



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.



# TxDMV Board Meeting

8:00 a.m.

Thursday, April 2, 2020

**AGENDA  
BOARD MEETING  
TEXAS DEPARTMENT OF MOTOR VEHICLES  
OPEN MEETING VIA VIDEOCONFERENCE CALL OR  
TELEPHONE CONFERENCE CALL\*  
PURSUANT TO GOVERNOR'S MARCH 16, 2020, TEMPORARY SUSPENSION OF  
CERTAIN OPEN MEETING PROVISIONS\*\*  
THURSDAY, APRIL 2, 2020  
8:00 A.M.**

**THIS MEETING WILL BE HELD REMOTELY VIA VIDEOCONFERENCE CALL OR  
TELEPHONE CONFERENCE CALL\***

Instructions:

Event address for attendees:

<https://txdmv.webex.com/txdmv/j.php?MTID=m23b961d05fb47a93942a7e21e0ae39c5>

Link to April 2, 2020, TxDMV Board Meeting Documents: <https://www.txdmv.gov/about-us/txdmv-board-meetings>

\*In the event the department does not post a toll-free number prior to the time of the meeting, the public must use the WebEx link to listen to the livestream of the meeting. If the toll-free number is posted prior to the time of the meeting, please use the toll-free number only if you are making a comment on an agenda item or an open comment because the number of dial-in participants is limited.

\*\*Action by Governor Greg Abbott pursuant to Texas Government Code Section 418.016

<https://gov.texas.gov/news/post/governor-abbott-allows-virtual-and-telephonic-open-meetings-to-maintain-government-transparency>

All agenda items are subject to possible discussion, questions, consideration, and action by the Board of the Texas Department of Motor Vehicles (Board). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. Presentations may be made by the identified staff or Board member or other staff as needed. The Board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

- 1. Roll Call and Establishment of Quorum**
- 2. Pledges of Allegiance - U.S. and Texas**
- 3. Chair's Reports** - Chairman Treviño
- 4. Executive Director's Reports** - Whitney Brewster

PAGE

- 6 A. Update on Driver Licensing Study
- B. COVID-19 Disaster Relief Response
- 7 C. TxDMV Organizational Structure Update

**RULES - INFORMAL**

- 10 5. **Chapter 215, Motor Vehicle Distribution** - Tracey Beaver  
**Amendments, §215.22 and §215.55**  
**New, §§215.59 - 215.62**  
(Relating to SB 604, new Occupations Code §2301.709(d), contested cases; and a petition for rulemaking)

**RULES - PROPOSALS**

- 23 6. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz  
**Amendments, §217.144**  
(Relating to SB 604, new Transportation Code Chapter 1006, rename Automobile Burglary Theft Prevention Authority to Motor Vehicle Crime Prevention Authority)
- 28 7. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz  
**Amendments, §217.11**  
(Relating to rescission, cancellation or revocation by affidavit)
- 34 8. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz  
**New, §§217.58-217.64**  
**Amendments, §§217.22, 217.27, 217.32, 217.38, 217.41, and 217.55**  
(Relating to SB 604, new Transportation Code §§504.151 - 504.157, digital license plates)
- 83 9. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz  
**Amendments, §217.182**  
(Relating to HB 1548, new Transportation Code §551A.052, Registration; license plates; incorporate legislation to add a new transaction type)

**RULES - ADOPTION**

- 89 10. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz  
**Amendments, §§217.3 and 217.141-217.143**  
**New Subchapter L, §§217.401-217.407**  
(Relating to:  
-HB 1755, title and registration for assembled vehicles;  
-HB 3171, motor driven cycles; and  
-Transportation Code, §501.036 and §501.037, farm trailers, farm semitrailers, trailers, semitrailers, and house trailers.)  
(Proposal Published December 20, 2019 - 44 Tex. Reg. 7866)  
(Review by the Office of the Governor, Regulatory Compliance Division;  
submission 12/20/19; comment period closed February 3, 2020)

## **BRIEFING AND ACTION ITEMS**

- 176 11. **Specialty Plate Designs** - Jeremiah Kuntz
- A. Auburn University - Redesign proposed by My Plates under Transportation Code, §504.851
  - B. Florida State University - Redesign proposed by My Plates under Transportation Code, §504.851
  - C. Dallas Cowboys - Redesign proposed by My Plates under Transportation Code, §504.614
- 182 12. **Finance and Audit**
- A. **Delegation of Authority to the Executive Director for the Execution of the Co-Source Internal Audit Services Contract** - Sandra Menjivar-Suddeath
  - 183 B. **Board Approval of Capital Spending Authority for the 2019 Innovative Technology Deployment (ITD) Grant Awarded by the Federal Motor Carrier Safety Administration (FMCSA)** - Linda M. Flores and Jimmy Archer
  - 221 C. **Delegation of Authority to the Executive Director for the Execution of the Fort Worth and Waco Regional Service Center Commercial Property Lease Renewals** - Linda M. Flores and Ann Pierce
- 231 13. **Appointment of Delegee for Personnel Matters Regarding a Direct Report to the Board** - Chairman Treviño  
**Appointment of a delegee regarding the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of a direct report to the board**

## **EXECUTIVE SESSION**

14. **The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551: Section 551.071** - Consultation with and advice from legal counsel regarding:
- pending or contemplated litigation, or a settlement offer;
  - a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code, Chapter 551; or
  - any item on this agenda.

**Section 551.074** - Personnel matters.

- Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.
- Discussion relating to TxDMV dispute resolution process and recent EEOC complaints and internal Civil Rights Office complaints.

**Section 551.076** - Deliberation Regarding Security Devices or Security Audits; Closed Meeting.

- the deployment, or specific occasions for implementation, of security personnel or devices; or
- a security audit.

**Section 551.089** - Deliberation Regarding Security Devices or Security Audits  
Closed Meeting.

- security assessments or deployments relating to information resources technology;
- network security information as described by Section 2059.055(b); or
- the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

**15. Action Items from Executive Session**

**16. Public Comment**

**17. Adjournment**

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Government Code, Section 551.042 and consider the feasibility of placing the matter on the agenda for a future meeting.

If you want to comment on any agenda item you must email [GCO\\_General@txdmv.gov](mailto:GCO_General@txdmv.gov) with your name and the agenda item you wish to comment on prior to the agenda item being taken up by the Board. Each speaker will be limited to three minutes and time allotted to one speaker may not be reassigned to another speaker

Agenda items may be presented by the named presenters or other TxDMV staff.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact David Richards by telephone at (512) 465-1423.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Tracey Beaver, General Counsel, (512) 465-5665.

Board Meeting Date: 4/2/2020  
BRIEFING

To: Texas Department of Motor Vehicles Board  
From: Whitney Brewster, Executive Director  
Agenda Item: 4.A  
Subject: Driver License Study Update

RECOMMENDATION

Briefing only

PURPOSE AND EXECUTIVE SUMMARY

The Department of Public Safety (DPS) contracted with The University of Texas (UT) in November of 2019 to conduct a feasibility study that examines and makes recommendations on the management and operating structure of the driver licensing program and the opportunities and challenges of transferring the driver licensing program to the Texas Department of Motor Vehicles. Under the contract a draft of the study is to be submitted to DPS by June 1, 2020, and the final version of the study is to be submitted to the legislature no later than September 1, 2020.

The kick-off meeting with the DPS and UT on the study was held on February 6, 2020. This initial meeting included DPS, UT, TxDMV and the county tax assessor-collector Larry Gattis from Williamson County. Since then, Deputy Executive Director Shelly Mellott and I have had two additional meetings with UT to discuss the study and the information TxDMV can provide to assist with a comprehensive review. The driver licensing study is a high priority for the TxDMV and staff has provided critical information to UT and will continue to do so through the duration of this important study. An all-day meeting was scheduled for March 27, 2020, but due to the COVID-19 pandemic was cancelled. It will be rescheduled to a later date.

FINANCIAL IMPACT

Currently no financial impact

BACKGROUND AND DISCUSSION

During the last legislative session, the DPS Sunset bill (SB 616) directed DPS to enter into a third-party contract to conduct a feasibility study that examines and makes recommendations on the management and operating structure of the driver's license program and the opportunities and challenges of transferring the driver license program to the TxDMV. The study is due to the legislature no later than September 1, 2020. If the study is not delivered to the legislature by September 1, 2020, all driver's licensing functions will be transferred to TxDMV on September 1, 2021.

Board Meeting Date: 4/2/2020  
BRIEFING

To: Texas Department of Motor Vehicles Board  
From: Whitney Brewster, Executive Director  
Agenda Item: 4.C  
Subject: TxDMV Organizational Structure Update

## RECOMMENDATION

Briefing Only

## PURPOSE AND EXECUTIVE SUMMARY

To provide information to and hear feedback from the Texas Department of Motor Vehicles Board on changes in key personnel and modifications to the organizational structure.

## FINANCIAL IMPACT

All TxDMV personnel changes will be made utilizing existing funding within the department's operating budget and in compliance with all personnel.

## BACKGROUND AND DISCUSSION

### **CIO Hire**

William A. (Butch) Grote Jr. joined the TxDMV team on March 23, 2020, as the Chief Information Officer. In this role, he oversees the Information Technology Services Division (ITSD), providing strategic direction, information technology services and support for the entire agency, as well as the maintenance and support for all of TxDMV's automated systems and technologies. The ITSD plays a critical role across the agency as technology continues to be consumed at all levels and divisions to provide more transparent and customer centric solutions to the citizens and both internal and external customers of the great State of Texas.

Butch is an experienced IT leader with over 35 years of diverse experience managing IT staff, projects and operations at multiple state agencies as well. Prior to joining the TxDMV, Butch served as the CIO/IRM (Information Resource Manager) at the Texas Department of Agriculture. Butch has a bachelor's degree in Computer Science and Management from St. Edward's University where he graduated with honors and earned the university's most prestigious "Presidential Award."

Butch is also a board member for TASSCC (Texas Association of State System for Computing and Communications), advisory board member for the Texas Digital Summit, co-chair of the SACC-IT (Strategic Agency Coordinating Committee – Information Technology) and various other DIR supported committees and activities.

Butch is a native of Austin, has been married to his wife, Debbie for 30 years and has two children.

## Organizational Structure Changes

### Background

Over the relatively short timeframe of TxDMV's existence, several critical changes have occurred to add to the important responsibilities of the department. After the agency was established in 2009, several additional functions were added to the department's portfolio of responsibilities. In 2012, Oversize/Overweight Permitting was added to the TxDMV. In 2014, the department added the Office of Administrative Hearings to address warranty performance and Lemon Law cases previously heard by the State Office of Administrative Hearings. In 2016, the TxDMV Fund was established creating an ongoing funding source for the department while also creating the critical need to actively manage that fund to ensure fiscal soundness of the department. Also that year, TxDMV received authority to own property and a Facilities Section was added to assist with the transfer of Camp Hubbard maintenance from TxDOT to TxDMV and to assist in laying out the long-term strategy for the potential transfer of the campus to TxDMV. In 2018, the Compliance and Investigations Division was established to assist with the critical need to fight motor vehicle fraud in Texas.

As we look ahead, it is imperative that organizational structure changes occur to best position the department to address the needs of a growing population and to maintain our regulatory effectiveness of the motor vehicle industry. By making these changes, greater alignment, coordination and scalability of TxDMV's operations can be achieved, issues can be addressed in a more timely fashion and at the appropriate level of the organization, and capacity for greater strategic focus can be added.

Transportation Code Section 1001.004 provides that the executive director shall organize the department into divisions to accomplish the department's functions and the duties assigned to the department.

Transportation Code Section 1001.041 provides that, subject to the General Appropriations Act or other law, the executive director shall appoint deputies, assistants, and other personnel, including a general counsel, as necessary to carry out the powers and duties of the department. It is under this authority that I propose adding two key positions to the department – an additional deputy executive director position as well as an ombudsman position. No action is necessary by board members, however, feedback is appreciated. The TxDMV Organizational Assessment Project (TOAP) Organizational Preparation Working Group considered various changes to the department's structure to increase its effectiveness and efficiency. The working group considered information from multiple sources, including results received from agency staff on areas where we can improve operations. This working group recommended organizational changes that support the changes being proposed. Specifically, the working group suggested the creation of a second Deputy Executive Director to oversee the support functions of the department as well as an Ombudsman position to assist all employees in conflict resolution and maintaining a positive culture at TxDMV.

### General Description of the Deputy Executive Director Position

The Deputy Executive Director performs executive level management and policy administration for the Texas Department of Motor Vehicles (TxDMV). Provides direction and guidance in strategic operations of TxDMV support services. Ensures transparency while leading transformational and innovative change with energy and



a sense of urgency. Creates and develops a positive and collaborative culture toward a customer-centered vision requiring timely and effective communication that is consistently reinforced, renewed and refreshed in its execution. Participates in the implementation and perpetual upgrade of cutting-edge methodologies, systems, practices and technologies. Work requires extensive contact with stakeholders, legislators and their staffs, TxDMV Board Members, elected officials, federal and state agencies, and private entities. Work requires travel. Reports to the Executive Director and acts on behalf of the Executive Director in the absence of the Executive Director. Works under minimal supervision, with extensive latitude for the use of initiative and independent judgment.

#### General Description of the Ombudsman Position

Reporting to the Executive Director, the employee ombudsman and ethics advisor positively impacts the lives of TxDMV employees and agency culture by engaging with employees in effective conflict resolution. In addition to engaging directly in dispute resolution with employees, the Employee Ombudsman adds value to the TxDMV by educating both staff and managers on strategies and techniques for positive conflict management and dispute resolution. The ombudsman facilitates communication between employees, management and executive staff regarding agency policies, procedures, and practices for the Texas Department of Motor Vehicles (TxDMV). Work involves intake and triage of issues, performing internal fact finding and review, providing mediation and facilitation services on employment issues, counseling employees, and preparing final decisions or reports.

#### Timeline and Next Steps

The recruitment efforts for these positions can begin immediately. Existing positions as well as a funding source within TxDMV's existing budget have been identified. Additionally, TxDMV has identified mechanisms for bringing on new staff remotely. The projected date for having the positions filled is July 2020.

Board Meeting Date: 4/2/2020  
ACTION ITEM

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**To:** Texas Department of Motor Vehicles Board  
**From:** Tracey Beaver, General Counsel  
**Agenda Item:** 5  
**Subject:** Informal Working Draft Rules under Title 43, Texas Administrative Code, Chapter 215, Motor Vehicle Distribution Amendments, §215.22 and §215.55  
New, §§215.59 - 215.62  
(Relating to SB 604, new Occupations Code §2301.709(d), contested cases; and a petition for rulemaking)

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#### RECOMMENDATION

Approval to post the informal working draft of rules (informal working draft) on the Texas Department of Motor Vehicle's website for public comment.

#### PURPOSE AND EXECUTIVE SUMMARY

The department prepared an informal working draft of rules to establish standards for reviewing a case under new Occupations Code §2301.709(d). In addition, the informal working draft responds, in part, to a petition for rulemaking submitted by Mr. William Crocker.

The intended purpose of the informal working draft is to gather informal comments and is not a formal publication for rulemaking. The department may hold meetings with stakeholders and the public after the end of the informal comment period.

#### FINANCIAL IMPACT

There will be no fiscal implications related to the informal working draft.

#### BACKGROUND AND DISCUSSION

The informal working draft of amendments and new sections includes language:

- specifying the role of division personnel in managing contested cases before the board or a person delegated power from the board under Occupations Code §2301.154, including advising on procedural matters;
- specifying appropriate conduct and discussion by the board or a person delegated power from the board under Occupations Code §2301.154 regarding proposals for decision issued by administrative law judges;
- setting forth clear expectations limiting arguments and discussion under Occupations Code §2301.709(b) to evidence in the record of the contested case hearing held by the administrative law judge;
- clarifying the prohibited communications, which are called *ex parte* communications;
- setting forth and clarifying circumstances to distinguish between using industry expertise and representing or advocating for an industry when reviewing a case under Occupations Code §2301, Subchapter O, Hearings Procedures; and

- responding, in part, to the petition for rulemaking by specifying the role of department staff on contested cases that go before the board; and limiting presentations, board discussions, and the final decision to evidence in the administrative record from the State Office of Administrative Hearings (SOAH).

Mr. Crocker submitted the attached petition for rulemaking in which he requested the department to make the following amendments to 43 TAC §206.22 regarding contested cases that are presented to the board for a final decision:

1. granting each party to a contested case a minimum of 20 minutes to make a presentation to the board, including time spent presenting a rebuttal and excluding time spent responding to questions;
2. only authorizing the board members and the executive director to question any person making a presentation to the board;
3. prohibiting any presentations, board discussions, and final decision from including or being based on information that is not in the administrative record from SOAH; and
4. authorizing department staff to advise the board on the interpretation and application of any statute, regulation, or department procedure, but prohibiting department staff from recommending a final decision to the board.

The department does not recommend giving each party to a contested case a minimum of 20 minutes to make a presentation to the board as requested in item #1. The Sunset Advisory Commission's *Staff Report with Final Results* stated that the board should not retry or relitigate the case. Also, contested cases vary in complexity, and the parties to a contested case do not always need 20 minutes to present their case. Section 206.22(e) currently gives the board chairman the authority to waive the general rule, which limits each party to three minutes to present their case. This current authority gives the board chairman the flexibility to vary the time allowed by the parties, depending on each contested case.

The department does not recommend a rule that only authorizes the board members and the executive director to question any person making a presentation, as requested in item #2, because it is not necessary. The department's informal working draft includes the changes in item #3 in new §215.60 and new §215.62 to limit presentations, discussions, and the final decision to information contained in the administrative record from SOAH.

The department does not recommend a rule that prohibits staff from recommending a final decision to the board in cases in which the department is a party to the case, as requested in item #4. The informal working draft grants part of the request by stating in new §215.59 that department staff shall not recommend a final decision unless the department is a party to the contested case.

The informal comment period will close 30 days after posting the informal working draft on the department's website.

**WM. R. CROCKER**

ATTORNEY AT LAW

P. O. BOX 1418

AUSTIN, TEXAS 78767

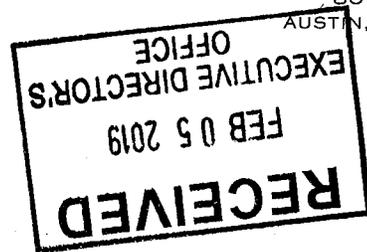
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February 5, 2019

STE. 1014  
807 BRAZOS  
AUSTIN, TEXAS 78701

Ms. Whitney Brewster  
Executive Director  
Texas Department of Motor Vehicles  
4000 Jackson Ave.  
Austin, TX 78731

Re: Suggested Rule for Protested Case Arguments, Presentations

Dear Ms. Brewster:

As you know, through the last few years I have been involved in the presentation of several protested cases to the DMV Board. Sometimes the presenters have been allowed three minutes for and three minutes against the adoption of a Proposal for Decision from the State Office of Administrative Hearings (SOAH). Other times, the presenters have been allowed more time, presumably by suspension of rules.

Decisions of the Board in contested cases can affect both the lives and the fortunes of your licensees. In some instances, many millions of dollars are resting on the decision of the Board. In many contested cases, the parties will have spent hundreds of thousands of dollars in the course of preparing and trying the case to SOAH. Unfortunately, the SOAH judges normally do not have any expertise in the complex motor vehicle manufacturing and selling industries. The Board is presumed to have that expertise. But the Board cannot try the cases and cannot be present when they are tried. The Board's decision must be made on the SOAH recommendation and the presentations by the parties to the contested cases. It is unfair to the Board and to the parties to have the presentations to the Board limited to three minutes.

In order to remedy that unfairness to the degree possible, I have drafted the enclosed amendment to the existing DMV rules to allow a more complete presentation and a more fair presentation. My recommendations for changes to the existing rule are highlighted on the attached copy so they can be easily identified.

I have circulated this amendment among all of the practitioners I know who handle DMV contested cases affecting franchised dealers, both those who represent the manufacturers and those who represent the dealers. The only responses I have received have been favorable. I have received no negative responses.

Ms. Whitney Brewster

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I would appreciate it if you would initiate the necessary process for review and possible adoption of the amendment. I will make myself available to you and your staff at any time to discuss the proposed amendment and would appreciate the opportunity to so.

If you have any preliminary questions or concerns you want to discuss, please do not hesitate to let me know. Your thoughts will be welcomed.

Yours very truly,



Wm. R. Crocker

WRC:tc

Enclosure

# Texas Administrative Code

Next Rule>>

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 10</u>	TEXAS DEPARTMENT OF MOTOR VEHICLES
<u>CHAPTER 206</u>	MANAGEMENT
<u>SUBCHAPTER B</u>	PUBLIC MEETINGS AND HEARINGS
<u>RULE §206.22</u>	Public Access to Board Meetings

(a) Posted agenda items. A person may speak before the board on any matter on a posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to the matter being taken up by the board. A person speaking before the board on an agenda item will be allowed an opportunity to speak:

- (1) prior to a vote by the board on the item; and
- (2) for a maximum of three minutes, except as provided in subsections (d)(6) and (f)(1) of this section.

(b) Open comment period.

(1) At the conclusion of the posted agenda of each regular business meeting, the board shall allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the board.

(2) A person desiring to appear under this subsection shall complete a registration form, as provided by the department, prior to the beginning of the open comment period.

(3) Except as provided in subsection (d)(6) of this section, each person shall be allowed to speak for a maximum of three minutes for each presentation in the order in which the speaker is registered.

(c) Disability accommodation. Persons with disabilities, who have special communication or accommodation needs and who plan to attend a meeting, may contact the department in Austin to request auxiliary aids or services. Requests shall be made at least two days before a meeting. The department shall make every reasonable effort to accommodate these needs.

(d) Conduct and decorum. The board shall receive public input as authorized by this section, subject to the following guidelines.

(1) Questioning of those making presentations shall be reserved to board members and the department's administrative staff.

(2) Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible.

(3) Presentations shall remain pertinent to the issue being discussed.

(4) A person who disrupts a meeting shall leave the meeting room and the premises if ordered to do so by the chair.

(5) Time allotted to one speaker may not be reassigned to another speaker.

(6) The time allotted for presentations or comments under this section may be increased or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to assure opportunity for the maximum number of persons to appear.

(e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in the public interest if necessary for the performance of the responsibilities of the board or the department.

(f) When contested cases are presented to the Board for final decision, the following rules shall be applicable:

(1) Each party shall be allowed a minimum of 20 minutes to make a presentation to the Board.

(2) Any party intervening in support of a party shall share that party's time for presentation.

(3) The party with the burden of proof in the contested case shall be first to make its presentation and may reserve a portion of its 20 minutes to present a rebuttal of the presentation of the other party and/or a closing statement.

(4) Only the members of the Board and the Executive Director may question any person making a presentation on behalf of a party and may do so while the presentation is being made or after the presentation has been made. The person making the presentation for an opposing party shall be given an opportunity to rebut an answer presented on behalf of a party. The time a person making a presentation on behalf of a party is being asked or is responding to a question shall not be counted as a part of that party's time to make its presentation to the Board. Presentations, Board discussions and final decisions may not include or be based on information not in the administrative record.

(5) The department staff may advise the Board on the interpretation and application of any statute, regulation or department procedure, but shall not recommend a final decision to the Board.

**WM. R. CROCKER**

ATTORNEY AT LAW

P. O. BOX 1418

AUSTIN, TEXAS 78767



Ms. Whitney Brewster  
Executive Director  
Texas Department of Motor Vehicles  
4000 Jackson Ave.  
Austin, TX 78731

**RECEIVED**  
FEB 05 2019  
EXECUTIVE DIRECTOR'S  
OFFICE

**Informal Working Draft and Request for Informal Comments on Rules Relating to Contested Cases; and Petition for Rulemaking**

Texas Administrative Code, Title 43, Chapter 215, Subchapter B, §215.22 and §215.55; §§215.59 - 215.62

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The Texas Department of Motor Vehicles (department) prepared an informal working draft of rules to establish standards for reviewing a case under new Occupations Code §2301.709(d). In addition, the informal working draft responds, in part, to a petition for rulemaking submitted by Mr. William Crocker.

The informal draft makes amendments to §215.22, clarifying the prohibited communications, which are called ex parte communications.

The informal draft makes amendments to §215.55 because the board previously delegated certain final order authority under §215.58 of this title (relating to Delegation of Final Order Authority).

The remainder of the informal working draft establishes standards for reviewing a case under new Occupations Code §2301.709(d) and grants part of the petition for rulemaking by specifying the role of the department's staff in managing the board's review of contested cases, limiting arguments and discussion to evidence that is in the administrative record from the State Office of Administrative Hearings, specifying the order of presentations to the board for the review of a contested case, and specifying board conduct and discussion when it reviews a contested case.

This informal draft rule posting is intended to gather informal comments and is not a formal publication for rulemaking. The department may hold meetings with stakeholders and the public after the end of the comment period for the informal draft.

The comment period will close 30 days after posting the informal draft on the department's website. Submit your comments to Tracey Beaver, General Counsel, at [rules@txdmv.gov](mailto:rules@txdmv.gov).

For more information, please contact the Office of General Counsel at 512-465-5665.

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**SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE**

**43 TAC §215.22 and §215.55**

TEXT

**Prohibited Communications**

**43 TAC §215.22**

**§215.22. Prohibited Communications.**

(a) No party, attorney of record, or authorized representative in any contested case shall engage in, ~~make,~~ directly or indirectly, any ex parte communication, in violation of Government Code, §2001.061, concerning the ~~merits of the~~ contested case with ~~to~~ the board or hearing officer assigned to render a decision or make findings of fact and conclusions of law in a contested case.

(b) Violations of this section shall be promptly reported to the hearing officer, as applicable, and the general counsel of the department. The general counsel shall ensure that a copy or summary of the ex parte communication is included with the record of the contested case and that a copy is forwarded to all parties or their authorized representatives. The general counsel may take any other appropriate action otherwise provided by law.

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**SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE**

**Final Decision**

**43 TAC §215.55**

**§215.55. Final Decision.**

(a) Except as provided by §215.58 of this title (relating to Delegation of Final Order Authority), the  
[The] board has final order authority in a contested case initiated by a complaint filed before January 1,  
2014, under Occupations Code, §2301.204 or §§2301.601 - 2301.613.

(b) The hearings examiner has final order authority in a contested case filed on or after January 1,  
2014, under Occupations Code, §2301.204 or §§2301.601 - 2301.613.

(c) Except as provided by subsections (a) and (b) of this section and §215.58, the board has final  
order authority in a contested case filed under Occupations Code, Chapter 2301 or under Transportation  
Code, Chapter 503.

(d) An order shall be deemed final and binding on all parties and all administrative remedies are  
deemed to be exhausted as of the effective date, unless a motion for rehearing is filed with the  
appropriate authority as provided by law.

1                                   **SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE**

2   **43 TAC §215.59 - §215.62**

3

4 **TEXT**

5

6                                   **Role of Department Staff in Managing Board’s Review of Contested Cases**

7   **43 TAC §215.59**

8

9 **§215.59 Role of Department Staff in Managing Board’s Review of Contested Cases.**

10                   (a) At least two weeks prior to a board meeting during which the board will review a contested  
11 case, department staff will notify the parties regarding the opportunity to attend and provide oral  
12 argument.

13                   (b) Except as prohibited by Government Code §2001.061, and §215.22 of this title (relating to  
14 Prohibited Communications), department staff may advise the board regarding the contested case review.  
15 However, staff shall not recommend a final decision unless the department is a party to the contested  
16 case.

17

18                                   **SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE**

19                                   **Limiting Arguments and Discussion to Evidence in the Administrative Record**

20   **43 TAC §215.60**

21

22 **§215.60 Limiting Arguments and Discussion to Evidence in the Administrative Record.**

1           (a) The parties to a contested case under review by the board must limit their arguments and  
2 discussion to evidence in the SOAH administrative record.

3           (b) Each party is responsible for objecting when another party attempts to make arguments or  
4 discuss evidence that is not contained in the SOAH administrative record.

5

6                                   **SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE**

7                                   **Order of Presentation to the Board for Review of a Contested Case**

8   **43 TAC §215.61**

9

10 **§215.61 Order of Presentations to the Board for Review of a Contested Case.**

11           (a) The department’s staff will present the procedural history and summary of the contested case.

12           (b) The party that is adversely affected has the opportunity to present its case first.

13           (c) The other party or parties then have an opportunity to respond. If there are more than one  
14 other party, each party will have an opportunity to respond in alphabetical order based on the name of  
15 the party in the pleadings in the SOAH administrative record.

16           (d) Each party then has an opportunity to provide a rebuttal.

17

18                                   **SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE**

19                                   **Board Conduct and Discussion When Reviewing a Contested Case**

20   **43 TAC §215.62**

21

22 **§215.62 Board Conduct and Discussion When Reviewing a Contested Case.**

1           (a) The board will conduct its review of a contested case in compliance with Government Code  
2 Chapter 2001, including the limitations on changing a finding of fact or conclusion of law, and the  
3 prohibition on considering evidence outside of the SOAH administrative record.

4           (b) Board members may question any party on any matter that is relevant to the proposal for  
5 decision and evidence contained in the SOAH administrative record.

6           (c) Board members may use their industry expertise to help them understand the case and make  
7 effective decisions. However, board members are not advocates for a particular industry. Board members  
8 are public servants who take an oath to preserve, protect, and defend the Constitution and laws of the  
9 United States and Texas.

Board Meeting Date: 4/2/2020  
ACTION ITEM

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**To:** Texas Department of Motor Vehicles Board  
**From:** Jeremiah Kuntz, Vehicle Titles and Registration Director  
**Agenda Item:** 6  
**Subject:** Proposal of Rules under Title 43, Texas Administrative Code  
Chapter 217, Vehicle Titles and Registration  
Amendments, §217.144  
(Relating to Identification Number Inspection)

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**RECOMMENDATION**

Approval to publish the rules in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The proposed amendments implement Senate Bill (SB) 604, 86th Legislature, Regular Session (2019). Senate Bill 604 changed the name of the "Automobile Burglary and Theft Prevention Authority" to the "Motor Vehicle Crime Prevention Authority." The proposed amendments do not change the nature or substance of the training requirements for individuals performing identification number inspections, but merely update the name of one of the required training courses.

**FINANCIAL IMPACT**

None

**BACKGROUND AND DISCUSSION**

The proposed amendments include:

- §217.144 - updates the citation to Transportation Code, §501.0321.
- §217.144(1) - updates the name of a required training from "Motor Vehicle Burglary and Theft Investigator Training" to "Motor Vehicle Crime Investigator Training" to reflect the new name of the training and also changes the reference to the "Automobile Burglary and Theft Prevention Authority" to the "Motor Vehicle Crime Prevention Authority."



1 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five years  
2 the amendments are in effect, there is one public benefit anticipated.

3 Anticipated Public Benefits. The statutory name change from the "Automobile Burglary and Theft  
4 Prevention Authority" to the "Motor Vehicle Crime Prevention Authority" will be reflected in the  
5 department's rule. The public benefit anticipated as a result of the proposed amendments is consistency  
6 between the department's rules and the Transportation Code.

7 Anticipated Costs To Comply With The Proposal. Mr. Kuntz anticipates that there will be no costs  
8 to comply with these rules. The proposed amendments do not change the nature or substance of the  
9 training requirements for individuals performing identification number inspections, but merely update  
10 the name of one of the required training courses.

11 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
12 Code §2006.002 the department has determined that the proposed amendments will not have an adverse  
13 economic effect on small businesses, micro-businesses, or rural communities as a result of implementing  
14 this rule. The proposed amendments do not change the nature or substance of the training requirements  
15 for individuals performing identification number inspections. Therefore, the department is not required  
16 to prepare a regulatory flexibility analysis under Government Code §2006.002.

17 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests  
18 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property  
19 that would otherwise exist in the absence of government action and, therefore, does not constitute a  
20 taking or require a takings impact assessment under the Government Code §2007.043.

21 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five  
22 years the proposed amendments are in effect, no government program would be created or eliminated.  
23 Implementation of the proposed amendments would not require the creation of new employee positions

## TITLE 43. TRANSPORTATION

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## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1 or elimination of existing employee positions. Implementation would not require an increase or decrease  
2 in future legislative appropriations to the department or an increase or decrease of fees paid to the  
3 department. The proposed amendments do not create a new regulation, or expand, limit, or repeal an  
4 existing regulation. Lastly, the proposed amendments do not affect the number of individuals subject to  
5 the rule's applicability and will not affect this state's economy. Again, the proposed amendments do not  
6 change the nature or substance of the training requirements for individuals performing identification  
7 number inspections; the proposed amendments merely update the name of one of the required training  
8 courses.

9  
10 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written  
11 comments by 5:00 p.m. CDT on MM, DD, YYYY. A request for a public hearing must be sent separately  
12 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*  
13 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,  
14 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public  
15 testimony presented at the hearing.

16  
17 **STATUTORY AUTHORITY.** The amendments are proposed under Transportation Code §1002.001 which  
18 provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are  
19 necessary and appropriate to implement the powers and the duties of the department; and more  
20 specifically, Transportation Code, §501.0321 which provides the department authority to adopt rules to  
21 determine appropriate training programs for a person who performs vehicle identification number  
22 inspections.

23

1 **CROSS REFERENCE TO STATUTE.** Transportation Code, §503.0321 and §1002.001.

2 **TEXT.**

3

4

**Subchapter G. Inspections**

5

**43 TAC §217.144**

6 §217.144. Identification Number Inspection.

7 In addition to any other requirement specified by Transportation Code, §501.0321, a person is  
8 qualified to perform an inspection under Transportation Code, §501.0321, [Transportation Code,] if that  
9 person has completed one of the following training programs:

10 (1) Intermediate or Advanced Motor Vehicle Crime [~~Burglary and Theft~~] Investigator  
11 Training provided by the Motor Vehicle Crime Prevention Authority [~~Texas Automobile Burglary and Theft~~  
12 ~~Prevention Authority~~];

13 (2) Auto Theft School (Parts 1 and 2) provided by the Texas Department of Public Safety;

14 or

15 (3) Auto Theft Course provided by the National Insurance Crime Bureau.

16 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be  
17 within the state agency's legal authority to adopt.

18 Issued at Austin, Texas, on M DD, YYYY.

19

20

\_\_\_\_\_  
Tracey Beaver, General Counsel

Board Meeting Date: 4/2/2020  
ACTION ITEM

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**To:** Texas Department of Motor Vehicles Board  
**From:** Jeremiah Kuntz, Vehicle Titles & Registration Division Director  
**Agenda Item:** 7  
**Subject:** Proposal of Rules under Title 43, Texas Administrative Code  
Chapter 217, Vehicle Titles and Registration  
Amendments, §217.11  
(Relating to rescission, cancellation, or revocation by affidavit)

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**RECOMMENDATION**

Approval to publish the rule in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The proposed amendment removes barriers to Texas businesses, streamlines administrative processes for efficiency, and protects consumers from fraud. Proposed amended §217.11 (a) extends the deadline to submit to the department an affidavit asking the department to rescind, cancel, or revoke an existing title or application for a title for a vehicle involved in the process of a first sale. The deadline is extended from within 21 days of initial sale to within 90 days of initial sale.

**FINANCIAL IMPACT**

None

**BACKGROUND AND DISCUSSION**

The amendment includes:

- §217.11(a) - extending the deadline to submit to the department an affidavit asking the department to rescind, cancel, or revoke an existing title or application for a title for a vehicle involved in the process of a first sale. The deadline is extended from within 21 days of initial sale to within 90 days of initial sale.



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## Chapter 217 – Vehicle Titles and Registration

1 they purchased a new motor vehicle or a used motor vehicle, while maintaining the true value of a vehicle  
2 that has never really been the subject of a first sale.

3           Transportation Code §501.051 provides the department authority to rescind, cancel, or revoke  
4 an application for a title if a notarized or county-stamped affidavit is presented, but does not state a  
5 deadline for the affidavit to be presented to the department. By extending the deadline to 90 days, the  
6 department is balancing the needs of businesses and consumers. The new deadline provides ample time  
7 for businesses to recognize that an affidavit needs to be submitted, while protecting consumers and  
8 preventing fraud by not allowing for sale recessions, cancellations, and revocations to take place  
9 indefinitely and having the transactions take place within the administrative process.

10 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,  
11 has determined that for each year of the first five years the amendment will be in effect, there will be no  
12 fiscal impact to state or local governments as a result of the enforcement or administration of the  
13 proposal. While the extended deadline may increase the number of affidavits the division processes, it is  
14 not anticipated that the increase will be significant enough to increase costs at this time. Jeremiah Kuntz,  
15 Director of the Vehicle Titles and Registration (VTR) Division, has determined that there will be no  
16 measurable effect on local employment or the local economy as a result of the proposal.

17 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five years  
18 the amended section is in effect, there are public benefits anticipated from extending the deadline from  
19 21 days to 90 days.

20           Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include  
21 removing barriers to Texas businesses by extending the deadline for title rescission, cancellation, and  
22 revocation and retaining the value of new vehicles that have never left the possession of the dealer.  
23 Maintaining the true value of a new vehicle that was never sold or in the possession of the title applicant

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1 benefits the public at large and the motor vehicle dealer industry. The proposal will also help prevent  
2 fraud by allowing more of these transactions to be processed within the administrative process with  
3 department review of the affidavits.

4 Anticipated Costs to Comply With The Proposal. Mr. Kuntz anticipates that there will be no costs  
5 to comply with these rules.

6 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the  
7 Government Code, §2006.002, the department has determined that the proposed amendments will not  
8 have an adverse economic effect on small businesses, micro-businesses, or rural communities as a result  
9 of implementing this rule. Therefore, the department is not required to prepare a regulatory flexibility  
10 analysis under Government Code, §2006.002.

11 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests  
12 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property  
13 that would otherwise exist in the absence of government action and, therefore, does not constitute a  
14 taking or require a takings impact assessment under the Government Code, §2007.043.

15 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five  
16 years the proposed amendment is in effect, no government program would be created or eliminated.  
17 Implementation of the proposed amendment would not require the creation of new employee positions  
18 or elimination of existing employee positions. Implementation would not require an increase or decrease  
19 in future legislative appropriations to the department or an increase or decrease of fees paid to the  
20 department. The proposed amendment does not create a new regulation, or expand, or repeal an existing  
21 regulation. The proposed amendment limits an existing regulation by extending the deadline for the  
22 rescission, cancelation, or revocation of certain title applications. Lastly, the proposed amendment does

1 not affect the number of individuals subject to the rule's applicability and will not affect this state's  
2 economy.

3 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written  
4 comments by 5:00 p.m. CDT on MM, DD, YYYY. A request for a public hearing must be sent separately  
5 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*  
6 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,  
7 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public  
8 testimony presented at the hearing.

9 **STATUTORY AUTHORITY.** The amendment is proposed under Transportation Code §1002.001 which  
10 provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are  
11 necessary and appropriate to implement the powers and the duties of the department; and more  
12 specifically, Transportation Code §501.051 which provides the department authority to rescind, cancel,  
13 or revoke an application for a title if a notarized or county-stamped affidavit is presented.

14 **CROSS REFERENCE TO STATUTE.** Transportation Code, §503.051 and §1002.001.

15 **TEXT**

16 **Subchapter G. Inspections**

17 **43 TAC §217.11**

18 §217.11. Rescission, Cancellation or Revocation by Affidavit.

19 (a) The department may rescind, cancel, or revoke an existing title or application for a title if a  
20 notarized or county stamped affidavit is completed and presented to the department within 90 [~~21~~] days  
21 of initial sale containing:

22 (1) a statement that the vehicle involved was a new motor vehicle in the process of a first  
23 sale;

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1 (2) a statement that the dealer, the applicant, and any lienholder have canceled the sale;

2 (3) a statement that the vehicle was:

3 (A) never in possession of the title applicant; or

4 (B) in the possession of the title applicant;

5 (4) the signatures of the dealer, the applicant, and any lienholder as principal to the  
6 document; and;

7 (5) an odometer disclosure statement executed by the purchaser of the motor vehicle  
8 and acknowledged by the dealer if a statement is made pursuant to paragraph (3)(B) of this subsection to  
9 be used for the purpose of determining usage subsequent to sale.

10 (b) A rescission, cancellation, or revocation containing the statement authorized under subsection  
11 (a)(3)(B) of this section does not negate the fact that the vehicle has been subject to a previous retail sale.

12 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be  
13 within the state agency's legal authority to adopt.

14 Issued at Austin, Texas, on M DD, YYYY.

15 \_\_\_\_\_  
16 Tracey Beaver, General Counsel

Board Meeting Date: 4/2/2020  
ACTION ITEM

**To:** Texas Department of Motor Vehicles Board  
**From:** Jeremiah Kuntz, Vehicle Titles & Registration Division Director  
**Agenda Item:** 8  
**Subject:** Proposal of Rules under Title 43, Texas Administrative Code  
Chapter 217, Vehicle Titles and Registration  
Amendments, §§217.22, 217.27, 217.32, 217.38, 217.41, and 217.55  
New, §§217.58-217.64  
(Relating to SB 604, new Transportation Code §§504.151 - 504.157, digital license plates)

### **RECOMMENDATION**

Approval to publish the rules in the *Texas Register* for public comment.

### **PURPOSE AND EXECUTIVE SUMMARY**

These new and amended sections implement Senate Bill 604, 86th Legislature, Regular Session (2019), which amended Transportation Code Chapter 504 to allow for digital license plates.

### **FINANCIAL IMPACT**

There will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. However, the legislature appropriated money to the department to cover the initial costs of implementing and administering the digital license plate program, which include costs to program the Registration and Title System and the cost of additional staff to monitor the new digital license plate providers to ensure compliance with Texas Transportation Code §§504.151-504.156 during the first five years of implementation and administration. The legislature also authorized the department to charge an administrative fee to recoup these costs, and the department proposes a \$95 administrative fee to recoup the state's costs in approximately 15 years.

### **BACKGROUND AND DISCUSSION**

The new section and amendments include:

- Amended §217.22 - adds definitions that relate to digital license plates;
- Amended §217.27- clarify the exclusions for digital license plates from the existing paragraph and clarify existing requirements for metal plates;
- Amended §217.32 - differentiates between metal license plates and digital license plates;
- Amended §217.38 - differentiates between metal license plates and digital license plates.;
- Amended §217.41 - differentiates between metal license plates and digital license plates;
- Amended §217.55 - differentiates between metal license plates and digital license plates;
- New §217.58 - outlines the vehicles that are eligible and ineligible for a digital license plate and the requirements for eligibility verification and issuance of digital license plates;
- New §217.59 - requires the digital license plate provider to test the digital license plate for reflectivity, readability and legibility, and penetration testing;
- New §217.60 - outlines the digital license plate specifications and requirements to ensure that the digital license plate meets or exceeds the benefits for law enforcement provided by metal license plates;
- New §217.61 - outlines the requirements for digital license plate designs and display including what can be displayed when the vehicle is in or out of park;



- New §217.62 - outlines when the digital license plate provider must ensure that the digital license plate ceases the display of digital license plate information and when the digital license plate provider must contact the department;
- New §217.63 - requires that a person issued a digital license plate must pay a \$95 administrative fee upon application for a digital license plate and annually on renewal; and
- New §217.64 - clarifies the customer service requirements for a digital license plate provider and the procedures for replacement.



