

Colorado Motor Vehicle Dealer Board
Adoption of New Emergency Rule:
Emergency Regulation 44-20-102(22)-E

Statement of Emergency Justification and Adoption

Pursuant to section 24-4-103(6)(a), C.R.S., the Colorado Motor Vehicle Dealer Board ("Board") hereby adopts Emergency Regulation 44-20-102(22)-E.

Section 24-4-103(6)(a), C.R.S., authorizes the Board to adopt a temporary or emergency rule if the Board finds that the immediate adoption of the rule is imperatively necessary to comply with a state law or for the preservation of public health, safety, or welfare and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

The Board hereby finds the following:

- The Board is authorized under section 44-20-104(3)(a), C.R.S. to promulgate rules necessary to implement under part 1 of Article 20 of Title 44, C.R.S., including the administration and enforcement of licenses issued to motor vehicle dealers, motor vehicle salespersons, used motor vehicle dealers, wholesale motor vehicle auction dealers, and wholesalers.
- Due to the unprecedented and extraordinary impact of the COVID-19 emergency, the Colorado Department of Public Health and Environment issued Public Health Order 20-24 ("PHO 20-24"), which was most recently amended and updated on March 27, 2020.
- Pursuant to PHO 20-24, effective March 27, 2020, automobile rental, auto supply and repair services were determined to be critical services that could continue to operate as normal, which included retail dealerships that include repair and maintenance, but not in person retail sales.
- 1 C.C.R. 205-1, Board Regulation 44-20-102(22) limits the ability of motor vehicle dealers and used motor vehicle dealers to engage in sales activity at an off-premise location away from a dealer's principal place of business, as defined by subsection 44-20-102(22), C.R.S., until the Board approves the appropriate off-premise permit.
- The Board finds that compliance with the requirements of 1 C.C.R. 205-1, Board Regulation 44-20-102(22) during the pendency of the COVID-19 emergency would be burdensome to the Colorado Auto Industry Division, the Board and the licensees, and would also be contrary to the public interest.
- The Colorado Auto Industry Division and the Board anticipate that dealers will conduct sales transactions online and will be conducting deliveries and in-person interactions during the pendency of the COVID-19 emergency in potential violation of PHO 20-24, Board regulations and statutory provisions under part 1 of Article 20 of Title 44, C.R.S.
- In an effort to permit motor vehicle dealers and used motor vehicle dealers to continue retail sales transactions to the citizens of Colorado during the pendency of the COVID-19

emergency, the Board finds it necessary to promulgate Emergency Regulation 44-20-102(22)-E, as an emergency rule.

- The Board finds that its promulgation of Emergency Regulation 44-20-102(22)-E will enable motor vehicle dealers and used motor vehicle dealers to conduct sales transactions and in-person transactions under certain conditions in accordance with the requirements and restrictions provided in PHO 20-24.
- Pursuant to section 24-4-103(6)(a), C.R.S., the Board finds that the immediate promulgation and adoption of Emergency Regulation 44-20-102(22)-E is imperatively necessary for the preservation of public health, safety, or welfare.
- The Board finds that the immediate promulgation and adoption of Emergency Regulation 44-20-102(22)-E is necessary to carry out the purposes under part 1 of Article 20 of Title 44, C.R.S.

Statutory Authority

Statutory authority for this emergency rule exists in Colorado Revised Statutes, sections 44-20-101, 44-20-102, 44-20-103, 44-20-104(3)(a), 44-20-108, and 44-20-120.


Purpose

The purpose of Emergency Regulation 44-20-102(22)-E is to provide the ability to conduct motor vehicle sales online or by appointment during the COVID-19 pandemic while complying with Colorado Public Health Order 20-24 and guidance from the Centers for Disease Control (CDC) and the Colorado Department of Public Health and Environment for social distancing.

Adoption

For the reasons set forth above, the Board hereby adopts Emergency Regulation 44-20-102(22)-E, which is attached hereto and which shall be effective on the date of its adoption. This emergency rule shall be in force and effect for a period of one hundred and twenty days from the date of this notice, unless sooner terminated or replaced by permanent rules adopted in accordance with section 24-4-103, C.R.S.

Adopted this 3rd day of April, 2020.



John Linton
President
Colorado Motor Vehicle Dealer Board

April 3, 2020
Date