identify themselves and spell their names for the record.
3. Hearing officer states, "Prior to the hearing, we had a prehearing meeting and the parties stipulated to the following... Is that correct?"

➤ OPENING STATEMENTS

An opening statement is a summary of your objective for your case. An opening statement is optional.

4. Agency.
5. Respondent.

➤ AGENCY PRESENTS CASE

6. Hearing officer administer oath to witness.
7. Direct examination of witness by agency. Direct examination is the first examination of a witness.
8. Cross examination of witness by respondent. Cross-examination is the examination of a witness by a party other than the direct examiner.
9. Rebuttal by agency.
10. Cross examination of rebuttal by respondent.
11. Call additional witnesses.

➤ RESPONDENT PRESENTS CASE

12. Hearing officer administers oath to witness.
13. Direct examination by respondent.
14. Cross-examination by agency.
15. Rebuttal by respondent.
16. Cross-examination of rebuttal by agency.
17. Additional witnesses testify.

➤ CLOSING ARGUMENTS

Summarize the evidence you presented to support your case. This should be brief and to the point. At the close, hearing officer should be told exactly what you are requesting.

18. Agency.
19. Respondent.

➤ CLOSE HEARING

NOTICE OF DECISION

The hearing officer will submit in writing a Notice of Proposed Decision to the commissioner. The commissioner reviews and adopts the Proposed Decision. You will receive a copy within approximately 45 days. The notice includes appeal procedures.

The AGENCY is the Department of Agriculture, Weights and Measures. The person who presents the case for the Agency is called the ADVOCATE.

The RESPONDENT is the person or business charged with the violation.

The RESPONDENT:

- ◆ May be represented by counsel;
- ◆ Is entitled to review the evidence;
- ◆ Is entitled to cross-examine witnesses on relevant matters;
- ◆ Is entitled to produce evidence on his/her behalf.
- ◆ Is entitled to full and fair consideration of the relevant evidence by an impartial hearing officer.
- ◆ Any penalties or fines taken against the respondent must be based upon sufficient competent evidence contained in the record;
- ◆ Is entitled to an appeal.

If you have any questions regarding your hearing date or time, please call 694-2742

If you wish to review the Department's evidence, please call 694-3976

Any changes to your hearing date must be requested in writing and received by this department 5 days prior to your hearing date.

COUNTY OF SAN DIEGO
DEPARTMENT OF AGRICULTURE,
WEIGHTS AND MEASURES

HEARING PROCESS OUTLINE

You have been granted an administrative hearing regarding pesticide violations. The objective of the hearing is to give you the opportunity to present testimony and evidence to refute the violations presented in the Notice of Proposed Action. Your hearing will be before a hearing officer who will make a decision based on all testimony and evidence presented. The role of the hearing officer is to determine if the violation(s) occurred, and was placed at the correct level. It is not the role of the hearing officer to negotiate who the Notice of Proposed Action should have been issued to.

Please come prepared to present all evidence and testimony at the time of the hearing. Additional evidence and testimony may not be introduced after the hearing has concluded. Evidence submitted will be evaluated by the hearing office for its credibility, relevance, and tendency to prove an issue. All hearings are recorded.