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## Chapter 217 - Vehicle Titles and Registration

1 centered horizontally at the bottom of the license plate. The definition is also necessary to clarify that a  
2 digital license plate must display a registration expiration notification.

3 Proposed new §217.22(27) defines "metal license plate" to differentiate between a metal license  
4 plate and a digital license plate.

5 Proposed new §217.22(30) defines "optional digital license plate information" as any information  
6 authorized to be displayed on a digital license plate in addition to required digital license plate  
7 information. Proposed new §217.22(30)(a)-(d) list examples of optional digital license plate information.

8 Proposed new §217.22(31) defines "park" to conform with the statutory meaning in  
9 Transportation Code §541.401.

10 Proposed new §217.22(33) defines "primary region of interest" to describe the size requirements  
11 of the alphanumeric character representing the plate number.

12 Proposed new §217.22(35) defines "required digital license plate information" to clarify the  
13 minimum information that must be displayed on a digital license plate. This definition is necessary to  
14 clarify that the same information required to be displayed on a metal license plate must also be displayed  
15 on a digital license plate: alphanumeric characters representing the plate number, the word "Texas," the  
16 legend, the registration expiration notification if the vehicle's registration is expired, and the registration  
17 expiration month and year, if applicable. The department has sole control over the design, typeface, color,  
18 and alphanumeric pattern for all license plates under Transportation Code §504.005.

19 Proposed new §217.22(36) defines "secondary region of interest" to describe the size  
20 requirements for the field with the word "Texas" centered on the top of the plate.

21 **§217.27**

22 The proposed amendments to §217.27 are necessary to clarify the exclusions for digital license  
23 plates from the existing paragraph, and clarify existing requirements for metal license plates. Proposed

## TITLE 43. TRANSPORTATION

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1 amended §217.27(a)(2) exempts digital license plates from existing requirements for displaying vehicle  
2 registration insignia for certain vehicles without a windshield. Proposed new §217.27(a)(3) clarifies that if  
3 a vehicle has a digital license plate, then the expiration month and year will appear digitally on the  
4 electronic visual display, and any registration insignia issued by the department must be retained in the  
5 vehicle. Vehicles with a digital license plate will be issued a voided registration sticker that will not to be  
6 affixed to the windshield. Vehicles with metal license plates that do not have a windshield are issued  
7 registration stickers that must be adhered to the rear metal license plate. This amendment provides  
8 consistency for law enforcement for metal license plates and digital license plates. The amendment also  
9 helps the digital license plate owner because they will have the metal license plate in their vehicle and  
10 their registration receipt in the event their digital license plate becomes inoperable or unreadable.

11 Proposed amendments to §217.27(b)(1) add language clarifying that license plates must be clearly  
12 visible, readable, and legible and that the rear license plate must be in an upright horizontal position.  
13 These amendments are necessary to assist law enforcement by facilitating a quicker replacement of  
14 license plates that have become unreadable or illegible due to age or wear and to facilitate enforcement  
15 when a license plate is not placed on the vehicle in an upright position. These amendments also help  
16 ensure that license plates are readable and legible as required by §217.32, as well as Transportation Code  
17 §§502.475, 504.155(b)(2), and 504.945.

**18 §217.32**

19 The proposed amendments to §217.32 are necessary to differentiate between metal license  
20 plates and digital license plates. Proposed amended §217.32(a) and (b) add "metal" and "metal license  
21 plate" to differentiate between metal license plates and digital license plates. A replacement digital  
22 license plate will be obtained from a digital license plate provider, rather than from a county tax assessor-  
23 collector.

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**1 §217.38**

2           The proposed amendment to §217.38 is necessary to differentiate between metal license plates  
3 and digital license plates. Proposed amended §217.38(1) adds "metal" to differentiate between metal  
4 license plates and digital license plates. The customer is not required to return the digital license plate to  
5 the county tax assessor-collector when applying for a registration fee credit.

**6 §217.41**

7           The proposed amendments to §217.41 are necessary to differentiate between metal license metal  
8 license plates and digital license plates. A replacement digital license plate will be obtained from a digital  
9 license plate provider, rather than from a county tax assessor-collector.

**10 §217.55**

11           The proposed amendments to §217.55 are necessary to differentiate between metal license  
12 plates and digital license plates. Amended §217.41(c)(1) and (2) add "metal plate" to differentiate  
13 between metal license plates and digital license plates. A replacement digital license plate will be obtained  
14 from a digital license plate provider, rather than from a county tax assessor-collector.

**15 §217.58**

16           Proposed new §217.58 lists the types of vehicles that are eligible and ineligible for a digital license  
17 plate and the requirements for eligibility verification and issuance of digital plates. Proposed new  
18 §217.58(a) lists the statutorily-eligible vehicles as any vehicle owned or operated by a governmental  
19 entity, any commercial fleet vehicle, or a truck, motorcycle, moped, trailer, semitrailer, or sport utility  
20 vehicle that is not registered as a passenger vehicle.

21           Proposed new §217.58(b) clarifies that a passenger vehicle is ineligible for a digital license plate,  
22 unless the vehicle is owned or operated by a governmental entity or registered as a commercial fleet  
23 vehicle. Proposed new §217.58(b) clarifies that any vehicles that are only required to display a metal

## TITLE 43. TRANSPORTATION

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1 license plate on the front of the vehicle are ineligible for a digital license plate because they are not  
2 required to have a rear license plate. New §217.58(a) and (b) are necessary to clarify which vehicles are  
3 eligible and not eligible for a digital license plate under Transportation Code §504.154.

4 Proposed new §217.58(c) outlines the requirements for eligibility verification and issuance of a  
5 digital license plate. Proposed new §217.58(c)(1) clarifies the steps that must be taken if an applicant for  
6 a digital license plate has not registered their vehicle in Texas. The digital license plate applicant must  
7 register the vehicle in Texas in their name before the applicant may be issued a digital license plate. If  
8 they have not already registered, the applicant must register at the county tax assessor-collector's office  
9 or the department, depending on the type of vehicle. The department will then issue the applicant one or  
10 two metal license plates, depending on the type of vehicle. A person can only apply to the department for  
11 the following types of vehicle registration: 1) commercial fleet vehicle registration under Transportation  
12 Code §502.0023; 2) apportioned vehicle registration under Transportation Code §502.091; 3) forestry  
13 vehicle registration under 43 TAC 217.46(b)(5); and 4) five-year rental trailer registration under 43 TAC  
14 §217.46(d)(1)(B)(i). A person can apply at the county tax assessor-collector's office for all other types of  
15 vehicle registration. A person can apply at either the department or the county tax assessor-collector's  
16 office for the following types of vehicle registration: 1) extended trailer registration under Transportation  
17 Code §502.0024; and 2) token trailer registration under Transportation Code §502.255. Proposed new  
18 §217.58(c)(2) requires a digital license plate provider to obtain the last four digits of the vehicle  
19 identification number and the existing metal license plate number from the digital license plate applicant.  
20 Proposed new §217.58(c)(2) is necessary to ensure that the digital license plate provider has all the  
21 information necessary to confirm eligibility for a digital license plate. Proposed new §217.58(c)(3)  
22 prohibits a digital license plate provider from issuing a digital license plate if the digital license plate  
23 applicant has not registered the vehicle in Texas in their name. Proposed new §217.58(c)(4) requires that

## TITLE 43. TRANSPORTATION

## Proposed Sections

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## Chapter 217 - Vehicle Titles and Registration

1 any metal license plates issued by the department must be carried in or on the vehicle at all times when  
2 using a digital license plate. Proposed new §217.58(c)(5) clarifies that only one digital license plate may  
3 be issued per eligible vehicle during a single registration period. Proposed new §217.58(c) is necessary to  
4 ensure that digital license plate providers and applicants are aware that registration is completed  
5 separately from digital license plate issuance and that all digital license plate owners are issued their metal  
6 license plates to attach to the vehicle in case of digital license plate removal or malfunction.

**7 §217.59**

8 Proposed new §217.59 outlines the requirements for digital license plate testing. Proposed new  
9 §217.59 requires a digital plate provider to provide the department with documentation demonstrating  
10 that testing was completed on a digital license plate model before the approval and initial deployment of  
11 that digital license plate model, and for each subsequent hardware upgrade. A hardware upgrade is any  
12 upgrade to any physical aspects of the digital license plate except for the mounting bracket. The  
13 documentation demonstrating that testing was completed must be sufficient for the department to be  
14 assured that the digital license plate approved for use was tested in a manner set forth by the department.  
15 The documentation must include a description of the testing protocols and methods and must be  
16 conducted by governmental entities, universities, or independent nonprofit research and development  
17 organizations. Proposed new §217.59 is necessary to ensure that digital license plates meet the statutory  
18 requirements for license plates and that the testing is conducted by the types of organizations with which  
19 the department has established relationships. The department works with these types of entities on a  
20 regular basis for different projects and requiring these types of entities to perform testing will ensure  
21 consistency and independence in testing. The testing must be conducted for four separate issues:  
22 reflectivity, legibility, readability, and network and data security. Proposed new §217.59(1) requires  
23 reflectivity testing with results that are consistent with the International Organization for Standardization

## TITLE 43. TRANSPORTATION

## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1 ISO 7591, clauses 6 and 7. This requirement is necessary to be consistent with metal license plates and to  
2 comply with the requirement in Transportation Code §504.005(d), which promotes highway safety by  
3 requiring that each license plate is made with a reflectorized material that provides effective and  
4 dependable brightness for the period for which the plate is issued. Proposed new §217.59(2) requires  
5 legibility testing with results demonstrating that digital license plates are legible during daytime and also  
6 during nighttime using low beam headlights, under optimal conditions, at a distance of no less than 75  
7 feet. Proposed new §217.59(2) also requires readability testing with results demonstrating that digital  
8 license plates are readable with commercially-available automated license plate readers, and in a variety  
9 of weather conditions. This is necessary to comply with the industry standard and to comply with the  
10 requirement that the digital license plate display be legible under Transportation Code §504.155(b)(2); to  
11 ensure that law enforcement can read the digital license plate to determine compliance with  
12 Transportation Code §504.945; and to ensure that law enforcement and toll entities can read the digital  
13 license plates with commercially-available automated license plate readers. Proposed new §217.59(3)  
14 requires commercially-available penetration testing for protection of the digital license plate, the  
15 electronic display information, and the digital license plate provider's systems. The penetration testing  
16 will be decided by the department and the provider in the contracting process. Proposed new §217.59(3)  
17 is necessary to ensure the safety and security of the digital license plates for the benefit of the digital  
18 license plate owner, law enforcement, and the public. If the digital license plate or the provider's system  
19 are vulnerable to penetration, this could enable fraud and jeopardize public safety. In addition to testing  
20 before initial approval and each subsequent hardware upgrade, penetration testing must be completed  
21 for each software or firmware upgrade. This requirement is necessary to ensure that new vulnerabilities  
22 are not instituted in subsequent updates.

23

## TITLE 43. TRANSPORTATION

## Proposed Sections

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## Chapter 217 - Vehicle Titles and Registration

1 **§217.60**

2 Proposed new §217.60 outlines the specifications and requirements for digital license plates.

3 Proposed new §217.60(a) requires digital license plate providers to ensure that the digital license plate  
4 meets or exceeds the benefits to law enforcement provided by metal license plates. This requirement is  
5 necessary to conform to the statutory requirement in Transportation Code §504.155(b)(4). Subparagraphs  
6 §217.60(a)(1) - (4) provide further requirements for the digital license plate. Subparagraph §217.60(a)(1)  
7 outlines the physical requirements for a digital license plate. Subparagraph §217.60(a)(2) requires that  
8 the digital license plate include one or more security features that verify the plate was issued by an  
9 approved digital license plate provider. Subparagraph §217.60(a)(2) is necessary to provide benefits to  
10 law enforcement by allowing them to visually ensure that a digital license plate is not a counterfeit. Metal  
11 license plates have two security features that law enforcement can visually check to see if the metal  
12 license plate is counterfeit. Subparagraphs §217.60(a)(3) (5) require a digital license plate to display the  
13 same information as a metal license plates while not in park. This includes displaying required digital  
14 license plate information and the registration expiration month and year in the same font size and location  
15 as the information displayed on the corresponding metal license plate; as well as ensuring that the  
16 required information continues to display when the digital license plate is not connected to a wireless  
17 network. These requirements are necessary to fulfill the requirement under Transportation Code  
18 §504.155 for the board of the Texas Department of Motor Vehicles (board) to set the specifications and  
19 requirements for digital license plates. By setting consistent standards and features, the department is  
20 aiding law enforcement by preventing fraud and aiding consumers by ensuring their digital license plate  
21 displays the information required by law.

22 Proposed new §217.60(b) outlines the requirements for placement of a digital license plate and  
23 the vehicle registration insignia for a vehicle displaying a digital license plate. Proposed new §217.60(b)(1)

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## Chapter 217 - Vehicle Titles and Registration

1 requires that the digital license plate must be attached to the exterior rear of the vehicle. This requirement  
2 is necessary to comply with the definition of digital license plate defined in Transportation Code §504.151,  
3 which states that a digital license plate is designed to be placed on the rear of a vehicle in lieu of a physical,  
4 metal license plate. This requirement is also necessary to comply with Transportation Code §504.154(a),  
5 which states a digital license plate is placed on the rear of the vehicle in lieu of a physical, metal license  
6 plate. Proposed new §217.60(b)(2) requires a metal license plate to be attached to the exterior front of  
7 the vehicle, unless the vehicle is not required to display a plate on the front of the vehicle under this  
8 chapter. This requirement is necessary to comply with the requirements in Transportation Code §504.943  
9 and 43 TAC §§217.27(b), 217.46(b)(3), and 217.56(c)(2)(E). Proposed new §217.60(b)(3) requires that the  
10 vehicle's registration insignia for validation of registration must be displayed in accordance with 43 TAC  
11 §217.27. Owners of vehicles with digital license plates will keep their registration receipt in or on the  
12 vehicle, and their registration month and year will be displayed on the electronic visual display of the  
13 digital license plate. Proposed new §217.60(b)(3) is necessary to provide consistency for law enforcement  
14 and limit fraud.

**§217.61**

16 Proposed new §217.61 outlines the prohibitions and requirements for digital plate designs and  
17 display. Proposed new §217.61(a)(1) prohibits digital license plate providers from creating or designing a  
18 specialty license plate under Transportation Code Chapter 504 unless they have a contract with the  
19 department under Transportation Code §504.851. This is necessary to ensure that the department is  
20 aware of and approves all specialty license plates in the state of Texas. If specialty plates were created  
21 without the department's knowledge and approval it would be difficult to verify the legitimacy of the  
22 license plates. Proposed new §217.61(a)(2) requires the digital license plate provider to enter into a  
23 licensing agreement, with standard language as approved by the department, for the display of any third

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## Chapter 217 - Vehicle Titles and Registration

1 party's intellectual property on a digital license plate. Proposed new §217.61(a)(2) is necessary to protect  
2 third-party intellectual property.

3 Proposed new §217.61(b) outlines the requirements for the display of information on a digital  
4 license plate. Proposed new §217.61(b)(1) requires that the display of electronic information on a digital  
5 license plate be approved by the department. Proposed new §217.61(b)(1) provides that the digital license  
6 plate may not be personalized under any field of interest except under current rules governing specialty  
7 license plates, vehicle registration insignia for vehicles without a windshield, and proposed new §217.61  
8 which permits the display of certain information on a digital license plate. Proposed new §217.61(b)(1) is  
9 necessary to maintain consistency between digital license plates and metal license plates which assists  
10 law enforcement by ensuring that the digital license plate information is readable and legible. Proposed  
11 new §217.61(b)(2) - (4) describe the requirements for the display of optional digital information while the  
12 vehicle is in park. These requirements are necessary to permit digital license plates to display an  
13 emergency alert, public safety alert, manufacturer or safety recalls, advertising or parking permits, while  
14 ensuring that the required digital license plate information remains legible and readable for law  
15 enforcement when the vehicle is not in park. This requirement is also necessary to permit optional digital  
16 license plate information to be displayed while ensuring that the required digital license plate information  
17 remains legible and readable for law enforcement. Proposed new §217.61(b)(5) permits the digital license  
18 plate provider to electronically collect tolls with approval by and agreement with the appropriate toll  
19 entity. Proposed new §217.61(b)(5) provides a possible benefit to digital license plate owners.

20 Proposed new §217.61(c) requires that digital license plate providers display an expiration  
21 message on the digital license plate if registration has not been renewed at the time of registration  
22 expiration, and that the expiration message may not be removed until after the department confirms  
23 renewal of expired registration and clarifies that optional digital license plate information may not

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## Proposed Sections

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## Chapter 217 - Vehicle Titles and Registration

1 encroach on the primary and secondary regions of interest. Proposed new §217.61(c) is necessary because  
2 Transportation Code §504.155(b)(4) requires a digital license plate to provide benefits to law enforcement  
3 that meet or exceed the benefits provided by a metal license plate.

4 Proposed new §217.61(d) prohibits digital license plate providers from displaying vehicle  
5 manufacturer safety recall notices or advertising on a digital license plate without authorization from the  
6 digital license plate owner. This is necessary to ensure that the digital license plate does not display this  
7 optional digital license plate information without the owner's approval. For example, a person who  
8 graduated from a university might not like it if they were required to display the logo of a rival university  
9 on their license plate. Proposed new §217.61(d)(2) and (d)(3) discuss the disclosure of GPS data. The  
10 digital license plate provider may not disclose GPS data to any person unless it explains to the digital  
11 license plate owner how the GPS data will be used and to whom it will be disclosed, and the digital license  
12 plate owner consents to its disclosure. This is necessary to protect the privacy and safety of digital license  
13 plate owners. Additionally, the department's Vehicle Titles and Registration Advisory Committee  
14 recommended these disclosure requirements and their recommendation was adopted by the board at its  
15 February 6, 2020 board meeting. Proposed new §217.61(d)(4) prohibits the digital license plate provider  
16 from requiring the owner to authorize the display of optional digital plate information or the disclosure  
17 of GPS data as a condition of purchase of lease of a digital license plate. This is necessary to protect the  
18 digital license plate owner's right to decide whether to opt in. Proposed new §217.61(d)(5) and (d)(6)  
19 require the digital license plate provider to immediately discontinue the display of optional digital license  
20 plate information at the digital license plate owner's request and to have the same mechanism for opting  
21 in and out of the display of the optional digital license plate information. This requirement is necessary to  
22 allow the digital license plate owner a consistent way to opt out of the display of optional digital license  
23 plate information on their digital license plate after they have opted in.

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1 **§217.62**

2 Proposed new §217.62 outlines the requirements for a digital license plate provider if a digital  
3 license plate is removed or malfunctions. Proposed new §217.62(a) requires that the digital license plate  
4 provider have a mechanism to prevent theft and tampering with the digital license plate. Proposed new  
5 §217.62(a)(1) and (a)(2) require the digital license plate provider to ensure that the digital license plate  
6 ceases the display of required digital license plate information in case of malfunction, if service is  
7 terminated, or if it determines that the digital license plate has been compromised, tampered with, or  
8 fails to maintain the integrity of registration data. Proposed new §217.62(a) is necessary to prevent fraud  
9 and protect consumers if their digital license plate is stolen.

10 Proposed new §217.62(b) outlines when the digital license plate provider must notify the  
11 department. Proposed new §217.62(b)(1) - (4) require digital license plate providers to immediately notify  
12 the department in case of digital license plate commencement of service, termination of service,  
13 determination that the digital license plate has been compromised, or the digital plate transfer to a new  
14 owner. These requirements are necessary to ensure that the department has accurate and current data  
15 on the digital license plates.

16 Proposed new §216.62(c) permits a digital license plate provider to disable the display of a digital  
17 license plate if the digital license plate owner fails to pay the provider's fees. This is necessary to allow a  
18 digital license plate provider to discontinue service when the digital license plate owner is not paying the  
19 fees required by their contract.

20 **§217.63**

21 Proposed new §217.63 outlines the digital plate fees and payment. Proposed new §217.63(a)  
22 requires that a person applying for a digital license plate must pay an administrative fee of \$95.00 upon  
23 application for a digital license plate and annually on renewal of registration for a vehicle with a digital

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## Chapter 217 - Vehicle Titles and Registration

1 license plate. The fee will be aligned with the registration period and adjusted to yield the appropriate  
2 fee. The administrative fee is necessary to recoup the department's costs to implement and then  
3 administer the digital license plate program for the first five years. The implementation and administration  
4 cost is estimated to be \$1.8 million. The breakdown of this estimate is as follows:

5           Programming – Information Technology           \$1,036,550

6           Program Specialists (two FTEs)                       \$815,625

7           **IMPLEMENTATION COST                       \$1,852,175 Total**

8           To determine an administrative fee, the total estimated implementation cost was divided by the  
9 number of digital license plates issued in California (1,300 plates total), since that is the only jurisdiction  
10 with a digital plate program that has been operational for several years. That amount was divided by  
11 fifteen with the goal of recouping the implementation and administration cost in approximately fifteen  
12 years. The amount of the fee and the time of its collection were recommendations from the department's  
13 Vehicle Titles and Registration Advisory Committee, and the recommendations were adopted by the  
14 board at its February 6, 2020 board meeting. Proposed new §217.63(a)(3) clarifies that a digital license  
15 plate administrative fee will be refunded only when registration fees are overcharged under  
16 Transportation Code §502.195. This is necessary to inform consumers of when a refund will be issued.

17           Proposed new §217.63(b) clarifies that the \$95 administrative fee is due upon receipt of an  
18 application for a digital license plate and annually on renewal of registration for a vehicle with a digital  
19 license plate. This is necessary to ensure that the fees for digital license plates are being paid and timely  
20 deposited into the state treasury under Government Code §404.094. It also clarifies that a digital license  
21 plate provider that collects the administrative fee must submit payment of the fee to the department in  
22 full on behalf of the digital license plate owner.

23

## TITLE 43. TRANSPORTATION

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1 **§217.64**

2 Proposed new §217.64 outlines the services that a digital license plate provider is required to  
3 provide, including digital license plate replacement when necessary. Proposed new §217.64(a)(1) requires  
4 a digital license plate provider to provide customer support for customers during standard business hours,  
5 Central Time. This requirement is necessary to ensure that customers can access support if they have  
6 issues with their digital plate and it corresponds to the hours that customer service is available for a metal  
7 license plate. Proposed new §217.64(a)(2) clarifies that a customer must go to the digital plate provider  
8 for repair, service, and replacement of a digital license plate. This clarification is necessary so that  
9 customers are aware of who to contact in case an issue arises with their digital license plate.

10 Proposed new §217.64(b) informs the customer where they can obtain a replacement license  
11 plate. Proposed new §217.64(b)(1) clarifies that if a customer wants a replacement digital license plate  
12 they can obtain one from the provider. Proposed new §217.64(b)(2) permits the customer to install the  
13 rear metal license plate issued for the vehicle in lieu of the digital license plate. Proposed new  
14 §217.64(b)(3) explains how to obtain a replacement metal license plate. Proposed new §217.64(b) is  
15 necessary because customers need to know where to obtain replacement plates if their digital license  
16 plate malfunctions or is destroyed, or if their metal license plate is lost, stolen, mutilated, or needs to be  
17 replaced for cosmetic or readability reasons. Digital plate owners cannot operate their vehicle until the  
18 digital license plate is repaired or replaced, or until they remove the digital license plate and replace it  
19 with a metal license plate.

20

21 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,  
22 has determined that for each year of the first five years these rules will be in effect, there will be no fiscal  
23 impact to state or local governments as a result of the enforcement or administration of the proposal.

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1 The legislature appropriated money to the department to cover the initial costs of implementing and  
2 administering the digital license plate program, which include costs to program the Registration and Title  
3 System and the cost of additional staff to monitor the new digital license plate providers to ensure  
4 compliance with Texas Transportation Code §§504.151-504.156 during the first five years of  
5 implementation and administration. The legislature also authorized the department to charge an  
6 administrative fee to recoup these costs, and the department proposes a \$95 administrative fee to recoup  
7 the state's costs in approximately 15 years. Jeremiah Kuntz, Director of the Vehicle Titles and Registration  
8 (VTR) Division, has determined that there will be no measurable effect on local employment or the local  
9 economy as a result of the proposal.

10

11 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five years  
12 the amended and new sections are in effect, there are public benefits anticipated from authorizing digital  
13 plates.

14 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include an  
15 enhanced awareness of emergency alerts and public safety alerts issued by governmental entities to  
16 include Amber Alerts, Silver Alerts, and Blue Alerts; and the creation of a new industry in the state of Texas  
17 that may have positive economic impact. Technological advancement in registration display will serve to  
18 benefit law enforcement through automated expiration notification. Further, the proposal will provide  
19 the public with another license plate option, which includes amenities that aren't available with a metal  
20 license plate, such as the toll tag or the electronic display of a parking permit.

21 Anticipated Costs to Comply With The Proposal. Mr. Kuntz anticipates that there will be costs to  
22 comply with these rules. While there is no requirement for vehicles to display a digital license plate (rather  
23 than a metal license plate), if a consumer chooses to obtain a digital license plate, the rule establishes a

## TITLE 43. TRANSPORTATION

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## Chapter 217 - Vehicle Titles and Registration

1 \$95 administrative fee upon initial application and each year on vehicle renewal. Transportation Code  
2 §504.154(d)(2) authorizes the department to establish a fee in an amount necessary to cover any  
3 administrative costs. The additional optional cost to persons who want to obtain a digital license plate  
4 under the proposal will be based on the price point set by the digital license plate provider(s), and are  
5 unknown to the department at this time.

6 Additionally, there may be costs for the digital plate provider associated with entering the Texas  
7 market including performing the required testing if the digital plate provider has not already done so.  
8 These costs are unknown to the department at this time.

9

10 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
11 Code §2006.002(c), the department has determined that these sections will have an adverse economic  
12 effect economic impact on small or micro businesses if such businesses choose to purchase a digital  
13 license plate and are therefore required to pay the department a \$95 administrative fee. In accordance  
14 with Government Code §2006.002(c-1), the department considered other regulatory methods to  
15 accomplish the objectives of the proposal that will also minimize any adverse impact on small and micro  
16 businesses.

17 It is not feasible to determine the number of small or micro businesses that might desire a digital  
18 license plate. Further, no small or micro business is required to purchase a digital license plate. Currently  
19 the department proposes to charge a \$95 administrative fee upon initial application for the digital license  
20 plates and annually on renewal of registration. The fee is the same amount that will be charged for  
21 individuals that obtain a digital license plate, which is reasonable and necessary to implement the digital  
22 license plate program.

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## Chapter 217 - Vehicle Titles and Registration

1           The department considered the following other regulatory methods to accomplish the objectives  
2 of the digital license plate program while minimizing any adverse impact on small and micro businesses:  
3 (i) not proposing the administrative fee; (ii) proposing a different administrative fee for small and micro  
4 businesses; and (iii) exempting small and micro businesses from the administrative fee.

5           Not proposing the \$95 administrative fee would not allow the department to recover its cost in  
6 implementing the digital license plate program. In authorizing the fee in Transportation Code §504.154,  
7 the legislature was aware if a small or microbusiness wanted to obtain a digital license plate, they would  
8 be required to pay the fee. The department rejects this option.

9           Proposing a different administrative fee for small and micro businesses is not contemplated by  
10 Transportation Code §504.154. The legislature did not specifically authorize different fees based on  
11 business size or model. Costs associated with implementing the digital license plate program, do not vary  
12 by business size. Varying the fee for small and micro businesses would result in either increasing the fee  
13 for other businesses and individuals or not recovering the full cost of the program. The Department rejects  
14 this option.

15           Exempting small and micro businesses from the administrative fee would inequitably shift the  
16 cost to others. As previously noted, the current methodology is already the most equitable methodology  
17 the department can develop. The department rejects this option.

18           The department, after considering the purpose of the authorizing statutes, does not believe it is  
19 legal or equitable to waive or modify the proposed administrative fee for small and micro businesses.

20           The department has determined that the proposal will not have an adverse economic effect on  
21 rural communities. As a result, and in accordance with Government Code §2006.002(c), it is not necessary  
22 for the department to address rural communities in its regulatory flexibility analysis.

23

## TITLE 43. TRANSPORTATION

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1 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests  
2 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property  
3 that would otherwise exist in the absence of government action and, therefore, does not constitute a  
4 taking or require a takings impact assessment under the Government Code, §2007.043.

5  
6 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the  
7 first five years the proposed amendments and new sections are in effect, the proposed rule:

8 will not create or eliminate a government program;

9 will not require the creation of new employee positions or the elimination of existing employee  
10 positions;

11 will not require an increase or decrease in future legislative appropriations to the department;

12 will require an increase in fees paid to the department by charging a \$95 administrative fee on initial  
13 application and an annual \$95 administrative fee with registration for digital plate use;

14 will create new regulations in §§217.58 - 217.64 to implement Transportation Code Chapter 504,  
15 Subchapter B-1, concerning digital license plates, enacted in SB 604;

16 will expand existing regulations §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55 to implement  
17 Transportation Code Chapter 504, Subchapter B-1, concerning digital license plates;

18 will not repeal existing regulations;

19 will increase the number of individuals subject to the rule's applicability, because rules concerning digital  
20 license plates do not currently exist, but are required under Transportation Code Chapter 504, Subchapter  
21 B-1; and

22 will likely have a positive impact on the Texas economy by authorizing a new industry in Texas.

23

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**1 REQUEST FOR PUBLIC COMMENT.**

2 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM, DD,  
3 YYYY. A request for a public hearing must be sent separately from your written comments. Send written  
4 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas  
5 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the  
6 department will consider written comments and public testimony presented at the hearing.

7

8 **STATUTORY AUTHORITY.** The amendments and new sections are proposed under Transportation Code,  
9 §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to  
10 adopt rules that are necessary and appropriate to implement the powers and the duties of the  
11 department; and more specifically, Transportation Code, §§504.151-504.157 which authorize digital  
12 license plates while giving the department rulemaking authority to implement the statutory provisions  
13 including setting specifications and requirements for digital plates and establishing a fee.

14

15 **CROSS REFERENCE TO STATUTE.** Transportation Code, §§504.151- 504.157 and §1002.001.

**16 TEXT.**

17

**Subchapter B. Vehicle Titles and Registration**

18

**43 TAC §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55, and 217.58-64**

19

20 §217.22. Definitions.

21 The following words and terms, when used in this subchapter, shall have the following meanings, unless  
22 the context clearly indicates otherwise.

## TITLE 43. TRANSPORTATION

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1 (1) Affidavit for alias exempt registration--A form prescribed by the director that must be  
2 executed by an exempt law enforcement agency to request the issuance of exempt registration in the  
3 name of an alias.

4 (2) Agent--A duly authorized representative possessing legal capacity to act for an  
5 individual or legal entity.

6 (3) Alias--The name of a vehicle registrant reflected on the registration, different than the  
7 name of the legal owner of the vehicle.

8 (4) Alias exempt registration--Registration issued under an alias to a specific vehicle to be  
9 used in covert criminal investigations by a law enforcement agency.

10 (5) Axle load--The total load transmitted to the road by all wheels whose centers may be  
11 included between two parallel transverse vertical planes 40 inches apart, extending across the full width  
12 of the vehicle.

13 (6) Border commercial zone--A commercial zone established under Title 49, C.F.R., Part  
14 372 that is contiguous to the border with Mexico.

15 (7) Bus--A motor vehicle used to transport persons and designed to accommodate more  
16 than 10 passengers, including the operator; or a motor vehicle, other than a taxicab, designed and used  
17 to transport persons for compensation.

18 (8) Carrying capacity--The maximum safe load that a commercial vehicle may carry, as  
19 determined by the manufacturer.

20 (9) Character--A numeric or alpha symbol displayed on a license plate.

21 (10) County or city civil defense agency--An agency authorized by a commissioner's court  
22 order or by a city ordinance to provide protective measures and emergency relief activities in the event  
23 of hostile attack, sabotage, or natural disaster.

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## Chapter 217 - Vehicle Titles and Registration

1                    (11) Digital license plate owner--A digital license plate owner is a person who purchases  
2                    or leases a digital license plate from a department-approved digital license plate provider.

3                    (12) Digital license plate—As defined in Transportation Code, §504.151.

4                    (13) [(11)] Director--The director of the Vehicle Titles and Registration Division, Texas  
5                    Department of Motor Vehicles.

6                    (14) [(12)] Division--Vehicle Titles and Registration Division.

7                    (15) [(13)] Executive administrator--The director of a federal agency, the director of a  
8                    Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city that by law possesses  
9                    the authority to conduct covert criminal investigations.

10                   (16) [(14)] Exempt agency--A governmental body exempted by statute from paying  
11                   registration fees when registering motor vehicles.

12                   (17) [(15)] Exempt license plates--Specially designated license plates issued to certain  
13                   vehicles owned or controlled by exempt agencies.

14                   (18) [(16)] Exhibition vehicle--

15                            (A) An assembled complete passenger car, truck, or motorcycle that:

16                                    (i) is a collector's item;

17                                    (ii) is used exclusively for exhibitions, club activities, parades, and other  
18                   functions of public interest;

19                                    (iii) does not carry advertising; and

20                                    (iv) has a frame, body, and motor that is at least 25-years old; or

21                            (B) A former military vehicle as defined in Transportation Code, §504.502.

22                   (19) [(17)] Fire-fighting equipment--Equipment mounted on fire-fighting vehicles used in  
23                   the process of fighting fires, including, but not limited to, ladders and hoses.

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1                    (20) [(18)] Foreign commercial motor vehicle--A commercial motor vehicle, as defined by  
2 49 C.F.R. §390.5, that is owned by a person or entity that is domiciled in or a citizen of a country other  
3 than the United States.

4                    (21) GPS-- A global positioning system tracking device that can be used to determine the  
5 location of a digital license plate through data collection by means of a receiver in a digital license plate.

6                    (22) [(19)] Highway construction project--That section of the highway between the  
7 warning signs giving notice of a construction area.

8                    (23) [(20)] International symbol of access--The symbol adopted by Rehabilitation  
9 International in 1969 at its Eleventh World Congress of Rehabilitation of the Disabled.

10                   (24) [(21)] Legally blind--Having not more than 20/200 visual acuity in the better eye with  
11 correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of vision such that  
12 the widest diameter of the visual field subtends an angle no greater than 20 degrees.

13                   (25) Legend--A name, motto, slogan, or registration expiration notification that is  
14 centered horizontally at the bottom of the license plate.

15                   (26) [(22)] Make--The trade name of the vehicle manufacturer.

16                   (27) Metal license plate--A non-digital license plate issued by the department under  
17 Transportation Code Chapter 502 or Chapter 504.

18                   (28) [(23)] Nonprofit organization--An unincorporated association or society or a  
19 corporation that is incorporated or holds a certificate of authority under the Business Organizations Code.

20                   (29) [(24)] Nominating State Agency--A state agency authorized to accept and distribute  
21 funds from the sale of a specialty plate as designated by the nonprofit organization (sponsoring entity).

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1                   (30) Optional digital license plate information—Any information authorized to be  
2 displayed on a digital license plate in addition to required digital license plate information when the  
3 vehicle is in park, including:

4                   (A) an emergency alert or other public safety alert issued by a governmental entity, including an  
5 alert authorized under Subchapter L, M, or P of Government Code Chapter 411;

6                                   (B) vehicle manufacturer safety recall notices;

7                                   (C) advertising; or

8 (D) a parking permit.

9                   (31) Park--As defined in Transportation Code, §541.401.

10                   (32) [(25)] Political subdivision--A county, municipality, local board, or other body of this  
11 state having authority to provide a public service.

12                   (33) Primary region of interest--The field on a metal or digital license plate with  
13 alphanumeric characters representing the plate number. The primary region of interest encompasses a  
14 field of 5.75 inches in width by 1.75 inches in height on metal license plates manufactured for motorcycles,  
15 mopeds, golf carts, or off-highway vehicles. The primary region of interest encompasses a field of 8.375  
16 inches in width by 2.5625 inches in height on metal license plates manufactured for all other vehicles.

17                   (34) [(26)] Registration period--A designated period during which registration is valid. A  
18 registration period begins on the first day of a calendar month and ends on the last day of a calendar  
19 month.

20                   (35) Required digital license plate information—The minimum information required to be  
21 displayed on a digital license plate: the registration expiration month and year (unless the vehicle is a  
22 token trailer as defined by Transportation Code, §502.001), the alphanumeric characters representing the

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1 plate number, the word "Texas," the registration expiration notification if the registration for the vehicle  
2 has expired; and the legend (if applicable).

3 (36) Secondary region of interest--The field on a metal or digital license plate with the  
4 word "Texas" centered horizontally at the top of the plate. The secondary region of interest encompasses  
5 a field of 2.5 inches in width by 0.5625 inches in height on metal license plates manufactured for  
6 motorcycles, mopeds, golf carts, or off-highway vehicles. The secondary region of interest encompasses  
7 a field of 6 inches in width by 1.9375 inches in height on metal license plates manufactured for all other  
8 vehicles.

9 (37) [(27)] Service agreement--A contractual agreement that allows individuals or  
10 businesses to access the department's vehicle registration records.

11 (38) [(28)] Specialty license plate--A special design license plate issued by the department  
12 under SA.

13 (39) [(29)] Specialty license plate fee--Statutorily or department required fee payable on  
14 submission of an application for a specialty license plate, symbol, tab, or other device, and collected in  
15 addition to statutory motor vehicle registration fees.

16 (40) [(30)] Sponsoring entity--An institution, college, university, sports team, or any other  
17 non-profit individual or group that desires to support a particular specialty license plate by coordinating  
18 the collection and submission of the prescribed applications and associated license plate fees or deposits  
19 for that particular license plate.

20 (41) [(31)] Street or suburban bus--A vehicle, other than a passenger car, used to transport  
21 persons for compensation exclusively within the limits of a municipality or a suburban addition to a  
22 municipality.

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1                   (42) [~~32~~] Tandem axle group--Two or more axles spaced 40 inches or more apart from  
2 center to center having at least one common point of weight suspension.

3                   (43) [~~33~~] Unconventional vehicle--A vehicle built entirely as machinery from the ground  
4 up, that is permanently designed to perform a specific function, and is not designed to transport property.

5                   (44) [~~34~~] Vehicle classification--The grouping of vehicles in categories for the purpose of  
6 registration, based on design, carrying capacity, or use.

7                   (45) [~~35~~] Vehicle description--Information regarding a specific vehicle, including, but not  
8 limited to, the vehicle make, model year, body style, and vehicle identification number.

9                   (46) [~~36~~] Vehicle identification number--A number assigned by the manufacturer of a  
10 motor vehicle or the department that describes the motor vehicle for purposes of identification.

11                  (47) [~~37~~] Vehicle inspection sticker--A sticker issued by the Texas Department of Public  
12 Safety signifying that a vehicle has passed all applicable safety and emissions tests.

13                  (48) [~~38~~] Vehicle registration insignia--A license plate, symbol, tab, or other device  
14 issued by the department evidencing that all applicable fees have been paid for the current registration  
15 period and allowing the vehicle to be operated on the public highways.

16                  (49) [~~39~~] Vehicle registration record--Information contained in the department's files  
17 that reflects, but is not limited to, the make, vehicle identification number, model year, body style, license  
18 number, and the name of the registered owner.

19                  (50) [~~40~~] Volunteer fire department--An association that is organized for the purpose of  
20 answering fire alarms, extinguishing fires, and providing emergency medical services.

21

22 §217.27. Vehicle Registration Insignia.

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1 (a) On receipt of a complete initial application for registration with the accompanying documents  
2 and fees, the department will issue vehicle registration insignia to be displayed on or kept in the vehicle  
3 for which the registration was issued for the current registration period.

4 (1) If the vehicle has a windshield, the symbol, tab, or other device prescribed by and  
5 issued by the department shall be attached to the inside lower left corner of the vehicle's front windshield  
6 in a manner that will not obstruct the vision of the driver, unless the vehicle is registered under  
7 Transportation Code, Chapter 504, Subchapter B-1.

8 (2) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and  
9 issued by the department shall be attached to the rear license plate unless the vehicle is registered under  
10 Transportation Code, Chapter 504, Subchapter B-1, except that registration receipts, retained inside the  
11 vehicle, may provide the record of registration for vehicles with permanent trailer plates.

12 (3) If the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1,  
13 the registration receipt, symbol, tab, or other device prescribed by and issued by the department must be  
14 retained with the vehicle and may provide the record of registration for vehicles with a digital license  
15 plate. The expiration month and year must appear digitally on the electronic visual display of the rear  
16 digital license plate.

17 (4) ~~(3)~~ If the vehicle is registered as a former military vehicle as prescribed by  
18 Transportation Code, §504.502, the vehicle's registration number shall be displayed instead of displaying  
19 a symbol, tab, or license plate.

20 (A) Former military vehicle registration numbers shall be displayed on a  
21 prominent location on the vehicle in numbers and letters of at least two inches in height.

22 (B) To the extent possible, the location and design of the former military vehicle  
23 registration number must conform to the vehicle's original military registration number.

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1 (b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

2 (1) must display two license plates that are clearly visible, readable, and legible, one at  
3 the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior  
4 front and rear of the vehicle in an upright [a] horizontal position of not less than 12 inches from the  
5 ground, measuring from the bottom, except that a vehicle described by Transportation Code, §621.2061  
6 may place the rear plate so that it is clearly visible, readable, and legible; or

7 (2) must display one plate that is securely fastened at or as close as practical to the  
8 exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the  
9 bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer.

10 (c) Each vehicle registered under this subchapter must display license plates:

11 (1) assigned by the department for the period; or

12 (2) validated by a registration insignia issued by the department for a registration period  
13 consisting of 12 consecutive months at the time of application for registration, except that:

14 (A) trailers, semitrailers, or pole trailers not subject to inspection under  
15 §548.052(3) may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive  
16 months on payment of all fees for each full year of registration; and

17 (B) vehicles may be registered for 24 consecutive months in accordance with  
18 Transportation Code, §548.102 on payment of all fees for each year of registration, regardless of the  
19 number of months remaining on the inspection at the time of registration, provided:

20 (i) the vehicle receives a two-year inspection under Transportation Code,  
21 §548.102; and

22 (ii) the application for registration is made in the name of the purchaser  
23 under Transportation Code, §501.0234.

