

**MINUTES  
AUTO INDUSTRY DIVISION  
RULEMAKING  
STAKEHOLDER WORKING GROUP 2**

Meeting of October 12, 2021  
2:00 p.m.

Virtually via Cisco Webex

**Working Group Members Present**

Chris Rouze, Director - Auto Industry Division  
Beth Spellerberg, Rules Administrator - Auto Industry Division  
Brad Jones, Sr. Assistant Attorney General - Colorado Attorney General's office  
Christine Staberg, General Motors  
Gloria Breeden, Compliance Investigative Supervisor - Auto Industry Division  
Jarod Mullins, Tractor Supply Company  
Jeff Perry, General Motors  
John Bowell, Shortline Automotive Inc  
John Opeka, Agent-In-Charge - Auto Industry Division  
Joshua Dexter, Investigative Supervisor - Auto Industry Division  
Kendra Ansley  
Nelson Scott, PDAC  
Nicole Brenner, Reed Smith Law Firm  
Todd Maul, New Car Dealer  
Pat Watson, TrueCar  
Dana Gaus, Carry-On Trailer  
Hal Lenox, General Motors  
Vickie Strada, Trailers Plus  
Juanita Martinez  
Matthew Groves, CADA  
David Cardella, CEO - CIADA  
Arleen Criddell Tapanen, Meeting Recorder - Auto Industry Division

**Rules under Review:**

**1 CCR 205-1, Regulation 44-20-121(3)(i) - Advertising, Rule 3 for Motor Vehicle Dealers**

**1 CCR 205-2, Regulation 44-20-420(3)(i) - Advertising, Rule 3 for Powersports Dealers**

Director Rouze opened the initial Stakeholder meeting of Working Group 2 with participant introductions. Director Rouze stated that this meeting is not part of the Auto Industry Division's (Division) annual Rulemaking Agenda. This meeting is in response to multiple requests from stakeholders to review Advertising Rule #3 in light of the pandemic, global supply chain issues and microchip shortages. Today, the working group will form draft rules that will be presented to the Motor Vehicle Dealer Board (MVDB).

Director Rouze reminded all that the Division can only propose rules. The MVDB is the rulemaking authority and they are empowered by statute to promulgate rules.

Director Rouze further stated that we need to remain consistent with our guiding principles to keep rules transparent, to clearly articulate expectations of licensees and that the rules need to be grounded in law. In addition, Director Rouze reminded the working group that one of the MVDB's primary missions is consumer protection.

Director Rouze outlined the meeting processes and participant roles. The floor was turned over to Mr. Hal Lenox of General Motors (GM).

**Regulation 44-20-121(3)(i)** - Mr. Lenox turned the floor over to Mr. Jeff Perry who stated that the impact of the pandemic has resulted in inventory shortages and dealers are finding it necessary to sell deeper into their vehicle pipeline to satisfy customer demand and initiate new production orders with their manufacturers as quickly as possible to replenish their inventories and help factories return to full capacity as quickly as possible. In addition to shortages, online purchasing has increased in popularity and customers are demanding this type of online retailing because of the transparency, a larger vehicle selection, no-contact nature and a social distancing shopping environment.

Mr. Perry further stated that General Motors has determined that Colorado was among a handful of states with laws and regulations that would need modification to keep pace with the change in the Industry. At least eight (8) of the other states have started making modifications. These modifications would allow customers to shop, dealers to save on their floor plan costs and increase opportunities and replacement allocations from their Original Equipment Manufacturer (OEM)s.

Mr. Groves of CADA asked if the Division would extend the period that dealers can advertise, to prevent any sort of pull of cars that they are irrevocably going to the dealer and to stop inventory from being held outside of Colorado.

Mr. Groves agreed to forward language to that effect to Rules Administrator Spellerberg.

Mr. Maul said their inventory is low on lots due to chip shortage and other restraints. He added that once they order a vehicle and it is assigned a VIN and then they know that vehicle is coming to them. Mr. Maul stated that he believes this is good for consumer protection to ensure they will get the vehicle they ordered.

