

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 the regulations as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Sections 551.14 and 555 of Title 13 of the California Code of Regulations to delete the terms “residence” and “business” preceding “address.”

The Board proposes to amend Section 595 of Title 13 of the California Code of Regulations to delete the term “office” preceding “address.” The references to facsimile filing of papers is being deleted as papers and filings are submitted to the Board via electronic-mail, regular mail, or overnight delivery.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered the proposed regulatory amendments at noticed General Meetings held on April 28, 2023 and September 21, 2023. Approximately 15 days prior to each meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to all individuals and entities on the Board’s Public Mailing list and Electronic Public Mailing list. The agendas and memos were also posted on the Board’s website.

The public was invited to comment at each General Meeting in relation to the proposed changes to the regulations in this notice. No comments by the public were received at the April 28, 2023 or September 21, 2023, General Meetings 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 Contact Person 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 or nmvb@nmvb.ca.gov. The written comment period closes at 5:00 p.m. on January 21, 2025. The Board will only consider comments received at the Board's offices by that 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 regulations. The amended regulations implement and interpret provisions in the California Code of Regulations, Title 13, Motor Vehicles, Division 1, Department of Motor Vehicles, Chapter 2, New Motor Vehicle Board, sections 551.14, 555, and 595.

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 regulations to delete obsolete requirements of parties and their counsel when filing protests and petitions.

Summary of Existing Laws and Regulations

Section 551.14 allows the parties to request voluntary informal mediation before filing a petition. A request for informal mediation includes, in part, the relief or disposition sought and the parties' contact information. Additionally, if known, the names, residence addresses and business addresses of persons and the dates, places and specific actions or practices involved in the matter

Section 555 describes the contents of a petition. A petition includes, in part, the relief sought and the parties' contact information. Additionally, the names, residence addresses and business addresses of persons and the dates, places and specific actions or practices involved in the matter.

Section 595 describes the format of the first page and the format and filing of papers. Specific information is required to be included in the first page of all papers, including contact information (name of the attorney or agent presenting the paper or the party if appearing in person, office or if none the residence address, mailing address (if different from the office or residence address), electronic-mail address, telephone number, and facsimile number). Section 595 also allows papers to be filed with the Board by facsimile or electronic-mail transmission and provides that papers filed within regular business hours by facsimile or electronic-mail transmission are filed on the date received.

Effect of Proposed Rulemaking

The terms “residence,” “business,” and “office” preceding “address” in the regulations are extraneous. Using “addresses” without a modifier allows the party to determine the appropriate address.

Requiring the parties to include their facsimile number on papers is outdated as papers and filings are submitted to the Board via electronic-mail, regular mail, or overnight delivery. Removing references to “facsimile” ensures that the Board does not maintain regulations that are outdated or inconsistent with current practices. Furthermore, allowing filings via facsimile is no longer feasible.

Broad Objectives and Specific Benefits of the Proposed Rulemaking

The broad objective of the proposed amendments to the regulations is to clarify for litigants that appear before the Board the information necessary to effectively represent themselves or their clients.

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 amendments 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 the proposed regulatory amendments are neither inconsistent nor incompatible with any existing state regulations.

DISCLOSURES REGARDING THE PROPOSED 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; they clarify case management procedures for 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 amendments 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 regulatory amendments benefit the public, practitioners appearing before the Board, and the State of California by eliminating the requirement to provide information that is unnecessary. The proposed amendments improve readability and ensure the regulations do not contain extraneous language that is outdated. The proposed regulatory amendment removing the requirement to provide a facsimile number on papers is consistent with the mode in which papers are filed. Filing papers by facsimile is outdated as the majority of filings are via electronic-mail or other means.

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 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 1st Avenue, MS L242
Sacramento, CA 95818
Main line: (916) 445-1888
Direct line: (916) 505-2114
jason.rose@nmvb.ca.gov

The backup contact person for these inquiries is:

Robin P. Parker, Chief Counsel
New Motor Vehicle Board
2415 1st Avenue, MS L242
Sacramento, CA 95818
Main line: (916) 445-1888
Direct line: (916) 244-6776
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.

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 by appointment. To make an appointment, please reach out to the Contact Person listed above. As of the date this notice is published in the California Regulatory 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 Person 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.