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1 (d) The department may cancel any personalized alpha-numeric pattern that was issued if the  
2 department subsequently determines or discovers that the personalized license plate was not in  
3 compliance with these guidelines when issued, or if due to changing language usage, meaning or  
4 interpretation, the personalized license plate has become non-compliant with these guidelines. When  
5 reviewing a personalized alpha-numeric pattern, the department need not consider the applicant's  
6 subjective intent or declared meaning. The department will not issue any license plate containing an  
7 alpha-numeric pattern that meets one or more of the following criteria.

8 (1) The alpha-numeric pattern conflicts with the department's current or proposed  
9 regular license plate numbering system.

10 (2) The director of the department's Vehicle Titles and Registration Division or the  
11 director's designee finds that the personalized alpha-numeric pattern, including plate patterns that  
12 feature foreign or slang words or phrases, use phonetic, numeric or reverse spelling, acronyms, patterns  
13 viewed in mirror image, or use a code which only a small segment of the community may be able to readily  
14 decipher, that may be considered objectionable or misleading, including that the pattern may be viewed  
15 as, directly or indirectly:

16 (A) indecent (defined as including a reference or connotation to a sexual act,  
17 sexual body parts, excrement, or bodily fluids or functions. Additionally, "69" formats are prohibited  
18 unless used in combination with the vehicle make, for example, "69 CHEV".);

19 (B) a vulgarity (defined as profane, swear, or curse words);

20 (C) derogatory (defined as an expression that is demeaning to, belittles, or  
21 disparages any person, group, race, ethnicity, nationality, gender, sexual orientation, or refers to an  
22 organization that advocates such expressions);

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1 (D) a reference to race, ethnicity, gender or sexual orientation whether the  
2 reference is derogatory or not;

3 (E) a reference to gangs, illegal activities, violence, implied threats of harm, or  
4 expressions that describe, advertise, advocate, promote, encourage, glorify, or condone violence, crime  
5 or unlawful conduct;

6 (F) a reference to illegal drugs, controlled substances, the physiological state  
7 produced by such substances, intoxicated states, or references that may express, describe, advertise,  
8 advocate, promote, encourage, glorify such items or states;

9 (G) a representation of, or reference to, law enforcement, military branches, or  
10 other governmental entities and their titles, including any reference to public office or position, military  
11 or law enforcement rank or status, or any other official government position or status; or

12 (H) deceptively similar to a military, restricted distribution, or other specialty  
13 plate.

14 (3) The alpha-numeric pattern is currently issued to another owner.

15 (4) Notwithstanding the limitations on issuance of plate patterns in this subsection, the  
16 department may issue patterns that refer to publicly and privately funded institutions of higher education,  
17 including military academies, whether funded by state or federal sources, or both.

18 (e) A decision to cancel or not issue a personalized alpha-numeric pattern under subsection (d) of  
19 this section may be appealed to the executive director of the department or the executive director's  
20 designee within 20 days of notification of the cancellation or non-issuance. All appeals must be in writing  
21 and the requesting party may include any written arguments, but shall not be entitled to a contested case  
22 hearing. The executive director or the executive director's designee will consider the requesting party's  
23 arguments and issue a decision no later than 30 days after the submission of the appeal, unless additional

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1 information is sought from the requestor, in which case the time for decision is tolled until the additional  
2 information is provided. The decision of the executive director or the executive director's designee is final  
3 and may not be appealed. An appeal is denied by operation of law 31 days from the submission of the  
4 appeal, or if the requestor does not provide additional requested information within ten days of the  
5 request.

6 (f) The provisions of subsection (a) of this section do not apply to vehicles registered with annual  
7 license plates issued by the department.

8 (g) A person whose initial application has been denied may either receive a refund or select a new  
9 alpha-numeric pattern. If an existing personalized alpha-numeric pattern has been cancelled, the person  
10 may choose a new personalized alpha-numeric pattern which will be valid for the remainder of the term  
11 or will forfeit the remaining term purchased.

12

13 §217.32. Replacement of License Plates, Symbols, Tabs, and Other Devices.

14 (a) When a metal license plate, symbol, tab, or other registration device is lost, stolen, mutilated,  
15 or needs to be replaced for cosmetic or readability reasons, a metal license plate replacement may be  
16 obtained from any county tax assessor-collector upon:

17 (1) the payment of the statutory replacement fee prescribed by Transportation Code,  
18 §502.060 or §504.007; and

19 (2) the provision of a signed statement, on a form prescribed by the department, that  
20 states:

21 (A) the license plate, symbol, tab, or other registration device furnished for the  
22 described vehicle has been lost, stolen, mutilated, or needs to be replaced for cosmetic or readability  
23 reasons, and if recovered, will not be used on any other vehicle; and

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1 (B) the replaced license plate, symbol, tab, or other device will only be used on  
2 the vehicle to which it was issued.

3 (b) If the owner remains in possession of any part of the lost, stolen, or mutilated metal license  
4 plate, symbol, tab, or other registration device, that remaining part must be removed and surrendered to  
5 the department on issuance of the replacement and request by the county tax assessor-collector.

6

7 §217.38. Registration Fee Credit: Application.

8 An application for registration fee credit must be accompanied by:

9 (1) the current metal license plate(s) and license receipt issued for the destroyed vehicle;

10 (2) the negotiable certificate of title covering the destroyed vehicle; and

11 (3) evidence that the vehicle has been destroyed to such an extent that it cannot  
12 thereafter be operated on the highways.

13

14 §217.41. Disabled Person License Plates and Identification Placards.

15 (a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the  
16 responsibility for issuing specially designed license plates and identification placards for disabled persons.

17 For the department to perform these duties efficiently and effectively, this section prescribes the policies  
18 and procedures for the application, issuance, and renewal of Disabled Person license plates and placards.

19 (b) Issuance.

20 (1) Disabled Person license plates.

21 (A) Eligibility. In accordance with Transportation Code, §504.201, the department  
22 will issue specially designed license plates displaying the international symbol of access to permanently  
23 disabled persons or their transporters instead of regular motor vehicle license plates.

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1 (B) Specialty license plates. The department will issue Disabled Person insignia on  
2 those specialty license plates that can accommodate the identifying insignia and that are issued in  
3 accordance with §217.45 of this title (relating to Specialty License Plates, Symbols, Tabs, and Other  
4 Devices).

5 (C) License plate number. Disabled Person license plates will bear a license plate  
6 number assigned by the department or will bear a personalized license plate number issued in accordance  
7 with §217.45.

8 (2) Windshield identification placards. The department will issue removable windshield  
9 identification placards to temporarily or permanently disabled persons and to the transporters of  
10 permanently disabled persons. A person who has been issued a windshield identification placard shall  
11 hang the placard from a vehicle's rearview mirror when the vehicle is parked in a disabled person parking  
12 space or shall display the placard on the center portion of the dashboard if the vehicle does not have a  
13 rearview mirror.

14 (c) Renewal of Disabled Person license plates. Disabled Person license plates are valid for a period  
15 of 12 months from the date of issuance, and are renewable as specified in §217.28 of this title (relating to  
16 Vehicle Registration Renewal).

17 (d) Replacement.

18 (1) License plates. If a Disabled Person metal license plate is [~~plates are~~] lost, stolen, or  
19 mutilated, the owner may obtain a replacement metal license plate [~~plates~~] by applying with a county tax  
20 assessor-collector.

21 (A) Accompanying documentation. To replace permanently Disabled Person  
22 metal license plates, the owner must present the current year's registration receipt and personal  
23 identification acceptable to the county tax assessor-collector.

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1 (B) Absence of accompanying documentation. If the current year's registration  
2 receipt is not available and the county cannot verify that the Disabled Person metal license plates were  
3 issued to the owner, the owner must reapply in accordance with this section.

4 (2) Disabled Person identification placards. If a Disabled Person identification placard  
5 becomes lost, stolen, or mutilated, the owner may obtain a new identification placard in accordance with  
6 this section.

7 (e) Transfer of Disabled Person license plates and identification placards.

8 (1) License plates.

9 (A) Transfer between persons. Disabled Person license plates may not be  
10 transferred between persons. An owner who sells or trades a vehicle to which Disabled Person license  
11 plates have been issued shall remove the Disabled Person license plates from the vehicle. The owner shall  
12 return the license plates to the department and shall obtain appropriate replacement license plates to  
13 place on the vehicle prior to any transfer of ownership.

14 (B) Transfer between vehicles. Disabled Person license plates may be transferred  
15 between vehicles if the county or the department can verify the plate ownership and the owner of the  
16 vehicle is the disabled person or the vehicle is used to transport the disabled person.

17 (i) Plate ownership verification may include:

18 (I) a Registration and Title System (RTS) inquiry;

19 (II) a copy of the department Application for Disabled Person  
20 license plates; or

21 (III) the owner's current registration receipt.

22 (ii) An owner who sells or trades a vehicle with Disabled Person license  
23 plates must remove the plates from the vehicle.

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1 (2) Identification placards.

2 (A) Transfer between vehicles. Disabled Person identification placards may be  
3 displayed in any vehicle driven by the disabled person or in which the disabled person is a passenger.

4 (B) Transfer between persons. Disabled Person identification placards may not be  
5 transferred between persons.

6 (f) Seizure and revocation of placard.

7 (1) If a law enforcement officer seizes and destroys a placard under Transportation Code,  
8 §681.012, the officer shall notify the department by email.

9 (2) The person to whom the seized placard was issued may apply for a new placard by  
10 submitting an application to the county tax assessor-collector of the county in which the person with the  
11 disability resides or in which the applicant is seeking medical treatment.

12

13 §217.55. Exempt and Alias Vehicle Registration.

14 (a) Exempt plate registration.

15 (1) Issuance. Pursuant to Transportation Code, §502.453 or §502.456, certain vehicles  
16 owned by and used exclusively in the service of a governmental agency, owned by a commercial  
17 transportation company and used exclusively for public school transportation services, designed and used  
18 for fire-fighting or owned by a volunteer fire department and used in the conduct of department business,  
19 privately owned and used in volunteer county marine law enforcement activities, used by law  
20 enforcement under an alias for covert criminal investigations, owned by units of the United States Coast  
21 Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or  
22 Coast Guard Auxiliary business and operations, or owned or leased by a non-profit emergency medical  
23 service provider is exempt from payment of a registration fee and is eligible for exempt plates.

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1 (2) Application for exempt registration.

2 (A) Application. An application for exempt plates shall be made to the county tax  
3 assessor-collector, shall be made on a form prescribed by the department, and shall contain the following  
4 information:

5 (i) vehicle description;

6 (ii) name of the exempt agency;

7 (iii) an affidavit executed by an authorized person stating that the vehicle  
8 is owned or under the control of and will be operated by the exempt agency; and

9 (iv) a certification that each vehicle listed on the application has the name  
10 of the exempt agency printed on each side of the vehicle in letters that are at least two inches high or in  
11 an emblem that is at least 100 square inches in size and of a color sufficiently different from the body of  
12 the vehicle as to be clearly legible from a distance of 100 feet.

13 (B) Emergency medical service vehicle.

14 (i) The application for exempt registration must contain the vehicle  
15 description, the name of the emergency medical service provider, and a statement signed by an officer of  
16 the emergency medical service provider stating that the vehicle is used exclusively as an emergency  
17 response vehicle and qualifies for registration under Transportation Code, §502.456.

18 (ii) A copy of an emergency medical service provider license issued by the  
19 Department of State Health Services must accompany the application.

20 (C) Fire-fighting vehicle. The application for exempt registration of a fire-fighting  
21 vehicle or vehicle owned privately by a volunteer fire department and used exclusively in the conduct of  
22 department business must contain the vehicle description, including a description of any fire-fighting

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1 equipment mounted on the vehicle if the vehicle is a fire-fighting vehicle. The affidavit must be executed  
2 by the person who has the proper authority and shall state either:

3 (i) the vehicle is designed and used exclusively for fire-fighting; or

4 (ii) the vehicle is owned by a volunteer fire department and is used  
5 exclusively in the conduct of its business.

6 (D) County marine law enforcement vehicle. The application for exempt  
7 registration of a privately owned vehicle used by a volunteer exclusively in county marine law  
8 enforcement activities, including rescue operations, under the direction of the sheriff's department must  
9 include a statement signed by a person having the authority to act for a sheriff's department verifying  
10 that fact.

11 (E) United States Coast Guard Auxiliary vehicle. The application for exempt  
12 registration of a vehicle owned by units of the United States Coast Guard Auxiliary headquartered in Texas  
13 and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and  
14 operation, including search and rescue, emergency communications, and disaster operations, must  
15 include a statement by a person having authority to act for the United States Coast Guard Auxiliary that  
16 the vehicle or trailer is used exclusively in fulfillment of an authorized mission of the United States Coast  
17 Guard or Coast Guard Auxiliary, including search and rescue, emergency communications, or disaster  
18 operations.

19 (3) Exception. A vehicle may be exempt from payment of a registration fee, but display  
20 license plates other than exempt plates if the vehicle is not registered under subsection (b) of this section.

21 (A) If the applicant is a law enforcement office, the applicant must present a  
22 certification that each vehicle listed on the application will be dedicated to law enforcement activities.

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1 (B) If the applicant is exempt from the inscription requirements under  
2 Transportation Code, §721.003, the applicant must present a certification that each vehicle listed on the  
3 application is exempt from inscription requirements under Transportation Code, §721.003. The applicant  
4 must also provide a citation to the section that exempts the vehicle.

5 (C) If the applicant is exempt from the inscription requirements under  
6 Transportation Code, §721.005 the applicant must present a certification that each vehicle listed on the  
7 application is exempt from inscription requirements under Transportation Code, §721.005. The applicant  
8 must also provide a copy of the order or ordinance that exempts the vehicle.

9 (D) If the applicant is exempt from the inscription requirements under Education  
10 Code, §51.932, the applicant must present a certification that each vehicle listed on the application is  
11 exempt from the inscription requirements under Education Code, §51.932. Exempt plates will be marked  
12 with the replacement year.

13 (b) Affidavit for issuance of exempt registration under an alias.

14 (1) On receipt of an affidavit for alias exempt registration, approved by the executive  
15 administrator of an exempt law enforcement agency, the department will issue alias exempt license plates  
16 for a vehicle and register the vehicle under an alias for the law enforcement agency's use in covert criminal  
17 investigations.

18 (2) The affidavit for alias exempt registration must be in a form prescribed by the director  
19 and must include the vehicle description, a sworn statement that the vehicle will be used in covert criminal  
20 investigations, and the signature of the executive administrator or the executive administrator's designee  
21 as provided in paragraph (3) of this subsection. The vehicle registration insignia of any vehicles no longer  
22 used in covert criminal investigations shall be surrendered immediately to the department.

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1 (3) The executive administrator, by annually filing an authorization with the director, may  
2 appoint a staff designee to execute the affidavit. A new authorization must be filed when a new executive  
3 administrator takes office.

4 (4) The letter of authorization must contain a sworn statement delegating the authority  
5 to sign the affidavit to a designee, the name of the designee, and the name and the signature of the  
6 executive administrator.

7 (5) The affidavit for alias exempt registration must be accompanied by a title application  
8 under §217.103 of this title (relating to Restitution Liens). The application must contain the information  
9 required by the department to create the alias record of vehicle registration and title.

10 (c) Replacement of exempt registration.

11 (1) If an exempt metal license plate is lost, stolen, or mutilated, a properly executed  
12 application for exempt metal license plates must be submitted to the county tax assessor-collector.

13 (2) An application for replacement exempt metal license plates must contain the vehicle  
14 description, original license number, and the sworn statement that the license plates furnished for the  
15 vehicle have been lost, stolen, or mutilated and will not be used on any other vehicle.

16 (d) Title requirements. Unless exempted by statute, a vehicle must be titled at the time the  
17 exempt registration is issued.

18

19 §217.58. Digital License Plate Eligibility.

20 (a) Vehicles eligible for a digital license plate. The following vehicles are eligible for a digital license  
21 plate:

22 (1) any vehicle owned or operated by a governmental entity; or

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## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1                   (2) a vehicle owned or operated by a person other than a governmental entity if the  
2 vehicle is:

3                   (A) registered as part of a commercial fleet under Transportation Code,  
4 §502.0023; or

5                   (B) a truck, motorcycle, moped, trailer, semitrailer, or sport utility vehicle, unless  
6 the vehicle is registered as a passenger vehicle.

7                   (b) Vehicles not eligible for a digital license plate. Notwithstanding §217.58(a), the following  
8 vehicles are not eligible for a digital license plate:

9                   (1) a vehicle registered as a passenger vehicle, including a truck, motorcycle, moped,  
10 trailer, semitrailer, or sport utility vehicle; or

11                   (2) a vehicle not required to display a metal license plate on the rear of the vehicle,  
12 including:

13                   (A) truck-tractors; or

14                   (B) trucks with combination registration under Transportation Code, §502.255.

15                   (c) Requirements for Eligibility Verification and Issuance of Digital Plates.

16                   (1) An applicant for a digital license plate may not obtain a digital license plate from a  
17 digital license plate provider if the vehicle for which digital license plate is being sought is not registered.

18 The individual must first submit a complete initial application for registration and the accompanying  
19 documents and fees at the county tax assessor-collector's office, or at the department for vehicles that

20 must be registered directly through the department under this chapter. After receipt of the necessary  
21 documentation and fees, the department will issue one or two metal license plates, in accordance with

22 this chapter, to the applicant for the digital license plate, depending on the type of vehicle. After the

## TITLE 43. TRANSPORTATION

## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1 department issues the metal license plate or plates to the applicant, the applicant may then proceed with  
2 obtaining a digital license plate from a digital license plate provider.

3 (2) A digital license plate provider must obtain the following information from a digital  
4 license plate applicant before it verifies the vehicle's eligibility for a digital license plate:

5 (A) the last four digits of the vehicle identification number; and

6 (B) the existing metal license plate number.

7 (3) A digital license plate provider may not issue a digital license plate for a vehicle that  
8 has not been issued Texas registration in the name of the applicant for the digital license plate.

9 (4) Any metal license plate issued for the rear of the vehicle and any associated plate  
10 sticker issued for a rear metal license plate must be carried in or on the vehicle at all times when using a  
11 digital license plate.

12 (5) A digital license plate provider may only issue one digital license plate per eligible  
13 vehicle during a single registration period.

14

15 §217.59. Digital License Plate Testing

16 Before the initial deployment of a digital license plate model and for each subsequent hardware  
17 upgrade, which includes all physical aspects of the digital license plate except for the mounting bracket, a  
18 digital license plate provider must provide the department with documentation sufficient for the  
19 department to be assured that the digital license plate model for which approval is sought was tested in  
20 a manner set forth by the department. The documentation must include a description of the testing  
21 protocols and methods. Digital license plate testing must be conducted by governmental entities,  
22 universities, or independent nonprofit research and development organizations. Testing must include:

## TITLE 43. TRANSPORTATION

## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1                   (1) reflectivity testing with results that are consistent with the International Organization  
2 for Standardization ISO 7591, clauses 6 and 7;

3                   (2) legibility and readability testing with results demonstrating that digital license plates  
4 are legible in daytime, as defined in Transportation Code, §541.401 and nighttime, as defined in  
5 Transportation Code, §541.401, using low beam headlights, under optimal conditions at a distance of no  
6 less than 75 feet; and are readable with commercially-available automated license plate readers and in a  
7 variety of weather conditions; and

8                   (3) commercially-available penetration testing, as approved by the department, for the  
9 protection of the digital license plate, the electronic display information, and the digital license plate  
10 provider's systems. In addition to testing before initial approval and each subsequent hardware upgrade,  
11 testing described in this paragraph must be completed for each software or firmware upgrade.

12

13 §217.60. Digital License Plate Specifications and Requirements.

14                   (a) In addition to ensuring that the digital license plate meets or exceeds the benefits for law  
15 enforcement that are provided by metal license plates, a digital license plate provider must ensure that  
16 digital license plates submitted for department approval and provided for customer use comply with the  
17 following requirements:

18                   (1) provide an electronic visual display resistant to breakage, and in cases when the  
19 electronic visual display is scratched, chipped, cracked, or weather damaged, a digital license plate must  
20 continue to legibly display digital license plate information and the physical security feature defined in  
21 paragraph 2 of this subsection;

22                   (2) include one or more physical security features to verify the plate was issued by an  
23 approved digital license plate provider;

## TITLE 43. TRANSPORTATION

## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1                   (3) continue to display digital license plate information when the digital license plate does  
2 not maintain connectivity to a wireless network; and

3                   (4) when the vehicle is not in park:

4                           (A) display required digital license plate information on the plate in the same font  
5 size and location as the information displayed on a corresponding metal license plate; and

6                           (B) display the registration expiration month and year, as determined by the  
7 department, in the same font size and location as displayed on a corresponding metal license plate when  
8 a vehicle does not have a windshield; and

9                   (b) Placement of license plate and vehicle registration insignia.

10                           (1) The digital license plate must be attached to the exterior rear of the vehicle.

11                           (2) A metal license plate must be attached to the exterior front of the vehicle in  
12 compliance with this chapter, unless the vehicle is not required to display a plate on the front of the  
13 vehicle under this chapter.

14                           (3) The vehicle's registration insignia for validation of registration must be displayed on  
15 or kept in a vehicle in accordance with §217.27.

16

17 §217.61. Digital License Plate Designs and Displays.

18                   (a) Digital license plate designs.

19                           (1) A digital license plate provider is prohibited from designing or creating specialty license  
20 plates under Transportation Code Chapter 504, unless the provider has a contract with the department  
21 under Transportation Code, §504.851.

## TITLE 43. TRANSPORTATION

## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1                   (2) A digital license plate provider must enter into a licensing agreement, with standard  
2 language as approved by the department, for the display of any third party's intellectual property on a  
3 digital license plate.

4                   (b) Digital license plate displays.

5                   (1) Electronic information to be displayed on a digital license plate, including the content  
6 and design of both required and optional digital license plate information, must be approved by the  
7 department. A digital license plate may not be personalized or customized in any region of interest,  
8 including the legend area, except as provided by the department under this chapter.

9                   (2) Optional digital license plate information when in park. When the vehicle is in park,  
10 optional digital license plate information may include any of the following optional digital license plate  
11 information as approved by the department and the digital license plate owner:

12                   (A) an emergency alert or other public safety alert issued by a governmental  
13 entity, including an alert authorized under Subchapter L, M, or P of Government Code Chapter 411;

14                   (B) vehicle manufacturer safety recall notices;

15                   (C) advertising; or

16                   (D) a parking permit pursuant to an agreement between a digital license plate  
17 provider and the entity that issues the parking permit.

18                   (3) When the vehicle is in park, required digital license plate information may be reduced  
19 in size but must be in a field no smaller than 4.5 inches by 2.5 inches in the upper right-hand corner. The  
20 alphanumeric characters and any symbols in the reduced field must be black. The background in the  
21 reduced field must be white. There must be two adjoining borders outlining the field. The inside border  
22 must be black and the outside border must be white.

## TITLE 43. TRANSPORTATION

## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1                   (4) If more than one category of optional digital information in subsection (b)(2) could be  
2 displayed at one time, the department may determine the order of display on the digital license plate.

3                   (5) A digital license plate may be authorized for electronic toll collection with approval  
4 from, and agreement between, a digital license plate provider and the appropriate toll entity.

5                   (c) Registration Expiration Notification.

6                   (1) Digital license plate providers must display the word "EXPIRED" as approved by the  
7 department on a digital license plate if registration has expired.

8                   (2) If a digital license plate is displaying a registration expiration notification, the  
9 registration notification and optional digital license plate information may not encroach upon the primary  
10 or secondary regions of interest.

11                   (3) Unless otherwise prescribed by this chapter, the digital license plate provider must not  
12 remove an expired registration notification until after the department confirms registration is current.

13                   (d) Owner authorizations.

14                   (1) The digital license plate provider may not display optional digital license plate  
15 information on a digital license plate unless the digital license plate owner authorizes the display.

16                   (2) The digital license plate provider may not disclose GPS data to any person unless the  
17 digital license plate owner authorizes its disclosure or the disclosure of the GPS data is required or  
18 permitted under other law.

19                   (3) The digital license plate provider must disclose to potential and current digital license  
20 plate owners how GPS data authorized for disclosure by the owner or by law will be used and to whom it  
21 will be disclosed.

22                   (4) The digital license plate provider may not require the owner to authorize the display  
23 or disclosure under paragraphs (1) or (2) as a condition of purchase or lease of a digital license plate.

## TITLE 43. TRANSPORTATION

Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1                   (5) The digital license plate provider must immediately discontinue the display of optional  
2 digital license plate information if the digital license plate owner requests for the display of the optional  
3 digital license plate information to be discontinued.

4                   (6) The digital license plate provider must provide a single mechanism (or method or  
5 means) by which the digital license plate owner may opt in or opt out of the display of optional digital  
6 license plate information.

7

8 §217.62. Digital license plate removal and malfunction.

9                   (a) A digital license plate provider must have a mechanism to prevent potential theft of and  
10 tampering with the digital license plate. At a minimum, a digital license plate provider must ensure the  
11 digital license plate ceases the display of digital license plate information:

12                   (1) when a digital license plate malfunctions or termination of services between a digital  
13 license plate provider and owner; or

14                   (2) if a digital license plate provider determines that the digital license plate has been  
15 compromised, tampered with, or fails to maintain integrity of registration data.

16 (b) Digital license plate providers must immediately notify the department in the following circumstances:

17                   (1) commencement of services by the digital license plate provider;

18                   (2) termination of services by the digital license plate provider;

19                   (3) determination that the digital license plate has been compromised; or

20                   (4) the transfer of a digital license plate to a different owner.

21                   (c) The digital license plate provider is authorized to disable the display of a digital license plate  
22 for failure of the digital license plate owner to pay the fees due to the digital license plate provider.

23

## TITLE 43. TRANSPORTATION

## Proposed Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1 §217.63. Digital License Plate Fees and Payment.2 (a) Fees.

3 (1) A person issued a digital license plate must pay an administrative fee of \$95.00 to the  
4 digital license plate provider upon initial application for a digital license plate, and to the county tax-  
5 assessor collector or the department, as applicable, on renewal of registration for a vehicle with a digital  
6 license plate.

7 (2) The expiration date of the digital license plate will be aligned with the registration  
8 period and the administrative fee due under subsection (a) will be adjusted to yield the appropriate fee.

9 (3) A digital license plate administrative fee will be refunded only when registration fees  
10 are overcharged under Transportation Code, §502. 195.

11 (b) Payment.

12 (1) All state, county, local, and other applicable fees are due at the time of registration of  
13 a vehicle with a digital license plate.

14 (2) Digital license plate providers that have received the administrative fee under  
15 subsection (a) must submit payment of the administrative fee due in full to the department upon receipt  
16 of an application for a digital license plate.

17 §217.64. Digital License Plate Provider Services and Replacement.18 (a) Digital license plate provider services.

19 (1) A digital license plate provider must provide customer support for digital license plate  
20 customers that is available at least during standard business hours Central Time.

21 (2) An individual who seeks the repair, service, or replacement of a digital license plate  
22 must contact a digital license plate provider.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles  
Chapter 217 - Vehicle Titles and Registration

1           **(b) When a digital license plate is lost, stolen, mutilated, or needs to be replaced for cosmetic or**  
2 **readability reasons, including invalidation by the digital license plate provider or plate malfunction:**

3                   **(1) a digital license plate replacement may be obtained from the digital license plate**  
4 **provider; or**

5                   **(2) the metal license plate issued for the vehicle may be installed on the rear of the vehicle**  
6 **in lieu of the digital license plate.**

7           **(c) Unless a metal license plate was obtained directly from the department, a replacement metal**  
8 **license plate must be obtained from a county tax assessor-collector's office.**

9

10 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be  
11 within the state agency's legal authority to adopt.

12           Issued at Austin, Texas, on M DD, YYYY.

13

14

15

\_\_\_\_\_  
Tracey Beaver

Board Meeting Date: 4/2/2020  
ACTION ITEM

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**To:** Texas Department of Motor Vehicles Board  
**From:** Tracey Beaver, General Counsel  
**Agenda Item:** 9  
**Subject:** Chapter 217, Vehicle Titles and Registration - Jeremiah Kuntz  
Amendments, §217.182  
(Relating to HB 1548, new Transportation Code §551A.052, Registration; license plates; incorporate legislation to add a new transaction type)

---

**RECOMMENDATION**

Approval to publish the rules in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The amendments implement Transportation Code, §504.002, as amended by House Bill 1548, 86th Legislature, Regular Session (2019). Transportation Code, §504.002(b) authorizes the department, if necessary to cover costs of issuing license plates for golf carts under §551.402 or off-highway vehicles under §551A.052, to charge an administrative fee for the issuance of a golf-cart or off-highway vehicle license plate.

**FINANCIAL IMPACT**

None

**BACKGROUND AND DISCUSSION**

The primary purpose of the proposal is to implement the legislative goal of authorizing the department, if necessary to cover costs of issuing license plates for golf carts under §551.402 or off-highway vehicles under §551A.052, to charge an administrative fee for the issuance of a golf-cart or off-highway vehicle license plate.

Amended §217.182(5) inserts the word “license” before plate. This amendment is necessary to accurately reflect that an administrative fee is being assessed for a golf cart license plate under Transportation Code, §551.402, and to achieve consistency throughout the entire rule in the use of the term “license plate.”

Amended §217.182(6) inserts the word “license” before plate. This amendment is necessary to accurately reflect that an administrative fee is being assessed for a golf cart, neighborhood electric vehicle, or off-highway vehicle operated as a package delivery vehicle license plate under Transportation Code, §551.452, and to achieve consistency throughout the entire rule in the use of the term “license plate.”

Proposed new §217.182(7) adds issuance of an off-highway vehicle license plate under Transportation Code, §551A.052, to the list of registration transactions for which an administrative fee may be assessed.

1

2

**SUBCHAPTER I. FEES**

3

**43 TAC §217.182**

4

5 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes to amend section 43

6 TAC §217.182 concerning Registration Transactions. These amendments implement Transportation Code,

7 §504.002, as amended by House Bill 1548, 86<sup>th</sup> Legislature, Regular Session (2019). Transportation Code,

8 §504.002(b) authorizes the department, if necessary to cover costs of issuing license plates for golf carts

9 under §551.402 or off-highway vehicles under §551A.052, to charge an administrative fee for the issuance

10 of a golf-cart or off-highway vehicle license plate.

11 **EXPLANATION.**

12 Amended §217.182(5) inserts the word “license” before plate. This amendment is necessary to

13 accurately reflect that an administrative fee is being assessed for a golf cart license plate under

14 Transportation Code, §551.402, and to achieve consistency throughout the entire rule in the use of the

15 term “license plate.”

16 Amended §217.182(6) inserts the word “license” before plate. This amendment is necessary to

17 accurately reflect that an administrative fee is being assessed for a golf cart, neighborhood electric vehicle,

18 or off-highway vehicle operated as a package delivery vehicle license plate under Transportation Code,

19 §551.452, and to achieve consistency throughout the entire rule in the use of the term “license plate.”

20 Proposed new §217.182(7) adds issuance of an off-highway vehicle license plate under

21 Transportation Code, §551A.052, to the list of registration transactions for which an administrative fee

22 may be assessed.

23 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,

24 has determined that for each year of the first five years the amendments will be in effect, there will be no

## TITLE 43. TRANSPORTATION

Proposed Section

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1 fiscal impact to state or local governments as a result of the enforcement or administration of the proposal  
2 because the fee assessed for the issuance of an off-highway vehicle license plate will cover the  
3 department's administrative costs. Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division  
4 (VTR), has determined that there will be no measurable effect on local employment or the local economy  
5 as a result of the proposal because the administrative fee of \$4.75 for issuance of an off-highway vehicle  
6 license plate is a negligible amount for most businesses.

7 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five years  
8 amended section is in effect, there are public benefits anticipated because the amendments to  
9 §217.182(5) and §217.182(6) will result in a consistent use of the term "vehicle license plate" in the rule  
10 and eliminate potential public confusion.

11 Mr. Kuntz anticipates that there will be costs to comply with these rules. The cost to persons  
12 required to comply with the proposal will be \$4.75 to be paid as an administrative fee for an off-highway  
13 vehicle license plate.

14 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
15 Code, §2006.002, the department has determined that the proposed amendments will not have an  
16 adverse economic effect on small businesses, micro-business, or rural communities. Therefore, the  
17 department is not required to prepare a regulatory flexibility analysis under Government Code,  
18 §2006.002.

19 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests  
20 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property  
21 that would otherwise exist in the absence of government action and, therefore, does not constitute a  
22 taking or require a takings impact assessment under the Government Code, §2007.043.

23

1 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the  
2 first five years the proposed amendments are in effect, no government program would be created or  
3 eliminated. Implementation of the proposed amendments would not require the creation of new  
4 employee positions or elimination of existing employee positions. Implementation would not require an  
5 increase or decrease in future legislative appropriations to the department. The proposed amendments  
6 will not affect this state's economy. However, the proposed amendments would require an increase in  
7 fees paid to the department due to the administrative fee authorized by HB 1548 and charged by the  
8 department to cover the cost of issuing an off-highway vehicle license plate. Similarly, the proposed  
9 amendments create a new regulation by requiring the payment of an administrative fee for an off-  
10 highway vehicle license plate, and increase the number of individuals subject to the rule's applicability by  
11 extending this fee requirement to off-highway vehicles.

12

### 13 **REQUEST FOR PUBLIC COMMENT**

14 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM, DD,  
15 YYYY. A request for a public hearing must be sent separately from your written comments. Send written  
16 comments or hearing requests by email to [rules@txdmv.gov](mailto:rules@txdmv.gov) or by mail to Office of General Counsel, Texas  
17 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the  
18 department will consider written comments and public testimony presented at the hearing.

19

20 **STATUTORY AUTHORITY.** The department proposes amendments to §217.182 under Transportation  
21 Code, §504.002(b), § 551.402(c), and §551A.052(c). Transportation Code §504.002(b) authorizes the  
22 department, if necessary to cover the cost of issuing license plates for golf carts or off-highway vehicles,  
23 to charge an administrative fee in an amount set by department rule. Transportation Code §551.402(c)

## TITLE 43. TRANSPORTATION

Proposed Section

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 - Vehicle Titles and Registration

1 directs the department to establish a procedure to issue license plates to golf carts and authorizes the  
2 department to charge a fee not to exceed \$10 to cover the cost of the license plate. Transportation Code,  
3 §551A.052(c) directs the department to establish a procedure to issue license plates to off-highway  
4 vehicles, and authorizes the department to charge a fee not to exceed \$10 to cover the cost of the license  
5 plate. Transportation Code, §1002.001 authorizes the board to adopt rules that are necessary and  
6 appropriate to implement the powers and the duties of the department.

7

8 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapters 502, 504, and 551A.

9

10 **TEXT.**

11

**Subchapter I. Fees**

12

**43 TAC §217.182**

13

14 §217.182. Registration Transaction. As used in this subchapter, a “registration transaction” is a  
15 registration or registration renewal under Transportation Code, Chapter 502, or a transaction to issue the  
16 following:

17

18 (1) a registration, registration renewal, or permit issued under Transportation Code,  
19 Chapter 502, Subchapter C (Special Registrations);

20

21 (2) a license plate issued under Transportation Code, §502.146;

22

23 (3) a temporary additional weight permit under Transportation Code, §502.434;

24

25 (4) a license plate or license plate sticker under Transportation Code, §§504.501, 504.502,  
26 504.506, or 504.507;

27

28 (5) a golf cart license plate under Transportation Code, §551.402; or

29

30 (6) a package delivery vehicle license plate under Transportation Code, §551.452.

1                    (7) an off-highway vehicle license plate under Transportation Code, §551A.052.

2    **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be  
3 within the state agency’s legal authority to adopt.

4                    Issued at Austin, Texas, on M DD, YYYY.

5

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\_\_\_\_\_  
Tracey Beaver, General Counsel

DRAFT

Board Meeting Date: 4/2/2020  
ACTION ITEM

**To:** Texas Department of Motor Vehicles Board  
**From:** Jeremiah Kuntz, Vehicle Titles & Registration Division Director  
**Agenda Item:** 10  
**Subject:** Chapter 217, Vehicle Titles and Registration  
Amendments, §§217.3 and 217.141-217.143  
New Subchapter L, §§217.401-217.407  
(Relating to: HB 1755, title and registration for assembled vehicles; HB 3171, motor driven cycles; and Transportation Code, §501.036 and §501.037, farm trailers, farm semitrailers, trailers, semitrailers, and house trailers.)  
(Proposal Published December 20, 2019 - 44 Tex. Reg. 7866)  
(Review by the Office of the Governor, Regulatory Compliance Division; submission 12/20/19; comment period closed February 3, 2020)

#### **RECOMMENDATION**

Approval to publish the adopted new and amended sections in the *Texas Register*.

#### **PURPOSE AND EXECUTIVE SUMMARY**

The purpose of the adopted new and amended sections is to implement the legislative requirement of titling and registering assembled vehicles under Transportation Code, Chapter 731, as enacted by House Bill (HB) 1755, 86th Legislature, Regular Session (2019). House Bill 1755 requires the department to establish procedures and requirements for the issuance of title for and registration of an assembled vehicle, as well as establishing inspection criteria and items of equipment that must be inspected. The adopted procedures differ from standard titling and registration procedures due to the requirements of HB 1755. The adoption also makes unrelated amendments in §217.3 that are necessary to conform the provisions with statute, including changes enacted in HB 1548, 86th Legislature, Regular Session (2019), and HB 3171, 86th Legislature, Regular Session (2019).

#### **FINANCIAL IMPACT**

None

#### **BACKGROUND AND DISCUSSION**

The adopted amendments to §217.3(5) delete references to assembled vehicles because those requirements will now be addressed in adopted new Subchapter L, §§217.401 - 217.402. The adopted amendments to §217.3(6) make changes to conform those provisions with new statutory requirements in Transportation Code, Chapter 731, as enacted in HB 1755. Additionally, adopted amendments to §217.3 make changes concerning motor driven cycles; farm trailers and farm semitrailers; and trailers and semitrailers, that are necessary to conform the provisions with statute.

The adopted amendments to §§217.141 - 217.143 implement the assembled vehicle inspection requirements under Transportation Code, §731.101 and §731.102. The department has adopted amendments in the existing sections related to the Transportation Code, §504.501(e), street rod and custom vehicle registration inspection because it is the same inspection that will be required for titling assembled vehicles.

The adopted new Chapter 217, Subchapter L, §§217.401 - 217.407 implements the assembled vehicle titling and registration requirements under Transportation Code, Chapter 731. The adopted new sections address the title application review process, vehicle identification numbers, and evidence of ownership, including a process to obtain a title by using a bond as evidence of ownership.

#### **COMMENTS**

The proposed rule was published for comment in the December 20, 2019, issue of the Texas Register. The comment period closed on January 21, 2020 and public hearing to receive additional written and spoken comments was held on February 2, 2020. The department received written comments requesting changes in the proposed text from: the Assembled Vehicle Coalition of Texas, Lamar County Tax Assessor-Collector, Lubbock County Tax Assessor-Collector, the Specialty Equipment Market Association, the Tarrant Regional Auto Crimes Task Force, the Tax Assessor-Collectors Association of Texas, the Texas Automobile Dealers Association, the Texas Recreational Vehicle Association, and an individual.

If the board adopts the rules during its April 2, 2020, open meeting, staff anticipates:

- Publication in the June 5, 2020, issue of the *Texas Register*; and
- An effective date of June 22, 2020, or such later date that the programing is complete.

**Beckley, Krystal**

---

**From:** Haskell Maroney <hmaroney@co.lamar.tx.us>  
**Sent:** Friday, December 20, 2019 3:18 PM  
**To:** Zz - Resource - GCO\_Rules  
**Subject:** Chapter 217 Transportation Code

It is proposed that a motorcycle is only a frame and motor. That is incorrect. A motorcycle has a motor, transmission, and frame with identifying numbers stamped.

Haskell Maroney CTOP  
Lamar County TAC  
231 Lamar Ave  
Paris, Tx 75460  
Ph: 903 737-2423  
Fax: 903 737-2425  
Email: hmaroney@co.lamar.tx.us



This email has been checked for viruses by AVG antivirus software.  
[www.avg.com](http://www.avg.com)

**From:** [Bryan P. Sudan](#)  
**To:** [Zz - Resource - GCO Rules](#)  
**Subject:** TxDMV Rules for Assembled Vehicles  
**Date:** Monday, December 30, 2019 1:03:14 PM

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In review of the proposed changes to the TxDMV rules for assembled vehicles, I would like to make the additional requirement;

If the assembled vehicle has a major component part meaning engine or transmission other than the one assigned to the manufacturer original VIN then engine number and/or transmission number shall be recorded on the vehicle inspection. Based on the fact that the engine number and/or transmission number is not traceable to the assembled vehicle. If no engine number exists on the engine then the department shall be responsible for assigning a number to the engine.

Should you have any questions please contact me at the information listed below.

Bryan P. Sudan  
Commander  
Tarrant Regional Auto Crimes Task Force  
2400 Circle Dr. #100  
Fort Worth, TX 76119  
Office – 817.560.6560 ext. 9411  
Fax – 817.560.6566  
[bpsudan@tarrantcounty.com](mailto:bpsudan@tarrantcounty.com)

**From:** Michelle French  
**To:** Zz - Resource - GCO\_Rules  
**Subject:** FW: Rule 217.404 Response from Tax Assessor Collectors Association of Texas  
**Date:** Thursday, January 16, 2020 3:54:33 PM  
**Attachments:** TAC DMV Rule 217.404 response.pdf  
TAC DMV Rule 217.404 response.pdf  
Rule 217.404 TACA Response.pdf  
**Importance:** High

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Good Afternoon Ms. Beaver,

Please find attached a copy of the rules response which is due by January 21<sup>st</sup>.

Thank you,

**Michelle French**  
Denton County Tax Assessor/Collector

<https://tax.dentoncounty.com>

Phone 940-349-3500

Metro 972-434-8835

Fax: 940-349-3501

*If your organization is not changing as fast on the inside as the world is changing on the outside; you will eventually cease to exist ~ Jack Welch, General Electric*

*You are never too old to set another goal or to dream a new dream ~C.S. Lewis*

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## THE TAX ASSESSOR-COLLECTORS ASSOCIATION OF TEXAS

An Association to secure the benefits of organized ideas and discussion of mutual problems that will advance and maintain proper efficiency and dignity of the County Tax Office.

[www.tacaofexas.org](http://www.tacaofexas.org)

### "2020 VISION: PREPARING FOR THE FUTURE"

January 16, 2020

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Texas Department of Motor Vehicles  
Tracey Beaver, General Counsel

Dear Ms. Beaver,

The Tax Assessor Collector Association of Texas, representing all 254 county tax assessor collectors, seeks to provide input on Texas Admin Code draft rule 217.404.

TACA appreciates the opportunity to provide feedback and proposed revisions to the language in the above stated draft rule.