Ms. Rouze then asked for comments from trailer dealers. Ms. Brenner stated that trailer dealers in Colorado are concerned with the advertising rule; namely, with utility trailers advertising on the internet for sale. Colorado includes trailers within the definition of motor vehicles, which sometimes results in unintended consequences with trailers.

For this rule, Ms. Brenner suggests the rule be amended to include and exempt from the requirement to advertise, the year and dealer stock number and expand request to include VIN for advertising of trailers specifically for over the internet. Several Colorado licensed trailer dealers operate national websites that list the trailers that are available for purchase at their stores across the country. These websites are not individual store websites that show stock just for a specific store. With all the features and differences available for a regular motor vehicle, those do not always exist for the type of trailers they are referring to (open flatbed trailer for a lawn mower). If they advertised their whole stock, you would have the same exact listing several times and you would be changing the website inventory across the country for a sale in just one store. The advertised price of the model shown would not change.

Ms. Brenner further stated that if the working group is amenable, she will put language together for their review at the next meeting.

Mr. Gaus stated that the only trailers listed on line through big box dealers are what they refer to as “SKU’s (stock keeping unit)” and all SKU numbers are identical.

After a lengthy discussion, the addition of words “or VIN number” was agreed upon. In addition, Rules Administrator Spellerberg, will prepare new language submission from Ms. Brenner of Reed Smith Law Firm and forward to stakeholders for review prior to the next scheduled stakeholder meeting.

**Regulation 44-20-121(3)(i) (last sentence)** - Mr. Perry stated that the use of the language GM would like to add “available to be shipped” assures consumers where the product is going to be available so they can get it when it arrives. With the VIN, the dealer knows the vehicle is coming to them and so they can begin advertising. The idea is everyone knows the product is coming and it is identified by the VIN and advertising can begin. When it comes to Auctions, there is a delay in titling so GM would like to be able to advertise that the product is coming.

**The working group took a 10 min break. The working group resumed meeting at 3:10 p.m.**

Mr. Cardella is concerned that there are websites taking inventory from other dealer sites and putting it on their own, which is commonly referred to as “inventory scraping”. Mr. Cardella also suggested changing the timeframe from 5 days.

Ms. Strada of Trailers Plus stated that in the motor vehicle arena if you have a VIN and consumer knows what store the vehicle is being delivered to, it provides some certainty but this would be different for utility trailers. Ms. Brenner agreed to review the language.

Mr. Perry stated that they added language in their proposal begins at the end of the last sentence **“to the dealer from the manufacturer or distributor or their affiliate within a reasonable period of time”**.

After a lengthy discussion, addition at the end of the last sentence add **“to the dealer from the manufacturer or distributor or their affiliate within a reasonable period of time”** was proposed. In addition, Rules Administrator Spellerberg will add Ms. Brenner’s suggestion for trailers to read **“make, model or SKU”**.

Ms. Strada suggests leaving the language of **“VIN or stock number”**.

Director Rouze suggested stakeholders send in language modifications with regard to the 5-day timeframe discussion.

Mr. Jones encouraged stakeholders to be specific in responses and to breakdown suggestions into specific subjects and sections. Be sure the language is easily understandable to licensees and for Division staff.

The next stakeholder meeting is scheduled for Tuesday, November 9, 2021 at 2:00 p.m. All stakeholders were advised to submit proposed language modifications to Rules Administrator Spellerberg by the end of this month.

Director Rouze thanked everyone for their participation and adjourned the stakeholder meeting at 3:56 p.m.

*(Note: The minutes of these rulemaking working groups are very general in nature and only summarize the contents of the meeting. They are not verbatim transcripts and are based principally upon the digital recording of the meeting and upon the later collaboration of staff attendees to ensure that the summary faithfully captures the matters before the working group and the discussion the group had. The digital recording of the meeting is a permanent record of the Division, retained in the electronic filing system of Division, and is available on the Division’s website).*