

## **TITLE 13. NEW MOTOR VEHICLE BOARD**

(Notice published December 6, 2024)

### **NOTICE OF PROPOSED RULEMAKING**

As required by section 11346.4 of the Government Code, **NOTICE IS HEREBY GIVEN** that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050 proposes to amend California Code of Regulations, Title 13, section 550, subdivision (a), pertaining to the definition of an Administrative Law Judge ("ALJ").

### **PROPOSED REGULATORY ACTION**

The Board proposes to amend Section 550, subdivision (a) of Title 13 of the California Code of Regulations to amend the definition of an Administrative Law Judge ("ALJ"), so for purposes of Vehicle Code sections 3067(b), 3081(b), and 3085.4(b) it means an ALJ of the Board and not the Office of Administrative Hearings ("OAH").

### **PUBLIC DISCUSSIONS PRIOR TO NOTICE**

Prior to the publication of this notice, the Board considered the proposed amendment to the regulation at a noticed General Meeting held on April 25, 2024. Approximately fifteen days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulation was mailed to all individuals and entities on the Board's Public Mailing list and Electronic Public Mailing list. The agenda was also posted on the Board's website.

The public was invited to comment at the General Meeting in relation to the proposed changes to the regulation in this notice. No comments by the public were received at the April 25, 2024, General Meeting, and no further public discussion was held prior to publication of the notice.

### **PUBLIC HEARING**

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period indicated below. The request should be submitted to the Board staff member named below.

### **WRITTEN COMMENT PERIOD**

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board by email at [jason.rose@nmvb.ca.gov](mailto:jason.rose@nmvb.ca.gov) or [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov). The written comment period closes at

5:00 p.m. on January 21, 2025. The Board will consider only comments received at the Board's offices by that time. Written comments can be mailed to:

Jason A. Rose, Senior Staff Counsel  
California New Motor Vehicle Board  
2415 1st Avenue, MS L242  
Sacramento, CA 95818  
main line (916) 445-1888  
direct line (916) 505-2114

## **AUTHORITY AND REFERENCE**

Vehicle Code section 3050, subdivision (a), authorizes the Board to amend the proposed regulation. The amended regulation implements and interprets a provision in the California Code of Regulations, Title 13, Motor Vehicles, Division 1, Department of Motor Vehicles, Chapter 2, New Motor Vehicle Board, section 550, subdivision (a).

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The adopted mission of the Board is to "enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner." The adopted vision statement provides that the Board "demonstrate professionalism, integrity, and accountability in securing fair resolutions to motor vehicle industry disputes."

The Board proposes to amend its regulation to clarify the definition of an ALJ for the purposes of Vehicle Code sections 3067(b), 3081(b), and 3085.4(b), means an ALJ of the Board and not the Office of Administrative Hearings.

## **Summary of Existing Laws and Regulations**

Section 550(a) defines an "Administrative law judge" or "ALJ" as an administrative law judge of the board or Office of Administrative Hearings.

The Board's procedures are governed by the Vehicle Code [sections 3000-3085.10], the Administrative Procedure Act (APA) [Gov't. Code sections 11400, et seq.], and California Code of Regulations (CCR) sections 500-598], but also by various sections of the Code of Civil Procedure (CCP) applicable to the Board's administrative hearings. (Veh. Code § 3050.1; 13 CCR §§ 550, 551.2, 551.21, 551.24, 551.25, 584, and 595).

As noted above, the APA applies to the Board and its administrative proceedings in part based on the Board's statutory and regulatory scheme. Under Government Code section 11517(c), an agency has 30 days after the receipt of the proposed decision to file it as a public record and serve a copy by the agency on each party and their attorneys.

Under Vehicle Code sections 3067(b), 3081(b), and 3085.4(b), the Board only has 10 days after receipt of the ALJ's Proposed Decision to file it as a public record and serve each party and their counsel. Additionally, this 10-day review period is included in the 30-day statutory period the Board must consider the proposed decision at a noticed meeting. (Veh. Code §§ 3067(a), 3081(a), and 3085.4)

### **Effect of Proposed Rulemaking**

The proposed action will amend the definition of ALJ, which will provide the Board with 30 days, instead of 10 days, to review any proposed decisions issued by the OAH before filing it as a public record and serving a copy on each party and their attorneys.