In 217.404 (a) we propose that the county tax assessor collector office be removed from the requirement of receiving and submitting the application for title to the department. Rather the applicant should submit their title application directly to the department.

In 217.404 (D)(d) we propose the letter from the department list the supporting documents and information required to be submitted as approved by the department.

A copy of the revised language in rule format has been included in this response.

Thank you,

Michelle French  
TACA TxDMV Liaison

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**§217.404. Initial Application for Title.**

(a) Prior to applying for title, an applicant must submit to the department a complete application

for title. The application may be submitted in person, by mail, or electronically, to the department. ~~or a~~  
~~county tax assessor-collector for forwarding to the department.~~ The application must include photocopies  
of:

(1) photographs of the front, rear, and side of the assembled vehicle, and if a replica, a  
photograph of what the vehicle is a replica of;

(2) evidence of ownership of the basic component parts of the assembled vehicle as  
described in §217.405 of this subchapter (relating to Evidence of Ownership), as applicable to the type of  
assembled vehicle;

(3) if applicable, proof, on a form prescribed by the department, of a safety inspection  
required under §217.143 of this chapter (relating to Assembled Vehicle Inspection Requirements), and  
Transportation Code §731.101;

(4) if applicable, a copy of the Automobile and Light Truck certification, or a successor  
certification, for the master technician who completed the inspection described in paragraph (3) of this  
subsection;

(5) a copy of the inspection that may be required under Transportation Code Chapter 548  
if the assembled vehicle is to be registered for operation on the roadway;

(6) a Rebuilt Vehicle Statement;

(7) a weight certificate;

(8) identification as required in §217.5(d) of this chapter (relating to Evidence of Motor  
Vehicle Ownership); and

(9) any of the following means to establish the vehicle identification number:

1                           (A) an Application for Assigned or Reassigned Number, and Notice of Assigned  
2 Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the  
3 department;

4                           (B) an Application for Assigned or Reassigned Number, establishing the vehicle  
5 identification number assigned by the manufacturer of the component part by which the assembled  
6 vehicle will be identified;

7                           (C) acceptable proof, as established by the department, of a vehicle identification  
8 number assigned by the maker of the kit used to construct the assembled vehicle; or

9                           (D) acceptable proof, as established by the department, of a vehicle identification  
10 number assigned by the manufacturer of the replica, custom vehicle, street rod, or glider kit.

11                   (b) Following receipt of all information required under subsection (a) of this section, the  
12 department will review the application for completeness and to determine that the vehicle meets  
13 assembled vehicle qualifications.

14                   (c) If the department determines that the application is complete and the vehicle meets  
15 assembled vehicle qualifications, the department will issue a letter to the applicant on department  
16 letterhead, stating that the application is complete and that the vehicle qualifies as an assembled vehicle.

17                   (d) Following receipt of the department's letter described in subsection (c) of this section, the  
18 applicant may then submit the letter and the completed application to the county tax assessor-collector  
19 for processing. The application must include:

20                           (1) the department issued letter [listing the supporting documents and information](#)  
                                  [required to be submitted as approved by the department;](#)

21                           (2) copies of all items required to be submitted to the department in subsection (a)(1) -  
22 (9) of this section; and

**From:** Ron Hinkle  
**To:** Zz - Resource - GCO\_Rules  
**Subject:** Emailing: Response to TxDMV proposed rules  
**Date:** Sunday, January 19, 2020 1:31:49 PM  
**Attachments:** Response to TxDMV proposed rules.docx High  
**Importance:**

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Please see attached response for TAC 43, Part 10, Chapter 217 proposed rules.

# Assembled Vehicle Coalition of Texas

January 19, 2020

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

RE: Proposed Rules for Title 43 TAC concerning assembled vehicles

Dear Ms. Beavers:

On behalf of the Assembled Vehicle Coalition of Texas (Coalition), we want to thank the Board and committed employees of the Texas Department of Motor Vehicles for working diligently with members of the Coalition in providing practical and logical input during the working group meetings and the legislative process regarding assemble vehicles in HB 1755.

The Coalition appreciates the opportunity to provide comments to the proposed rules and is focused on two areas of the proposed rules and requests clarification from the Board:

1. Inspection Requirements:

The proposed amendments to §§217.141-217.143 seek to implement the assembled vehicle inspection requirements under Transportation Code §731.101 and §731.102 as enacted by HB 1755. In addition, the department has proposed amending the existing sections related to the Transportation Code §504.501(e) as it relates to street rod and custom vehicle registration inspection and that is a result of the same inspections that will apply to titling assembled vehicles under Transportation Code §731.101.

In addition, the proposed amendment to §217.142(b)(3) defines the new term “equipment” to describe the items and systems that the inspector will need to inspect. The inspection will be of those items and systems required by law to be present on the vehicle as inspected, which may not include all listed items and systems depending on the type of vehicle. The definition also distinguishes “equipment” from “basic component part” and “major component part”.

The Coalition believes an assembled vehicle is subject to specific vehicle equipment delineated under Subchapter C, Section 731.102, Transportation Code, for issuance of title, registration for inspection by a Master Technician. Section 548.009, Transportation Code, specifies that a provision of this chapter (Chapter 548) does not apply to an assembled vehicle if the provision (1) conflicts with Chapter 731 or a rule adopted under that chapter; or (2) is a provision that an assembled vehicle, by its nature, cannot comply with or otherwise meet. However, the proposed rule 217.142

(b) (3) adds as follows; “motor fuel supply system and all integral items of the system; exhaust system and all integral items of the system”. The Coalition wishes to have the terms “and all integral items” in the proposed rules as it refers to motor fuel supply system and exhaust system defined more specifically and not result in a constraint to the success of an assembled vehicle the ability to operate on Texas roads and highways as per the overall intent of HB 1755.

In summary, the Coalition request clarification as to what vehicle items are required under Subchapter C, Section 731.101 and 731.102, Transportation Code and the proposed rules as stated referring to integral items in the list in 217.142 (b) (3).

## 2. Inspection Period:

Transportation Code §504.0011 authorizes the board to adopt rules to implement procedures and requirements for the inspection of assembled vehicles and delineated in Sections 731.051, 731.052, and 731.101, Transportation Code.

While the Coalition understands and supports that the Board will establish rules concerning inspections of vehicle the Coalition sees that the fee amount and schedule of those inspections are not laid out in statute. The Coalition is pleased to offer the following suggestions as the Board contemplates establishing said rules:

- A. A one-time initial inspection of an assembled vehicle by the Master Technician for title and registration. The owner of the assembled vehicle would not be required to have another inspection by a Master Technician during the entire ownership period of the vehicle. Should ownership of the assembled vehicle change then the Coalition suggests the new owner must have an inspection by a Master Technician within a reasonable period of time once new ownership is made.

The Coalition again thanks the Board and its dedicated employees in the assistance of this important rulemaking.

Best regards,

*Faron Smith*

Faron Smith

**From:** Ron Hinkle  
**To:** Zz - Resource - GCO\_Rules  
**Subject:** request for public hearing  
**Date:** Sunday, January 19, 2020 1:30:29 PM  
**Attachments:** Proposed rules hearing request.docx  
**Importance:** High

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Please see attached request for a public hearing on TAC 43, Part 10,m Section 217

Stay blessed!

Ron Hinkle  
Legislative Consultant  
P.O. Box 11664  
Austin, Texas 78711  
[www.RHinkle.com](http://www.RHinkle.com)  
(512)567-5250

## Assembled Vehicle Coalition of Texas

January 19, 2020

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

RE: Proposed Rules for Title 43 TAC concerning assembled vehicles

Dear Ms. Beaver:

The Assembled Vehicle Coalition of Texas (Coalition), per instructions specified in Title 43, Part 10. Chapter 217 proposed rules, requests a public hearing on the proposed rules.

Thank you for your cooperation.

Best regards,

*Faron Smith*

Faron Smith

**From:** [Karen Phillips](#)  
**To:** [Zz - Resource - GCO\\_Rules; Beaver, Tracey](#)  
**Cc:** [Karen Phillips](#)  
**Subject:** TADA Comments to Title 43 Chapter 217  
**Date:** Monday, January 20, 2020 5:41:33 PM  
**Attachments:** [image001.jpg](#)  
[Scanned from a Xerox Multifunction Printer.pdf](#)

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Dear Ms. Beaver,

Please find the attached TADA comments regarding the assembled vehicle proposed rules and rule amendments as published in the December 20, 2019 [Texas Register](#).

If you are not able to open the attachment, please let me know at your earliest convenience.

On behalf of TADA, I appreciate the department's consideration of the attached.

Sincerely,  
Karen Phillips

Karen Signature



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1108 Lavaca, Suite 800  
Austin, Texas 78701  
Phone: 512-476-2686  
www.tada.org

January 20, 2020

Ms. Tracey Beaver  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Sent via email: [rules@txdmv.gov](mailto:rules@txdmv.gov)

Re: Proposed Rule Amendments: 43 TAC §§ 217.3, 217-141-217.143  
Proposed New Rules: 43 TAC §§ 217.401-217.407

Dear Ms. Beaver:

On behalf of the Texas Automobile Dealers Association (TADA), please accept the following comments regarding the proposed rules and rule amendments to Chapter 217. Vehicle Titles and Registration, implementing HB 1755, 86<sup>th</sup> Legislature, Regular Session (2019), as published in the Texas Register, 44 *TexReg* 7866 - 7877 (December 20, 2019).

### Introduction

The purpose for the titling of motor vehicles is to lessen and prevent: (1.) the theft of motor vehicles; (2.) the importation of stolen vehicles; and, (3.) the sale of an encumbered motor vehicle without the lien disclosure.<sup>1</sup>

The state's motor vehicle registration process assures financial responsibility,<sup>2</sup> safety and applicable emission inspection,<sup>3</sup> and gives the department the ability to refuse to register a vehicle

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<sup>1</sup>TEX. TRANSP. CODE ANN. § 501.003 (Vernon 2013).

<sup>2</sup>*Id.* § 502.046.

<sup>3</sup>*Id.* § 502.047.

that is unsafe, improperly equipped, or otherwise unfit to be operated on a public highway.<sup>4</sup>

The vehicle title and registration responsibility placed upon the Texas Department of Motor Vehicles (“TxDMV” or “department”) protects not only the driver and the vehicle passenger but it also assures that other drivers are not put in jeopardy by an unsafe, unfit, or improperly equipped vehicle that is using the public roads and highways. This undertaking carries a great deal of responsibility and is one taken seriously by the department, and is an important component regarding the titling and registering of an “assembled vehicle.”<sup>5</sup>

The assembled vehicle statute added by House Bill 1755, 86<sup>th</sup> Legislature, Regular Session (2019) and codified in Chapter 731, Transportation Code, places accountability for titling and registering the seven enumerated types of assembled vehicles with the TxDMV on behalf of the state and the citizens of Texas.

TADA appreciates the department’s complex responsibility implementing the assembled vehicle title and registration requirements and offers the following suggestions regarding the proposal to assist the State and public.

#### Assembled Vehicle Inspection and Form

The State has specific requirements for a vehicle to be titled and registered in Texas and when the requirements are followed, they protect the vehicle purchaser, lienholder, and citizenry as well as provide revenue to the State through fees and taxes.

In order to ensure the safety and fitness of an assembled vehicle, specific inspection requirements must be met and performed by a master technician.<sup>6</sup> TADA requests that the master technician’s verification be encompassed on the department-prescribed form, specifically regarding the non-use of a frame or body from a “nonrepairable” vehicle, the non-use of electrical or mechanical components from a flood-damaged vehicle, as well as compliance with the applicable federal safety standards for parts used on the assembled vehicle, if the information is not incorporated on the form.

A vehicle is **not** eligible for a Texas title that is:

1. (a) Assembled, built, constructed, rebuilt, or reconstructed in any manner with a

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<sup>4</sup>*Id.* § 502.048.

<sup>5</sup>TEX. TRANSP. CODE ANN. §731.001(4): “‘Assembled vehicle’ means: (A) an assembled motor vehicle; (B) an assembled motorcycle; (C) an assembled trailer; (D) a custom vehicle; (E) a street rod; (F) a replica; or (G) a glider kit.” (Vernon Supp. 2019).

<sup>6</sup>*Id.* § 731.101; 43 TAC § 217.143.

body or frame from a vehicle which is a “nonrepairable motor vehicle;”<sup>7</sup>  
(b) a vehicle with a motor or engine from a flood damaged or water damaged vehicle or a vehicle from which the motor or engine was obtained due to a loss from a water-related event;<sup>8</sup>

2. A vehicle that is missing or is stripped of its motor, frame, or body to the extent that it loses its original identity or makes the vehicle unsafe for on-road operation;<sup>9</sup>
3. A vehicle designed by the manufacturer for on-track racing only;<sup>10</sup> or,
4. A vehicle designed or determined by the department to be for off-highway use only, unless specifically defined as a “motor vehicle” in Transportation Code, Chapter 501.<sup>11</sup>

With respect to an assembled vehicle, prior to the department issuing a title, the assembled vehicle must meet the inspection requirements proposed in § 217.143. The inspection must be performed by a master technician with the findings shown on a department-prescribed form.<sup>12</sup>

The master technician evaluates the structural integrity and proper function of the equipment.<sup>13</sup> A certification made by the “inspector”<sup>14</sup> includes the structural stability of the vehicle and equipment; that the vehicle and equipment can be operated safely; that the equipment used in constructing the vehicle meets FMVSS,<sup>15</sup> if such standard applies; and, if the vehicle is a custom

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<sup>7</sup>*Id.* § 501.091(9): “‘Nonrepairable motor vehicle’ means a motor vehicle: (A) that is damaged, wrecked, or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; (B) that comes into this state under a comparable ownership document that indicates that the vehicle is nonrepairable; (C) that a salvage vehicle dealer has reported to the department under Section 501.1003; (D) for which an owner has surrendered evidence of ownership for the purpose of dismantling, scrapping, or destroying the motor vehicle; or (E) that is sold for export only under Section 501.099.”

<sup>8</sup>43 TAC § 217.3(6)(D).

<sup>9</sup>43 TAC § 217.3(6)(A).

<sup>10</sup>43 TAC § 217.3(6)(B).

<sup>11</sup>43 TAC § 217.3(6)(C).

<sup>12</sup>43 TAC § 217.143(a) and (b).

<sup>13</sup>43 TAC § 217.143(c).

<sup>14</sup> If “inspector” means “master technician” in this instance, TADA offers that the provision be amended to say master technician to avoid any misunderstanding.

<sup>15</sup>Federal Motor Vehicle Safety Standards, 49 C.F.R. Part 571.

vehicle or street rod, that it is properly equipped and operational for the year of manufacture.<sup>16</sup>

A master technician is a person who holds a valid Certified Master Automobile and Light Truck Technician certification or an equivalent certification issued by the NIASE (National Institute of Automotive Service Excellence).<sup>17</sup>

If the department-prescribed verification form that is completed by the master technician does not include written verification that the vehicle was not assembled, built, constructed, rebuilt, or reconstructed in any manner with a body or frame from a “nonrepairable” vehicle as well as written verification from the master technician that the inspected vehicle does not have a motor or engine that has water damage, TADA requests that this information and verification be encompassed on the form.

In addition, TADA requests that the master technician provide written confirmation on the department-prescribed verification form that the vehicle does not use any parts that do not meet FMVSS, if such standards are applicable for those parts.

Including this information regarding the parts and vehicle quality from the master technician in writing on the verification form assists in assuring the safety, integrity, and fitness of the vehicle to the owner, vehicle passengers, fellow drivers on the road, as well as to the State.

### Enforcement

Enforcing the applicant titling requirements for an assembled vehicle requires the department to determine who is the applicant applying for title. In order to establish that the applicant is eligible for an assembled vehicle title requires proof that the applicant is a hobbyist; the owner of the assembled vehicle not previously titled as an assembled vehicle; or the purchaser of an assembled vehicle constructed and designated by the manufacturer as a replica, custom vehicle, street rod, or glider kit.<sup>18</sup>

TADA is concerned that the current identification requirements do not account for the applicant’s assembled vehicle eligibility title requirements and respectfully requests the department to adopt a rule requiring the applicant to submit the necessary proof to satisfy the statutory requirements of an “applicant” prior to issuing an assembled vehicle title.

The proposed definitions for “Applicant” and “Manufacturer” in Subchapter G. Inspections

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<sup>16</sup>43 TAC § 217.143(d).

<sup>17</sup>43 TAC § 217.142(b)(5).

<sup>18</sup>43 TAC § 217.402(b)(1).

§ 217.142(b) and also in Subchapter I. Assembled Vehicles § 217.402 provide:

- (2) Applicant—a person applying for title to an assembled vehicle who:
- (A) is a hobbyist;
  - (B) is the owner of an assembled vehicle that has not been previously titled as an assembled vehicle; or
  - (C) purchased an assembled vehicle constructed and designated by the manufacturer as a replica, custom vehicle, street rod, or glider kit.

...

- (4) Manufacturer—is a person that builds an assembled vehicle and is not a hobbyist, has the meaning as defined in Occupations Code § 2301.002, and is subject to the requirements of that chapter applicable to manufacturers, including sale through a franchise dealer network.

The initial application for an assembled vehicle title in proposed § 217.404(a) discusses required vehicle photographs, evidence of ownership for the basic component parts, applicable safety inspection, applicable certifications, Rebuilt Vehicle Statement, weight certificate, and the means to establish the VIN. A requirement for any initial application for title also necessitates an applicant's photo identification in accordance with § 217.5(d).

The acceptable identification documents to apply for a title requires the applicant to present a current photo identification of the owner containing a unique identification number and expiration date. The required photo identification document may be a:

- A. Driver's license or state identification certificate issued by a state or U.S. territory;
- B. U.S. or foreign passport;
- C. U.S. military identification card;
- D. NATO identification or identification issued under a Status of Forces Agreement;
- E. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, or U. S. Department of State identification document; or,
- F. Concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.<sup>19</sup>

Proposed § 217.405 states that an applicant's evidence of ownership must accompany the title application as well as the manufacturer's certificate of origin for a replica, custom vehicle, street rod, or a glider kit that is built by a manufacturer. An applicant for an assembled vehicle provides evidence of ownership for an assembled vehicle by providing the bill of sale for the assembled vehicle's motor, frame, body, kit, or an applicable certificate of origin or title. With respect to new fabrication, a bill of sale, invoice, or receipts covering the material used to construct the basic component part is required.

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<sup>19</sup>43 TAC § 217.5(d).

An applicant for an assembled vehicle title can be a “hobbyist” but a “hobbyist” cannot be a “manufacturer.”<sup>20</sup> The verification and subsequent enforcement regarding an applicant for an assembled vehicle title is a concern that does not appear to be addressed. The required identification documents listed above, do not verify whether a person is a “hobbyist”; if the person is engaging in the continuous sale of vehicles<sup>21</sup>; or, if the person is a manufacturer or a kit maker.

The 86<sup>th</sup> Legislature specifically requires that a hobbyist is building or assembling for their personal use and is not engaging in the continuous sale of vehicles. A hobbyist is also not a kit maker or a manufacturer under Chapter 731.

Authenticating that an applicant is an owner or a “hobbyist” who is building or assembling for their personal use and is not engaged in the continuous sale of vehicles is necessary because otherwise, Chapter 2301, Occupations Code may apply.<sup>22</sup> If the applicant is a manufacturer and not a “hobbyist,” then Chapter 2301 is applicable and licensing and enforcement are actionable by the department; thus, it is necessary for the department to confirm the title applicant’s status before issuing the title on the assembled vehicle.

TADA respectfully requests that the department adopt procedures regarding the verification and enforcement that an assembled vehicle title “applicant” meets the requirements for an assembled vehicle title issuance prior to issuing the title.

### Replica

A “replica” vehicle may appear to be an originally manufactured and equipped motor vehicle by a licensed manufacturer. The ownership of an assembled vehicle that is a “replica,” may be transferred to or by a Texas licensed dealer and the title is required to show a “REPLICA” remark.<sup>23</sup>

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<sup>20</sup>*Id.* § 731.001(9): “Hobbyist” means a person who: (A) builds or assembles an assembled vehicle for personal use; (B) does not engage in the continuous sale of vehicles, as defined by the department; and (C) is not the maker of a kit or a manufacturer; as defined by Section 2301.002, Occupations Code.

<sup>21</sup>“Continuous sale” is defined as offering for sale or the sale of five or more assembled vehicles of the same type in a calendar year when such vehicles are not owned and titled in the name of the owner (§ 217.402(b)(3)).

<sup>22</sup>TEX. OCC. CODE ANN. § 2301.0045: “This chapter does not apply to an assembled vehicle or a hobbyist, as those terms are defined by Section 731.001, Transportation Code.” (Vernon Supp. 2019).

<sup>23</sup>*Id.* § 503.013(b); 43 TAC § 217.407(c).

Since a “replica” may appear to a buyer to be an originally manufactured vehicle, TADA recommends that the department require the master technician’s inspection be given to each subsequent retail and wholesale purchaser so that the buyer is informed as to their “replica” assembled vehicle purchase.

A “replica” is a vehicle that uses a manufactured prefabricated body or a body constructed from materials not original to the vehicle and that resembles an established make of a previous year vehicle model. The term may include a “custom vehicle” or “street rod.”<sup>24</sup>

A “custom vehicle” is a vehicle that is at least 25 years old and of a model year after 1948; or, it is manufactured to resemble a vehicle that is at least 25 years old and of a model year after 1948 and altered from the manufacturer’s original design or it has a body constructed from materials not original to the vehicle.<sup>25</sup>

A “street rod” is a vehicle that was manufactured before 1949 or it was manufactured after 1948 to resemble a vehicle manufactured before 1949; and, it has been altered from the manufacturer’s original design or has a body constructed from materials not original to the vehicle.<sup>26</sup>

TADA is concerned that the “REPLICA” title notation may not be an adequate disclosure to a purchaser regarding the vehicle as an assembled vehicle. If an individual does not have access to the title, to the state’s title system, or does not know to look for the title remark, then the vehicle as a “REPLICA” may not be known to that purchaser.

TADA requests the department to determine that a disclosure statement accompany the vehicle in which the master technicians’s inspection certification is incorporated and provided to the buyer prior to purchase. By incorporating the master technician’s inspection, the subsequent buyer is informed of the master technician’s findings and the details regarding that inspection. Providing the master technician’s inspection report to subsequent buyers prior to their purchase will allow the next purchaser to make an informed decision regarding the assembled vehicle.

### Summary

The titling and registering of an assembled vehicle is a significant responsibility that the Legislature gave to the department and the Texas franchised dealers are most appreciative of the

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<sup>24</sup>*Id.* § 731.001(12).

A “custom vehicle” and “street rod” have the meanings assigned by Section 504.501. See Transportation Code § 731.001(6)

<sup>25</sup>*Id.* § 504.501(f)(1).

<sup>26</sup>*Id.* § 504.501(f)(2).

department's work regarding the proposed rules.

In order for the public and a buyer of an assembled vehicle to be informed regarding their purchase, TADA requests that the master technician include the following required information, if it is not already included, on the department-prescribed form:

1. Written verification regarding the non-use of any "nonrepairable" vehicle body or frame in the assembly of the vehicle.
2. Written verification of the non-use of any motor or engine that has been the subject of water damage in the assembly of the vehicle.
3. Written verification that the vehicle uses parts meeting the FMVSS, if such standards are applicable for those parts.

TADA also requests that:

4. Prior to titling or registering an assembled vehicle, that the applicant establish their status as an "applicant."

In other words, the applicant must verify their status as a "hobbyist" who builds or assembles the vehicle for their personal use and does not engage in the continuous sale of vehicles and is not the maker of a kit or a manufacturer; the owner of an assembled vehicle that has not been previously titled as an assembled vehicle or that the applicant purchased an assembled vehicle constructed and designated by the manufacturer as a replica, custom vehicle, street rod, or glider kit.

As a manufacturer cannot be a hobbyist, it is necessary that verification of an applicant's standing to obtain a title to an assembled vehicle is given to the department prior to the department issuing an assembled vehicle title.

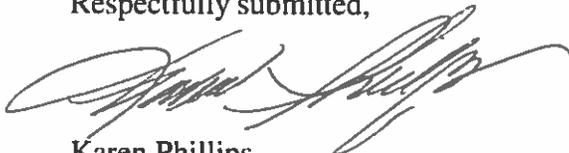
TADA also recommends that:

5. The master technician's inspection report be available to any buyer prior to their purchase so that knowledge of the assembled vehicle, including a "replica," is disclosed and included in the buying decision.

Although the "REPLICA" remark appears on the vehicle's title, the next purchaser may not see the vehicle title prior to purchase; may not access the state's title system to see the remark; or may not be aware of the remark.

On behalf of TADA, I appreciate the opportunity to comment on the assembled vehicle proposal. If there is any question regarding the comments, please do not hesitate to contact me.

Respectfully submitted,



Karen Phillips  
General Counsel/EVP

**From:** [Stuart Gosswein](#)  
**To:** [Zz - Resource - GCO Rules](#)  
**Subject:** Proposed Amendments and New Sections to Title 43 TAC: Assembled Vehicles: SEMA Comments  
**Date:** Tuesday, January 21, 2020 2:02:52 PM  
**Attachments:** [SEMA Comments on Proposed Regulations for Assembled Vehicles.pdf](#)

---

All:

The Specialty Equipment Market Association (SEMA) appreciates the opportunity to comment on the proposed amendments and new sections to Texas Administrative Code concerning assembled vehicles. Attached please find the comments.

Let me know if you have any follow-up questions. Thanks.

Stuart

Stuart Gosswein  
Sr. Director, Federal Government Affairs  
Specialty Equipment Market Association (SEMA)  
1317 F Street, NW, Suite 500, Washington, DC 20004  
202/777-1220  
[stuartg@sema.org](mailto:stuartg@sema.org)

Via email: [rules@txdmv.gov](mailto:rules@txdmv.gov)

January 21, 2020

Ms. Tracey Beaver  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Re: Proposed Amendments and New Sections to Title 43 TAC: Assembled Vehicles

Dear Ms. Beaver:

The Specialty Equipment Market Association (SEMA) welcomes the opportunity to comment on the proposed amendments and new sections to Texas Administrative Code concerning assembled vehicles (43 TAC s.s.217.3, 217.141 - 217.143 and new s.s.217.401 - 217.407). The regulations implement Texas Transportation Code Chapter 731, as added by Texas House Bill 1755 in 2019.

SEMA represents the \$45 billion specialty equipment automotive aftermarket industry. The trade association includes more than 7,500 businesses nationwide—including 453 members in Texas—that manufacture, distribute, market and retail specialty parts and accessories for vehicles. The products produced by our member companies include performance, functional, restoration and styling-enhancement products for use on passenger cars, trucks and special interest collector and historic vehicles, including assembled vehicles which are the subject of these regulations.

SEMA was pleased to participate in the Assembled Vehicles Working Group convened by the Texas Department of Motor Vehicles in 2018 to consider how assembled vehicles are regulated. The Working Group meetings were very well-organized and productive. SEMA also appreciated the chance to work with members of the Texas state legislature and their staff to craft H.B. 1755. SEMA supports the changes to the law and proposed regulations to implement the law.

In reviewing the proposed regulations, SEMA requests additional clarification on one topic: the inspection requirements. Specifically, SEMA seeks clarification on what items are to be included in the inspection of assembled vehicles. SEMA believes the assembled vehicle is subject to specific vehicle equipment delineated under Texas Transportation Code Subchapter C, Section 731.102 for issuance of title and inspection

**Specialty Equipment Market Association (SEMA)**  
1317 F Street, NW; Suite 500; Washington, DC 20004  
202/783-6007



by a Master Technician. The covered items include the chassis, tires, wheel assembly, brake system, steering system, drive train, and suspension among other items.

SEMA raises the issue since the proposed amendment to §217.142(b)(3) defines the term “equipment” to describe the items and systems that the inspector will need to inspect. The definition references some equipment beyond the scope of TTC Section 731.102. SEMA respectfully requests that the regulation clarify that the inspection will be for items and systems required under the law to be present on an assembled vehicle, which may not include all listed items and systems listed under §217.142(b)(3) depending on the type of vehicle. SEMA specifically seeks an expanded definition for “and all integral items” referenced with “motor fuel supply system” and “exhaust system.”

Thank you for your consideration of these comments. Please feel free to contact me if you have questions.

Sincerely,



Stuart Gosswein  
Sr. Director, Federal Government Affairs  
Specialty Equipment Market Association  
1317 F Street, NW, Suite 500  
Washington, DC 20004  
202/777-1220  
[stuartg@sema.org](mailto:stuartg@sema.org)

**From:** [Layton, Amber](#)  
**To:** [Zz - Resource - GCO\\_Rules](#)  
**Cc:** [Keister, Ronald \(Ronnie\)](#)  
**Subject:** TxDMV Rules 217.3, 217.141-217.143 and 217.401-217.407.  
**Date:** Tuesday, January 21, 2020 11:09:55 AM  
**Attachments:** [Response Letter 21Jan2020.pdf](#)

---

Good morning,

Here are the comments from the Lubbock County Tax Office on proposed rule 217.3, 217.141-217.143 and 217.401-217.407.

Thank you,

Ronnie Keister



**Ronnie Keister**  
Lubbock County Tax Assessor-Collector  
916 Main Street, Suite 102  
PO Box 10536  
Lubbock, TX 79408-3536  
806.775.1344  
taxoffice@co.lubbock.tx.us

January 21, 2020

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Via Email to: [rules@txdmv.gov](mailto:rules@txdmv.gov)

SUBJECT: Response to TxDMV 43 TAC §217.3, §217.141-217.143 and §217.401-217.407

DMV Board Members and Agency Leadership:

Please accept this letter as official notice of support for proposed rule for chapter 217 relating to vehicle titles and registration.

The proposed amendment to §217.3(2)(D) concerning farm trailers and farm semitrailers corresponds with the subparagraphs of the Transportation Code §501.004(b)(1) and §501.036. These statutes require a farm trailer or semitrailer with a gross weight of more than 34,000 to be titled, while permissively allowing farm trailers or semitrailers with a gross weight of 34,000 or less to be titled. The Registration Manual states farm trailers and semitrailers cannot have a gross weight exceeding 34,000. Therefore, anything that exceeds this weight would not be considered a farm trailer, correct? I've included reference material from the proposed rule, the Motor Vehicle Registration Manual, the Transportation Code and Form VTR-52-A Application for Farm License Plates.

Proposed Subchapter A. Motor Vehicle Titles.  
43 TAC §217.3 Motor Vehicle Titles



**Ronnie Keister**  
 Lubbock County Tax Assessor-Collector  
 916 Main Street, Suite 102  
 PO Box 10536  
 Lubbock, TX 79408-3536  
 806.775.1344  
 taxoffice@co.lubbock.tx.us

6 (D) A farm trailer or farm semitrailer is any trailer or semitrailer registered in  
 7 accordance with Transportation Code §502.146. Owners of farm trailers and farm semitrailers with a gross  
 8 weight of 34,000 pounds or less may apply for a Texas title. Owners of farm trailers and farm semitrailers  
 9 with a gross weight in excess of 34,000 pounds shall apply for a Texas title. If a farm trailer or farm  
 10 semitrailer with a gross weight of 34,000 pounds or less has been titled previously, any subsequent owner  
 11 shall apply for a Texas title for the farm trailer or farm semitrailer. [Farm semitrailers with a gross weight  
 12 of more than 4,000 pounds that are registered in accordance with Transportation Code, §502.146, may  
 13 be issued a Texas title.]

Motor Vehicle Registration Manual, January 2020, Chapter 7.7 Farm Vehicles.

## Registration

Farm Truck and Farm Truck-Tractor License Plates are issued on a staggered basis. Registration begins on the first day of the month in which the applicant applies and is valid for 12 months. Farm trucks that also pull semi-trailers must be registered with Farm Truck-Tractor License Plates. Each unit in the combination must be registered separately for its own weight. For example, to register a truck-tractor at the maximum weight register the truck-tractor at 46,000 lbs, and the semi-trailer at 34,000 lbs.

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TRANSPORTATION CODE  
 TITLE 7. VEHICLES AND TRAFFIC  
 SUBTITLE A. CERTIFICATES OF TITLE AND REGISTRATION OF VEHICLES  
 CHAPTER 502. REGISTRATION OF VEHICLES  
 SUBCHAPTER A. GENERAL PROVISIONS

Sec. 502.146. CERTAIN FARM VEHICLES AND DRILLING AND CONSTRUCTION EQUIPMENT.

(b) An owner is not required to register a vehicle that is used only temporarily on the highways if the vehicle is:

(1) a farm trailer or farm semitrailer with a gross weight of more than 4,000 pounds but not more than 34,000 pounds that is used exclusively:

---



**Ronnie Keister**  
Lubbock County Tax Assessor-Collector  
916 Main Street, Suite 102  
PO Box 10536  
Lubbock, TX 79408-3536  
806.775.1344  
taxoffice@co.lubbock.tx.us

Application for Farm License Plates, Form VTR-52-A:

Farm Trailer/Semitrailer is owned by a cotton gin and will be supplied, without charge, to farmers to haul agricultural products from the place of process, market, or storage of the agricultural products to the farm. The vehicle will not be used for the current year with a gross weight in excess of 34,000 lbs.

---

The concern listed needs to be addressed prior to the approval of this rule. Please call me if you have any additional questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "Ronnie Keister".

Ronnie Keister

Tax Assessor-Collector

**Beckley, Krystal**

---

**From:** Phil Elam <philelam@trva.org>  
**Sent:** Thursday, January 23, 2020 10:20 AM  
**To:** Beaver, Tracey; Kuntz, Jeremiah  
**Subject:** Proposed New Rules - Master Technician  
**Attachments:** TxDMV T Beaver amd J Kuntz re Master Technician 1-22-20.docx

**Importance:** High

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown or unexpected emails.

Good morning Ms. Beaver and Mr. Kuntz,

Although the date for receiving official comments has passed, as of January 21st, please accept the attached information in reference to the following: Proposed Rule Amendments 43 TAC § 217.3, 217-141-217.143 and Proposed New Rules 43 TAC § 217.401-217.407.

This matter only came to my attention on January 22nd and the memo authored by TADA's General Counsel Karen Phillips contains information which could prevent the recreational vehicle industry from being able to perform inspections and verifications of assembled motor vehicles due to the certification requirements of "master technicians."

Please consider my comments as germane to this subject matter and important to the recreational vehicle dealers which are regulated by your agency.

Respectfully,

Phil Elam | Executive Director | Texas Recreational Vehicle Association

<mailto:philelam@trva.org> philelam@trva.org |  
<<https://nam03.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.trva.org%2F&data=01%7C01%7Ctracey.beaver%40txdmv.gov%7C42f9736de76b4e0152fc08d7a020253c%7C72719f70353346b39456ec1235143768%7C0&sdata=ewKWx6DZvJ41r0qsyEuPLPKsHR6wU3GWhLf9HI1GShI%3D&reserved=0>> www.trva.org

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Phil Elam • Executive Director

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January 22, 2020

Ms. Tracey Beaver  
General Counsel  
Mr. Jeremiah Kuntz  
Director Vehicle Titles & Registration  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Via email: [tracey.beaver@txdmv.gov](mailto:tracey.beaver@txdmv.gov) & [jeremiah.kuntz@txdmv.gov](mailto:jeremiah.kuntz@txdmv.gov)

Re: Proposed Rule Amendments 43 TAC § 217.3, 217-141-217.143  
Proposed New Rules 43 TAC § 217.401-217.407

Dear Ms. Beaver and Mr. Kuntz,

During a review of comments, dated January 20, 2020, provided to the agency by the Texas Automobile Dealers Association's General Counsel Karen Phillips, it came to my attention that the reference to "master technicians" who would perform inspections of assembled vehicles would be required to be certified by the National Institute of Automotive Service Excellence as a Certified Master Automobile and Light Truck Technician, ref. § 217.143.

The Texas Administrative Code § 2301.002(21) & (32), include, by definition, motor homes and towable recreational vehicles as meeting the requirements to be classified as motor vehicles.

The automobile and light truck industry and the RV industry are closely linked, yet have distinct differences which does, at time, separate them, even if narrowly.

Technicians who would provide inspections of assembled motor homes or towable recreational vehicles, i.e. recreational vehicles or commonly referred to as RV's, are not certified by the same organizations as those technicians who perform inspections on automobiles and light trucks.

The RV industry has its own certification programs which have been developed under the guidance of two nationally recognized trade associations which are the Recreational Vehicle Dealers Association (RVDA) and the Recreational Vehicle Industry Association (RVIA). RVDA represents dealer's interests, where RVIA represents manufacturer's interests in the RV industry. These certifications require on-the-job training, tenure and testing as a technician moves from being registered, to certified and eventually becoming a Master Certified Technician.

Presently, the following organizations have accreditation approval to teach, supervise and certify technicians under the RVDA/RVIA RV Service Technician Certification Program:



- Recreational Vehicle Dealers Association (RVDA)
- Recreational Vehicle Industry Association (RVIA)
- Recreational Vehicle Technical Institute (RVTI (a division of RVIA))
- Florida Recreational Vehicle Trade Association (FRVTA)
- Pennsylvania Recreational Vehicle and Camping Association (PRVCA)
- National RV Training Academy (NRVTA)

Therefore, when considering the application of rules regarding who may inspect an assembled motor home or towable recreational vehicle, please consider that limiting those inspections to only those holding a Certified Master Automobile and Light Truck Technician Certification would prohibit dealers of motor vehicles commonly known as RV's, motor homes and towable recreational vehicles, to perform inspections and verifications of assembled motor vehicles.

We realize the recreational vehicle industry is a micro-component of the overall motor vehicle industry in Texas, however, it was important for me to bring this to your attention prior to the final rule making was completed.

I acknowledge the time allowed for the filing of official comments in this regard has passed, however, due to the importance of the issue please allow these comments to have bearing on how the rules are presently pending with your agency.

Should questions arise, please feel free to contact me at your convenience.

Respectfully,



Phil Elam  
Executive Director





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P 512-327-4514 • F 512-327-4516  
Phil Elam • Executive Director

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February 6, 2020

Ms. Tracey Beaver  
General Counsel  
Mr. Jeremiah Kuntz  
Director Vehicle Titles & Registration  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Via email: [rules@tvdmv.gov](mailto:rules@tvdmv.gov)

Re: Proposed Rule Amendments 43 TAC § 217.3, 217-141-217.143  
Proposed New Rules 43 TAC § 217.401-217.407

Dear Ms. Beaver and Mr. Kuntz,

During a review of comments, dated January 20, 2020, provided to the agency by the Texas Automobile Dealers Association's General Counsel Karen Phillips, it came to my attention that the reference to "master technicians" who would perform inspections of assembled vehicles would be required to be certified by the National Institute of Automotive Service Excellence as a Certified Master Automobile and Light Truck Technician, ref. § 217.143.

The Texas Administrative Code § 2301.002(21) & (32), include, by definition, motor homes and towable recreational vehicles as meeting the requirements to be classified as motor vehicles.

The automobile and light truck industry and the RV industry are closely linked, yet have distinct differences which does, at time, separate them, even if narrowly.

Technicians who would provide inspections of assembled motor homes or towable recreational vehicles, i.e. recreational vehicles or commonly referred to as RV's, are not certified by the same organizations as those technicians who perform inspections on automobiles and light trucks.

The RV industry has its own certification programs which have been developed under the guidance of two nationally recognized trade associations which are the Recreational Vehicle Dealers Association (RVDA) and the Recreational Vehicle Industry Association (RVIA). RVDA represents dealer's interests, where RVIA represents manufacturer's interests in the RV industry. These certifications require on-the-job training, tenure and testing as a technician moves from being registered, to certified and eventually becoming a Master Certified Technician.

Presently, the following organizations have accreditation approval to teach, supervise and certify technicians under the RVDA/RVIA RV Service Technician Certification Program:



- Recreational Vehicle Dealers Association (RVDA)
- Recreational Vehicle Industry Association (RVIA)
- Recreational Vehicle Technical Institute (RVTI (a division of RVIA))
- Florida Recreational Vehicle Trade Association (FRVTA)
- Pennsylvania Recreational Vehicle and Camping Association (PRVCA)
- National RV Training Academy (NRVTA)

Therefore, when considering the application of rules regarding who may inspect an assembled motor home or towable recreational vehicle, please consider that limiting those inspections to only those holding a Certified Master Automobile and Light Truck Technician Certification would prohibit dealers of motor vehicles commonly known as RV's, motor homes and towable recreational vehicles, to perform inspections and verifications of assembled motor vehicles.

We realize the recreational vehicle industry is a micro-component of the overall motor vehicle industry in Texas, however, it was important for me to bring this to your attention prior to the final rule making was completed.

Should questions arise, please feel free to contact me at your convenience.

Respectfully,



Phil Elam  
Executive Director





## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1 HB 1755. Transportation Code Chapter 731 requires rules concerning eligibility for title and registration in  
2 Transportation Code §731.051(a); rules concerning procedures and requirements for title and registration  
3 in Transportation Code §731.052(a); and rules concerning inspection requirements for issuance of title in  
4 Transportation Code §731.101(c). The amendments to §217.3 and §§217.141 - 217.143 and new  
5 §§217.401 - 217.407 provide the necessary rules and implement Transportation Code Chapter 731 as  
6 required in HB 1755, Section 12.

7 Transportation Code §731.051 provides that the owner of an assembled vehicle may apply for a  
8 title and register the vehicle in accordance with Transportation Code Chapters 501 and 502 and the rules  
9 adopted to implement Chapter 731. The department applies that provision in these rules to create a  
10 certain and workable path for owners to title and register assembled vehicles, but also to maintain the  
11 purpose of Transportation Code Chapter 501 that is stated, in part, in Transportation Code §501.003 as  
12 to lessen and prevent: (1) the theft of motor vehicles; and (2) the importation into this state of and traffic  
13 in motor vehicles that are stolen.

14 Also, the department adopts amendments to §217.3(1), (2), and (4) to conform those provisions  
15 with statute, including Transportation Code §501.036 concerning farm trailers and farm semitrailers;  
16 Transportation Code §501.037 concerning trailers and semitrailers; and Transportation Code §541.201  
17 and other changes made in HB 3171, 86th Legislature, Regular Session (2019), concerning motor-driven  
18 cycles. The amendments to §217.3(1), (2), and (4) are unrelated to Transportation Code Chapter 731, but  
19 are necessary to conform those provisions with statute.

20

21 **Subchapter A. §217.3.**

22 The amendment to §217.3 conforms the opening sentence with changes in statute made by HB  
23 1548, 86th Legislative Session, Regular Session (2019), that allow for certain vehicles, for example off-

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

- 1 highway vehicles, to be titled under Transportation Code Chapter 501 without a registration requirement.
- 2 The amendment also adds Transportation Code Chapter 731, concerning assembled vehicles, to reflect
- 3 changes in statutes made by HB 1755.

