

## DRAFT for Stakeholder Comment

### **ARB's Enforcement Process: What to Expect**

The Air Resources Board (ARB) enforces a variety of laws to stop illegal air pollution, to protect the public, and to make sure a company that ignores the laws does not get a leg up on their law-abiding competitors.

ARB's process to enforce these laws includes: (1) finding violations through inspections and investigations, (2) notifying the responsible people, (3) providing the responsible people an opportunity to explain and ask questions, and (4) resolving the violation informally if possible. This fact sheet provides details for each of these steps.

1. **Finding the violation.** ARB learns about violations through inspections, referrals from other agencies, tips from the community, mandatory reports from certain enterprises, and voluntary disclosure. How we learn about a violation will often make a difference in how we determine an appropriate penalty. For example, a violator who actively conceals its violation will typically be penalized at the maximum amount, but a violator who voluntarily comes forward and cooperates will typically receive a lower penalty.
2. **Notifying the responsible people.** Every person ARB believes has violated a law is notified, which varies on the circumstances. For example, the notice may be a citation issued at the roadside for a smoking, idling or tampered big rig truck or bus. The notice may be in the form of a letter informing the person of an apparent violation (and often requesting additional information) or in a slightly more formal "Notice of Violation." In extremely rare cases, the first notice will take the form of a legal pleading requiring a response and appearance in court to face charges for violating criminal or civil laws.
3. **Opportunity to discuss.** Everyone notified by ARB of violating any law or regulation is given one or more opportunities to explain the circumstances and to ask about the basis for the accusation. Depending on the seriousness and scope of the violations, the discussion may be a phone call, meetings with appropriate ARB staff, or an exchange of written communication. These discussions are usually a two-way street, as ARB seeks to

confirm and learn more about the violation, while the violator may want to explain that no violation occurred or outline any mitigation points. As part of the discussion, ARB explains the basis for any penalty it demands, and violators often request a reduced penalty based on mitigating circumstances ARB had previously not known about.

4. **Resolution.** Most violations are quickly resolved when the violator mails in a fine or negotiates a settlement by phone or in person. Violations that are disputed sometimes require more information gathering and discussion before an agreement is reached. In the rare cases that a violator wishes to contest an accusation, a neutral judge will resolve the dispute. That judge might be an administrative law judge (for smoke opacity or tampering tickets), a small claims court, or a judge in a California superior court or a federal court. For cases to be decided in superior court, ARB typically refers the case to the Attorney General's Office or a county District Attorney.

**Note:** This summary does not modify any provision of law.