

**MOTOR VEHICLE DEALER BOARD
EMERGENCY RULEMAKING HEARING MINUTES**

November 17, 2020

An emergency rulemaking hearing was held via video conference with Cisco WebEx. The following persons were virtually present:

BOARD MEMBERS:

Carrie Ann Baumgart
Charla Berens
Ramona Graves Bode
Fletcher Flower
John Linton
Kevin Shaughnessy
Michael Widhalm

MEMBERS ABSENT:

Matthew Porter
Luke Walch

**SENIOR DIRECTOR OF THE
SPECIALIZED BUSINESS GROUP:**

Cory Amend

EXECUTIVE SECRETARY:

Chris Rouze

**DEPT OF REVENUE,
AID, ENFORCEMENT
DIVISION STAFF:**

Chris Hartman
Gloria Breeden
John Opeka
Josh Dexter
Frank Agos
Tim Rotter
Jim Osborn
Beth Spellerberg
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brad Jones
Torrey Samson
Keenan Lorenz

VISITORS:

David Cardella, CIADA
Adam Landkammer
Suzanne Karrer, SDO
Del Knouse
Ray Burgio
Athina Sweigard
David Slone
Chris Soles
Matthew Groves, CADA

President and Chair, John Linton, opened the emergency rulemaking hearing of November 17, 2020 at 9:01 a.m. Mr. Linton stated that the emergency rulemaking will proceed according to provisions of the Colorado Administrative Procedures Act 24-4-103(6) (a), C.R.S.

Mr. Linton determined that a quorum of the Board was present to consider the repeal of rules 44-20-102(22)-COVID regarding motor vehicles and 44-20-402(17)-COVID regarding powersports vehicles. The Board will also consider the promulgation and adoption of rules 44-20-102(22)-COVID DIAL regarding motor vehicles and 44-20-402(17)-COVID DIAL regarding powersports vehicles. Mr. Linton called for a motion to open the hearing for the Board to consider the repeal of the two current emergency rules and promulgation of two new rules related to both 1CCR 205-1 regarding motor vehicles (MV) and 1CCR 205-2 regarding powersports vehicles (PS).

Ms. Bode made a motion to enter the rulemaking hearing - passed unanimously.

Mr. Linton stated that the emergency rulemaking will proceed according to provisions of the Colorado Administrative Procedures Act 24-4-103(6) (a), C.R.S. and is not subject to the requirements under Subsections 3 and 4 of that statutory provision. Mr. Linton turned the floor over to Executive Secretary, Chris Rouze.

Ms. Rouze stated that the two emergency rules promulgated on August 5, 2020 will expire December 3, 2020. Mr. Jones has drafted two versions of emergency rules for the Board's consideration.

Ms. Rouze stated that in an effort to continue to enable motor vehicle dealers, used motor vehicle dealers, powersports dealers and used powersports dealers to continue retail sales and operations during the pendency of the COVID-19 pandemic, and in accordance with Executive Order D 2020 235 dated October 30, 2020, Executive Order D 2020 245 dated November 9, 2020, the Colorado Department of Public Health and Environment's Public Health Order 20-36 dated November 2, 2020 and other guidance issued by Colorado Department of Public Health and Environment, the Centers for Disease Control and local counties and municipalities, it is necessary to engage in rulemaking activities and to adopt the emergency regulation 44-20-102(22)-COVID DIAL and regulation 44-20-402(17)-COVID DIAL.

Mr. Linton asked if any Board members had any questions before proceeding.

Ms. Bode asked if the new rules would result in test drives being discontinued. Ms. Rouze stated that the purpose of the rulemaking is to update the most recent public health and executive orders and to incorporate the Governor's DIAL system. Mr. Jones noted that the only exceptions would be restrictions imposed by local municipalities in their respective jurisdictions.

Mr. Linton asked for a motion to close the public comment phase of the emergency rulemaking hearing.

Mr. Flower made a motion to close the public comment phase of the emergency rulemaking hearing – passed unanimously.

Mr. Linton stated that the Board will begin public deliberations to make decisions on the current emergency rules and the two new emergency rules. Only Board members and the Attorney General's representative are permitted to participate unless authorized by the Chair. Each rule must be voted on separately. The Board must also vote to approve statement of justification for each emergency rule in accordance with provisions of the Colorado Administrative Procedures Act 24-4-103(6) (a), C.R.S.

Mr. Linton asked for a motion to repeal the current emergency regulation 44-20-102(22)-COVID promulgated on August 5, 2020 – passed unanimously.

Mr. Linton asked for a motion to repeal the current emergency regulation 44-20-402(17)-COVID promulgated on August 5, 2020 – passed unanimously.

Mr. Linton asked for a motion to adopt the proposed emergency regulation 44-20-102(22)-COVID DIAL and that the Board authorize him to sign the statement of emergency justification and adoption concerning emergency regulation 44-20-102(22)-COVID DIAL – passed unanimously.

Mr. Linton asked for a motion to adopt the proposed emergency regulation 44-20-402(17)-COVID DIAL and that the Board authorize him to sign the statement of emergency justification and adoption concerning emergency regulation 44-20-102(17)-COVID DIAL – passed unanimously.

Mr. Linton thanked everyone for their participation in the emergency rulemaking hearing and asked for a motion to close the rulemaking hearing.

Mr. Jones stated that the new rules are now in effect for 120 days and filed with the Secretary of State's office.

Ms. Bode made a motion to close the emergency rulemaking hearing – passed unanimously.

Meeting adjourned at 9:20 a.m.

(Note: The Minutes of the Motor Vehicle Dealer Board 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 Board and the actions the Board took. The digital recording of the meeting is a permanent record of the Board, retained in the electronic filing system of the Auto Industry Division, and is available as a resource for review, as needed.)

Chris Rouze
Executive Secretary