4 The amendments to §217.3(1), (2), and (4) conform the rules to existing statute, including

5 statutory amendments passed by the 86th Legislature, Regular Session (2019). The amendments to

6 §217.3(5) and (6) are necessary to implement Transportation Code Chapter 731, concerning assembled

7 vehicles, as added by HB 1755.

8 The amendment to §217.3(1) removes the term "motor-driven cycle." House Bill 3171 repealed

9 the definition of the term in Transportation Code §541.201 and removed all uses of the term in the

10 Transportation Code.

11 The amendment to §217.3(2)(D) concerning farm trailers and farm semitrailers conforms the

12 subparagraph to Transportation Code §501.004(b)(1) and §501.036. These statutes require a farm trailer

13 or farm semitrailer with a gross weight of more than 34,000 pounds to be titled, while permissively

14 allowing farm trailers or farm semitrailers with a gross weight of 34,000 pounds or less to be titled. As

15 addressed in response to comments, the proposed rule text has been changed to remove the first

16 sentence referring to registration under Transportation Code §502.146, because Transportation Code

17 §501.036 does not require a farm trailer or farm semitrailer to be eligible for registration under

18 Transportation Code §502.146. Thus, a reference to Transportation Code §502.146 is not necessary for

19 permissive titling purposes under Transportation Code §501.036.

20 The amendment to §217.3(4) conforms the paragraph with Transportation Code §501.037,

21 concerning trailers, semitrailers, and house trailers, by removing terms that are not in that section or the

22 Transportation Code, and makes nonsubstantive changes to conform with department style.

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1           The amendment to §217.3(5) removes the existing language and adds a reference to proposed  
2 new Subchapter L of Chapter 217, which will implement Transportation Code Chapter 731, concerning  
3 assembled vehicles.

4           The amendment to §217.3(6)(A) conforms the language to Transportation Code §731.051(b)(6),  
5 which prohibits titling of a vehicle that has been stripped to the extent that the vehicle loses its original  
6 identity. The amendment to §217.3(6)(B) removes the prohibition against titling a dune buggy, because a  
7 dune buggy is an assembled vehicle and eligible for title under Transportation Code Chapter 731.

8           The amendment to §217.3(6)(C) redesignates the subparagraph as subparagraph (B) and  
9 conforms the language to Transportation Code §731.051(b)(5), which prohibits titling of a vehicle that the  
10 manufacturer has designated for on-track racing only. Additionally, the amendment to §217.3(6)  
11 redesignates the subparagraphs following subparagraph (B), and changes "and/or" to "or" to reflect  
12 current department style.

13  
14 **Subchapter G. §§217.141 - 217.143.**

15           The proposed amendments to §§217.141 - 217.143 implement the assembled vehicle inspection  
16 requirements under Transportation Code §731.101 and §731.102 as enacted by HB 1755. The department  
17 has amended the existing sections related to the Transportation Code §504.501(e) street rod and custom  
18 vehicle registration inspection because it is the same inspection that will be applied to titling assembled  
19 vehicles under Transportation Code §731.101.

20           The amendment to §217.141 accounts for the changed scope of §§217.141 - 217.143. The  
21 sections now address the new initial titling inspection of assembled vehicles required under  
22 Transportation Code §731.101, and the existing registration inspection required for street rods and  
23 custom vehicles under Transportation Code §504.501(e).

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1           The amendments to §217.142 provide definitions for terms used in §§217.141 - 217.143. The  
2 amendment to §217.142(a) incorporates terms defined in Transportation Code §731.001. Because  
3 Transportation Code §731.001 and the existing text of §217.142(2) and (4) both define the terms "street  
4 rod" and "custom vehicle" by reference to Transportation Code §504.501, the existing definitions of  
5 "street rod" and "custom vehicle" in this section have been removed.

6           The amendment to §217.142(b)(1) adds the term "modification" to clarify that the defined phrase  
7 "altered from the manufacturer's original design" is not limited to the "removal, addition, or substitution,  
8 of at least one major component part." In addition, the department has amended the definition to include  
9 a direct reference to the definition of a major component part under Transportation Code §501.091. The  
10 change is to clarify that the term "major component part" continues to apply to making a determination  
11 under Transportation Code §504.501(f) of whether a vehicle qualifies as a custom vehicle or street rod,  
12 but is not a definition for general application in Subchapter G. The department has removed the existing  
13 stand-alone definition of "major component part" in §217.142. The department has also removed the  
14 quotation marks around the defined term in accordance with current department style.

15           The terms "basic component part," "equipment," and "major component part" are substantively  
16 independent, and each term serves a different purpose in the proposed rules. The term "basic component  
17 part" is used in Subchapter L to identify the items for which evidence of ownership will need to be  
18 established for titling assembled vehicles. The term "major component part" is only used in the definition  
19 of "altered from the manufacturer's original design" in §217.142(b)(1) of Subchapter G to identify the  
20 elements of a motor vehicle that, when modified, substituted, removed, or added, are relevant to the  
21 classification of a vehicle as a custom vehicle or street rod. The term "equipment" is used in Subchapter  
22 G to establish the items and systems that need to be inspected under Transportation Code §504.501(e)  
23 or §731.101.

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1           The terminology used in the definitions is based on statute, historical application, and purpose. In  
2 scope, the definitions of all three terms refer to portions of a vehicle. As defined, the term "major  
3 component part" would include all items that are "basic component parts," but not all items and systems  
4 that are "equipment."

5           The amendment to §217.142(b)(2) defines the term "applicant." The term clarifies the types of  
6 owners that would apply for title to an assembled vehicle. The term is defined in §217.402 with the same  
7 meaning and for the same purpose.

8           The amendment to §217.142(b)(3) defines the new term "equipment" to describe the items and  
9 systems that the inspector will need to inspect. The inspection will be of those items and systems required  
10 by law to be present on the vehicle as inspected, which may not include all the listed items and systems  
11 depending on the type of vehicle. The definition also distinguishes "equipment" from "basic component  
12 part" and "major component part" as previously discussed in this proposal. The definition has been  
13 changed to correct the references to the defined terms "basic component part" and "major component  
14 part."

15           As addressed in the response to comments, the definition of "equipment" includes four systems:  
16 brakes, steering, fuel supply, and exhaust; and the "integral items" to those systems. All the systems are  
17 items currently inspected for an assembled vehicle on the ASE Safety Inspection for Assembled Vehicles  
18 (Form VTR-64). The inspection will be of parts that cause the system to function to ensure that they are  
19 designed for the purpose for which they are being used, meet applicable safety standards, and are  
20 assembled for stable and safe operation on the roadway.

21           The amendment to §217.142(b)(4) defines the term "manufacturer" by reference to the definition  
22 in Occupations Code §2301.002. The definition also clarifies that a hobbyist is not a manufacturer, which

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1 is consistent with the definition of hobbyist in Transportation Code §731.001. The term is also defined in  
2 §217.402 with the same meaning and for the same purpose.

3 The amendment to §217.142(b)(5) clarifies that the definition of "master technician" used in this  
4 subchapter refers to a Certified Master Automobile and Light Truck Technician, which is required under  
5 Transportation Code §731.101(b)(2). The clarification is necessary because Transportation Code  
6 §731.101(a) requires an assembled vehicle to pass an inspection based on the type of assembled vehicle  
7 being inspected. Transportation Code §731.101(b) requires the applicant to submit proof that the  
8 assembled vehicle passed the inspection and a copy of the master technician's Automobile and Light Truck  
9 certification. The limitation of the credentialing requirement in §731.101(b)(2) limits the titling inspection  
10 requirement to those assembled vehicle types that can be inspected by an individual holding an  
11 Automobile and Light Truck master certification. The relevant types of assembled vehicles are assembled  
12 motor vehicles, custom vehicles, replicas, and street rods, as described in proposed amendments to  
13 §217.143(a). The legislative requirement limiting the inspection to the Automobile and Light Truck  
14 certification is also consistent with the consideration that a master certification does not exist for  
15 motorcycles or trailers; and the limited number of individuals holding a Medium and Heavy Truck master  
16 certification could create an impediment to titling glider kits.

17 As discussed in response to comments, the inspection will apply to assembled vehicles newly  
18 constructed and required to be titled under Transportation Code Chapter 731. Previously titled vehicles  
19 or newly manufactured vehicles that are not assembled vehicles would be titled under the same  
20 requirements that existed prior to the enactment of Transportation Code Chapter 731. The inspection  
21 would apply to the equipment listed in §217.142(b)(3) and be based on the standards in §217.143.

22 The amendments to §217.143 implement the new initial titling inspection requirements under  
23 Transportation Code §731.101 and maintain the existing custom vehicle and street rod registration

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1 requirement under Transportation Code §501.504(e). To reflect the change, the department has changed  
2 the title of §217.143 to "Inspection Requirements."

3 The amendments to §217.143(a) provide that an assembled motor vehicle, replica, custom  
4 vehicle, or street rod must be inspected by a master technician as required under Transportation Code  
5 Chapter 731 and 43 Texas Administrative Code, Chapter 217, Subchapter L. For reasons previously  
6 discussed regarding the definition of "master technician," the inspection is not required for an assembled  
7 motorcycle, assembled trailer, or glider kit.

8 As discussed in response to comments, the inspection is not limited to the items listed in  
9 Transportation Code §731.102. Transportation Code §731.101(c) provides that the "[T]he board by rule  
10 shall establish procedures and requirements for the inspection required by this section. Rules adopted  
11 under this subsection: (1) must establish inspection criteria; [and] (2) may specify additional items of  
12 equipment that must be inspected by a master technician and may specify different items of equipment  
13 that must be inspected based on the type of assembled vehicle."

14 The amendment to §217.143(b) requires a custom vehicle or street rod to have a safety inspection  
15 performed by a master technician as required under Transportation Code §504.501(e) for initial  
16 registration.

17 As discussed in response to comments, the titling inspection is only required when the assembled  
18 vehicle is titled for the first time. A subsequent titling inspection would be required if the vehicle is  
19 disassembled and reassembled as described in proposed §217.407.

20 A street rod and custom vehicle inspection is only required if the owner of the vehicle desires  
21 street rod or custom vehicle license plates. The street rod and custom vehicle inspection is required under  
22 Transportation Code §504.501, and it applies to the owner of any vehicle seeking street rod or custom  
23 vehicle license plates. However, the department will accept a single inspection if street rod or custom

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1 vehicle license plates are requested during the initial title application process, because the inspections  
2 are the same, except for meeting the additional street rod and custom vehicle requirements.

3 The amendments to §217.143(c) and (d) provide the inspection requirements for assembled  
4 vehicles. The amendment to existing §217.143(c) states that the inspection of an assembled vehicle must  
5 evaluate the structural integrity of the equipment. The proposed amendments to §217.143(d)(1), (2), and  
6 (4) amend the style of existing text in §217.143(b) requiring the inspector to certify that the vehicle is  
7 structurally stable, meets the necessary conditions to be operated safely on the roadway, and is equipped  
8 and operational with all equipment required by statute as a condition of sale during the year the vehicle  
9 was manufactured or resembles. The amendments to §217.143(d) also add new §217.143(d)(3) that  
10 tracks the safety requirement in Transportation Code §731.051(b)(7). The department proposes removing  
11 the existing text of §217.143(c) because it is duplicative of the requirement in proposed §217.143(d)(4).

12 As discussed in response to comments, the master technician is not required to certify that the  
13 vehicle has not been built using a body or frame from a "nonrepairable" vehicle or that it does not contain  
14 any electrical or mechanical components from a "flood-damaged" vehicle. The items are prohibited under  
15 Transportation Code §731.051(2) and (3), but commenters did not describe the means, process, or costs  
16 for a master technician to reasonably make such determinations. In reviewing applications, the  
17 department will check the National Motor Vehicle Title Information System (NMVTIS) as is the  
18 department's current procedure. Purchasers and others may also inspect the motor vehicle before  
19 acquiring it as is the case with any used motor vehicle.

20 The amendments to §217.143 also add new §217.143(e), which provides that an inspection under  
21 §217.143(a) is in addition to any other required inspection of an assembled vehicle, including an  
22 inspection required under Transportation Code Chapter 548. An assembled vehicle designated as a

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- 1 custom vehicle or street rod is not subject to the annual Transportation Code Chapter 548 inspection.
- 2 Other assembled vehicles may be subject to the Chapter 548 inspection requirement.

3           The amendments to §217.143 also add new §217.143(f) and (g) relating to the payment of fees.  
4 Under new §217.143(f), the applicant must pay all fees to the master technician for the inspection of an  
5 assembled vehicle required under subsection (a) of this section, including any reinspection. Under  
6 proposed new §217.143(g), any additional fees must be paid to the inspector or as otherwise required by  
7 law. The subsections clarify that inspection fees under this section are not to be paid to the department.  
8 The department does not set any of the inspection fees for an inspection required under this section.

9  
10 **Subchapter L. §§217.401 - 217.407.**

11           New Chapter 217, Subchapter L, §§217.401 - 217.407 implements the assembled vehicle titling  
12 and registration requirements under Transportation Code Chapter 731, as enacted by HB 1755. New  
13 §217.401(a) describes the purpose and scope of proposed new Subchapter L. New §217.401(b) provides  
14 that for the purposes of this subchapter a glider kit issued a title with a "RECONSTRUCTED" remark is a  
15 replica. The purpose of this is to state the department's interpretation that a dealer may transfer, or be  
16 transferred ownership, of a glider kit under new Transportation Code §503.013.

17           New §217.402 defines terms that will be used in the subchapter. Proposed new §217.402(a)  
18 incorporates terms defined in Transportation Code §731.001.

19           New §217.402(b)(1) defines the term "applicant." The term clarifies the types of owners that  
20 would apply for title of an assembled vehicle. The term is defined in §217.142 with the same meaning and  
21 for the same purpose.

22           New §217.402(b)(2) defines the term "basic component part" for use in this chapter. The term is  
23 limited to the vehicle's motor, body, and frame, as applicable for the type of vehicle. For example, an

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1 automobile would have all three parts; a motorcycle just a motor and frame; and a trailer just a frame and  
2 body.

3 Evidence of ownership will be required based on the basic component part of the assembled  
4 vehicle under proposed new §217.405. The definition also distinguishes between "basic component part"  
5 and "major component part" as previously discussed in this proposal.

6 As discussed in response to comments, the department recognizes that other parts of a motor  
7 vehicle may have an identification number stamped on them, such as a motorcycle transmission. A law  
8 enforcement VIN inspection may still check for such numbers, but the department does not consider it  
9 necessary to expand the existing number or type of basic component parts that the owner must  
10 demonstrate ownership of to obtain an assembled vehicle title under Transportation Code Chapter 731.

11 New §217.402(b)(3) defines the term "continuous sale," which is basic in determining if a person  
12 is a hobbyist as defined in Transportation Code §731.001. The definition provides that the term means  
13 "offering for sale or the sale of five or more assembled vehicles of the same type in a calendar year when  
14 such vehicles are not owned and titled in the name of the owner." The department has proposed five  
15 vehicles in the definition because that is the number of vehicles that could classify the person as a dealer  
16 under Transportation Code §503.024.

17 New §217.402(b)(4) defines the term "manufacturer" by reference to the definition in  
18 Occupations Code §2301.002. The definition also clarifies that a hobbyist is not a manufacturer, which is  
19 consistent with the definition of hobbyist in Transportation Code §731.001. The term is also defined in  
20 §217.142 with the same meaning and for the same purpose.

21 New §217.402(b)(4) defines the term "personal use" which is basic in determining if a person is a  
22 hobbyist as defined in Transportation Code §731.001. The definition provides that the term means "the  
23 construction of an assembled vehicle by a hobbyist for use by the hobbyist."

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1           New §217.403 provides the basic procedure for issuing an initial title on an assembled vehicle and  
2 subsequent transfers of the title. Proposed new §217.403(a) requires an applicant for an initial title on an  
3 assembled vehicle to apply for the title in accordance with 43 Texas Administrative Code Chapter 217,  
4 Subchapter L, and Transportation Code Chapter 731.

5           New §217.403(b) requires a person transferring title on a titled assembled vehicle to transfer title  
6 in accordance with proposed new §217.407. That section provides that once an assembled vehicle is titled,  
7 including assembled vehicles brought in from another state, title to the assembled vehicle will transfer in  
8 that same manner as any other titled vehicle, except that only assembled vehicles that are replicas may  
9 be transferred to and by dealers.

10           New §217.403(c) provides that unless the assembled vehicle is ineligible for title under  
11 Transportation Code §731.051(b), the department shall issue a title if the assembled vehicle passes the  
12 required inspection under proposed amended §217.143 and Transportation Code §731.101; passes any  
13 additional inspection required by Transportation Code Chapter 548; and following receipt of a fully  
14 completed application and all required forms and fees, as identified in §217.404.

15           New §217.404 details the application process. The process differs from ordinary title application  
16 transactions, because in this case the department will review the application before it is formally  
17 submitted to a county tax assessor-collector. The process should add uniformity and avoid rejections and  
18 the need for resubmission of the application.

19           New §217.404(a) lists the information required in the application. New §217.404(a)(1) requires  
20 photographs of the vehicle and, if a replica, a photograph of what the vehicle is a replica of. These will  
21 assist in identifying the vehicle.

22           New §217.404(a)(2) requires evidence of ownership of the basic component parts of the  
23 assembled vehicle as described in §217.405. Evidence of ownership is necessary to establish title to the

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1 vehicle or process an application for assignment or reassignment of a vehicle identification number under  
2 Transportation Code §501.033 as required by Transportation Code §731.054.

3 New §217.404(a)(3) requires, if applicable, proof, on a form prescribed by the department, of a  
4 safety inspection required under §217.143. Under the proposal, the requirement is applicable only to  
5 assembled motor vehicles, custom vehicles, replicas, and street rods.

6 New §217.404(a)(4) requires a copy of the Automobile and Light Truck certification, or a successor  
7 certification, for the master technician who completed the inspection described in §217.404(a)(3), if the  
8 inspection was required.

9 New §217.404(a)(5) requires a copy of the inspection that may be required under Transportation  
10 Code Chapter 548 if the assembled vehicle is to be registered for operation on the roadway. New  
11 §217.404(a)(6) requires a rebuilt vehicle statement; (7) a weight certificate; and (8) the applicant's  
12 identification information as required in §217.5(d).

13 New §217.404(a)(9) requires a vehicle identification number to be established by one of the four  
14 listed means. The means are authorized in Transportation Code §731.054. New §217.404(a)(9)(A) and (B)  
15 allow for the process of applying for an application for assignment or reassignment of a vehicle  
16 identification number. That process is under Transportation Code §501.033 and requires a vehicle  
17 identification number inspection under Transportation Code §501.032. The inspection is consistent with  
18 Transportation Code §731.051 which requires titling to be done under Chapter 501 and Chapter 731.  
19 Transportation Code §501.003 states that Transportation Code Chapter 501 is to be liberally construed to  
20 lessen and prevent (1) the theft of motor vehicles, and (2) the importation into this state of and traffic in  
21 motor vehicles that are stolen. New §217.404(a)(9)(C) and (D) are based on the vehicle identification  
22 numbers assigned by the maker of a kit or the manufacturer of the assembled vehicle respectively  
23 authorized in Transportation Code §731.054.

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1           As discussed in response to comments, vehicle identification numbers (VIN), serial numbers, and  
2 motor numbers are collected in the vehicle identification number inspection process and master  
3 technician inspection process on forms VTR 68-A and VTR-64, respectively. Under existing procedures, the  
4 department will as necessary assign or reassign a motor number to a vehicle that is identified by a motor  
5 number (for example a pre-1956 General Motors vehicle). The department does not track motor or  
6 transmission numbers for vehicles identified by VIN. Also, the department does not require persons  
7 replacing a motor or a transmission on an assembled vehicle or other vehicle to go through an additional  
8 registration process if the vehicle is identified by a VIN.

9           New §217.404(b) provides that the department will review the documents and determine that  
10 the application is complete and the vehicle meets the qualifications to be titled as an assembled vehicle.  
11 As addressed in response to comments, the proposed procedures and document submission  
12 requirements implement Transportation Code Chapter 731 and HB 1755. The department will review each  
13 title application for compliance with the rules. If the department determines that a potential violation has  
14 occurred, the department may seek an enforcement action as authorized by statute.

15           New §217.404(c) provides that the department will notify the applicant in writing if the  
16 department determines the application is complete and the vehicle is determined to qualify for titling as  
17 an assembled vehicle. As addressed in response to comments, the letter under §217.404(c) will list the  
18 supporting documents and information approved by the department and required to be submitted the  
19 tax assessor collector.

20           New §217.404(d) provides that upon the receipt of the department's written approval, the  
21 applicant may proceed to the county tax assessor-collector for submission and processing of the  
22 application. New §217.404(d) lists that the applicant must provide the county tax assessor with the

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1 department's written letter, a copy of the items required under §217.404(a)(1) - (9) that were submitted  
2 to the department, and, if the vehicle is being registered, the requirements identified in §217.23.

3 New §217.405 addresses evidence of ownership and how it may be demonstrated either from a  
4 manufacturer, a hobbyist or other owner, or with a bond. New §217.405(a) provides that evidence of  
5 ownership must accompany the title application submitted to the department, which is consistent with  
6 the requirement in §217.404(a)(2).

7 New §217.405(b) provides that evidence of ownership for a replica, custom vehicle, street rod, or  
8 glider kit built by a manufacturer must be provided on a manufacturer's certificate of origin and contain  
9 the information listed in that subsection.

10 New §217.405(c) describes the evidence of ownership requirements for an assembled vehicle that  
11 has been built by a hobbyist, or has not otherwise been previously titled by the owner. Evidence is  
12 required for the basic component parts of the vehicle. If the basic component parts are from vehicles  
13 titled in the name of the owner, evidence of ownership will be based on the identifying numbers on the  
14 parts. These will vary based on the type of part and the year of manufacture. Additionally, component  
15 parts not titled in the name of the owner may be used with proper documentation, such as a bill of sale.

16 New §217.405(d) provides that an owner unable to obtain evidence of ownership may file a bond  
17 with the department under Transportation Code §501.053 and §217.9. Proposed new §217.405(e) lays  
18 out the process of obtaining the vehicle identification number and the bond. The bond will be the evidence  
19 of ownership to obtain the title.

20 The process is similar to that of any other applicant, in that the applicant must take or deliver the  
21 documentation required under §217.404(a)(1) - (9) to the department's regional service center for review,  
22 except that the applicant utilizing the bond procedure will not be required to have evidence of ownership  
23 under §217.405(a) - (c). The documentation requirements for the bond procedure would include a vehicle

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1 identification number inspection report if the applicant intends to establish a vehicle identification  
2 number under §217.404(a)(9)(A) or (B). The department will review the vehicle identification number  
3 inspection report and other documents.

4 A vehicle identification number will be reassigned based on the report and documentation if a  
5 vehicle identification number by which the assembled vehicle will be identified can be determined. If the  
6 vehicle identification number cannot be reassigned based on the lack of a number, the department will  
7 assign a department-issued number.

8 The applicant will then need to complete a statement of fact concerning the acquisition of the  
9 vehicle. If the application is complete, the department will use the assigned or reassigned number to issue  
10 a letter for the applicant to obtain a bond. The applicant will take the bond as evidence of ownership and  
11 other required documents to the county tax assessor-collector.

12 New §217.406 describes the issuance and form of title. Proposed new §217.406 provides that the  
13 county tax assessor-collector will process the transaction and issue a receipt upon receiving the completed  
14 application, all required documents, and all required fees.

15 New §217.406(b) describes the form of the title. As described in that subsection, the title will  
16 comply with the requirements of Transportation Code §731.053 and be issued with the make of "ASVE"  
17 unless original parts are used that reflect an established year and make of a manufactured vehicle and  
18 will contain the remarks "RECONSTRUCTED," or "REPLICA," as applicable, except for assembled trailers  
19 which will be titled with a make of "HMDE."

20 As discussed in response to comments, subsequent transfers of an assembled vehicle will be made  
21 as provided by Chapters 501 and 502, as applicable. Transportation Code Chapter 731 does not require  
22 additional disclosure requirements concerning the transfer of a titled assembled vehicle. Also, as  
23 discussed in response to comments the department will add a remark of "NOT FOR DEALER RESALE" to

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1 the titles of assembled vehicles initially titled under Transportation Code Chapter 731 and this subchapter  
2 that cannot be transferred to or by a dealer under Transportation Code §503.013. This will allow  
3 purchasers to distinguish between them and other ASVE vehicles without a REPLICA remark that were  
4 titled prior to the effective date of the implementing rules.

5 New §217.406(c) provides that the department will issue and mail or deliver the title to the owner  
6 or lienholder disclosed in the application. New §217.406(d) provides that the receipt issued at the time of  
7 application for title may be used only as evidence of title and may not be used to transfer any interest or  
8 ownership in a motor vehicle or to establish a new lien.

9 New §217.407 provides for subsequent transfer of title for a titled assembled vehicle. New  
10 §217.407(a) provides that after an assembled vehicle is titled under Transportation Code Chapter 731 and  
11 Subchapter L, the vehicle is then subject to Transportation Code Chapters 501 and 502, and 43 Texas  
12 Administrative Code Chapter 217, Subchapter L. The vehicle may be transferred similarly to any other  
13 vehicle, except as provided in §217.407(c).

14 New §217.407(b) provides that an assembled vehicle titled or registered in another jurisdiction  
15 may be titled and registered in this jurisdiction subject to Transportation Code Chapters 501 and 502, and  
16 43 Texas Administrative Code Chapter 217, Subchapter L, except as provided in §217.407(c). As such, the  
17 vehicle does not have to go through the initial title process in Transportation Code Chapter 731 or  
18 Subchapter L.

19 New §217.407(c) states two statutory limitations that apply to the transfer and construction of  
20 assembled vehicles. New §217.407(c) states the limitation in new Transportation Code §503.013 that  
21 ownership of an assembled vehicle may not be transferred to or by a dealer unless the assembled vehicle  
22 is a "replica" as that term is defined in Transportation Code §731.001. As defined, a "replica" includes a

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1 street rod or custom vehicle. New §217.407(c) states the limitation in new Occupations Code §2302.009  
2 that a salvage vehicle dealer may not rebuild an assembled vehicle.

3 New §217.407(d) provides that if an assembled vehicle is disassembled and then reassembled,  
4 the resulting vehicle is subject to the initial titling requirements in Transportation Code Chapter 731 and  
5 43 Texas Administrative Code Chapter 217, Subchapter L.

6 Implementation of this rule requires the department to reconfigure its internal systems to  
7 conform to the new requirements. The department adopts §§217.3, and 217.141 - 217.143, and new  
8 §§217.401 - 217.407 to be effective June 22, 2020.

9  
10 **SUMMARY OF COMMENTS.**

11 The department received written and spoken comments requesting clarifications or changes in  
12 the proposed text from: the Assembled Vehicle Coalition of Texas, Lamar County Tax Assessor-Collector,  
13 Lubbock County Tax Assessor-Collector, the Specialty Equipment Market Association, the Tarrant Regional  
14 Auto Crimes Task Force, the Tax Assessor-Collectors Association of Texas, the Texas Automobile Dealers  
15 Association, the Texas Recreational Vehicle Association, and an individual.

16  
17 **§217.3(2)(D)**

18 **Comment.**

19 A commenter raises questions concerning the registration of a farm trailer or farm semitrailer and  
20 asks for confirmation that a trailer or semitrailer of more than 34,000 pounds would not be considered a  
21 farm trailer or farm semitrailer.

22

23 **Agency Response.**

1           The department disagrees with the comment. There are no weight restrictions for a farm trailer  
2 or farm semitrailer. As noticed in the preamble to the proposal, the amendment to §217.3(2)(D) is to  
3 address permissive titling requirements under Transportation Code §501.036. The section permissively  
4 allows farm trailers or farm semitrailers with a gross weight of 34,000 pounds or less to be titled.  
5 Transportation Code §501.004 and §501.036 do not limit the ultimate weight of a farm trailer or farm  
6 semitrailer.

7           Also, Transportation Code §501.036 does not require a farm trailer or farm semitrailer to be  
8 eligible for registration under Transportation Code §502.146. Thus, a reference to Transportation Code  
9 §502.146, is not necessary for permissive titling purposes under Transportation Code §501.036. To avoid  
10 confusion and better conform the rule to statute, the proposed rule text has been changed to remove the  
11 first sentence of §217.3(2)(D) referring to registration under Transportation Code §502.146. The change  
12 does not affect persons not on notice of this proposal or add new costs.

#### 14 **§217.3(6)(B)**

#### 15 **Comment.**

16           A commenter questioned why a certain kit car was rejected for titling and registration.  
17

#### 18 **Agency Response.**

19           The department appreciates the comment. Rules have general applicability. The department  
20 cannot make specific determinations of fact in a rule or the rulemaking process. Individual questions  
21 should be addressed to the department or one of its regional service centers. Locations and contact  
22 information can be identified online at <https://www.txdmv.gov/contact-us>.  
23

1 **§217.142**2 **Comment.**

3 Two commenters request the department to provide additional information concerning "all  
4 integral items" referenced with "motor fuel supply systems" and "exhaust system."

6 **Agency Response.**

7 The department disagrees that additional information is necessary. The definition of "equipment"  
8 includes four systems: brakes, steering, fuel supply, and exhaust; and the "integral items" to those  
9 systems. All four systems are items currently inspected for an assembled vehicle on the ASE Safety  
10 Inspection for Assembled Vehicles (Form VTR-64).

11 Assembled vehicles may take different forms and have different solutions for the systems listed,  
12 such that an exhaustive list for each possible system would be impractical, if not impossible. Rather, the  
13 inspection certification will be of parts that cause the system to function to determine that they are  
14 designed for the purpose for which they are being used, meet applicable safety standards, and are  
15 assembled for stable and safe operation on the roadway. The department has made no changes to the  
16 proposed text based on this comment.

18 **§217.142**19 **Comment.**

20 A commenter raised the question of whether a master technician inspection will be required for  
21 a motor driven or towed recreational vehicle (RV). The commenter states that the RV industry has  
22 established its own master certified technician training program "under the guidance of two nationally  
23 recognized trade associations which are the Recreational Vehicle Dealers Association (RVDA) and the

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1 Recreational Vehicle Industry Association (RVIA). RVDA represents dealer's interests, where RVIA  
2 represents manufacturer's interests in the RV industry."

3

4 **Agency Response.**

5 The department agrees with the comment and the issues raised. The purpose of the proposal is  
6 to implement Transportation Code Chapter 731 and HB 1755, which concern assembled vehicles.  
7 Assembled vehicles are defined in Transportation Code §731.001(a)(4), as seven types of vehicles,  
8 including an assembled motor vehicle and an assembled trailer.

9 The master technician inspection requirement applies only to assembled vehicles newly  
10 constructed and required to be titled under Transportation Code Chapter 731. Previously titled vehicles  
11 or newly manufactured vehicles that are not assembled vehicles would be titled under the same  
12 requirements that existed prior to the enactment of Transportation Code Chapter 731. Transportation  
13 Code Chapter 731 does not make an exception because the assembled motor vehicle is built as a motor  
14 home. The inspection would apply to the equipment listed in §217.142(b)(3) and based on the standards  
15 in §217.143.

16 Also, the assembled vehicle must be of a type that could be inspected by a Certified Master  
17 Automobile and Light Truck Technician, or equivalent successor certification, issued by the National  
18 Institute for Automotive Service Excellence. The department is limited under Transportation Code Chapter  
19 731 to accepting a qualifying inspection only from a person who holds a master technician certification  
20 issued by the National Institute for Automotive Service Excellence.

21 Assembled vehicles not subject to the inspection requirement are a motorcycle, trailer, or glider  
22 kit. An assembled trailer includes the term travel trailer as defined under Transportation Code §501.002.  
23 However, the department is not requiring an inspection by a master technician for assembled trailers

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1 because the National Institute for Automotive Service Excellence does not issue a master technician  
2 certification for trailers. The department has made no changes to the proposed text based on this  
3 comment.

4

5 **§217.143**

6 **Comment.**

7 Two commenters assert that the Certified Master Automobile and Light Truck Technician  
8 inspection should be limited to the specific equipment listed in Transportation Code §731.102.

9

10 **Agency Response.**

11 The department disagrees with the comment. Transportation Code §731.101(c), provides that the  
12 "[T]he board by rule shall establish procedures and requirements for the inspection required by this  
13 section. Rules adopted under this subsection: (1) must establish inspection criteria; [and] (2) may specify  
14 additional items of equipment that must be inspected by a master technician and may specify different  
15 items of equipment that must be inspected based on the type of assembled vehicle."

16 In addition, Transportation Code §731.102, provides that an inspection conducted under  
17 §731.101 must "include" those items listed in §731.102(1) and (2). Government Code §311.005(13)  
18 defines "includes" and "including" as "terms of enlargement and not of limitation or exclusive  
19 enumeration, and use of the terms does not create a presumption that components not expressed are  
20 excluded." The department has made no changes to the proposed text based on this comment.

21

22 **§217.143**

23 **Comment.**

1           A commenter requested that the owner of an assembled vehicle should not be required to obtain  
2 a subsequent inspection of the vehicle during the period of ownership and that a subsequent purchaser  
3 of an inspected and titled assembled vehicle should be allowed a grace period following purchase to  
4 obtain an inspection.

5

6 **Agency Response.**

7           The department agrees with the comment. Section 217.143 requires the assembled vehicle ASE  
8 certified master mechanic inspection only at the time the vehicle is initially titled. Sale of a titled  
9 assembled vehicle does not require another inspection for purposes of being an assembled vehicle. With  
10 limited exceptions, a titled assembled vehicle can be transferred, titled, and registered, like any other  
11 vehicle under Transportation Code Chapters 501 and 502 as addressed in Transportation Code  
12 §731.051(a); and §217.143 and §217.407. A subsequent inspection would be required if the vehicle is  
13 disassembled and reassembled as described in proposed §217.407.

14

15           Like owners of other vehicles, if the owner desires to have street rod or custom vehicle license  
16 plates, then the owner must comply with the vehicle inspection requirements under Transportation Code  
17 §504.501. That section applies based on changes in registration. However, the department will accept a  
18 single inspection for both if street rod or custom vehicle license plates are requested during the initial title  
19 application process, because the inspections are the same, except for meeting the street rod and custom  
20 vehicle requirements. The department has made no changes to the proposed text based on this comment.

21

22 **§217.143**

23 **Comment.**

1           A commenter requests that the department-prescribed verification form that is completed by the  
2 master technician require written verification that the vehicle was not assembled, built, constructed,  
3 rebuilt, or reconstructed in any manner with a body or frame from a "nonrepairable" vehicle as well as  
4 written verification from the master technician that the inspected vehicle does not have a motor or engine  
5 that has water damage.

6

7 **Agency Response.**

8           The department agrees with the comment that Transportation Code §731.051(b)(2) and (3)  
9 prohibits titling an assembled vehicle that has been built using a body or frame from a "nonrepairable"  
10 vehicle or that contains any electrical or mechanical components from a "flood-damaged" vehicle. The  
11 department's current rules also prohibit an assembled vehicle from being built with a body or frame from  
12 a "nonrepairable" or a "flood-damaged" motor or engine.

13           However, the department under this proposal and its current rules does not require the master  
14 technician to certify that no "nonrepairable" or "flood-damaged" parts were used in the building of  
15 the assembled vehicle. While the master technician may identify parts that were previously damaged, the  
16 master technician will not necessarily have access to information to determine the parts were from a  
17 nonrepairable vehicle, as defined by Transportation Code §501.091, or from a "flood-damaged" vehicle.

18           In reviewing applications, the department will continue its current procedure to check the  
19 National Motor Vehicle Title Information System (NMVTIS) to identify assembled vehicles that would not  
20 be eligible for title under Transportation Code §731.051(b)(2) and (3).

21           The commenter makes no statement as to how the items would be inspected in the type of  
22 inspection contemplated by Transportation Code §731.101 or that a master technician could reasonably  
23 make such a determination. Purchasers and others can conduct their own inspection before deciding to

1 acquire such a vehicle. Finally, the proposed change would add new requirements and costs to the  
2 inspection process. The department has made no changes to the proposed text based on the comment.

3

4 **§217.143**

5 **Comment.**

6 A commenter requests that the department-prescribed verification form that is completed by the  
7 master technician require written verification that the vehicle does not use any parts that do not meet  
8 Federal Motor Vehicle Safety Standards (FMVSS), if such standards are applicable for those parts.

9

10 **Agency Response.**

11 The department agrees with the comment. As proposed, the inspection requirement in  
12 §217.143(d)(3) requires the master technician to certify that parts used in the vehicle meet FMVSS, if a  
13 standard is applicable. The department has made no changes to the proposed text based on the comment.

14

15 **§217.402.**

16 **Comment.**

17 A commenter disagrees with the department's reference in the preamble that the basic  
18 component parts of an assembled motorcycle are limited to the motorcycle's motor and frame, because  
19 an identifying number may also be stamped on the transmission.

20

21 **Agency Response.**

22 The department agrees with the comment. A motorcycle may have an identifying number  
23 stamped on the transmission. However, the purpose of the definition of "basic component part" is to

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1 establish the parts of the vehicle that the owner must demonstrate ownership of for titling purposes  
2 under §217.404.

3 Also, the definition is consistent with the department's existing assembled vehicle rules  
4 §217.3(5)(A) and §217.3(5)(B)(i), which are being incorporated into the Subchapter G rules. A law  
5 enforcement VIN inspection may still check the transmission, but the department does not consider it  
6 necessary to expand the existing number or type of basic component parts. The department has not made  
7 any changes to the proposed text in response to this comment.

8  
9 **§217.404(a)**

10 **Comment.**

11 A commenter proposes that an applicant should submit the preliminary title application directly  
12 to the department instead of the county tax assessor-collector office.

13  
14 **Agency Response.**

15 The department agrees with the comment. The department has revised proposed §217.404(a) to  
16 remove reference to the county tax assessor-collector, because the county tax assessor-collector offices  
17 would not be reimbursed for the costs associated with preparing and delivering the preliminary title  
18 application to the department for review.

19 Counties may accept and transmit preliminary title applications directly to the department if they  
20 choose to do so. The proposal identified submission of the preliminary application to the department or  
21 a county tax assessor-collector for forwarding to the department, so the change does not add a new  
22 requirement not addressed in the proposal or new costs to the proposal.

1           The change to the text in response to this comment does not affect the requirement for the final  
2 application to be submitted to the county tax assessor-collector under §217.404(d).

3

4 **Comment.**

5           A commenter proposes that the submission under §217.404(a) be amended to require  
6 photocopies.

7

8 **Agency Response.**

9           The department disagrees with the comment. The department intends to be flexible, but in some  
10 cases the department may need to review the original document or under §217.404(d)(2) the original  
11 document may be required by statute. The department has not made any changes to the proposed text  
12 in response to this comment.

13

14 **Section 217.404(a)(9)**

15 **Comment.**

16           A commenter suggests requiring the inspector to record the motor number or the transmission  
17 number on the inspection if the numbers differ from the manufacturer's original vehicle identification  
18 number (VIN). The commenter also suggests assigning a VIN to a motor if no number exists on the motor.

19

20 **Agency Response.**

21           The department agrees with the comment. VINs, serial numbers, and motor numbers should be  
22 identified and recorded in the vehicle identification number inspection process conducted by law

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1 enforcement on Form VTR 68-A. The rule does not prevent law enforcement from identifying a  
2 transmission and determining whether it is stolen, or from a stolen vehicle.

3 Under existing procedures, the department will as necessary assign or reassign a motor number  
4 to a vehicle that is identified by a motor number (for example a pre-1956 General Motors vehicle).  
5 However, for most vehicles the department uses the VIN on the body of the vehicle or requires an assigned  
6 or reassigned VIN to be affixed on the body of the vehicle. For vehicles identified by VIN, the department  
7 does not track motor numbers. The department does not identify vehicles by transmission numbers,  
8 record transmission numbers, or require evidence of ownership for the transmission.

9 In addition, requiring the motor to be assigned a number would require persons replacing a motor  
10 or transmission on an assembled vehicle to go through an additional registration process when the vehicle  
11 is identified by VIN. The process would add costs and would not be consistent with the requirement for  
12 other vehicles titled under Transportation Code Chapter 501. The requirement is also not specifically  
13 authorized in Transportation Code Chapter 731. The department has not made any changes to the  
14 proposed text in response to this comment.

15

16 **217.404(b)**17 **Comment.**

18 A commenter states that it is necessary for the department to confirm the title applicant's status  
19 before issuing the title on the assembled vehicle and requests that the department adopt procedures  
20 regarding the verification and enforcement that an assembled vehicle title "applicant" meets the  
21 requirements for an assembled vehicle title issuance prior to issuing the title.

22

23 **Agency Response.**

1           The department agrees with the comment. The proposed procedures and requirement to submit  
2 documents for review prior to title issuance implement Transportation Code Chapter 731, and HB 1755.  
3 The department will review each title application for compliance with the statute and rules. If the  
4 department determines that a potential violation has occurred, the department may seek an enforcement  
5 action as authorized by statute. The department has made no changes to the proposed text based on the  
6 comment.

7

#### 8 **§217.404(c) and (d)(1)**

#### 9 **Comment.**

10           A commenter proposes that the letter issued under §217.404(c) list the supporting documents  
11 and information required to be submitted as approved by the department.

12

#### 13 **Agency Response.**

14           The department agrees with the comment. A second sentence has been added to §217.404(c) to  
15 read "The letter shall include a list of the supporting documents and information identified in subsection  
16 (d)(2) of this section." The department has also added to 217.404(d)(1) the statement "described in  
17 subsection (c) of this section" to clarify the letter being referred to. The changes will provide assurance to  
18 the county and the applicant that the application submitted to the county is complete. The change does  
19 not add a new requirement or cost for applicants or county tax assessor-collectors.

20

#### 21 **§217.406**

#### 22 **Comment.**

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1           A commenter is concerned that the "REPLICA" title notation may not be an adequate disclosure  
2 to a purchaser that the vehicle is an assembled vehicle, especially if an individual does not have access to  
3 the title, to the state's title system, or does not know to look for the title remark. The commenter requests  
4 the department to require that a disclosure statement accompany the vehicle in which the master  
5 technician's inspection certification is incorporated and provided to the buyer prior to purchase. The  
6 commenter asserts that requiring disclosure of the master technician's inspection informs the subsequent  
7 purchaser of the master technician's findings and the details regarding that inspection, allowing the  
8 purchaser to make an informed decision regarding the assembled vehicle.

9

**10 Agency Response.**

11           The department agrees with the comment as to the benefits of disclosure, but disagrees that an  
12 additional requirement is necessary. Transportation Code §731.051 provides that an owner of an  
13 assembled vehicle shall apply for a title for the vehicle and register the vehicle as provided by  
14 Transportation Code Chapters 501 and 502, as applicable. Transportation Code Chapter 731 does not  
15 require additional disclosure requirements concerning the transfer of a titled assembled vehicle.