This time will allow the Board's legal staff to review the OAH proposed decision for consistency and accuracy and to properly advise its Board members when they consider whether to adopt, reject or make technical or other changes to the proposed decision.

### **Broad Objectives and Specific Benefits of the Proposed Rulemaking**

The proposed action will benefit the public, practitioners before the Board, and the State of California by ensuring the proposed decisions are consistent and accurate (factually and legally). In addition, this will help ensure the Board's legal staff has sufficient time to review a proposed decision from OAH and advise its Board before it considers the decision at a public meeting.

The specific benefit anticipated from the regulations is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law.

### **Consistency and Compatibility with Existing State Regulations**

The Board evaluated the proposed amendment for potential inconsistency or incompatibility with existing state regulations pursuant to Government Code section 11346.5, subdivision (a)(3)(D), conducted a search of any similar state regulations, and has concluded that this regulation is neither inconsistent nor incompatible with any existing state regulations.

### **DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a directly affected private person or business: None. The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant, statewide adverse economic impact directly affecting businesses, including the ability of California business to compete with businesses in other states: None.
- Significant effect on housing costs: None.
- Effect of small business: None.

The proposed regulatory amendments have no associated costs. The Board's case management procedures concern franchised new motor vehicle dealers and their franchisors (new motor vehicle manufacturers or distributors) who choose to file a protest or petition with the Board.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

In accordance with Government Code section 11346.3, subdivision (b), the Board has made the following assessments regarding the proposed regulation action: The proposed amendment will not create any jobs within the State of California, eliminate any jobs within the State of California, create any new businesses within the State of California, eliminate any existing businesses within the State of California, cause the expansion of businesses currently doing business within the State of California.

The proposed amendment will benefit the public, practitioners, and the State of California by ensuring that proposed decisions are consistent and legally accurate. It will also give the Board adequate time to review these decisions from the Office of Administrative Hearings (OAH) before public meetings, where they decide to adopt, reject, or modify them.

The Board addresses disputes between motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors), helping to reduce congestion in the courts. This amendment will enable the Board to continue issuing uniform decisions across California, ensuring compliance with state law for franchisors and dealers.

The proposed regulation will not impact the health and welfare of California residents, and worker safety because they do not regulate worker safety standards and will also not benefit the environment because it does not change any applicable environmental standards.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present comments, statements, or arguments with respect to alternatives to the proposed regulation, during the written comment period or at the public hearing, if one is requested.

## **CONTACT PERSONS**

Inquiries concerning the proposed regulatory action may be directed to:

Jason A. Rose, Senior Staff Counsel  
New Motor Vehicle Board  
2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, CA 95818  
(916) 505-2114 direct line  
(916) 445-1888 main line  
[jason.rose@nmvb.ca.gov](mailto:jason.rose@nmvb.ca.gov)

The backup contact person for these inquiries is:

Robin P. Parker, Chief Counsel  
New Motor Vehicle Board  
2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, CA 95818  
(916) 323-1536 direct line  
(916) 445-1888 main line  
[robin.parker@nmvb.ca.gov](mailto:robin.parker@nmvb.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, modified text of the regulation, if any, or other information upon which the rulemaking is based to Jason A. Rose at the above address or send the request by email to [jason.rose@nmvb.ca.gov](mailto:jason.rose@nmvb.ca.gov).

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. To make an appointment, please reach out to the Contact Person listed above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulation as revised. Requests for copies of any modified regulation should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available to the public.

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Mr. Rose or Ms. Parker at the above address, phone number, or email address. Copies of the Final Statement of Reasons will also be published on the Board's website.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline or strikeout font can be accessed through the Board's website at [www.nmvb.ca.gov](http://www.nmvb.ca.gov).