
CITATION SERVICE AND APPEAL PROCESSES



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BAR ADVISORY GROUP MEETING
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BAR CITATIONS

BAR currently issues citations for violations of:

- Health & Safety Code (Smog Check Program)
- Business & Professions Code (Unlicensed Activity)

SMOG CHECK CITATION APPEALS

Health & Safety Code section 44051:

- Allows licensees to informally appeal a Smog Check citation.
- Allows the BAR Chief or designee to “affirm, modify, or dismiss the citation”.
- Sets timeframes for holding an informal citation conference and providing the licensee with a decision.
- Allows licensees to formally appeal the informal citation conference decision.

UNLICENSED ACTIVITY CITATION APPEALS

California Code of Regulations section 3394.45:

- Allows licensees to informally appeal a citation for Unlicensed Activity by requesting an informal conference within ten (10) days after service of the citation.
- Allows the BAR Chief or designee to “affirm, modify, or dismiss the citation”.
- Sets timeframes for holding the informal citation conference and providing the licensee with a decision and re-issued citation if modified, within 15 days.
- Allows licensees to formally appeal “within ten (10) days of receipt of the informal conference decision”.

BAR REVIEW OF CITATION PROCESSES

Following a review of the citation service and informal citation conference processes, BAR determined:

- The process for serving citations must be uniform throughout the state.
- All informal conferences should be held with facility and/or technician telephonically or in-person.

CITATION PROCESS MODIFICATIONS

Starting July 1, 2020, to improve statewide consistency, BAR made changes to the service of Smog Check citations and to the informal citation conference process:

- BAR's Enforcement Operations Branch (EOB) now serves all Smog Check citations by mail statewide.
- All informal citation conferences are now conducted telephonically or in-person at BAR Headquarters with the Chief or designee.

IMPLEMENTING THE MODIFICATIONS (1 of 3)

To accommodate the service of these citations by mail, the citation documents have been changed in the following ways:

- Citation is now a two-page document that includes not only the citation amount, identified violations, and specifics of how those violations occurred, but also notification about the right to contest the citation.
- Additionally, the licensee will receive a newly revised “Payment of Fine” remittance form, and a newly revised “Request to Contest Citation” form.
- The “Citation Service Conference” form provided during a citation service conference was eliminated as it was no longer needed.

IMPLEMENTING THE MODIFICATIONS (2 of 3)

To accommodate the in-person/telephonic informal citation conference process, the following changes were made:

- The elimination of the “Important Notice” form which asked licensees to submit written arguments and supporting evidence, with the request to contest the citation.
- Internal changes in EOB to allow for in-person and telephonic informal citation conferences to be scheduled and conducted.

IMPLEMENTING THE MODIFICATIONS (3 of 3)

Additionally, the newly revised “Request to Contest Citation” form includes:

- Two options for licensees when requesting an informal citation conference:
 1. Appear in-person before the chief or designee at BAR Headquarters.
 2. Participate in the informal citation conference by telephone.
- Contact phone number requested on the form
- An option to request a formal hearing before an Administrative Law Judge.

INFORMAL CITATION CONFERENCE PROCESS

Informal citation conferences consist of a review of:

- Citation report and associated evidence prepared by a Program Representative in support of the citation issuance.
- Information provided by the facility and/or technician during either a scheduled telephonic or in-person citation conference.
- Issued citation information and service documents.
- Citation fine amount and/or training required.

INFORMAL CITATION CONFERENCE DECISION PROCESS

A decision from the BAR Chief or designee consists of:

- Consideration of information gathered from the Program Representative's report, the issued citation and the informal conference.
- A conclusion based on an independent review of all relevant information.
- A comparison of informal conference conclusion to BAR's table of aggravating/mitigating factors to access consistent fine amount and/or training hours.
- A decision letter mailed to the appellant within 10 days.

POSSIBLE CHANGES TO THE APPEAL PROCESS

Assembly Bill 471 (Low), if enacted as last amended (6/15/21), would amend sections of the Business and Professions Code to authorize BAR to:

- Create a process for the “informal review of and recommendation on citations”.
- Establish an informal citation conference conducted by an independent 3-member panel consisting of one representative each from the bureau, public and repair industry.
- Establish a remedial training program conducted by a BAR-certified provider for minor violations of the chapter.

QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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