16           Assembled vehicles will have the title issued with a make of ASVE, or HMDE if it is a homemade  
17 trailer. Further, the title should be present and available to the purchaser when the transfer is completed  
18 by the seller in accordance with Transportation Code §501.028.

19           However, the department does agree that identifying whether the assembled vehicle is subject  
20 to the sales restriction under Transportation Code §503.013 could be difficult to determine. This is  
21 because Transportation Code Chapter 731 and HB 1755 apply to assembled vehicles to be titled under  
22 Transportation Code Chapter 731 and these rules. Transportation Code Chapter 731 and HB 1755 does

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1 not state that either applies to assembled vehicles that are currently titled or that either limits the ability  
2 of an owner to transfer title to that vehicle.

3 Transportation Code §731.051(a) provides that "... an owner of an assembled vehicle shall apply  
4 for a title for the vehicle and register the vehicle as provided by Chapters 501 and 502, as applicable, and  
5 in accordance with rules adopted under this chapter..." Transportation Code §731.002 authorizes "the  
6 board may adopt rules as necessary to implement and administer this chapter." House Bill 1755 Section  
7 12 requires "[A]s soon as practicable after the effective date of this Act, the board of the Texas  
8 Department of Motor Vehicles shall: (1) adopt the rules required by Chapter 731, Transportation Code as  
9 added by this Act; and (2) adopt or modify any rules necessary to implement the changes in law made by  
10 this Act."

11 Transportation Code §503.013 applies to an assembled vehicle as defined in Transportation Code  
12 §731.001. Transportation Code §731.051(a) and the requirements of Transportation Code Chapter 731  
13 and HB 1755 provide that an "assembled vehicle" cannot be titled under Chapter 731 until the department  
14 adopts implementing rules. Transportation Code Chapter 731 and HB 1755 make no reference to  
15 assembled vehicles that were titled prior to the adoption of the department's implementing and  
16 administrative rules.

17 Titled assembled vehicles that are subsequently transferred would be transferred in the same  
18 manner as any used vehicle under Transportation Code Chapter 501 and Chapter 502, either because the  
19 vehicle was not initially titled under Transportation Code Chapter 731 and these rules, or because of  
20 §217.407 for vehicles initially titled under Transportation Code Chapter 731 and these rules.

21 As such, a title indicating ASVE as make may not indicate if and how Transportation Code §503.013  
22 applies. To aid in identification of assembled vehicles initially titled after the effective date of these rules

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1 and that cannot be transferred to or by a dealer under Transportation Code §503.013, the department  
2 will add a remark "NOT FOR DEALER RESALE."

3 The change has been made by the department adding to the text of §217.406(b) "A vehicle that  
4 is titled under Transportation Code Chapter 731 and this subchapter that cannot be transferred to or by  
5 a dealer under Transportation Code §503.013 shall have a "NOT FOR DEALER RESALE" remark included on  
6 the title." All affected persons were on notice of the limitation, because Transportation Code §503.013 is  
7 in statute, and the proposal discusses its limitations on the subsequent transfer of assembled vehicles  
8 titled under Transportation Code Chapter 731 and this subchapter. The change does not add new costs or  
9 affect the rights of persons owning vehicles titled before or after the effective date of the proposed rules,  
10 including dealers who may have such vehicles for sale.

11

12 **STATUTORY AUTHORITY.** The department adopts amendments to §217.3 and §§217.141-217.143 and  
13 new §§217.401 - 217.407 under Occupations Code §2301.155 and §2302.051; and Transportation Code  
14 §§501.0041, 502.0021, 504.011, 731.002, 731.051, 731.052, 731.101, and 1002.001.

15 Occupations Code §2301.155 authorizes the board of the Texas Department of Motor Vehicles  
16 to adopt rules as necessary or convenient to administer this chapter and to govern practice and  
17 procedure before the board.

18 Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer  
19 this chapter.

20 Transportation Code §501.0041 authorizes the department to adopt rules to administer  
21 Chapter 501.

22 Transportation Code §502.0021 authorizes the department to adopt rules to administer  
23 Chapter 502.

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1           Transportation Code §504.0011 authorizes the board to adopt rules to implement and  
2 administer Transportation Code Chapter 504.

3           Transportation Code §731.002 authorizes the board to adopt rules as necessary to implement  
4 and administer Transportation Code Chapter 731.

5           Transportation Code §731.051 authorizes the board to adopt rules under Transportation Code  
6 Chapter 731 for owners to apply for a title and register as provided by Chapters 501 and 502, as  
7 applicable, regardless of whether the assembled vehicle was built or assembled using a vehicle that was  
8 previously titled in this state or another jurisdiction.

9           Transportation Code §731.052 requires the board to adopt rules establishing procedures and  
10 requirements for: (1) issuance of a title for an assembled vehicle; and (2) registration of an assembled  
11 vehicle. Rules adopted under this section may not exclude a type of assembled vehicle, other than an  
12 assembled vehicle described by Section 731.051(b), from eligibility for title and registration; must  
13 establish the form of a title issued for an assembled vehicle; and must exempt an assembled vehicle or  
14 a type of assembled vehicle from any provision of Chapter 501 or 502 that an assembled vehicle or type  
15 of assembled vehicle, by its nature, cannot comply with or otherwise meet the requirements of.

16           Transportation Code §731.101 requires the board to adopt rules establishing procedures and  
17 requirements for the inspection required by Transportation Code §731.101. Rules adopted under  
18 Transportation Code §731.101: (1) must establish inspection criteria; (2) may specify additional items of  
19 equipment that must be inspected by a master technician and may specify different items of equipment  
20 that must be inspected based on the type of assembled vehicle; and (3) must require an owner of an  
21 assembled vehicle that is being inspected under this section to pay all fees required for the inspection,  
22 including any reinspection, in addition to all applicable fees required under Chapter 548 for an  
23 inspection or reinspection conducted under that chapter.

1 Transportation Code §1002.001 authorizes the board to adopt rules that are necessary and  
2 appropriate to implement the powers and the duties of the department.

3

4 **CROSS REFERENCE TO STATUTE.** Occupations Code §2301.0045 and §2302.009; and Transportation  
5 Code §§501.003, 501.032, 501.033, 501.036, 501.037, 501.052, 501.053, 503.013, 504.501, 731.051 -  
6 731.054, 731.101, and 731.102.

7

8 **Text.**

9

#### **SUBCHAPTER A. MOTOR VEHICLE TITLES.**

10

##### **§217.3. Motor Vehicle Titles**

11 Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is required to be  
12 titled, including any motor vehicle required to be registered in accordance with Transportation Code [r]  
13 Chapter 502, shall apply for a Texas title in accordance with Transportation Code [r] Chapter 501 or 731.

14 (1) Motorcycles, [~~motor-driven cycles,~~] autocycles, and mopeds.

15 (A) The title requirements for [~~of~~] a motorcycle, [~~motor-driven cycle,~~] autocycle,  
16 and moped are the same requirements prescribed for any motor vehicle.

17 (B) A vehicle that meets the criteria for a moped and has been certified as a  
18 moped by the Department of Public Safety will be registered and titled as a moped. If the vehicle does not  
19 appear on the list of certified mopeds published by that agency, the vehicle will be treated as a motorcycle  
20 for title and registration purposes.

21 (2) Farm vehicles.

22 (A) The term "motor vehicle" does not apply to implements of husbandry, which  
23 may not be titled.

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1 (B) Farm tractors owned by agencies exempt from registration fees in accordance  
2 with Transportation Code [;] §502.453, are required to be titled and registered with "Exempt" license  
3 plates issued in accordance with Transportation Code [;] §502.451.

4 (C) Farm tractors used as road tractors to mow rights of way or used to move  
5 commodities over the highway for hire are required to be registered and titled.

6 (D) Owners of farm trailers and farm semitrailers with a gross weight of 34,000  
7 pounds or less may apply for a Texas title. Owners of farm trailers and farm semitrailers with a gross  
8 weight in excess of 34,000 pounds shall apply for a Texas title. If a farm trailer or farm semitrailer with a  
9 gross weight of 34,000 pounds or less has been titled previously, any subsequent owner shall apply for a  
10 Texas title for the farm trailer or farm semitrailer. [~~Farm semitrailers with a gross weight of more than~~  
11 ~~4,000 pounds that are registered in accordance with Transportation Code, §502.146, may be issued a~~  
12 ~~Texas title.~~]

13 (3) Neighborhood electric vehicles. The title requirements of a neighborhood electric  
14 vehicle (NEV) are the same requirements prescribed for any motor vehicle.

15 (4) Trailers, semitrailers, and house trailers. Owners of trailers and semitrailers shall apply  
16 for [~~and receive~~] a Texas title for any [~~stand-alone (full)~~] trailer [~~, including homemade or shopmade full~~  
17 ~~trailers,~~] or [~~any~~] semitrailer with [~~having~~] a gross weight in excess of 4,000 pounds. Owners of trailers  
18 and semitrailers with [~~having~~] a gross weight of 4,000 pounds or less may apply for [~~and receive~~] a Texas  
19 title. If a trailer or semitrailer with a gross weight of 4,000 pounds or less has been titled previously, any  
20 subsequent owner shall apply for a Texas title for the trailer or semitrailer. House trailer-type vehicles  
21 must meet the criteria outlined in subparagraph (C) of this paragraph to be titled; [;]

22 (A) The rated carrying capacity will not be less than one-third of its empty weight.

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1 (B) Mobile office trailers, mobile oil field laboratories, and mobile oil field  
2 bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must be  
3 registered and titled as commercial semitrailers if operated on the public streets and highways.

4 (C) House trailer-type vehicles and camper trailers must meet the following  
5 criteria in order to be titled.

6 (i) A house trailer-type vehicle that is less than eight feet six inches in  
7 width or less than 45 feet in length is classified as a travel trailer and shall be registered and titled.

8 (ii) A camper trailer shall be titled as a house trailer and shall be registered  
9 with travel trailer license plates.

10 (iii) A recreational park model type trailer that is primarily designed as  
11 temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400  
12 square feet or less when measured at the largest horizontal projection when in the set up mode shall be  
13 titled as a house trailer and may be issued travel trailer license plates.

14 (5) Assembled vehicles. The title requirements for assembled vehicles are prescribed in  
15 Subchapter L of this title (relating to Assembled Vehicles).

16 ~~[(A) An assembled vehicle is a vehicle assembled from the three basic component~~  
17 ~~parts (motor, frame, and body), except that a motorcycle must have a frame and motor, and a trailer or~~  
18 ~~travel trailer will have no motor, and that is:]~~

19 ~~[(i) assembled from new or used materials and parts by someone not~~  
20 ~~regulated as a motor vehicle manufacturer;]~~

21 ~~[(ii) altered or modified to the extent that it no longer reflects the original~~  
22 ~~manufacturer's configuration; or]~~





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1 ~~subparagraph (B)(v) – (viii); however, it is subject to the inspection required by Transportation Code,~~  
2 ~~Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in~~  
3 ~~accordance with Transportation Code, §504.501.]~~

4 ~~[(F) An assembled vehicle will be titled using the year it was assembled as the~~  
5 ~~model year and "ASSEMBLED" or "ASVE" as the make of the vehicle unless the body of the vehicle is~~  
6 ~~established to the department's satisfaction to be an original body from a particular year and make. An~~  
7 ~~assembled vehicle utilizing an original body may be titled by the year and the make of the original body~~  
8 ~~but must reflect a "RECONSTRUCTED" remark. An assembled vehicle not utilizing an original body may~~  
9 ~~obtain a title with a "REPLICA" remark featuring the year and make of the replica if the vehicle resembles~~  
10 ~~a prior model year vehicle. This subparagraph applies regardless of how the vehicle's model year or make~~  
11 ~~was previously identified in this or any other jurisdiction.]~~

12 (6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the  
13 vehicle's previous title or [and/or] registration in this or any other jurisdiction:

14 (A) vehicles that are missing or are stripped of their motor, frame, or body, to the  
15 extent that [it materially alters] the vehicle loses its original identity [manufacturer's original design] or  
16 makes the vehicle unsafe for on-road operation as determined by the department;

17 ~~[(B) vehicles designed or determined by the department to be a dune buggy;]~~

18 (B) ~~[(C)]~~ vehicles designed by the manufacturer [or determined by the  
19 department to be] for on-track racing only [, unless such vehicles meet Federal Motor Vehicle Safety  
20 Standards (FMVSS) for on road use and are reported to the National Highway Traffic Safety  
21 Administration];

1                                    (C) ~~(D)~~ vehicles designed or determined by the department to be for off-highway  
2 ~~off-road~~ use only, unless specifically defined as a "motor vehicle" in Transportation Code [;] Chapter 501;

3 or

4                                    (D) ~~(E)~~ vehicles assembled, built, constructed, rebuilt, or reconstructed in any  
5 manner with:

6                                    (i) a body or frame from a vehicle which is a "nonrepairable motor  
7 vehicle" as that term is defined in Transportation Code [;] §501.091(9); or

8                                    (ii) a motor or engine from a vehicle which is flood damaged, water  
9 damaged, or any other term which may reasonably establish the vehicle from which the motor or engine  
10 was obtained is a loss due to a water related event.

11

12

#### SUBCHAPTER G. INSPECTIONS.

##### §217.141. Purpose and Scope.

14 This subchapter prescribes the policies and procedures necessary to protect the public by requiring  
15 inspection of assembled vehicles ~~[street rods and custom vehicles]~~, accurately identify the identity of a  
16 motor vehicle, and provides department approved training programs which if successfully completed  
17 qualify a person to conduct vehicle identification number inspections.

18

##### §217.142. Definitions.

20                                    (a) The definitions in Transportation Code §731.001 apply to this subchapter.

21                                    (b) The following words and terms, when used in this subchapter, shall have the following  
22 meanings, unless the context clearly indicates otherwise.

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1 (1) ["Modified"] Altered from the manufacturer's original design ["Modified"] - as that term is used in  
2 §504.501(f), Transportation Code, is defined as the removal, addition, modification, or substitution, of at  
3 least one major component part, as defined in Transportation Code §501.091, except that an engine,  
4 frame, and body or cab, must be replaced if removed.

5 (2) Applicant - a person applying for title to an assembled vehicle who:

6 (A) is a hobbyist;

7 (B) is the owner of an assembled vehicle that has not been previously titled as an  
8 assembled vehicle; or

9 (C) purchased an assembled vehicle constructed and designated by the  
10 manufacturer as a replica, custom vehicle, street rod, or glider kit. ["Custom vehicle" has the meaning  
11 assigned by §504.501(f)(1), Transportation Code.]

12 (3) Equipment - items and systems, including the connection points of the items and  
13 systems, to include the frame; chassis; structural components; wheel assembly; tires; brake system,  
14 including each brake, power brake unit, and all integral items of the system; steering system, including  
15 power steering, and all integral items of the system; front seat belts if constructed with seat belt  
16 anchorage; body; drivetrain; suspension; motor; fuel supply system and all integral items of the system;  
17 exhaust system and all integral items of the system; mirrors; windshield; windshield wipers; turn signal  
18 lamps; beam indicator; head lamps, minimum of two; tail lamps; stop lamps; and rear red reflectors. This  
19 term includes the basic component parts of motor, body, and frame, as defined in §217.402 of this  
20 chapter; and some major component parts as defined in Transportation Code §501.091. The term basic  
21 component part is defined by rule to identify the parts that will be used in determining evidence of  
22 ownership. The term major component part is defined by statute for use in determining whether the

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1 vehicle is a custom vehicle or street rod. ["Major component part" has the meaning assigned by §501.091,  
2 Transportation Code.]

3 (4) Manufacturer - is a person that builds an assembled vehicle and is not a hobbyist, has  
4 the meaning as defined in Occupations Code §2301.002, and is subject to the requirements of that chapter  
5 applicable to manufacturers, including sale through a franchise dealer network. ["Street rod" has the  
6 meaning assigned by §504.501(f)(2), Transportation Code.]

7 (5) Master technician - a person who holds a valid certification as a Certified Master  
8 Automobile and Light Truck Technician, or equivalent successor certification, issued by the National  
9 Institute for Automotive Service Excellence.

10

11 **§217.143. ~~[Custom Vehicle and Street Rod] Inspection Requirements.~~**

12 (a) On initial titling of an assembled vehicle under Transportation Code Chapter 731, and  
13 Subchapter L of this title (relating to Assembled Vehicles), with the exception of an assembled motorcycle,  
14 assembled trailer, and glider kit, an applicant [registration including registration at the time of title  
15 transfer, of a custom vehicle or street rod, the applicant] must provide proof, on a form prescribed  
16 [provided] by the department, of a safety inspection performed by a master technician [an Automotive  
17 Service Excellence (ASE) technician with valid certification as a Certified Master Automobile and Light  
18 Truck Technician].

19 (b) In addition to the requirement under subsection (a) of this section, an owner applying for initial  
20 registration of a custom vehicle or street rod must provide proof, on a form prescribed by the department,  
21 of a safety inspection performed by a master technician under this section as required under  
22 Transportation Code §504.501(e).

23 (c) The inspection must evaluate the structural integrity and proper function of the equipment.



## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1           (a) Transportation Code Chapter 731, charges the department with the responsibility of  
2 establishing procedures and requirements for issuance of title and registration for an assembled vehicle.  
3 For the department to efficiently and effectively issue motor vehicle titles, maintain records, and collect  
4 the applicable fees, this subchapter prescribes the policies and procedures for the application for and  
5 issuance of motor vehicle titles to assembled vehicles.

6           (b) For purposes of this subchapter, a glider kit issued a title with a "RECONSTRUCTED" remark is  
7 a replica.

8

9 **§217.402. Definitions.**

10           (a) The definitions in Transportation Code §731.001, apply to this subchapter.

11           (b) The following words and terms, when used in this subchapter, shall have the following  
12 meanings, unless the context clearly indicates otherwise:

13                   (1) Applicant - a person applying for title to an assembled vehicle who:

14                                   (A) is a hobbyist;

15                                   (B) is the owner of an assembled vehicle that has not been previously titled as an  
16 assembled vehicle; or

17                                   (C) purchased an assembled vehicle constructed and designated by the  
18 manufacturer as a replica, custom vehicle, street rod, or glider kit.

19                   (2) Basic component part - the motor, body, and frame of an assembled vehicle, as  
20 applicable to the type of assembled vehicle. This term is a subset of "major component part" as defined  
21 in Transportation Code §501.091, but the term "basic component part" is not applicable in determining  
22 whether a vehicle qualifies as a custom vehicle or street rod under Transportation Code §504.501(f),  
23 which is the purpose of the term "major component part."

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1                   (3) Continuous sale - is offering for sale or the sale of five or more assembled vehicles of  
2 the same type in a calendar year when such vehicles are not owned and titled in the name of the owner.

3                   (4) Manufacturer - is a person that builds an assembled vehicle and is not a hobbyist, has  
4 the meaning as defined in Occupations Code §2301.002, and is subject to the requirements of that chapter  
5 applicable to manufacturers, including sale through a franchise dealer network.

6                   (5) Personal use - is the construction of an assembled vehicle by a hobbyist for use by the  
7 hobbyist.

8  
9 **§217.403. Assembled Vehicle Titles.**

10                   (a) An applicant must apply for initial title in the applicant's name as provided by Transportation  
11 Code Chapter 731, and this subchapter in order to register an assembled vehicle for operation on a public  
12 roadway or prior to transfer of ownership.

13                   (b) The ownership transfer of an assembled vehicle titled under subsection (a) of this section must  
14 be in accordance with §217.407 of this subchapter (relating to Title and Registration of a Titled Assembled  
15 Vehicle).

16                   (c) Unless the assembled vehicle is ineligible for title or registration for a reason listed under  
17 Transportation Code §731.051(b), the department shall issue a title for an assembled vehicle:

18                   (1) that passes the inspection required under §217.143 of this chapter (relating to  
19 Assembled Vehicle Inspection Requirements), and Transportation Code §731.101;

20                   (2) that, in addition to the inspection described in paragraph (1) of this subsection, passes  
21 an inspection required by Transportation Code Chapter 548, as applicable; and

22                   (3) following receipt of a fully completed application and all required forms and fees, as  
23 identified in §217.404 of this subchapter (relating to Initial Application for Title).

1

2 **§217.404. Initial Application for Title.**

3 (a) Prior to applying for title, an applicant must submit to the department a complete application  
4 for title. The application may be submitted in person, by mail, or electronically, to the department. The  
5 application must include:

6 (1) photographs of the front, rear, and side of the assembled vehicle, and if a replica, a  
7 photograph of what the vehicle is a replica of;

8 (2) evidence of ownership of the basic component parts of the assembled vehicle as  
9 described in §217.405 of this subchapter (relating to Evidence of Ownership), as applicable to the type of  
10 assembled vehicle;

11 (3) if applicable, proof, on a form prescribed by the department, of a safety inspection  
12 required under §217.143 of this chapter (relating to Assembled Vehicle Inspection Requirements), and  
13 Transportation Code §731.101;

14 (4) if applicable, a copy of the Automobile and Light Truck certification, or a successor  
15 certification, for the master technician who completed the inspection described in paragraph (3) of this  
16 subsection;

17 (5) a copy of the inspection that may be required under Transportation Code Chapter 548  
18 if the assembled vehicle is to be registered for operation on the roadway;

19 (6) a Rebuilt Vehicle Statement;

20 (7) a weight certificate;

21 (8) identification as required in §217.5(d) of this chapter (relating to Evidence of Motor  
22 Vehicle Ownership); and

23 (9) any of the following means to establish the vehicle identification number:

1                   (A) an Application for Assigned or Reassigned Number, and Notice of Assigned  
2 Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the  
3 department;

4                   (B) an Application for Assigned or Reassigned Number, establishing the vehicle  
5 identification number assigned by the manufacturer of the component part by which the assembled  
6 vehicle will be identified;

7                   (C) acceptable proof, as established by the department, of a vehicle identification  
8 number assigned by the maker of the kit used to construct the assembled vehicle; or

9                   (D) acceptable proof, as established by the department, of a vehicle identification  
10 number assigned by the manufacturer of the replica, custom vehicle, street rod, or glider kit.

11           (b) Following receipt of all information required under subsection (a) of this section, the  
12 department will review the application for completeness and to determine that the vehicle meets  
13 assembled vehicle qualifications.

14           (c) If the department determines that the application is complete and the vehicle meets  
15 assembled vehicle qualifications, the department will issue a letter to the applicant on department  
16 letterhead, stating that the application is complete and that the vehicle qualifies as an assembled vehicle.  
17 The letter shall include a list of the supporting documents and information identified in subsection (d)(2)  
18 of this section.

19           (d) Following receipt of the department's letter described in subsection (c) of this section, the  
20 applicant may then submit the letter and the completed application to the county tax assessor-collector  
21 for processing. The application must include:

22                   (1) the department-issued letter described in subsection (c) of this section;

1                   (2) copies of all items required to be submitted to the department in subsection (a)(1) -  
2 (9) of this section; and

3                   (3) the requirements as identified in §217.23 of this chapter (relating to Initial Application  
4 for Vehicle Registration) if obtaining registration.

5  
6 **§217.405. Evidence of Ownership.**

7                   (a) Evidence of ownership in the name of or properly assigned to the applicant must accompany  
8 the title application submitted to the department.

9                   (b) The evidence of ownership for a replica, custom vehicle, street rod, or glider kit built by a  
10 manufacturer must be a manufacturer's certificate of origin, indicating:

11                   (1) the vehicle identification number assigned to the vehicle by the manufacturer;

12                   (2) the make as ASVE, unless a glider kit;

13                   (3) a notation the vehicle is a replica and what the vehicle is a replica of if a replica, custom  
14 vehicle, or street rod; and

15                   (4) the municipality and state in which the vehicle was completed.

16                   (c) The evidence of ownership for an assembled vehicle not previously titled as an assembled  
17 vehicle by the owner, or built by a hobbyist, must contain the identifying number(s) of the corresponding  
18 basic component part(s). Evidence of ownership is required for basic component parts used from a vehicle  
19 titled in the name of the applicant, depending on the year and manufacturer of the vehicle. The following  
20 evidence of ownership is required if the assembled vehicle is constructed with basic component parts  
21 from a vehicle not titled in the name of the applicant:

22                   (1) Motor. A bill of sale is required.

## Title 43. TRANSPORTATION

Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1                   (2) Frame. A bill of sale, certificate of origin, or title depending on the year and  
2 manufacturer of the frame.

3                   (3) Body. A bill of sale, certificate of origin, or title depending on the year and  
4 manufacturer of the body.

5                   (4) Kit. A bill of sale or certificate of origin for the kit.

6                   (5) New fabrication. A bill of sale, invoice, or receipts covering the material used to  
7 construct the basic component part.

8                   (d) An owner who is unable to obtain the evidence of ownership required under subsection (a) of  
9 this section may:

10                   (1) file a bond with the department in accordance with Transportation Code §501.053,  
11 and §217.9 of this chapter (relating to Bonded Titles); and

12                   (2) submit an application for title in the same manner as an applicant in accordance with  
13 Transportation Code Chapter 731, and this subchapter.

14                   (e) The department will assign a number or reassign the manufacturer's vehicle identification  
15 number to an assembled vehicle based on the result of the vehicle inspection under §217.404(a)(9)(A) or  
16 (B) of this subchapter (relating to Initial Application for Title). The owner under subsection (d) of this  
17 section establishing the vehicle identification number of an assembled vehicle under §217.404(a)(9)(A) or  
18 (B) of this subchapter, may use the vehicle identification number to satisfy the vehicle identification  
19 number requirement under §217.9 of this chapter and obtain a bond under §217.9 of this chapter to be  
20 filed with the department. The bond will be evidence of ownership under subsection (a) of this section.

21

22 **§217.406. Title Issuance**

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1           (a) Issuance. The county tax assessor-collector shall process the application for title and issue a  
2 receipt upon receiving:

3                   (1) a completed application for title;

4                   (2) required documents identified in §217.404(d) of this subchapter (relating to Initial  
5 Application for Title);

6                   (3) the statutory fee for a title application, unless exempt under:

7                           (A) Transportation Code §501.138; or

8                           (B) Government Code §437.217, and copies of official military orders are  
9 presented as evidence of the person's active duty status and deployment orders to a hostile fire zone; and

10                   (4) any other applicable fees.

11           (b) Form of Title. In addition to the requirements under Transportation Code §731.053, an  
12 assembled vehicle, other than an assembled trailer, will be titled using the year it was assembled as the  
13 model year and "ASVE" for assembled as the make of the vehicle unless it is established to the  
14 department's satisfaction to be constructed from original parts that reflect an established year and make  
15 of a manufactured vehicle. An assembled vehicle constructed from original parts that reflect an  
16 established year and make of a manufactured vehicle will be titled by that year and make, but must reflect  
17 a "RECONSTRUCTED" remark if the component parts, excluding the motor, used to construct the vehicle  
18 are not original to that vehicle. An assembled vehicle not utilizing an original body may obtain a title with  
19 a "REPLICA" remark featuring the year and make of the replica if the vehicle resembles a prior model year  
20 vehicle. This subsection applies regardless of how the vehicle's model year or make was previously  
21 identified in this or any other jurisdiction. An assembled trailer will be titled using the year it was  
22 assembled as the model year and "HMDE" for homemade as the make. A vehicle that is titled under

## Title 43. TRANSPORTATION

## Adopted Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 217 – Vehicle Titles and Registration

1 Transportation Code Chapter 731 and this subchapter that cannot be transferred to or by a dealer under  
2 Transportation Code §503.013 shall have a "NOT FOR DEALER RESALE" remark included on the title.

3 (c) Distribution. The department will issue and mail or deliver a title to the applicant, or if a lien is  
4 disclosed in the application, to the first lienholder unless the title is an electronic record of title.

5 (d) Receipt. The receipt issued at the time of application for title may be used only as evidence of  
6 title and may not be used to transfer any interest or ownership in a motor vehicle or to establish a new  
7 lien.

8  
9 **§217.407. Title and Registration of a Titled Assembled Vehicle.**

10 (a) After an assembled vehicle is titled under Transportation Code Chapter 731, and this  
11 subchapter, the assembled vehicle is subject to Transportation Code Chapters 501 and 502, and this  
12 subchapter, except as provided in subsection (c) of this section.

13 (b) An assembled vehicle that is titled or registered in another jurisdiction, may be titled and  
14 registered in this jurisdiction subject to Transportation Code Chapters 501 and 502, and this subchapter,  
15 except as provided in subsection (c) of this section.

16 (c) An assembled vehicle may not be:

17 (1) transferred to or by a dealer licensed under Transportation Code Chapter 503, unless  
18 the assembled vehicle title contains a "REPLICA" remark; or

19 (2) rebuilt by a salvage dealer licensed under Occupations Code Chapter 2302, as part of  
20 engaging in a business or activity regulated under Chapter 2302.

21 (d) An assembled vehicle previously titled that has been disassembled and reassembled is subject  
22 to Transportation Code Chapter 731, and this subchapter.

23

Title 43. TRANSPORTATION

Adopted Sections

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 **CERTIFICATION.** The department certifies that legal counsel has reviewed the adoption and found it to be  
2 a valid exercise of the agency's legal authority.

3 Issued at Austin, Texas, on MONTH DAY, YEAR.

4

5

6

Tracey Beaver, General Counsel

DRAFT

Board Meeting Date: 4/2/2020  
ACTION ITEM

To: Texas Department of Motor Vehicles Board  
From: Jeremiah Kuntz, Vehicle Titles & Registration Division Director  
Agenda Item: 11  
Subject: Special Plate Designs

### **RECOMMENDATION**

The Vehicle Titles and Registration Division (VTR) seeks board approval or denial of three plate designs submitted for your consideration. The plate designs are from the marketing vendor, My Plates. The Auburn University, Florida State University and the Dallas Cowboys-Silver Crossover plate designs are redesigns of the existing license plates. The Auburn University plate has been offered for sale since 2010 and 449 have been sold as of February 2020. The Florida State University plate has been offered for sale since 2014 and 388 have been sold as of February 2020. The Dallas Cowboys plate has been offered for sale since 2001 and 1,789 have been sold as of February 2020.

### **PURPOSE AND EXECUTIVE SUMMARY**

Statutory authority for the board to approve vendor specialty license plates and invite the public's comment on proposed vendor plate designs are in Texas Transportation Code Section 504.851 (g) and (g-1) (1). The board's approval criteria are clarified in Administrative Codes §217.45 *Specialty License Plates, Symbols, Tabs, and Other Devices* and §217.52 *Marketing of Specialty License Plates through a Private Vendor*.

Texas Transportation Code Section 504.6011, *General Provisions Applicable to Specialty License Plates for General Distribution Sold through Private Vendor*, allows for a sponsor of a specialty license plate through the TxDMV program to crossover and contract with the private vendor. The Dallas Cowboys-Silver Crossover plate design is a redesign of a plate in the TxDMV program that is crossing over to the My Plates program. If the Dallas Cowboys-Silver plate design is approved by the Board, the Dallas Cowboys will cease offering the Dallas Cowboys plate for sale through the TxDMV program and begin offering the plate for sale through the private vendor.

The vendor contract (Statement of Work paragraph #2, *Marketing Services*) specifies that following the board's contingent approval of a plate, the vendor must get at least 200 commitments within six months of the approval for a plate to be produced. (Equally, existing plates must maintain 200 registered to stay in the program.) My Plates' procedure is to first offer a plate to the public to register their interest. Following the board's contingent approval, My Plates then offers a plate online for prepaid orders. My Plates confirms when 200 prepaid orders are achieved. Since March 2014, the board has contingently approved 30 vendor plates. Of the 30, nine did not achieve the required 200 commitments and were not produced.

TxDMV's procedure is to invite comments on all proposed plates ahead of the board's review. The department's intent is to determine if there are any unforeseen public concerns about a plate design. The department publishes a 10-day "like/dislike/comment-by-email" survey, called an eView, on its website. Although the survey counts the public's "likes" and "dislikes," it is unscientific and not used as an indicator of a plate's popularity. The vendor's OU plate, for example, received thousands of eView "dislikes" in 2010 (presumably because of college football rivalry) and has since sold over 988 plates.

The plate designs were presented to the public in a February 2020 eView. No negative comments were received. The count of the public’s “like/dislikes” are below with the designs.

**Auburn University (Redesign)**

236 people liked this design and 80 did not

**Current Design**



**Redesign**



**Florida State University (Redesign)**

121 people liked this design and 77 did not

**Current Design**



**Redesign**



**Dallas Cowboys - Silver Crossover (Redesign)**

208 people liked this design and 55 did not

**Current Design**



**Redesign**



**Auburn University (Redesign)**

**Redesign**



**Current Design**



Florida State University (Redesign)

Redesign



Current Design



**Dallas Cowboys - Silver Crossover (Redesign)**

**Redesign**



**Current Design**



# TEXAS SPECIALTY PLATE BUSINESS

Vehicle Titles and  
Registration Division  
Special Plates Unit  
(5 FTEs) 4/20



Division Director  
Jeremiah Kuntz



Texas Department  
of Motor Vehicles

## TOP FIVE REGISTERED MYPLATES LICENSE PLATES

Rank	Name	Currently Registered
1	LARGE STAR WHITE/BLACK	38,150
2	CLASSIC BLACK	30,763
3	TEXAS BLACK 1845	16,292
4	LONE STAR BLACK	10,029
5	CARBON FIBER	4,700

## TOP FIVE REGISTERED MILITARY MERITORIOUS SERVICE LICENSE PLATES

Rank	Name	Currently Registered
1	MERITORIOUS SERVICE MEDAL	10,387
2	BRONZE STAR MEDAL	8,417
3	AIR MEDAL	6,114
4	LEGION OF MERIT	3,624
5	DISTINGUISHED FLYING CROSS	1,725

## TOP FIVE REGISTERED TXDMV NON-VENDOR CHARITY PLATES

Rank	Name	Currently Registered
1	ANIMAL FRIENDLY	9,838
2	CONSERVATION HORNED LIZARD	7,730
3	STATE OF THE ARTS	6,611
4	CONSERVATION BLUEBONNET	4,876
5	CONSERVATION WHITE-TAILED DEER	3,435

## TOP FIVE REGISTERED MILITARY PLATES

Rank	Name	Currently Registered
1	DISABLED VETERAN	206,231
2	DISABLED VETERAN U.S. ARMY	42,953
3	DISABLED VETERAN U.S. MARINE CORP	20,898
4	DISABLED VETERAN U.S. AIR FORCE	18,418
5	PURPLE HEART	15,737

SLP AVAILABLE	494:
MILITARY AND DV	190
RESTRICTED USE	51
STATE SPECIALTY	131
VENDOR SPECIALTY	122

### SPECIAL PLATES UNIT CUSTOMER SERVICE FY 2020

**23,338**  
Personalized Plate  
Applications Reviewed  
(9% declined)

**2,728**  
Telephone Calls

**2**  
Walk-in Customers

**1,151**  
Email

**150**  
Refunds

**15**  
Public Information/  
Open Records

**10,912**  
Correspondence  
(including plate applications)

Board Meeting Date: 4/2/2020  
ACTION ITEM

To: Texas Department of Motor Vehicles Board  
From: Sandra Menjivar-Suddeath, Internal Audit Division Director  
Agenda Item: 12.A  
Subject: Delegation of Authority to the Executive Director for the Execution of the Co-Source Internal Audit Services Contract

### RECOMMENDATION

Delegate authority to the Executive Director for the execution of the Co-Source Internal Audit Services Contract.

### PURPOSE AND EXECUTIVE SUMMARY

The Department solicited for co-source internal audit services to address and audit various information security items that meet internal audit standards. The co-source internal audit services would allow the Department, and the Internal Audit Division (IAD), to enter into a contract with a vendor that has knowledge on auditing specific information security programs and controls each year. This would provide more assurance to the Department on information security programs and controls.

### FINANCIAL IMPACT

The proposed contract will have an initial one-year term from execution until August 31, 2020 and may be renewed up to three additional fiscal years under the same scope of work. The proposed cost for the contract is not to exceed \$280,000 for the initial term and three renewals.

### BACKGROUND AND DISCUSSION

During fiscal year 2019, a need to constantly audit the Department's information security programs and controls was identified. IAD and Information Technology Services Division collaborated on identifying high-risk areas to audit in the information security program and documented it through the Cybersecurity road map. To be able to audit the identified areas within the requested timeframe, the Department submitted a Request for Proposal (RFP) for co-sourcing audit services. Co-sourcing audit services would allow IAD to audit areas that require specialize knowledge while still retaining the day-to-day project management and ensuring audits meet audit and Department standards. In addition, it would provide staff with the opportunity to learn some specialized skill set.

The co-sourcing audit services RFP was to find a vendor that has expertise in auditing various information security items and have the knowledge, skills, and abilities to review systems and understand whether the systems/controls are sufficient. IAD, specifically, was looking for a vendor that can evaluate program and control effectiveness using the National Institute of Standards and Technology (NIST) Cybersecurity framework, Texas Cybersecurity Framework, and Control Objectives for Information and Related Technology (COBIT) as well as having knowledge and expertise in dealing with third party data center programs, such as the State of Texas's Data Center Services (DCS) program.

**Board Meeting Date: 4/2/2020**  
**ACTION ITEM**

**To:** Texas Department of Motor Vehicles Board  
**From:** Jimmy Archer, Motor Carrier Division Director  
**Agenda Item:** 12.B  
**Subject:** Board Approval of Capital Spending Authority for the 2019 Innovative Technology Deployment (ITD) Grant Awarded by the Federal Motor Carrier Safety Administration (FMCSA)

**RECOMMENDATION**

Request that the Board of the Texas Department of Motor Vehicles (TxDMV) approve the following:

Creation of a new capital line item in the TxDMV’s FY 2020 budget financed by the 2019 Innovative Technology Deployment (ITD) Grant awarded by the Federal Motor Carrier Safety (FMCSA). The federal grant award provides for the upgrade of the department’s online registration of commercial vehicles engaged in interstate operations for the Texas International Registration Plan.

**FINANCIAL IMPACT**

The funding for the project is \$1,290,000 with \$1,096,500 in federal reimbursement of expenditures and \$193,500 as the State’s 15% match. The match is funded by the department’s approved FY 2020 Capital Budget for Acquisition of Information Resource Technologies, Application Improvement and Automation line item (6) shown in red font on the next page.

**Excerpt from GAA, 86<sup>th</sup> Legislature, Regular Session, Article VII Department of Motor Vehicles Capital Budget.** None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below shall be expended only for the purposes shown and are not available for expenditures for other purposes. Amounts appropriated above and identified in this provision as appropriations either for "Lease Payments to the Master Lease Purchase Program or for items with a "(MLPP)" notation shall be expended only for the purpose of making lease-purchase payments to the Texas Public Finance Authority pursuant to the provisions of Government Code Section 1232.103.

	<b>FY 2020</b>	<b>FY 2021</b>
a. Repair or Rehabilitation of Buildings and Facilities		
(1.) Regional Service Centers Maintenance	\$250,000	\$250,000
b. Acquisition of Information Resource Technologies	\$6,566,078	\$0

(1) TxDMV Automation System		
Continued	<b>FY 2020</b>	<b>FY 2021</b>
(2) Growth and Enhancements – Agency Operations Support	\$807,498	\$807,498
3) Technology Replacement & Upgrades – Regional Support for Tax Assessor-Collector Offices.	5,000,000	5,000,000
(4) PC Replacement	\$225,800	\$225,800
(5) Consumer Protection and Enforcement Tracking	470,000	97,500
(6) Application Improvement and Automation	1,000,000	1,000,000
<b>Total, Acquisition of Information Technologies</b>	<b>14,069,376</b>	<b>6,155,798</b>

#### BACKGROUND AND DISCUSSION

TxDMV received approval from the Federal Motor Carrier Safety Administration (FMCSA) for the Information Technology Deployment (ITD) Program grant. Specific capital authority for the TxIRP System Upgrade is not included in the agency's bill pattern for capital expenditures. General Appropriations Act, 86<sup>th</sup> Legislature, Regular Session, Article IX, Section 14.03(h)(2) Capital Budget Transfer Authority requires the department to obtain board approval to establish a new capital project line item in the fiscal year 2020 budget. Subsequent approvals must also be secured by the Governor's Office of Budget and Planning and the Legislative Budget Board following TxDMV Board approval.

Funding for the FY 2019 High Priority-ITD Grant Program began on September 23, 2019 and ends on September 30, 2023. The U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) grant agreement is included for reference.



**Federal Motor Carrier Safety  
Administration**

**Grant Agreement**

1. RECIPIENT NAME AND ADDRESS Texas Department of Motor Vehicles 4000 Jackson Ave Austin, TX 78731-6007	2. AGREEMENT NUMBER: 69A3601940236MHP0TX	3. AMENDMENT NO. 0		
	4. PROJECT PERFORMANCE PERIOD: FROM		TO	09/30/2023
	5. FEDERAL FUNDING PERIOD: FROM		TO	09/30/2023
1A. IRS/VENDOR NO. 300573457	6. ACTION New			
1B. DUNS NO. 967583902				

7. CFDA#: 20.237	<b>TITLE</b>	<b>FEDERAL</b>	<b>NON-FEDERAL</b>	<b>TOTAL</b>
8. PROJECT TITLE FY 2019 HP-ITD Grant Program	9. PREVIOUS AGREEMENTS	0.00	0.00	0.00
	10. THIS AGREEMENT	1,096,500.00	193,500.00	1,290,000.00
	11. TOTAL AGREEMENT	1,096,500.00	193,500.00	1,290,000.00

12. INCORPORATED ATTACHMENTS  
THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF:  
FMCSA Financial Assistance Agreement General Provisions and Assurances; Recipient project plan and budget incorporated by reference unless/except as noted below.

13. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT  
49 U.S.C. §§ 31102(l); 31104 (2016), as amended by the FAST Act, Pub. L. No. 114-94, §§ 5101(a) and (c) (2015), Consolidated Appropriations Act 2019, Pub. L. No.116-6

14. REMARKS  
See award conditions.

<b>GRANTEE ACCEPTANCE</b>		<b>AGENCY APPROVAL</b>	
15. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL		17. NAME AND TITLE OF AUTHORIZED FMCSA OFFICIAL	
16. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL	16A. DATE	18. SIGNATURE OF AUTHORIZED FMCSA OFFICIAL	18A. DATE

**AGENCY USE ONLY**

19. OBJECT CLASS CODE: 41000      20. ORGANIZATION CODE: M600000000

21. ACCOUNTING CLASSIFICATION CODES	BY	BPAC	AMOUNT
DOCUMENT NUMBER      FUND			
FM-MHP-0445-19-01-00      17X05719MH	2019	0905710MHP	1,096,500.00

Federal Financial Report Cycle			
Reporting Period Start Date	Reporting Period End Date	Reporting Type	Reporting Period Due Date
09/23/2019	09/30/2019	Quarterly	10/30/2019
10/01/2019	12/31/2019	Quarterly	01/30/2020
01/01/2020	03/31/2020	Quarterly	04/30/2020
04/01/2020	06/30/2020	Quarterly	07/30/2020
07/01/2020	09/30/2020	Quarterly	10/30/2020
10/01/2020	12/31/2020	Quarterly	01/30/2021
01/01/2021	03/31/2021	Quarterly	04/30/2021
04/01/2021	06/30/2021	Quarterly	07/30/2021
07/01/2021	09/30/2021	Quarterly	10/30/2021
10/01/2021	12/31/2021	Quarterly	01/30/2022
01/01/2022	03/31/2022	Quarterly	04/30/2022
04/01/2022	06/30/2022	Quarterly	07/30/2022
07/01/2022	09/30/2022	Quarterly	10/30/2022
10/01/2022	12/31/2022	Quarterly	01/30/2023
01/01/2023	03/31/2023	Quarterly	04/30/2023
04/01/2023	06/30/2023	Quarterly	07/30/2023
07/01/2023	09/30/2023	Final	12/29/2023

**AWARD CONDITIONS**

1. This Notice of Grant Award (NGA) awards the Recipient with the total award amount authorized in Block 11 to implement the FY 2019 High Priority Grant Program.

The FMCSA approves the total project plan, line item budget and budget narrative as requested in the original application. The FY 2019 total recommended amount is \$1,290,000. (Federal award = \$1,096,500. / State match = \$193,500).

If the recipient is requesting indirect costs, the recipient may not request reimbursement for these costs until it has submitted a current approved indirect cost rate agreement to the FMCSA Division Office, and the GMO mailbox below:

FMCSAWSCGMOHelpDesk@dot.gov

The recipient and any sub-recipient must also comply with the applicable attached FMCSA general terms and conditions, which are incorporated into this NGA. Failure to comply with the attached terms and conditions and any additional provisions directly reflected in this NGA may result in enforcement actions as outlined in 2 CFR §§ 200.338 and 200.339

## AWARD ATTACHMENTS

Texas Department of Motor Vehicles

FM-MHP-0445-19-01-00

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1. Terms and Conditions

**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
FINANCIAL ASSISTANCE AGREEMENT GENERAL TERMS AND CONDITIONS**

**Section 1. Grant Authority**

**a. Contract Authority.**

The Federal Motor Carrier Safety Administration's (FMCSA) authorizing legislation, The Fixing America's Surface Transportation Act [FAST Act], Pub. L.No. 114-94, §5101 (2015) granted FMCSA contract authority. As codified in 49 U.S.C. §31104, the Secretary of Transportation's approval of the grant funds made available imposes a contractual obligation upon the United States for payment of the Government's share of costs in carrying out the grant objectives.

**b. Lapse in Appropriations and/or Authorization.**

Except in limited circumstances, the absence of FMCSA appropriations and/or authorization prevents the continuation of Federal supervision and support to the performance of a grant. In the absence of such supervision or support, the Recipient may only continue to proceed with its work if (1) the performance of such grant is not incurring obligations from the lapsed appropriations; (2) if continued grant management supervision or support is not critical to the Recipient's continued performance of the work; (3) and FMCSA has approved the continuation of such work. FMCSA will make such determinations in accordance with the Executive Office of the President, Office of Management and Budget, Memorandum "Planning for Agency Operations During a Lapse in Government Funding "(April 7, 2011), and any amendments or updated guidance thereto.

**Section 2. Effective Date.**

Recipient acknowledges that Federal funds are obligated on the effective date of the Grant Agreement. The effective date is the date that the Grant Agreement contains the authorized signatures of both parties to this agreement. Where the dates accompanying the signatures differ from party to party, the effective date of the Grant Agreement shall be the most recent of these dates.

**Section 3. Electronic Signatures.**

The Recipient understands that electronic signatures are binding. An electronic signature to the Grant Agreement commits the Recipient to these Provisions and Assurances, as well as all requirements denoted in Section 4.

## **Section 4. General Requirements.**

### **a. Obligation of Recipient to Comply.**

The Recipient understands that by signing the Grant Agreement, the Recipient is agreeing to carry out the approved project plan and the approved budget and to comply with all applicable Federal laws and requirements imposed by the FMCSA concerning special requirements of law, program requirements, and other administrative requirements. This includes, but is not limited to: (1) 49 U.S.C. chapters 311 and 313 (2016), as applicable and denoted in the Notice of Grant Agreement; (2) FAST Act, Pub. L. No. 114-94, §§ 5101 and 5104 (2015), as applicable and denoted in the Notice of Grant Agreement; (3) U.S. Department of Transportation (DOT) regulations; (4) the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200); and (5) the Federal Grant and Cooperative Agreement Act of 1977.

For all Federal awards, compliance with statutory and national policy requirements also includes the provisions of the Federal Funding and Accountability Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the Act for the non-Federal entity, codified at 2 C.F.R. part 25 and 2 C.F.R. part 170. See also statutory requirements for whistleblower protections at 10 U.S.C. §§ 2324 and 2409 and 41 U.S.C. §§ 4304, 4310, and 4712.

### **b. Application of Federal, State, and Local Laws and Regulations.**

#### **i. Federal Laws.**

The Recipient understands that Federal laws, regulations, policies, and related administrative practices applicable to this Agreement on the date the Agreement was executed may be modified from time to time. The Recipient agrees that the most recent of such Federal requirements will govern the administration of this Agreement at any particular time. Likewise, new Federal laws, regulations, policies and administrative practices may be established after the date the Agreement has been executed and may apply to this Agreement. To achieve compliance with changing Federal requirements, the Recipient agrees to include in all Subrecipient agreements and third-party contracts financed with FMCSA assistance, specific notice that Federal requirements may change and the changed requirements will apply to the Project as required. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements.

#### **ii. State or Territorial Law and Local Law.**

Except to the extent that a Federal statute or regulation preempts State or territorial law, nothing in this Agreement shall require the Recipient to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or territorial law;

however, if any of the provisions of this Agreement violate any applicable State or territorial law, or if compliance with the provisions of this Agreement would require the Recipient to violate any applicable State or territorial law, the Recipient agrees to notify the FMCSA immediately in writing in order that FMCSA and the Recipient may make appropriate arrangements to proceed with the Project as soon as possible.

**c. Subrecipients.**

State Recipients shall follow State law and procedures when awarding and administering subawards to local and Indian tribal governments including 2 C.F.R. § 200.317. All other non-federal entities, including Subrecipients of a State, will follow 2 C.F.R. § 200.318, General procurement standards, through § 200.326, Contract provision, as well as the Standards for Financial and Program Management, at §§ 200.300 through 200.309.

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**d. Subawards.**

Subaward means an award provided by a pass-through entity to a Subrecipient for the Subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

**e. Pass-Through Entity.**

Pass-through entity means a non-Federal entity that provides a subaward to a Subrecipient to carry out part of a Federal program. All Pass-Through Entities must comply fully with 2 C.F.R. §§ 200.330, 200.331, 200.332, and 200.505.

**f. Prohibition Against Transferring An Award.**

The Recipient is prohibited from transferring or subrogating their rights and responsibilities of the grant program and funds associated with that grant to another entity. Subrogation is when a non-federal entity substitutes another entity, not awarded the subject grant by FMCSA, to a lawful claim, demand, or right, so that that entity succeeds to the rights of the other in relation to the debt or claim, and its rights, remedies, or fund access. The act of subawarding to a Subrecipient is not considered as the subrogation of the Recipient's award.

**Section 5. Internal Controls. The Recipient must:**

- a. Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework," issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO);
- b. Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards;
- c. Evaluate and monitor the non-Federal entity's compliance with statute, regulations and the terms and conditions of Federal awards;
- d. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and
- e. Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.

**Section 6. Ethics.****a. Written Code of Ethics.**

The Recipient agrees to maintain a written code or standards of ethical conduct that shall govern the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts supported by Federal funds. The code or standards shall provide that the Recipient's officers, employees, board members, or agents may neither solicit nor accept gratuities, favors or anything of monetary value from present or potential contractors, Subrecipients, or regulated entities. The Recipient may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. As permitted by State or local law or regulations, such code or standards shall provide for penalties, sanctions, or other disciplinary actions for violations by the Recipient's officers, employees, board members, or agents, or by contractors or Subrecipients or their agents.

**b. Personal Conflict of Interest.**

The Recipient's code or standards must provide that no employee, officer, board member, or agent of the Recipient may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be

involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm selected for award:

- i. The employee, officer, board member, or agent;
- ii. Any member of his or her immediate family;
- iii. His or her partner; or
- iv. An organization that employs, is considering to employ, or is about to employ, any of the above.

**c. Organizational Conflicts of Interest.**

The Recipient's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interests. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third-party contract or subaward, may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or Subrecipient or impair the contractor's or Subrecipient's objectivity in performing the contract work.

**Section 7. Hatch Act.**

The Recipient agrees to comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7321-7326), which limit the political activities of state or local employees whose principal employment is in connection with programs financed in whole or in part by loans or grants made by the United States or a Federal agency. The Hatch Act specifically exempts employees of educational institutions, and the Hatch is not applicable to private, nonprofit organizations unless the statutes through which the nonprofit organizations derive their federal funding contain a provision stating that the recipient organizations are deemed to be state or local government agencies for purposes of the Hatch Act. On December 19, 2012, Congress passed the Hatch Act Modernization Act of 2012 (the Act). The Act became effective on January 27, 2013. Now, only state, D.C., or local government employees whose salaries are paid for entirely by federal funds are prohibited from running for partisan office. All other state, D.C., and local employees, even if they are otherwise covered by Hatch Act restrictions are free under the Hatch Act to run for partisan office.

**Section 8. Limitation on Use of Federal Funds for Lobbying for Grants in Excess of \$100,000.**

By signing this agreement, the Recipient declares that it is in compliance with 31 U.S.C. § 1352, which prohibits the use of federally appropriated funds to influence a Federal employee, officer, or Member of Congress in connection with the making or modification of any Federal grant, loan, contract, or cooperative agreement. Unless the payment of funds is otherwise reported to FMCSA, signing this agreement constitutes a declaration that no funds, including funds not federally appropriated, were used or agreed to be used to influence this grant.

Recipients of subawards in excess of \$100,000 must make the same declarations to the Recipient. With respect to the payment of funds not federally appropriated by the Recipient and

Subrecipients, the Recipient must report to the FMCSA the name and address of each person paid or performing services for which payment is made, the amount paid, and the activity for which the person was paid.

### **Section 9. Contracting (Federal Standards).**

The Recipient and Subrecipients agree to comply with the Procurement Standards requirements set forth at 2 C.F.R. §§ 200.317 through 200.326 inclusive, whichever may be applicable, and with applicable supplementary U.S. DOT or FMCSA directives or regulations. If determined necessary for proper Project administration, FMCSA reserves the right to review the Recipient's technical specifications and requirements.

### **Section 10. Notification Requirement.**

With respect to any procurement for goods and services (including construction services) having an aggregate value of \$500,000 or more, the Recipient agrees to:

- a. Specify in any announcement of the awarding of the contract for such goods or services the amount of Federal funds that will be used to finance the acquisition; and
- b. Express the said amount as a percentage of the total costs of the planned acquisition.

### **Section 11. Debarment and Suspension.**

The Recipient agrees to obtain certifications on debarment and suspension from its third-party contractors and Subrecipients and otherwise comply with U.S. DOT regulations, Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants), 49 C.F.R. part 32. This action of certification shall take place for each federal year, regardless of prior certification completed for a Subrecipient or contractor.

### **Section 12. Notification of Third Party Contract or Subaward Disputes or Breaches.**

The Recipient agrees to notify FMCSA of any current or prospective major dispute, breach, or litigation pertaining to any third-party contract or subaward. If the Recipient seeks to name FMCSA as a party to litigation for any reason, the Recipient agrees first to inform FMCSA before doing so. This provision applies to any type of litigation whatsoever, in any forum.

### **Section 13. Participation by Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.**

FMCSA encourages the Recipient to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals (as that term is defined for other DOT agencies in 49 C.F.R. part 26) in carrying out the Project.

## **Section 14. Records Retention.**

### **a. Requirement to Retain Records.**

During the course of the Project and for three years after the final Federal financial report is submitted (form SF-425), the Recipient agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as FMCSA may require. Reporting and record-keeping requirements are set forth in 2 C.F.R. § 200.333.

### **b. Access to Recipient and Subrecipient Records.**

The Recipient, and related subrecipients, will give FMCSA, the Secretary of Transportation, the Comptroller General of the United States, or any of their duly authorized representatives, and, if appropriate the State, through any authorized representative, access to and the right to examine all records, books, papers or documents related to the award and will establish a proper accounting system in accordance with generally accepted accounting standards. Access requirements to records are set forth in 2 C.F.R. § 200.336.

## **Section 15. Audit and Inspection.**

### **a. Inspector General Act of 1978.**

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3 § 1 et seq., an audit of the award may be conducted at any time.

### **b. Single Audit Act Amendments of 1996.**

The Recipient agrees to undergo the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 C.F.R. § 200.501.

### **c. Other Audit Requirements.**

A Recipient that is: (a) a State, local government or Indian tribal government, an institution of higher education or nonprofit organization agrees to comply with the audit requirements of 2 C.F.R. § 200.501, and any revision or supplement thereto; (c) a private for-profit organization agrees to comply with the audit requirements of 2 C.F.R. § 200.501(h).

It is imperative that Recipients submit required Single Audits within the time limits specified in the Circular. The Recipient agrees to submit the data collection form and copies of the reporting package required under the Single Audit Act Amendments of 1996 and 2 C.F.R. § 200.501 to:

The Federal Audit Clearinghouse Bureau of the Census  
1201 East 10 Street,  
Jefferson, IN 47132.

The Recipient agrees to obtain any other audits required by FMCSA. Project closeout will not alter the Recipient's audit responsibilities. Audit costs for Project administration and management are allowable under this Project to the extent authorized by 2 C.F.R. § 200.501.

The Recipient agrees to permit FMCSA, the Secretary of Transportation and the Comptroller General of the United States, or their authorized representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Recipient and its Subrecipients pertaining to the Project. The Recipient agrees to require each Subrecipient to permit the Secretary of Transportation and the Comptroller General of the United States, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that subaward, and to audit the books, records, and accounts involving that subaward as it affects the Project.

#### **Section 16. Responsibility for Reporting Fraudulent Activity, Waste, and Abuse.**

The Recipient understands that the Federal government shall pursue administrative, civil, or criminal action under a variety of statutes relating to fraud and making false statement or claims.

The Recipient is required to contact the DOT, the Office of Inspector General (OIG), if the Recipient becomes aware of the existence (or apparent existence) of fraudulent activity, waste, or abuse.

The OIG has authority within the DOT to conduct criminal investigations. The DOT OIG maintains a post office box and a toll-free hotline for receiving information from individuals concerning fraud, waste, or abuse under DOT grants and cooperative agreements. The hotline is available 24 hours a day, 7 days a week at <https://www.oig.dot.gov/Hotline>. The identity of the caller is kept confidential, and callers are not required to give their names.

Examples of fraud, waste, and abuse that should be reported include, but are not limited to, embezzlement, misuse, or misappropriation of grant funds or property, and false statements, whether by organizations or individuals. Other examples include, but not limited to, theft of grant funds for personal use; using funds for non-grant-related purposes; theft of federally owned property or property acquired or leased under a grant; charging inflated building rental fees for a building owned by the Recipient; submitting false financial reports; and submitting false financial data in bids submitted to the Recipient (for eventual payment under the grant).

#### **Section 17. Budget and Finance.**

The Recipient agrees to carry out Agreement activities and seek reimbursement in accordance with the Approved Project Budget after securing FMCSA written approval. The funding of items identified in the budget constitutes FMCSA's authorization for the Recipient to incur these costs, if they are allowable, allocable, necessary, and reasonable. Furthermore, funds cannot be spent that violate any FMCSA policy or grants manual. Costs not specifically budgeted in this Agreement may be allowable if prior approval is not required and costs are

incurred consistently with the applicable cost principles.

Prior Approval means written permission provided by an FMCSA authorized official in advance of an act that would result in either (1) the obligation or expenditure of funds or (2) the performance or modification of an activity under the grant-supported project where such approval is required. Prior approval must be obtained in writing from the designated Grants Management Officer or FMCSA authorized official for the grant involved. Documentation of the approved budget on the Notice of Grant Award constitutes prior approval. Prior approval applies for the performance of activities and expenditure of funds as described in the grant application, unless otherwise restricted by the terms and conditions of the Agreement.

In accordance with 2 C.F.R. § 200.407 and § 200.308, the Recipient must obtain prior , written approval from FMCSA before making any revisions to the approved project budget and/or project plan: (1) extending the project period of the grant beyond the project period end date specified in the most recent revision of the Agreement; (2) that would require any transfer of funds between Standard Form (SF) 424A (direct-cost budget categories) cumulatively greater than ten percent of the total approved project budget; or (3) that require the addition of expenditures for items or services not approved in the original project plan. Examples include: increased cost of equipment purchased; subawarding, transferring or contracting out of any work under a Federal award not included in the original approved budget; or a first-time request to recover indirect costs.

The Recipient agrees to submit a request for prior approval no less than 30 days prior to the expiration of the Agreement. The FMCSA will not process requests for prior approval received less than 30 days from the Agreement expiration date. Within 30 calendar days from the date of the Recipient's request for prior approval, FMCSA will review the request and notify the Recipient whether the request has been approved. If the revision is still under consideration at the end of 30 calendar days, FMCSA will inform the Recipient in writing of the date when the Recipient may expect the decision.

The Recipient may, without prior approval from FMCSA, make any reasonable and necessary modification to the project budget if such deviations do not cumulatively exceed, or expect to exceed, ten percent of the total approved project amount and provided that such deviations only involve the transfer of funds between expenditure items, cost objectives or categories authorized by FMCSA in the currently approved budget. The Recipient agrees to notify FMCSA of this change.

The Recipient agrees to establish and maintain for the Project either a separate set of accounts or accounts within the framework of an established accounting system, in a manner consistent with 2 C.F.R. § 200.302. Consistent with the provisions of 2 C.F.R. § 200.305, the Recipient agrees to record in the Project Account, and deposit in a financial institution all Project payments received by it from FMCSA pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received because the Project (Project Funds). The Recipient is encouraged to use financial institutions owned at least 50 percent by minority group members.

All costs charged to the Project, including any approved services contributed by the Recipient

or others, shall be supported by properly executed payroll documents, time and attendance records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. All match expenditures shall be supported by appropriate records. The Recipient also agrees to maintain accurate records of all Program Income derived from Project implementation. The Recipient agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other financial documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate from documents not pertaining to the Project.

## **Section 18. Payments.**

### **a. Request by the Recipient for Payment.**

The Recipient's request for payment of the Federal share of approved costs shall be made to FMCSA and will be acted upon by FMCSA as set forth in this section. Each payment made to the Recipient must be in compliance with Department of the Treasury regulations, "Rules and Procedures for Funds Transfers, 31 C.F.R. part 205. To receive a Federal assistance payment, the Recipient must:

- i.** Have demonstrated or certified that it has made a binding commitment of non-Federal funds, if applicable, adequate when combined with Federal payments, to cover all costs to be incurred under the Project to date. A Recipient required by Federal statute or this Agreement to provide contributory matching funds or a cost share agrees:
  - A.** To refrain from requesting or obtaining Federal funds in excess of the amount justified by the contributory matching funds or cost share that has been provided; and
  - B.** To refrain from taking any action that would cause the proportion of Federal funds made available to the Project at any time to exceed the percentage authorized under this Agreement. The requirement for contributory matching funds or cost share may be temporarily waived only to the extent expressly provided in writing by FMCSA.
- ii.** Have submitted to FMCSA all financial and progress reports required to date under this Agreement;
- iii.** Have identified the source(s) of financial assistance provided under this Project, if applicable, from which the payment is to be derived; and
- iv.** Have expended any earned Program Income before requesting any federal funds for reimbursement.

**b. Delphi eInvoicing System for DOT Financial Assistance Awardees.**

Subject to the requirements in 2 C.F.R. § 200.305, payments will be made after receipt of required FMC SA reporting forms and supporting documentation. Each payment request must be made electronically via the Delphi eInvoicing System.

The following are the procedures for accessing and utilizing the Delphi eInvoicing System.

**i. Grant Recipient Requirements.**

- A.** Recipient must have internet access to register and submit payment requests through the Delphi eInvoicing system.
- B.** Recipient must submit payment requests electronically and FMCSA must process payment requests electronically.

**ii. System User Requirements.**

- A.** Recipients should contact FMCSA to request access to the system. The FMCSA will provide the Recipient's name and email address to the DOT Financial Management Office. The DOT will then notify the Recipient to register for the system through an electronic invitation. The Recipient must complete online training prior to DOT giving system access.
- B.** The DOT will send the Recipient an email with an electronic form to verify the Recipient's identity. The Recipient must complete the form, and present it to a Notary Public for verification. The Recipient will return the notarized form to:

DOT Enterprise Services Center  
FAA Accounts Payable, AMZ-1 00  
PO Box 25710  
Oklahoma City, OK 73125.

- C.** The DOT will validate the form and email a user ID and password to the Recipient. The Recipient should contact the FMCSA grants management office with changes to their system information.

- D.** Note: Additional information, including access forms and training materials, can be found on the DOT eInvoicing website:

<https://www.transportation.gov/cfo/delphi-einvoicing-system>

#### E. Waivers.

DOT Financial Management officials may, in highly limited circumstances and on a case by case basis, waive the requirement to register and use the electronic grant payment system. Waiver request forms can be obtained on the DOT elnvoicing website <https://www.transportation.gov/cfo/delphi-invoicing-system> or by contacting FMCSA.

Recipients must explain why they are unable to use or access the internet to register and enter payment requests.

#### c. **Reimbursement Payment by FMCSA. If the reimbursement method is used, the Recipient agrees to:**

- i. Complete and submit Standard Form 3881, "Payment Information Form - ACH Payment Vendor Payment System," to FAA-ESC; and
- ii. Complete and submit, on at least a quarterly basis, Standard Form 270, "Request for Advance or Reimbursement," to FMCSA.
- iii. Possess and maintain a current DUNs number and entity registration with the System for Award Management ([www.sam.gov](http://www.sam.gov)).

Upon receipt of a payment request and adequate accompanying information (invoices in accordance with applicable cost principles), FMCSA will authorize payment by direct deposit provided the Recipient: (i) is in compliance with its obligations under this Agreement, (ii) has satisfied FMCSA that it needs the requested Federal funds during the requisition period, and (iii) is making adequate and timely progress toward Project completion. If all these circumstances are present, FMCSA may reimburse approved costs incurred by the Recipient up to the maximum amount of FMCSA's share of the total Project funding. FMCSA will employ a payment term of 20 days. The clock will start running for payment on receipt of the invoice by FMCSA's financial processor.

#### d. Other Payment Information.

The Recipient agrees to adhere to and impose on its Subrecipients all applicable foregoing "Payment by FMCSA" requirements of this Agreement. If the Recipient fails to adhere to the foregoing "Payment by FMCSA" requirements of this Agreement, FMCSA may revoke the portion of the Recipient's funds that has not been expended.

#### e. Effect of Program Income, Refunds, and Audit Recoveries on Payment.

In accordance with 2 C.F.R. § 200.305(b)(5) State, local government, nonprofit organizations and Indian tribal Recipients and Subrecipients shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on

such funds before requesting additional cash reimbursements.

**f. Reimbursable Costs.**

The Recipient's expenditures will be reimbursed only if they meet all requirements set forth below:

- i.** Conform with the Project description and the approved Project Budget and all other terms of this Agreement;
- ii.** Be necessary to accomplish the Project;
- iii.** Be reasonable for the goods or services purchased;
- iv.** Be actual net costs to the Recipient (i.e., the price paid minus any refunds, rebates, or other items of value received by the Recipient that have the effect of reducing the cost actually incurred);
- v.** Be incurred (and be for work performed) after the Federal Funding Period start date of this Agreement, unless specific prior authorization from FMCSA to the contrary is received in writing (pre-award costs);
- vi.** Unless permitted otherwise by Federal statute or regulation, conform with Federal guidelines or regulations and Federal cost principles as set forth below:
  - A.** For Recipients that are governmental organizations, institutions of higher education, private non-profit organizations, the cost principles of 2 C.F.R. § 200, subpart E; and
  - B.** For Recipients that are for-profit organizations, the standards of the Federal Acquisition Regulations, 48 C.F.R. part 31.2, "Contracts with Commercial Organizations" apply.
- vii.** Be satisfactorily documented; and
- viii.** Be treated uniformly and consistently as non-Federal funds under accounting principles and procedures approved and prescribed by FMCSA for the Recipient, and those approved or prescribed by the Recipient for its Subrecipients and contractors.

**g. Indirect Costs.**

If indirect costs are included in the approved budget, the Recipient may not request these costs for reimbursement absent a current approved indirect cost rate agreement submitted to the FMCSA Division Office, and included as part of the official grant record.

Indirect costs will not be reimbursed without documentation of an approved indirect cost rate from the Recipient's cognizant agency; however, a Recipient or Subrecipient that has never had a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely, without documentation. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time

As described in 2 C.F.R. § 200.403, factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double-charged or inconsistently charged as both. Except as provided above, if a Recipient intends to request reimbursement of indirect costs, the Recipient must submit the proper documentation before vouchers are submitted for reimbursement. The Recipient must indicate in its budget that it will be seeking indirect costs, and a placeholder indirect cost rate will suffice until an approved rate can be determined.

The Recipient must obtain prior approval through formal amendment in order to recover indirect costs at an approved rate higher than the place holder indirect cost rate if the cumulative amount of such transfer exceeds or is expected to exceed 10 percent of the total approved budget.

The Recipient may not request additional grant funds to recover indirect costs that it cannot recover by shifting funding from direct costs to indirect costs. After this Grant Agreement has been signed, any request for changes to the indirect cost rate will require an amendment and must be approved by formal amendment if the change to the indirect cost rate is a new rate or would cause the cumulative amount of a budget transfer to exceed 10 percent of the total approved budget.

The cognizant agency for indirect costs may allow for a one-time extension of the current indirect cost rate of up to four years without further negotiation of a federally approved indirect cost rate. If the cognizant agency permits any one-time extension, the Recipient is locked in with that indirect cost rate until the end of the approved extension.

- h. Pre-Award Costs. A Recipient may be reimbursed for obligations incurred before the effective date of the award if:**
- i.** The Recipient receives prior written approval from the FMCSA before the effective date of the grant agreement;
  - ii.** The costs are necessary to conduct the project; and
  - iii.** The costs would be allowable under the grant, if awarded.

If a specific expenditure would otherwise require prior approval before making the expenditure (i.e. pursuant to 2 C.F.R. § 200.407), then the Recipient must obtain FMCSA written approval before incurring the cost.

Recipient understands that the incurrence of pre-award costs in anticipation of an award is taken at the Recipient's risk and imposes no obligation on FMCSA to make the award or to increase the amount of the approved budget if (1) there is no award subsequently made;(2) an award is made for less than anticipated and is inadequate to cover the pre-award costs incurred; or (3) there are inadequate appropriations.

**i. Disallowed Costs.**

In determining the amount of Federal assistance FMCSA will provide, FMCSA will exclude:

- i.** Any Project costs incurred by the Recipient before the effective date of this Agreement, or amendment or modification thereof, whichever is later, unless otherwise permitted by Federal Law or regulation, or unless an authorized representative of FMCSA states in writing to the contrary;
- ii.** Any costs incurred by the Recipient that are not included in the latest approved Project Budget; and
- iii.** Any costs attributable to goods or services received under a contract or other arrangement that is required to be, but has not been, concurred with or approved in writing by FMCSA.

The Recipient agrees that reimbursement of any cost under the "Payment by FMCSA," part of this Agreement does not constitute a final FMCSA decision about the allowability of that cost and does not constitute a waiver of any violation by the Recipient of the terms of this Agreement. The Recipient understands that FMCSA will not make a final determination about the allowability of any cost until an audit of the Project has been completed. If FMCSA determines that the Recipient is not entitled to receive any part of the Federal funds requested, FMCSA will notify the Recipient stating the reasons thereof. Project closeout will not alter the Recipient's obligation to return any funds due to FMCSA as a result of later refunds, corrections, or other transactions. Nor will Project closeout alter FMCSA's right to disallow costs and recover funds based on a later audit or other review. Unless prohibited by law,

FMCSA may offset any Federal assistance funds to be made available under this Project as needed to satisfy any outstanding monetary claims that the Federal Government may have against the Recipient. Exceptions pertaining to disallowed costs will be assessed based on their applicability, as set forth in the applicable Federal cost principals or other written Federal guidance.

## **Section 19. Program Income.**

Recipient agrees to comply with the regulations relating to program income, located at 2 C.F.R. §§ 200.305(b)(5) and 200.307 for State, local government, Indian tribal recipients, and non-profit organizations, and their Subrecipients.

Program income means gross income earned by the Recipient, Subrecipient, or contractor under a grant that is directly generated by a grant-supported activity or earned because of the award during the award period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

Program income includes, but is not limited to, user charges or user fees, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them. Per 2 C.F.R. § 200.307 (c), Governmental revenues, taxes, special assessments, levies, fines, and other such revenues raised by a non-Federal entity are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income.

Recipients agree to use the Program income in accordance with 2 C.F.R. §§ 200.305(b)(5) 200.307 for State, local government, nonprofit organizations and Indian tribal recipients and subrecipients.

## **Section 20. Reports.**

### **a. Performance Progress Reports.**

The Recipient will submit, at a minimum, quarterly performance progress reports and a final performance progress report at the completion of the award (within 90 days after) to the agency point of contact listed in the award document. Recipient must submit all performance progress report forms required by FMCSA. These reports will cover the period: January 1 -March 31, April 1-June 30, July 1- September 30, and October 1- December 31. The Recipient shall furnish one (1) copy of a quarterly performance progress report to the district office and respective Grant Manager, on or before the thirtieth (30th) calendar day of the month following the end of the quarter being reported. Each quarterly report shall set forth concise statements concerning activities relevant to the Project, and shall include, but not be limited to, the following:

- i.** An account of significant progress (findings, events, trends, etc.) made during the reporting period;
- ii.** A description of any technical and/or cost problem(s) encountered or anticipated

that will affect completion of the grant within the time and fiscal constraints as set forth in this Agreement, together with recommended solutions or corrective action plans (with dates) to such problems, or identification of specific action that is required by the FMCSA, or a statement that no problems were encountered;

- iii. An outline of work and activities planned for the next reporting period; and
- iv. A status update/resolution for all outstanding findings from program reviews and/or audits.

**b. Quarterly Financial Status Reports.**

The Recipient shall furnish one (1) copy of a quarterly financial status report to the division, and one (1) copy to the respective Grant Manager, on or before the thirtieth (30th) calendar day of the month following the end of the quarter being reported. The Recipient shall use SF-425, Federal Financial Report, to report the status of funds for all non-construction projects or programs. If the Recipient's accounting records are not normally kept on an accrual basis, the Recipient shall not be required to convert its accounting system, but shall develop such accrual information through an analysis of the documentation on hand. The Recipient shall certify to the expenditure of its proposed cost share for the period being reported, in the "Remarks" block.

**Section 21. Non-Discrimination.**

The Recipient will comply with all Federal authorities relating to nondiscrimination. These include, but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 Stat. 252), which prohibits discrimination on the basis of race, color, or national origin, as implemented by 49 C.F.R. § 21.1 et seq. and 49 C.F.R. § 303;
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324, et seq.), which prohibits discrimination on the basis of sex;
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 et seq.), which prohibits discrimination on the basis of sex in education programs or activities, as implemented by 49 C.F.R. § 25.1 et seq.;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, which prohibits discrimination on the basis of disability and 49 C.F.R. part 27;
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 - 12189), as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation

- regulations at 49 C.F.R. parts 37 and 38;
- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), "which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.";
  - Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prohibits discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
  - Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting Department of Transportation guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP);
  - Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. § 2000e et seq., 78 Stat. 252), which prohibits discrimination in employment on basis of race, color, national origin, religion, or disability, as implemented by 29 C.F.R. § 1601.1, et seq.
  - The Recipient also agrees to comply with the FMCSA Standard Title VI/Non-Discrimination Assurances (DOT Order No. 1050.2A).

## **Section 22. Executive Order on Equal Opportunity Related to Contracts.**

The Recipient will comply with all Federal statutes and Executive Orders relating to Equal Employment Opportunity.

The Recipient agrees to incorporate in all contracts having a value of over \$10,000, the provisions requiring compliance with Executive Order 11246, as amended, and implementing regulations of the United States Department of Labor at 41 C.F.R. part 60, the provisions of which, other than the standard EEO clause and applicable goals for employment of minorities and women, may be incorporated by reference.

The Recipient agrees to ensure that its contractors and subcontractors, regardless of tier, awarding contracts and/or issuing purchase orders for material, supplies, or equipment over \$10,000 in value will incorporate the required EEO provisions in such contracts and purchase orders.

## **Section 23. Employment Policies.**

The Recipient further agrees that its own employment policies and practices will be without discrimination based on race, color, religion, sex, national origin, disability or age; and that it has an affirmative action plan (AAP) consistent with the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. § 1607, and the Affirmative Action Guidelines, 29 C.F.R. § 1608. The applicant/Recipient shall provide the AAP to FMCSA for inspection or copy upon request.

## **Section 24. Property.**

### **a. General.**

In general, title to equipment and supplies acquired by a Recipient with DOT funds vests in the Recipient upon acquisition, subject to the property management requirements of 2 C.F.R. §§ 200.302(b)(4); 200.307(d); 200.310; 200.313; 200.316; and 200.344(4).

A Recipient that is a State, local, or Indian tribal governments, institutions of higher education, and non-profits agrees to comply with the property management standards detailed in 2 C.F.R. §§ 200.312 and 200.313, including any amendments thereto, and with other applicable Federal regulations and directives. A Recipient that is a for-profit entity agrees to comply with property management standards satisfactory to FMCSA.

### **b. Use of Project Property.**

- i.** The State Recipient agrees to use Project property for the purpose for which it was acquired under the period of performance of the Grant. State Recipients acknowledge that the FMCSA may ensure that the purpose of the grant is being satisfied. State Recipients acknowledge that FMCSA may request a copy of the State statute and procedures in determining whether a State is in compliance with its own State procedures, and to assist the FMCSA in determining the allocability, reasonableness, and allowability of costs.
- ii.** The Non-State Recipient agrees to use Project property for appropriate Project purposes (which may include joint development purposes that generate program income, both during and after the award period, beginning on the effective date, and used to support public transportation activities) for the duration of the useful life of that property, as required by FMCSA. Should the Recipient unreasonably delay or fail to use Project property during the useful life of that property, the Recipient agrees that it may be required to return the entire amount of the Federal assistance expended on that property. The Non-State Recipient further agrees to notify FMCSA immediately when any Project property is withdrawn from Project use or when any Project property is used in a manner substantially different from the representations the Recipient has made in its Application or in the Project Description for the Grant Agreement or Cooperative Agreement for the Project.

### **c. Maintenance.**

The State Recipient agrees to maintain Project property in accordance with State law and procedures.

The Non-State Recipient agrees to maintain Project property in good operating order, in compliance with any applicable Federal regulations or directives that may be issued.

**d. Records.**

The State Recipient agrees to maintain property records in accordance with State law and procedures. The Non-State Recipient agrees to keep satisfactory property records pertaining to the use of Project property, and submit to FMCSA upon request such information as may be required with this agreement.

**e. Incidental Use.**

Any incidental use of Project property will not exceed that permitted under applicable Federal laws, regulations, and directives.

**f. Encumbrance of Project Property.**

- i.** The State Recipient agrees to maintain satisfactory continuing control of Project property in accordance with State law and procedures. The State Recipient understands that an encumbrance of project property may not interfere with the purpose for which the equipment was purchased.
- ii.** The Non-State Recipient agrees to maintain satisfactory continuing control of Project property as follows:

**A. Written Transactions.**

The Non-State Recipient agrees that it will not execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, third-party contract, subaward, grant anticipation note, alienation, innovative finance arrangement (such as a cross border lease, leveraged lease, or otherwise), or any other obligation pertaining to Project property, that in any way would affect the continuing Federal interest in that Project property.

**B. Oral Transactions.**

The Non-State Recipient agrees that it will not obligate itself in any manner to any third-party with respect to Project property.

**C. Other Actions.**

The Non-State Recipient agrees that it will not take any action adversely affecting the Federal interest in or impair the Recipient's continuing control of the use of Project property.

- D.** The Non-State Recipient agrees that no use under this section will interfere with the purpose for which the equipment was purchased.

**g. Transfer of Project Property.**

- i.** The State Recipient agrees to transfer Project property in accordance with State law and procedures.
- ii.** The Non-State Recipient understands and agrees as follows:

**A. Transfers.**

The Non-State Recipient may transfer any Project property financed with Federal assistance authorized under 49 U.S.C. chapter 53 to a public body to be used for any public purpose with no further obligation to the Federal Government, provided the transfer is approved by the FMCSA Administrator and conforms with the requirements of 49 U.S.C. §§ 5334(h)(1) and (2). Any leasing or rental of equipment purchased by federal funds or state match/cost sharing, during the period of performance will be considered program income and will be managed, expended, and reported per 2 C.F.R. § 200.307.

**B. Federal Government Direction.**

The Non-State Recipient agrees that the Federal Government may direct the disposition of, and even require the Recipient to transfer, title to any Project property financed with Federal assistance under the Grant Agreement or Cooperative Agreement.

**h. Leasing Project Property to Another Party.**

If the Non-State Recipient leases any Project property to another party, the Non-State Recipient agrees to retain ownership of the leased Project property, and assure that the lessee will use the Project property appropriately, either through a written lease between the Non-State Recipient and lessee, or another similar document.

Upon request by FMCSA, the Non-State Recipient agrees to provide a copy of any relevant documents. Any leasing or rental of equipment purchased by federal funds or state match/cost sharing, during the period of performance will be considered program income and will be managed, expended, and reported per 2 C.F.R. § 200.307.

**i. Disposition of Project Property.**

- i.** The State Recipient may use its own disposition procedures, provided that those procedures comply with the laws of that State.
- ii.** The Non-State Recipient agrees to dispose of Project property as follows:

- A. With prior FMCSA approval, the Non-State Recipient may sell, transfer, or lease Project property and use the proceeds to reduce the gross project cost of other eligible capital public transportation projects to the extent permitted by 49 U.S.C. §5334(h)(4). The Non-State Recipient also agrees that FMCSA may establish the useful life of Project property, and that it will use Project property continuously and appropriately throughout the useful life of that property.
- B. Project Property with Expired Useful Life. When the useful life of Project property has expired, the Non-State Recipient agrees to comply with FMCSA's disposition requirements.
- C. Project Property Prematurely Withdrawn from Use. For Project property withdrawn from appropriate use before its useful life has expired, the Recipient agrees as follows:
- D. Notification Requirement. The Non-State Recipient agrees to notify FMCSA immediately when any Project property is prematurely withdrawn from appropriate use, whether by planned withdrawal, misuse, or casualty loss.
- E. Calculating the Fair Market Value of Prematurely Withdrawn Project Property. The Non-State Recipient agrees that the Federal Government retains a Federal interest in the fair market value of Project property prematurely withdrawn from appropriate use. The amount of the Federal interest in the Project property shall be determined by the ratio of the Federal assistance awarded for the property to the actual cost of the property. The Non-State Recipient agrees that the fair market value of Project property prematurely withdrawn from use will be calculated as follows:
  - 1. **Equipment and Supplies.** The Non-State Recipient agrees that the fair market value of Project equipment and supplies shall be calculated by straight-line depreciation of that property, based on the useful life of the equipment or supplies as established or approved by FMCSA. Information on straight line depreciation may be found in the Internal Revenue Code. The fair market value of Project equipment and supplies shall be the value immediately before the occurrence prompting the withdrawal of the equipment or supplies from appropriate use. In the case of Project equipment or supplies lost or damaged by fire, casualty, or natural disaster, the fair market value shall be calculated on the basis of the condition of that equipment or supplies immediately before the fire, casualty, or natural disaster, irrespective of the extent of insurance coverage.

2. **Real Property.** The Non-State Recipient agrees that the fair market value of real property shall be determined either by competent appraisal based on an appropriate date approved by the Federal Government, as provided by 49 C.F.R. part 24, or by straight line depreciation, whichever is greater.
3. **Exceptional Circumstances.** The Non-State Recipient agrees that the Federal Government may require the use of another method to determine the fair market value of Project property. In unusual circumstances, the Non-State Recipient may request that another reasonable valuation method be used including, but not limited to, accelerated depreciation, comparable sales, or established market values. In determining whether to approve such a request, the Federal Government may consider any action taken, omission made, or unfortunate occurrence suffered by the Non-State Recipient with respect to the preservation of Project property withdrawn from appropriate use.

**j. Financial Obligations to the Federal Government.**

The Recipient agrees to remit to the Federal Government the Federal interest in the fair market value of any Project property prematurely withdrawn from appropriate use. In the case of fire, casualty, or natural disaster, the Recipient may fulfill its obligations to remit the Federal interest by either:

Investing an amount equal to the remaining Federal interest in like-kind property that is eligible for assistance within the scope of the Project that provided Federal assistance for the Project property prematurely withdrawn from use; or

Returning to the Federal Government an amount equal to the remaining Federal interest in the withdrawn Project property.

**k. Insurance Proceeds.**

If the Recipient receives insurance proceeds as a result of damage or destruction to the Project property, the Recipient agrees to:

- i. Apply those insurance proceeds to the cost of replacing the damaged or destroyed Project property taken out of service, or
- ii. Return to the Federal Government an amount equal to the remaining Federal interest in the damaged or destroyed Project property.

**l. Transportation of Hazardous Materials.**

The Recipient agrees to comply with applicable requirements of U.S. Pipeline and Hazardous Materials Safety Administration regulations, "Shippers - General Requirements for Shipments and Packagings," 49 C.F.R. part 173, in connection with the transportation of any hazardous materials.

**m. Misused or Damaged Project Property.**

If any damage to Project property results from abuse or misuse occurring with the Recipient's knowledge and consent, the Recipient agrees to restore the Project property to its original condition or refund the value of the Federal interest in that property, as the Federal Government may require.

**n. Responsibilities after Project Closeout.**

The Recipient agrees that Project closeout by FMCSA will not change the Recipient's Project property management responsibilities as stated in these Grant Provisions and Assurances, and as may be set forth in subsequent Federal laws, regulations, and directives, except to the extent the Federal Government determines otherwise in writing.

