

STATE OF CALIFORNIA



MEMO

To : **POLICY AND PROCEDURE COMMITTEE** Date: January 19, 2016
BISMARCK OBANDO, CHAIR
KATHRYN DOI, MEMBER

From : **WILLIAM G. BRENNAN**
ROBIN P. PARKER

Subject: **CONSIDERATION OF THE 2016 EDITION OF THE *NEW MOTOR VEHICLE BOARD ADMINISTRATIVE LAW JUDGES' BENCHBOOK***

The enclosed *New Motor Vehicle Board Administrative Law Judges' Benchbook* ("Benchbook") was reviewed and revised most recently at the March 25, 2015, General Meeting. It is being revised again to reflect legislative changes that were effective January 1, 2016. The table of contents and all page references were updated. The pertinent changes, as indicated below, are in italic/underline and strikeout font.

- The section "New as of 2016" has been updated to reflect recent legislation impacting the Board, and regulations promulgated by the Board.
 - Assembly Bill 759 (Stats. 2015, Ch. 407), co-sponsored by the Recreation Vehicle Industry Association and California Recreational Vehicle Dealers Association, cleans up a number of inconsistencies in the Vehicle Code; deletes all references to Article 5 recreational vehicle protests in Sections 3066 and 3067; and adds parallel provisions to Article 5 (Sections 3080 and 3081).
 - Assembly Bill 1178, (Stats. 2015, Ch. 526) was sponsored by the California New Car Dealers Association. It establishes an export or sale-for-resale prohibition policy protest in Article 6 of the Vehicle Code. An association, which is defined as an organization primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interests of dealers, may bring a protest challenging the legality of an export or sale-for-resale prohibition policy of a manufacturer, manufacturer branch, distributor, or distributor branch at any time on behalf of two or more dealers subject to the challenged policy pursuant to subdivision (y) of Section 11713.3.
 - The case management regulations promulgated by the Board add definitions of "proposed stipulated decision and order" and "stipulated decision and order of the board". Vehicle Code section 3050.7 provides that a Proposed Stipulated Decision and Order will be deemed adopted by the Board unless a

member objects to it within 10 days after receipt thereof. In the event a member objects, the procedure for getting this matter before the Board at a noticed meeting has been formalized. The regulation pertaining to subpoenas has been amended to clarify that a Board Administrative Law Judge can issue subpoenas. Additionally, all written requests for the issuance of a Board subpoena need to be “properly served on the opposing party or parties.” The requirement that the original proof of service be filed with the Board following service upon the witness or deponent has been eliminated; a copy is sufficient.

- The sanctions regulation was amended to clarify that a party requesting sanctions against another party may be awarded its expenses and attorney’s fees in seeking sanctions, and, conversely, that a party from whom sanctions are sought who successfully defends against such a motion may be awarded its expenses and attorney’s fees in opposing the motion for sanctions.
- There were changes throughout the *Guide* to reflect the new provisions added by Assembly Bill 759.¹

There were no other substantive changes.

This topic is being agendized for discussion and consideration at the February 10, 2016, General Meeting. If you have any questions or require additional information, please contact me at (916) 324-6197 or Robin at (916) 323-1536.

Enclosure

cc: Glenn Stevens

¹ An *Export or Sale-For-Resale Prohibition Policy Protest Guide* for Vehicle Code section 3085 protests filed by an association, as defined, was adopted by the Board at the February 10, 2015, General Meeting.