

Department of Consumer Affairs
Bureau of Automotive Repair

Informal Hearing Process

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Bureau Advisory Group Meeting

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Background and Process

- Government Code Sections 11445.10 – 11445.60
- Health and Safety Code Sections 44014.5 and 44051
- California Code of Regulations 3340.17.2, 3392.6.1 and 3394.42, 3394.45
- Authorized if the disciplinary action does not involve an actual revocation or suspension of a license for more than 5 days

Background on Process

- Intended to satisfy due process and public policy in a manner that is simpler and more expeditious than the formal administrative hearing procedures
- Licensee has an opportunity to be heard by the Chief or designee
- Written informal hearing process held at BAR's headquarters avoids expense of traveling to Sacramento

BAR's Informal Hearing Authority

- Hearing requirements of Health and Safety Code Section 44072 do not apply
- Actions of informal hearing officer are not subject to judicial review
- Hearing officer can refer the matter to an Administrative Procedural Act (APA) hearing, if a determination cannot be made

Issuance of STAR Invalidation/Citation

- STAR invalidation is mailed to licensee by certified mail to the address of record
- Citations are issued to licensee during an office conference or mailed to licensee by certified mail to the address of record
- Notice shall contain summary of the facts and allegations which form the cause of STAR invalidation or issuance of citation
- Licensee is provided information regarding their rights and how to appeal

Hearing and Determination

- The licensee must request an appeal in writing
- The request for hearing shall stay the invalidation or citation pending the informal hearing determination
- Hearing shall be limited in scope to the time period, facts, and allegations specified in the notice

BAR Informal Hearings

Bureau Chief designee is authorized to conduct informal hearings related to:

- Invalidations of STAR station certification
- Citations issued to Smog Check stations, technicians, contractors or fleet owners
- Unlicensed businesses and delinquent renewal of Automotive Repair Dealer (ARD) registrations

Regulation of Informal Hearing

Hearing officer shall regulate the course of the proceeding and may limit use of:

- Witnesses
- Testimony
- Evidence and argument
- Limit or eliminate use of pleadings, intervention, discovery, prehearings and rebuttals

Hearing Officer Considerations

During the hearing, the informal hearing officer will apply:

- Preponderance of evidence as the standard of proof
- Health and Safety Code Section 44050 (b)
10 factors of mitigation and aggravation
- California Code of Regulations Section 3392.5.1
Causes for invalidation of STAR station certification
- Other applicable statutes and regulations

Hearing and Determination

Hearing officer may:

- Affirm, modify, or dismiss a citation, including any levied fine, order of abatement, or order of correction
- Uphold or overturn the invalidation of a station's STAR certification

Timeline – STAR Certification Invalidations

- 5 days for licensee to file appeal with BAR in writing (BAR provides 14 days to appeal)
- Licensee must appeal for informal hearing with BAR before requesting an APA formal hearing; cannot waive informal hearing process
- 10 days for BAR to conduct informal hearing

Timeline – STAR Certification Invalidations

- 10 days for BAR to mail informal hearing decision to licensee
- If licensee does not agree with decision of informal hearing officer, 30 days to file appeal with BAR and request an APA formal hearing
- STAR invalidation stayed pending outcome of APA formal hearing, if appealed timely

Timeline – Smog Check Citations

- 30 days for licensee to file appeal with BAR in writing
- Licensee issued a citation may request an informal hearing, APA formal hearing, or both
- 60 days for BAR to conduct an informal hearing

Timeline – Smog Check Citations

- 10 days for BAR to mail informal hearing decision to licensee
- If licensee does not agree with decision of informal hearing officer, 30 days to file appeal with BAR and request an APA formal hearing

Timeline - Unlicensed Citations

- 10 days for licensee to file appeal with BAR in writing
- Licensee issued a citation may request an informal hearing, APA formal hearing, or both
- 60 days for BAR to conduct an informal hearing

Timelines - Unlicensed Citations

- 15 days for BAR to mail decision to licensee
- If cited business does not agree with decision of informal hearing officer, 10 days to file appeal with BAR and request an APA formal hearing