

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

### **NOTICE OF PROPOSED ACTION**

**NOTICE IS HEREBY GIVEN** that the New Motor Vehicle Board of the State of California ("Board"), pursuant to the authority vested in it by Section 3050, subdivision (a) of the Vehicle Code, proposes to adopt section 551.10 and to amend sections 551.8, 553, and 553.40 of the regulations contained in Title 13 of the California Code of Regulations in order to improve and clarify processes and procedures for parties appearing before the Board, to formalize the Board's policy and practice of granting fee waivers to specified members of the Board's constituency, under specified conditions, and to permit payment of filing fees by means of credit cards.

#### **PROPOSED REGULATORY ACTION**

The Board proposes to adopt section 551.10 and to amend sections 551.8, 553, and 553.40, after consideration of all comments, objections, and recommendations regarding the proposed action.

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

Prior to the publication of this notice, the Board considered the proposed text of the regulations at noticed meetings held on October 29, 2002, and January 8, 2003. Ten days prior to each meeting, a detailed agenda including the consideration of the proposed text of the regulations was mailed to the Board's Public Mailing List, a list of approximately 150 individuals, entities and governmental agencies who have requested notification by the Board of pending Board matters. No comments by the public were received at the October 29, 2002 and January 8, 2003, General Meetings, and no further public discussions were held prior to publication of the notice.

#### **PUBLIC HEARING**

A public hearing to receive oral or written comments on these regulations will be held at the following time and place:

**DATE:** June 30, 2003

**TIME:** 10:00 a.m.

**PLACE:** New Motor Vehicle Board  
Hearing Room #2  
1507 21st Street, Suite 330  
Sacramento, California 95814

At the hearing, any person may present statements or arguments orally or in writing via U.S. Postal Service mail, facsimile or electronic mail, relevant to the proposed action described in the Informative Digest. The hearing will continue until all oral and written comments are presented. The Board requests but does not require that a person who makes comments at the hearing also submit a written copy of their testimony at the hearing. Any person or business submitting a comment to the proposed regulation has the right to request a copy of the final statement of reasons.

## **WRITTEN COMMENT PERIOD**

Notice is also given that any person interested may present statements or arguments in writing via U.S. Postal Service mail, facsimile or electronic mail, relevant to the proposed amendments to the agency officer named below at the address identified below on or before 5:00 p.m. on June 30, 2003. The Board will consider only comments received at the Board offices by that time. Submit comments to:

Howard Weinberg, General Counsel  
New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, CA 95814  
(916) 445-2080  
Fax: (916) 323-1632  
E-mail: [www.nmvb@pacbell.net](mailto:www.nmvb@pacbell.net)

The official record of the rulemaking procedure will be closed at 5:00 p.m. following the conclusion of the public hearing on June 30, 2003. Written comments received after 5:00 p.m. on June 30, 2003, will not be considered unless an extension of time in which to receive written comments is announced at the public hearing.

## **AUTHORITY AND REFERENCE**

Authority cited: Sections 3015, 3016, 3050(a), and 3050.5, Vehicle Code.  
Reference: Sections 3050(c), 3051, 3060, and 3062, Vehicle Code; Sections 11420.30 and 11470.50, Government Code.

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

Vehicle Code section 3050, subdivision (a) authorizes the Board to adopt rules and regulations governing such matters as are specifically committed to it.

It is the mission and vision of the Board, as adopted by its members, to: resolve disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner; safeguard for the Board's constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes which ultimately improves relations and reduces the need for costly litigation; and, develop methods that further improve the

delivery of Board services in a timely and cost-effective manner.

The Board proposes to adopt section 551.10 to the regulations contained in Title 13 of the California Code of Regulations in order to implement and make specific Vehicle Code section 3015, formalize the procedure for litigants to make motions for change in venue and provide for Board recovery of travel and hearing facilities' costs when the party requesting the change cancels the proceeding at the new venue.

The Board proposes to amend section 551.8 to the regulations contained in Title 13 of the California Code of Regulations to provide explicit regulatory authority for the pre-hearing dismissal of protests and make procedures and the authority for protest dismissals consistent with that for appeals and petitions.

The Board proposes to amend section 553 to the regulations contained in Title 13 of the California Code of Regulations to provide explicit regulatory authority to waive Board fees for manufacturers that do not sell vehicles and/or have dealers in California. The Board's authority for collection of fees is in Vehicle Code section 3016, as implemented and made specific by section 553. The statute and implementing regulation are silent on issues of exempting certain manufactures or distributors from Board fees. The Board as a matter of policy, and in practice, does not collect fees from manufacturers or distributors that do not sell vehicles and/or have dealers in California. This regulation will implement, and provide the Board with authority for current equitable practices and procedures.

The Board proposes to amend section 553.40 to the regulations contained in Title 13 of the California Code of Regulations to provide explicit regulatory authority to permit litigants before the Board to pay filing fees by means of a credit card payment. Accepting credit card payments would also bring the Board into compliance with the provisions of the State Payment Card Act ("Act"), Government Code sections 6160-6166. The Act, passed in 1995, requires that all state agencies, with limited exceptions, accept credit cards or other direct payment devices for goods and services. Technically, the Board is currently in compliance with the Act pursuant to the Department of Motor Vehicles' participation. The Act provides in pertinent part as follows:

"The Legislature finds and declares that there are costs associated with all forms of payment, including cash and checks. The Legislature further finds and declares that by accepting payment by credit card or other payment devices, state agencies will be able to take advantage of new technologies that will improve their efficiency and will increase consumer convenience and choice by providing state consumers with an alternative method of payment."

The Act does not specify or require that all transactions be processed via credit card.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Board has made the following determinations:

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulation, are legally required to enforce the regulation, or derive a benefit from or incur an obligation from the enforcement of the regulation.

### **LOCAL MANDATE**

The proposed regulatory action does not impose a mandate on local agencies or school districts.

### **FISCAL IMPACT STATEMENT**

The proposed regulatory action imposes (1) no cost or savings to any state agency; (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; (3) no other non discretionary cost or savings to local agencies; and (4) no costs or savings in federal funding to the state.

### **EFFECT ON BUSINESSES**

The Board has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in making this determination.

### **POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

The cost impact of the proposed regulatory action is expected to be inconsequential on directly affected private persons. The Board expects no cost impact on directly affected businesses. 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.

### **ASSESSMENT REGARDING THE EFFECT ON JOBS/BUSINESSES**

The adoption of this regulation will neither create nor eliminate jobs or businesses in the State of California, will not result in the elimination of existing businesses, and will neither reduce or expand businesses currently doing business in the State of California.

### **EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no impact on housing costs.

## **EFFECT ON FEDERAL LAW**

The proposed regulatory action will not duplicate or conflict with any federal law.

## **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 or would be as effective and less burdensome to affected private persons than the proposed action.

At both the October 29, 2002, and the January 8, 2003, General meetings, wherein the Board preliminarily adopted the proposed regulatory text, no other alternatives were considered. However, the Board President, Frederick (Fritz) Hitchcock invited and encouraged the submission of written and oral comments. Furthermore, Mr. Hitchcock indicated that the Board, in instructing staff to go forward with the proposed rulemaking, did not necessarily indicate final Board action. If any written or oral comments were received, the full Board would consider the comments and reconsider the text of the proposed rulemaking. Lastly, if the staff decided that modifications to the proposed text were necessary, the Board would consider those modifications at a noticed meeting. If there were no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

## **CONTACT PERSON/BACKUP CONTACT PERSON**

Please direct inquiries concerning the substance of the proposed action, requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to:

Howard Weinberg, General Counsel  
New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, CA 95814  
Telephone: (916) 445-2080

In the event the Contact Person is not available, inquiries concerning the substance of the proposed action, requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based may be directed to the following Backup Contact Person:

Robin Parker, Senior Staff Counsel  
New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, CA 95814

Telephone: (916) 445-2080

## **AVAILABILITY OF INFORMATION VIA THE INTERNET**

Information regarding the proposed amendments may be obtained from the Board's website: [www.nmvb.ca.gov](http://www.nmvb.ca.gov).

## **STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The express terms of the proposed action are written in plain English and are available from the contact person named in this notice. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline to indicate additions, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the initial statement of reasons and the location of public records, including reports, documentation, and other materials, related to the proposed action.

## **AVAILABILITY OF MODIFIED TEXT**

Following the written comment period and public hearing, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the Board adopts the resulting regulation. Requests for copies of a modified regulation should be addressed to the Board contact person identified in this notice. The Board will accept written comments on the modified regulation for 15 days after the date on which it is first made available to the public.

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

Requests for copies of the final statement of reasons may be directed to the Contact Person or the Backup Contact Person listed in this Notice, or may be obtained from the Board's website: [www.nmvb.ca.gov](http://www.nmvb.ca.gov).