**Section 25. Davis-Bacon Act Requirements.**

The Recipient agrees to comply, as applicable, with the provisions of the Davis Bacon Act (40 U.S.C. § 3145 and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 et seq.) regarding labor standards for federally-assisted construction sub-agreements.

**Section 26. Environmental Requirements.**

The Recipient agrees to comply, as applicable, with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

## **Section 27. Government Rights (Unlimited).**

FMCSA shall have unlimited rights for the benefit of the Government in all other work developed in the performance of this Agreement, including the right to use same on any other Government work without additional cost to FMCSA. The rights to any inventions made by a Recipient under an FMCSA financial assistance award are determined by the Bayh-Dole Act, Pub. L. 96-517, as amended, and codified in 35 U.S.C. § 200, et seq., except as otherwise provided by law.

### **a. Patent Rights.**

If any invention, improvement, or discovery of the Recipient or any of its third-party contractors is conceived or first actually reduced to practice in the course of or under this Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Recipient agrees to notify FMCSA immediately and provide a detailed report. The rights and responsibilities of the Recipient, third-party contractors and FMCSA with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.

If the Recipient secures a patent with respect to any invention, improvement, or discovery of the Recipient or any of its third-party contractors conceived or first actually reduced to practice in the course of or under this Project, the Recipient agrees to grant to FMCSA a royalty-free, non-exclusive, and irrevocable license to use and to authorize others to use the patented device or process for Federal Government purposes.

The Recipient agrees to include the requirements of the "Patent Rights" section of this Agreement in its third-party contracts for planning, research, development, or demonstration under the Project.

### **b. Data Rights.**

The term "subject data" used in this section means recorded information, whether or not copyrighted, that is developed, delivered, or specified to be delivered under this Agreement. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to Project administration. The following restrictions apply to all subject data first produced in the performance of this Agreement:

- i.** Except for its own internal use, the Recipient may neither publish or reproduce such data in whole or in part, or in any manner or form, nor may

the Recipient authorize others to do so, without the written consent of FMCSA, until such time as FMCSA may have either released or approved the release of such data to the public.

- ii.** As authorized by 2 C.F.R. § 200.315(b), FMCSA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

  - A.** Any work developed under a grant, cooperative agreement, sub-grant, sub-agreement, or third-party contract, irrespective of whether or not a copyright has been obtained; and
  - B.** Any rights of copyright to which a Recipient, Subrecipient, or a third-party contractor purchases ownership with Federal assistance.
- iii.** When FMCSA provides assistance to a Recipient for a Project involving planning, research, or development of a system, program, document, enforcement concept, or any other activity provided for in the terms of this grant, it is generally FMCSA's intent to increase the body of knowledge, rather than to limit the benefits of the Project to those parties that have participated therein. Therefore, unless FMCSA determines otherwise, the Recipient understands and agrees that, in addition to the rights set forth in preceding portions of this section of this Agreement, FMCSA may make available to any FMCSA Recipient, Subrecipient, third-party contractor, or third-party subcontractor, either FMCSA's license in the copyright to the "subject data" derived under this Agreement or a copy of the "subject data" first produced under this Agreement. In the event that such a Project which is the subject of this Agreement is not completed, for any reason whatsoever, all data developed under that Project shall become subject data as defined herein and shall be delivered as FMCSA may direct.
- iv.** Unless prohibited by State law, the Recipient agrees to indemnify, save and hold harmless FMCSA, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Recipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement. The Recipient shall not be required to indemnify FMCSA for any such liability arising out of the wrongful acts of employees or agents of FMCSA.
- v.** Nothing contained in this section on rights in data, shall imply a license to FMCSA under any patent or be construed as affecting the scope of any license or other right otherwise granted to FMCSA under any patent.
- vi.** The requirements of this section of this Agreement do not apply to material furnished to the Recipient by FMCSA and incorporated in the work carried out

under this Agreement, provided that such incorporated material is identified by the Recipient at the time of delivery of such work.

- vii. Unless FMCSA determines otherwise, the Recipient agrees to include the requirements of this section of this Agreement in its third-party contracts for planning, research, development, or demonstration under the Project.

**c. Acknowledgment or Support and Disclaimer.**

- i. An acknowledgment of FMCSA support and a disclaimer must appear in any Recipient publication, whether copyrighted or not, based on or developed under the Agreement, in the following terms:

"This material is based upon work supported by the Federal Motor Carrier Safety Administration under a grant/cooperative agreement/subaward, dated (fill-in appropriate identification of grant/cooperative agreement);"

- ii. All Recipient publications must also contain the following:

"Any opinions, findings, and conclusions or recommendations expressed this publication are those of the author(s) and do not necessarily reflect the view of the Federal Motor Carrier Safety Administration and/or the U.S. Department of Transportation."

- iii. The Recipient agrees to cause to be erected at the site of any construction, and maintain during construction, signs satisfactory to FMCSA identifying the Project and indicating that FMCSA is participating in the development of the Project.

**Section 28. Drug Free Workplace.**

By signing this agreement, the Recipient certifies that it is in compliance with the Drug-Free Workplace Act (41 U.S.C. §§ 701 et seq.) and implementing regulations (49 C.F.R. part 32), which require, in part, that Recipients prohibit drug use in the workplace, notify the FMCSA of employee convictions for violations of criminal drug laws occurring in the workplace, and take appropriate personnel action against a convicted employee or require the employee to participate in a drug abuse assistance program.

**Section 29. Background Screening.**

FMCSA reserves the right to perform individual background screening on key individuals of organizational units associated with the application at the effective date and at another interval thereafter for the life of the award. If in performance of a grant award requires Recipient organization personnel to have unsupervised physical access to a federally controlled facility for

more than 180 days or access to a Federal information system, such personnel must undergo the personal identity verification credential process under Homeland Security Presidential Directive 12.

### **Section 30. Site Visits.**

FMCSA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by FMCSA on the premises of the Recipient, Subrecipient, or contractor under this Agreement, the Recipient shall provide and shall require its Subrecipients or contractors to provide, all reasonable facilities and assistance for the safety and convenience of FMCSA representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Recipient, Subrecipient, or subcontractor.

### **Section 31. Liability.**

The Recipient acknowledges it is responsible for any act or omission of Recipient or Subrecipient, its officers, contractors, employees, or members, participants, agents, representatives, as appropriate, arising out of or in any way connected to activities authorized pursuant to this Agreement.

The Recipient acknowledges that FMCSA is not responsible for any act or omission of Recipient or Subrecipient, its officers, contractors, employees, or members, participants, agents, representatives, as appropriate, arising out of or in any way connected to activities authorized pursuant to this Agreement. This provision shall survive the expiration or termination of this Agreement.

### **Section 32. Right of FMCSA to Terminate Agreement.**

#### **a. General Right to Suspend or Terminate Assistance Agreement.**

Upon written notice, the Recipient agrees that FMCSA may suspend or terminate all or part of the financial assistance provided herein if the Recipient has violated the terms of the Grant Agreement or these Provisions and Assurances, or if FMCSA determines that the purposes of the statute under which the Project is authorized would not be adequately served by continuation of Federal financial assistance for the Project. Any failure to make reasonable progress on the Project or other violation of this Agreement that significantly endangers substantial performance of the Project shall provide sufficient grounds for FMCSA to terminate this Agreement. The Recipient agrees to give the Federal Motor Carrier Safety Administration at least 90 days' notice of its intention to terminate this agreement.

#### **b. Financial Obligations of the Government.**

In general, termination of any financial assistance under this Agreement will not

invalidate obligations properly incurred by the Recipient and concurred by FMCSA before the termination date; to the extent those correctly accrued obligations cannot be cancelled.

However, if FMCSA determines that the Recipient has willfully misused Federal assistance funds by failing to make adequate progress, failing to make reasonable use of the Project property, facilities, or equipment, or failing to adhere to the terms of this Agreement, meet required match/cost sharing or maintenance of effort (MOE) levels, FMCSA reserves the right to require the Recipient to refund the entire amount of FMCSA funds provided under this Agreement or any lesser amount as may be determined by FMCSA.

**c. De-obligation of Funds.**

FMCSA reserves the right to unilaterally de-obligate any remaining grant or cooperative agreement funds due to the time elapsed since the effective date, lack of payment vouchers from the Recipient, lack of plans to expend funds based on this grant, failure to provide quarterly progress reports, or other such determination made by FMCSA. If FMCSA takes action to deobligate funds, a grant amendment/modification must be in place.

**Section 33. Project Completion, Settlement, and Closeout.**

**a. Project Completion.**

Within 90 days of the Project completion date or termination by FMCSA, the Recipient agrees to submit a final SF-425, Federal Financial Report, a certification or summary of Project expenses, and third-party audit reports, as applicable.

**b. Remittance of Excess Payments.**

If FMCSA has made payments to the Recipient in excess of the total amount of FMCSA Federal funding due to cover accumulated expenses, the Recipient agrees to promptly remit that excess and interest as may be required by the "Payment by FMCSA" section of this Attachment.

**c. Project Closeout.**

Project closeout, as defined in 2 C.F.R. § 200.16, occurs when all required Project work and all administrative procedures described in 2 C.F.R. § 200.343, as applicable, have been completed, and when FMCSA notifies the Recipient and forwards the final Federal assistance payment, or when FMCSA acknowledges the Recipient's remittance of the proper refund amount. Project closeout shall not invalidate any continuing obligations imposed by allowable, allocable, and reasonable costs on the Recipient by this Agreement that supports the project plan(s) or by the FMCSA's final notification or acknowledgment, if it occurs within the period of performance.

**Section 34. Severability.**

If any provision of this Agreement is held invalid, all remaining provisions of this Agreement shall continue in full force and effect to the extent not inconsistent with such holding.

**Section 35. Entire Agreement and Amendments.**

This Agreement constitutes the entire agreement between the parties. All prior discussions and understandings concerning such scope and subject matter are superseded by this Agreement.

Any modification not specifically permitted by this agreement requires an Amendment. These modifications may be made only in writing, signed by each party's authorized representative, and specifically referred to as an Amendment to this Agreement. Electronic signatures are binding. However, retroactive modifications to the project plan(s) or any aspects of the budget will not be approved.

**Section 36. Use of Information Obtained.**

Information obtained under this agreement may only be used by the Recipient to accomplish the project plan under this agreement.

Any information obtained or exchanged between FMCSA and the grant Recipient, to carry out each party's responsibility under this agreement and project plan, shall not be released by the Recipient to any third-party without the written permission of FMCSA.

Recipient shall ensure that all its employees authorized to access FMCSA data and information systems sign and submit information technology user agreements provided by FMCSA.

**Section 37. Miscellaneous Provisions.****a. Prohibition on Human Trafficking.**

The Recipient agrees to comply, as applicable, with the provisions of Section 7104(g) of the Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7104 as amended.

**b. Wild and Scenic Rivers Act of 1968.**

The Recipient agrees to comply, as applicable, with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

**c. Fly America Act.**

The Recipient shall comply with the provisions of the Fly America Act, 49 U.S.C. § 40118.

**d. Criminal and Prohibited Activities.**

The Recipient will adhere to the Program Fraud Civil Remedies Act, 31 U.S.C. § 3801- 3812, which provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money. Recipient will also adhere to the False Statements Act, 18 U.S.C. §§ 287 and 1001 which provides that whoever makes or presents any false, fictitious or fraudulent statements, representation, or claims against the United States shall be subject to imprisonment of not more than 5 years and shall be subject to a fine in the amount provided by 18 U.S.C. § 287. Recipient shall also adhere to the False Claims Act, 31 U.S.C. § 3729, which provides that suits under this act can be brought by the Government or a person on behalf of the Government, for false claims under the Federal assistance programs. Recipient shall also adhere to the Copeland "Anti-Kickback" Act, 18 U.S.C. § 874 and 40 U.S.C. § 3145, which prohibits a person or organization engaged in a federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract.

**Section 38. Laptop Encryption.**

All laptops used by Recipients, Subrecipients, and contractors in carrying out the Recipient's project plan, which contain FMCSA-related data, including sensitive information and Personally Identifiable Information (PII), must be encrypted to the same standards utilized by FMCSA. The FMCSA encryption standards prescribe whole disk encryption (FOE), which requires software or hardware to encrypt all data on a disk, including the partition tables, whole physical disk, master boot record, and available files. FMCSA requires that each Recipient who utilizes FMCSA sensitive information or PII complete installation of FOE on all laptop computers as soon as practicable, but no later than thirty (30) days from the execution of this agreement and prior to using the laptop to access FMCSA data systems or store FMCSA related data.

**Section 39. Adaptability to Climate Changes.**

If the grant is to be used to place equipment or temporary facilities, modify structures, or to alter existing infrastructure, the recipient is required to assess the ability for the equipment, modifications, or alterations to withstand current and future climatic conditions, including potential changes in climatic conditions. The recipient shall use the best-available peer reviewed studies and science to determine the potential climatic conditions the equipment, modifications or alterations may experience over the life-cycle of the equipment, modification or alteration funded by the grant. The recipient can rely on existing Federal Highway Administration suggestions or guidelines for placing infrastructure, or on other federally-issued guidance on assessing potential impacts of climate change.

**Section 40. Commercial Vehicle Information Systems and Networks (CVISN) provisions.**

The following provisions apply where applicable.

**a. Compliance with the National ITS Architecture.**

The recipient will ensure that Innovative Technology Deployment (ITD) activities, such as hardware procurement, software and system development, infrastructure modifications, etc., are consistent with the National ITS and commercial motor vehicle information and systems architectures and available standards and promote interoperability and efficiency to the extent practicable and required by law.

**b. Interoperability.**

For implementing ITD capabilities, the recipient will complete interoperability tests and ensure architectural conformance throughout the life of the project. Perform pairwise and end-to-end tests to demonstrate conformance with the standards and interoperability, verify that interfaces between selected products/systems meet the applicable standards, verify dataflow and data usage among the products/systems.

**c. Independent Evaluation.**

The FMCSA may conduct an independent evaluation of the effectiveness of the project in achieving Federal and State program goals. The independent evaluation will be conducted using existing Federal resources. Participants of projects that are selected for independent evaluations shall cooperate with the independent evaluators and participate in evaluation planning and progress review meetings to ensure a mutually acceptable, successful implementation of the independent evaluation. The FMCSA may contract with one or more independent evaluation contractor(s) to evaluate the projects.

**d. Dedicated Short-Range Communications.**

If applicable, the State shall also require that its contractors only install Dedicated Short Range Communications (DSRC) equipment that is interoperable and compatible at layers 1 and 2 of the Open Systems Interconnect Reference Model with equipment in operation on the North American Preclearance and Safety System and the Heavy Vehicle Electronic License Plate Inc.'s PrePass™ System deployments as well as the International Border Crossing Operational Tests, based upon on ASTM Draft 6, dated February 23, 1996.

**Section 41. Federal Funding Accountability and Transparency Act.**

The Federal Funding Accountability and Transparency Act (FFATA) of 2006 (Public Law 109-282) requires for each Federal award of \$25,000 or more that OMB create a searchable, no cost, publicly accessible website(<http://usaspending.gov/>) that includes basic

information about the recipient and the project being funded. The Government Funding Transparency Act of 2008 (Public Law 110-252) amended FFATA, requiring recipients to report certain information about themselves and their first tier Subrecipient awards obligated as of October 1, 2010. Prime grant recipients/awardees of new non-Recovery Act federally funded grants and cooperative agreements of \$25,000 or more awarded on or after October 1, 2010 are subject to FFATA reporting, sub-award reporting requirements and executive compensation reporting requirements as outlined in the Office of Management and Budgets guidance issued August 27, 2010. The prime awardee is required to file a FFATA sub-award report by the end of the month following the month in which the prime recipient awards any sub-grant greater than or equal to \$25,000.

#### **Section 42. Executive Order 13513.**

Executive Order 13513 (E.O. 13513) requires each Federal agency to encourage contractors, subcontractors, and grant and cooperative agreement recipients and subrecipients to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or Government Owned Vehicles, or while driving Personally Owned Vehicles when on official Government business or when performing any work for or on behalf of the Government. To further the requirement of encouraging such policies, the FMCSA encourages recipients to consider new rules and programs, reevaluate existing programs to prohibit text messaging while driving, and conduct education, awareness, and other outreach for employees about the risks associated with texting while driving. These initiatives should encourage voluntary compliance with the recipient agency's text messaging policy while off duty. For the purposes of these Grant Provisions and Assurances and pursuant to E.O. 13513, the following definitions apply:

"Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

"Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

#### **Section 43. Certification.**

The Recipient certifies that the statements it made in the grant application are true and correct, and Recipient understands that any false statements made as part of these certifications can be prosecuted.

Board Meeting Date: 4/2/2020  
ACTION ITEM

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**To:** Texas Department of Motor Vehicles Board  
**From:** Linda M. Flores, CPA, Chief Financial Officer, Finance & Administrative Services Division Director  
**Agenda Item:** 12.C  
**Subject:** Waco and Fort Worth Regional Service Center 5-Year Lease Renewal

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**RECOMMENDATION**

Authorize the Department's Executive Director or her designee to negotiate and execute, in conjunction with the Texas Facilities Commission (TFC), the five-year contract renewals for the Waco and Fort Worth Regional Service Center leases. The Waco lease is effective September 1, 2020 through August 31, 2025 and the Fort Worth lease is effective October 1, 2020 through September 30, 2025.

**PURPOSE AND EXECUTIVE SUMMARY**

Requesting the TxDMV Board grant authority approval to the Executive Director to approve the renewal purchase order/contract associated with the Waco and Fort Worth Regional Service Center lease for the next five-year term.

**FINANCIAL IMPACT**

Total maximum projected cost for the Waco five-year lease renewal term is \$209,131.80 and \$406,125 for the Fort Worth five-year renewal term. The agency's operating budget can support the projected annual costs.

**BACKGROUND AND DISCUSSION**

See *TxDMV Facilities Waco and Fort Worth Lease Renewal Requests* regarding the two regional service centers.



Texas Department of Motor Vehicles

# TxDMV Facilities Waco and Fort Worth Lease Renewal Requests



4075 Shirley Battey showing new 1955 license plates. April, 1955.



6099 1917 License Plate First Issued By The Texas High-

Finance & Administrative Services

April 2020

# TxDMV Facilities

## Waco Regional Service Center

### Purchase Order Renewal Request for Waco Regional Service Center

**Purpose:** Requesting the TxDMV Board grant approval or grant the Executive Director the authority to approve the renewal purchase order/contract associated with the Waco Regional Service Center lease for the next five year term.

**Authority:** In accordance with Government Code, Chapter 2167, the Texas Facilities Commission (TFC) holds authority for leasing and renewing commercially leased property on behalf of state agencies.

**Project Timeframe:** The new lease would be effective September 1, 2020 through August 31, 2025.

#### Project Budget/Expenditures:

- Property Location: 2203 Austin Avenue, Waco, Texas 76701
- Square Footage: 2,307
- Monthly lease payment is *not* all inclusive (utilities, janitorial and general maintenance are handled separately)
- CPI = Consumer Price Index is a clause in the contract, which allows the lessor to request an increase in lease payments due to increased economic changes. CPI is calculated by TFC and added to the monthly payment each year. TxDMV estimates this cost to be about \$1,200 per year.
- Total Projected Cost : \$209,131.80

Renewal Date September 2015	Monthly Rent	Annual Rent	CPI (Estimated \$100 per month)	Total
2020-2021	\$3,185.53	\$38,226.36	\$1,200.00	\$39,426.36
2021-2022	\$3,285.53	\$39,426.36	\$1,200.00	\$40,626.36
2022-2023	\$3,385.53	\$40,626.36	\$1,200.00	\$41,826.36
2023-2024	\$3,485.53	\$41,826.36	\$1,200.00	\$43,026.36
2024-2025	\$3,585.53	\$43,026.36	\$1,200.00	\$44,226.36

**Business Operations:** The Waco Regional Service Center is the home of 6 TxDMV FTEs (1 Regional Manager, 1 Team Lead and 4 Customer Service Representatives). The Regional Service Centers serve the Texas public by providing:

- Replacement titles;
- Bonded title rejection letters;
- Apportioned registration (IRP credentials and temporary operating authority for established accounts);
- Annual permits (NAFTA);
- Investigating and resolving Texas title errors;
- Etc.

# TxDMV Facilities

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## Photo Gallery 2203 Austin Avenue, Waco, Texas 76701

Street Front



Rear Entrance



# TxDMV Facilities

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Customer Service Counter



Customer Waiting Area/Lobby



# TxDMV Facilities

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Customer Service Representative Work Areas



Employee Break Room



# TxDMV Facilities

## Fort Worth Regional Service Center

### Purchase Order Renewal Request for Fort Worth Regional Service Center

**Purpose:** Requesting the TxDMV Board grant approval or grant the Executive Director the authority to approve the renewal purchase order/contract associated with the Fort Worth Regional Service Center lease for the next five year term.

**Authority:** In accordance with Government Code, Chapter 2167, the Texas Facilities Commission (TFC) holds authority for leasing and renewing commercially leased property on behalf of state agencies.

**Project Timeframe:** The new lease would be effective October 1, 2020 through September 30, 2025.

#### **Project Budget/Expenditures:**

- Property Location: 2425 Gravel Road, Fort Worth, Texas 76118
- Square Footage: 5,685
- Monthly lease payment is *not* all inclusive (janitorial and general maintenance are included, but utilities and trash disposal are handled separately)
- CPI = Consumer Price Index is a clause in the contract, which allows the lessor to request an increase in lease payments due to increased economic changes. CPI is calculated by TFC and added to the monthly payment each year. TxDMV estimates this cost to be about \$1,200 per year.
- Total Projected Cost : \$406,125.00

Renewal Date September 2015	Monthly Rent	Annual Rent	CPI (Estimated \$100 per month)	Total
2020-2021	\$6,468.75	\$77,625.00	\$1,200.00	\$78,825.00
2021-2022	\$6,568.75	\$78,825.00	\$1,200.00	\$80,025.00
2022-2023	\$6,668.75	\$80,025.00	\$1,200.00	\$81,225.00
2023-2024	\$6,768.75	\$81,225.00	\$1,200.00	\$82,425.00
2024-2025	\$6,868.75	\$82,425.00	\$1,200.00	\$83,625.00

**Business Operations:** The Fort Worth Regional Service Center is the home of 18 TxDMV FTEs (1 Regional Manager, 2 Team Leads and 15 Customer Service Representatives). The Regional Service Centers serve the Texas public by providing:

- Replacement titles;
- Bonded title rejection letters;
- Apportioned registration (IRP credentials and temporary operating authority for established accounts);
- Annual permits (NAFTA);
- Investigating and resolving Texas title errors;
- Etc.

# TxDMV Facilities

## Photo Gallery 2425 Gravel Drive, Fort Worth, Texas 76118

Front Entrance



Rear Entrance and Loading Dock Door



# TxDMV Facilities

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Customer Waiting Area/Lobby



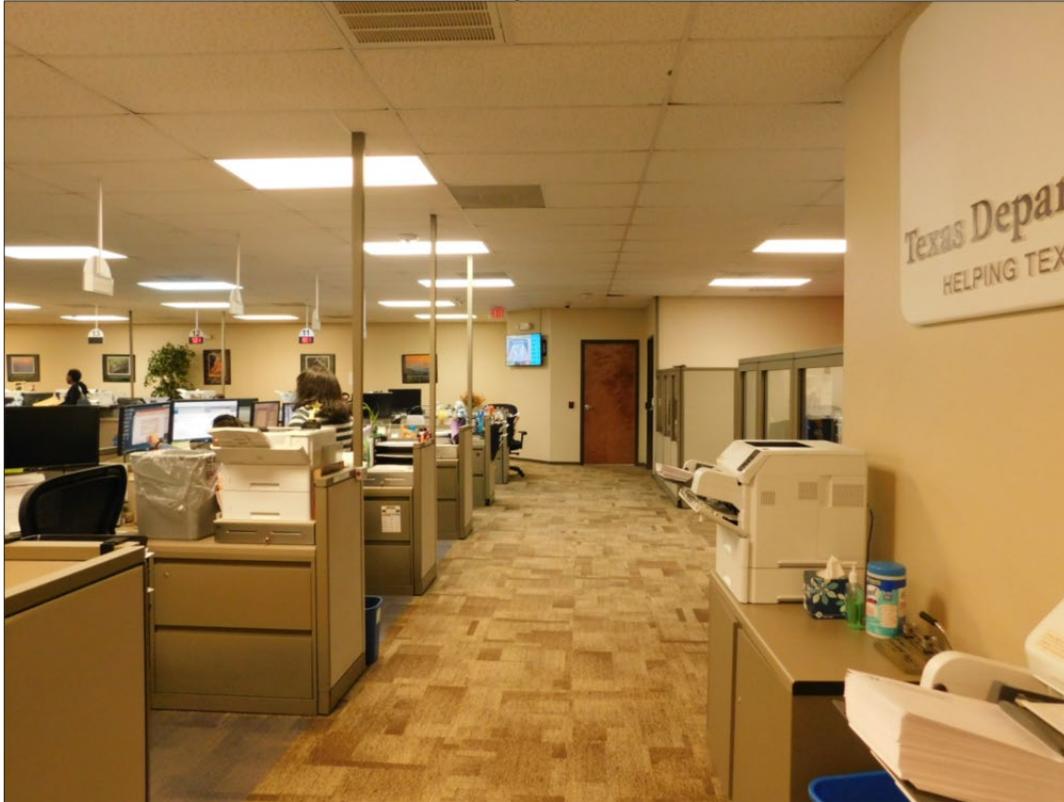
Conference Room



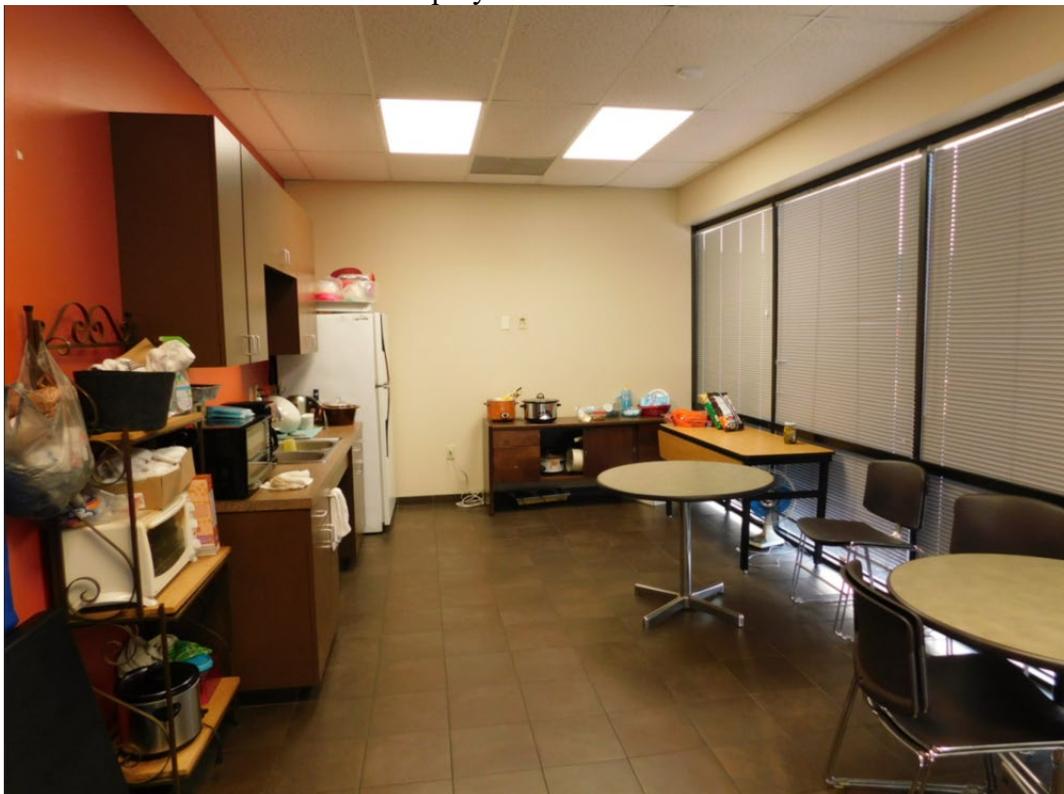
# TxDMV Facilities

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Customer Service Representative Work Areas



Employee Break Room



Board Meeting Date: 4/2/2020  
ACTION ITEM

**To:** Texas Department of Motor Vehicles Board  
**From:** Whitney Brewster, Executive Director  
**Agenda Item:** 13  
**Subject:** Appointment of Delegee for Personnel Matters Regarding a Direct Report to the Board - Chairman Treviño  
Appointment of a delegee regarding the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of a direct report to the Board

### **RECOMMENDATION**

Delegation of authority to the department's executive director to perform all personnel matters regarding the board liaison with input from the board members and the department's executive team.

### **PURPOSE AND EXECUTIVE SUMMARY**

The purpose of this agenda item is to request the board to appoint a delegee to perform the personnel matters regarding the board liaison. The personnel matters include the following actions: the appointment, employment, evaluation, reassignment, duties, discipline and dismissal.

It is more efficient if this function is delegated to the department's executive director or a subcommittee of the board. There is no statute or rule that requires the board to perform the personnel matters regarding the board liaison position. However, if the board performs this function, any discussion, deliberations, or action must comply with the Texas Open Meetings Act.

### **FINANCIAL IMPACT**

There will be no fiscal implications related to the delegation.

### **BACKGROUND AND DISCUSSION**

The board liaison position reports directly to the board. The board has different options for the performance of personnel actions regarding this position. Here is an analysis of the options regarding the completion of the performance evaluation as an example:

1. Quorum of the board in closed session - a quorum of the board in closed session may discuss personnel matters regarding this position, as long as the board first convenes with a quorum in an open meeting. Each board member may complete the evaluation form individually, then bring the form to the closed meeting to discuss. Board members would not be able to discuss the matter outside of the closed session, unless they are voting on the final performance evaluation in open session. Board members are not authorized to take action in a closed session, so the board would have to vote in open session regarding the final performance evaluation.
2. Quorum of the board in open session - a quorum of the board in an open meeting may discuss personnel matters regarding this position. Each member would have to fill out the evaluation form separately and not discuss it outside

of the board meeting. This is also required if the board liaison requests a public hearing, even if the board intended to discuss the matter in a closed session.

3. Delegate to a subcommittee of the board, but other board members can't provide input - If less than a quorum of the board wishes to complete the performance evaluation, then the chairman should bring that discussion to the full board for a vote. The chairman could ask for a motion to allow the chairman to appoint three members to complete the board liaison's performance evaluation. The board could then vote to give the authority to the chairman to appoint board members to evaluate the board liaison position in groups of less than a quorum of the board. No other board members would be able to provide input into the evaluation, because that would then take us back to #1 or #2 above due to the potential for a walking quorum.
4. Delegate to the executive director – if the board delegates the authority to the executive director to do the performance evaluation, each board member could provide input to the executive director on the performance evaluation without violating the Texas Open Meetings Act. In addition, the board liaison position performs services for the department's executive team by communicating board requests and deadlines to the executive team, and by providing materials from the executive team to the board members. If the executive director performs the evaluation of the board liaison, the executive team could also provide input on the performance evaluation.

**Board Policy Documents**

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (4/7/16)

Agency Boundaries (9/13/12)

KPIs (9/12/14)

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## Texas Department of Motor Vehicles TxDMV Board Governance Policy

### 1. PURPOSE

The directives presented in this policy address board governance of the Texas Department of Motor Vehicles (TxDMV).

### 2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. The TxDMV Board Governance Policy shall be one that is comprehensive and pioneering in its scope.

### 3. POLICY

#### 3.1. TxDMV Board Governing Style

The Board shall govern according to the following general principles: (a) a vision for the agency, (b) diversity in points of view, (c) strategic leadership, providing day-to-day detail as necessary to achieve the agency vision, (d) clear distinction of Board and Executive Director roles, (e) collective decision making, (f) react proactively rather than reactively and with a strategic approach. Accordingly:

- 3.1.1. The Board shall provide strategic leadership to TxDMV. In order to do this, the Board shall:
  - 3.1.1.1. Be proactive and visionary in its thinking.
  - 3.1.1.2. Encourage thoughtful deliberation, incorporating a diversity of viewpoints.
  - 3.1.1.3. Work together as colleagues, encouraging mutual support and good humor.
  - 3.1.1.4. Have the courage to lead and make difficult decisions.
  - 3.1.1.5. Listen to the customers and stakeholders needs and objectives.
  - 3.1.1.6. Anticipate the future, keeping informed of issues and trends that may affect the mission and organizational health of the TxDMV.
  - 3.1.1.7. Make decisions based on an understanding that is developed by appropriate and complete stakeholder participation in the process of identifying the needs of the motoring public, motor vehicle industries,

and best practices in accordance with the mission and vision of the agency.

- 3.1.1.8. Commit to excellence in governance, including periodic monitoring, assessing and improving its own performance.
- 3.1.2. The Board shall create the linkage between the Board and the operations of the agency, via the Executive Director when policy or a directive is in order.
- 3.1.3. The Board shall cultivate a sense of group responsibility, accepting responsibility for excellence in governance. The Board shall be the initiator of policy, not merely respond to staff initiatives. The Board shall not use the expertise of individual members to substitute for the judgment of the board, although the expertise of individual members may be used to enhance the understanding of the Board as a body.
- 3.1.4. The Board shall govern the agency through the careful establishment of policies reflecting the board's values and perspectives, always focusing on the goals to be achieved and not the day-to-day administrative functions.
- 3.1.5. Continual Board development shall include orientation of new Board members in the board's governance process and periodic board discussion of how to improve its governance process.
- 3.1.6. The Board members shall fulfill group obligations, encouraging member involvement.
- 3.1.7. The Board shall evaluate its processes and performances periodically and make improvements as necessary to achieve premier governance standards.
- 3.1.8. Members shall respect confidentiality as is appropriate to issues of a sensitive nature.

## **3.2. TxDMV Board Primary Functions/Characteristics**

TxDMV Board Governance can be seen as evolving over time. The system must be flexible and evolutionary. The functions and characteristics of the TxDMV governance system are:

- 3.2.1. Outreach
  - 3.2.1.1. Monitoring emerging trends, needs, expectations, and problems from the motoring public and the motor vehicle industries.
  - 3.2.1.2. Soliciting input from a broad base of stakeholders.

### 3.2.2. Stewardship

3.2.2.1. Challenging the framework and vision of the agency.

3.2.2.2. Maintaining a forward looking perspective.

3.2.2.3. Ensuring the evolution, capacity and robustness of the agency so it remains flexible and nimble.

### 3.2.3. Oversight of Operational Structure and Operations

3.2.3.1. Accountability functions.

3.2.3.2. Fiduciary responsibility.

3.2.3.3. Checks and balances on operations from a policy perspective.

3.2.3.4. Protecting the integrity of the agency.

### 3.2.4. Ambassadorial and Legitimizing

3.2.4.1. Promotion of the organization to the external stakeholders, including the Texas Legislature, based on the vision of the agency.

3.2.4.2. Ensuring the interests of a broad network of stakeholders are represented.

3.2.4.3. Board members lend their positional, professional and personal credibility to the organization through their position on the board.

### 3.2.5. Self-reflection and Assessment

3.2.5.1. Regular reviews of the functions and effectiveness of the Board itself.

3.2.5.2. Assessing the level of trust within the Board and the effectiveness of the group processes.

## 3.3. Board Governance Investment

Because poor governance costs more than learning to govern well, the Board shall invest in its governance capacity. Accordingly:

3.3.1. Board skills, methods, and supports shall be sufficient to ensure governing with excellence.

- 3.3.1.1. Training and retraining shall be used liberally to orient new members, as well as maintain and increase existing member skills and understanding.
  - 3.3.1.2. Outside monitoring assistance shall be arranged so that the board can exercise confident control over agency performance. This includes, but is not limited to, financial audits.
  - 3.3.1.3. Outreach mechanisms shall be used as needed to ensure the Board's ability to listen to stakeholder viewpoints and values.
  - 3.3.1.4. Other activities as needed to ensure the Board's ability to fulfill its ethical and legal obligations and to represent and link to the motoring public and the various motor vehicle industries.
- 3.3.2. The Board shall establish its cost of governance and it will be integrated into strategic planning and the agency's annual budgeting process.

#### **3.4. Practice Discipline and Assess Performance**

The Board shall ensure the integrity of the board's process by practicing discipline in Board behavior and continuously working to improve its performance. Accordingly:

- 3.4.1. The assigned result is that the Board operates consistently with its own rules and those legitimately imposed on it from outside the organization.
  - 3.4.1.1. Meeting discussion content shall consist solely of issues that clearly belong to the Board to decide or to monitor according to policy, rule and law. Meeting discussion shall be focused on performance targets, performance boundaries, action on items of Board authority such as conduct of administrative hearings, proposal, discussion and approval of administrative rule-making and discussion and approval of all strategic planning and fiscal matters of the agency.
  - 3.4.1.2. Board discussion during meetings shall be limited to topics posted on the agenda.
  - 3.4.1.3. Adequate time shall be given for deliberation which shall be respectful, brief, and to the point.
- 3.4.2. The Board shall strengthen its governing capacity by periodically assessing its own performance with respect to its governance model. Possible areas of assessment include, but are not limited to, the following:
  - 3.4.2.1. Are we clear and in agreement about mission and purpose?

- 3.4.2.2. Are values shared?
  - 3.4.2.3. Do we have a strong orientation for our new members?
  - 3.4.2.4. What goals have we set and how well are we accomplishing them?
  - 3.4.2.5. What can we do as a board to improve our performance in these areas?
  - 3.4.2.6. Are we providing clear and relevant direction to the Executive Director, stakeholders and partners of the TxDMV?
- 3.4.3. The Board Chair shall periodically promote regular evaluation and feedback to the whole Board on the level of its effectiveness.

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## Texas Department of Motor Vehicles Strategic Planning Policy

### 1. PURPOSE

The directives presented in this policy address the annual Strategic Planning process at the Texas Department of Motor Vehicles (TxDMV).

### 2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. TxDMV Strategic Planning Policy attempts to develop, document and expand its policy that is comprehensive in its scope in regards to the strategic planning process of the Board and the Department beyond that of the state strategic planning process.

### 3. POLICY

#### 3.1. TxDMV Board Strategic Planning

This policy describes the context for strategic planning at TxDMV and the way in which the strategic plan shall be developed and communicated.

- 3.1.1. The Board is responsible for the strategic direction of the organization, which includes the vision, mission, values, strategic goals, and strategic objectives.
- 3.1.2. TxDMV shall use a 5-year strategic planning cycle, which shall be reviewed and updated annually, or as needed.
- 3.1.3. The 5-year strategic plan shall be informed by but not confined by requirements and directions of state and other funding bodies.
- 3.1.4. In developing strategic directions, the Board shall seek input from stakeholders, the industries served, and the public.
- 3.1.5. The Board shall:
  - 3.1.5.1. Ensure that it reviews the identification of and communication with its stakeholders at least annually.
  - 3.1.5.2. Discuss with agency staff, representatives of the industries served, and the public before determining or substantially changing strategic directions.

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- 3.1.5.3. Ensure it receives continuous input about strategic directions and agency performance through periodic reporting processes.
  - 3.1.6. The Board is responsible for a 5-year strategic plan that shall identify the key priorities and objectives of the organization, including but not limited to:
    - 3.1.6.1. The creation of meaningful vision, mission, and values statements.
    - 3.1.6.2. The establishment of a Customer Value Proposition that clearly articulates essential customer expectations.
    - 3.1.6.3. A Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis, to be updated annually.
    - 3.1.6.4. An assessment of external factors or trends (i.e., customer needs, political factors, economic factors, industry trends, technology factors, uncertainties, etc.)
    - 3.1.6.5. Development of the specific goals and objectives the Department must achieve and a timeline for action.
    - 3.1.6.6. Identification of the key performance indicators to measure success and the initiatives that shall drive results.
    - 3.1.6.7. Engage staff at all levels of the organization, through the executive director, in the development of the strategic plan through surveys, interviews, focus groups, and regular communication.
    - 3.1.6.8. Ensure the strategic planning process produces the data necessary for LBB/GOBPP state required compliance while expanding and enhancing the strategic plan to support the needs of the TxDMV. The overall strategic plan shall be used as a tool for strategic management.
  - 3.1.7. The Board delegates to the Executive Director the responsibility for **implementing** the agency's strategic direction through the development of agency wide and divisional operational plans.
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## Texas Department of Motor Vehicles TxDMV Goals and Objectives

### 1. PURPOSE

The information presented in this policy addresses the goals and key objectives of the Board of the Texas Department of Motor Vehicles (TxDMV) as they relate to the mission, vision, and values of the TxDMV.

### 2. SCOPE

The scope of this policy is to define the desired state the TxDMV Board is working to achieve. This policy is designed to be inspirational in outlining the desired state of the agency that supports the TxDMV Board vision and meeting agency goals.

### 3. TxDMV MISSION

To serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.

### 4. TxDMV VISION

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

### 5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas with transparency, efficiency, excellence, accountability, and putting stakeholders first.

- 5.1. **Transparency** – Being open and inclusive in all we do.
- 5.2. **Efficiency** – Being good stewards of state resources by providing products and services in the most cost-effective manner possible.
- 5.3. **Excellence** – Working diligently to achieve the highest standards.
- 5.4. **Accountability** – Accepting responsibility for all we do, collectively and as individuals.
- 5.5. **Stakeholders** – Putting customers and stakeholders first, always.

### 6. TxDMV GOALS

#### 6.1. GOAL 1 – Performance Driven

The TxDMV shall be a performance driven agency in its operations whether it is in customer service, licensing, permitting, enforcement or rule-making. At all times the TxDMV shall mirror in its performance the expectations of its customers and stakeholder by effective, efficient, customer-focused, on-time, fair, predictable and thorough service or decisions.

### 6.1.1. Key Objective 1

The TxDMV shall be an agency that is retail-oriented in its approach. To accomplish this orientation TxDMV shall concentrate the focus of the agency on:

- 6.1.1.1. Delivering its products and services to all of its customers and stakeholders in a manner that recognizes that their needs come first. These needs must be positively and proactively met. TxDMV works for and with its customers and stakeholders, not the other way around.
- 6.1.1.2. Operating the agency's licensing and registration functions in a manner akin to how a private, for-profit business. As a private, for-profit business, TxDMV would have to listen to its customers and stakeholders and implement best practices to meet their needs or its services would no longer be profitable or necessary. Act and react in a manner that understands how to perform without a government safety net and going out of business.
- 6.1.1.3. Simplify the production and distribution processes and ease of doing business with the TxDMV. Adapting and maintaining a business value of continuous improvement is central to TxDMV operations and processes.
- 6.1.1.4. All operations of the TxDMV shall stand on their own merits operationally and financially. If a current process does not make sense then TxDMV shall work within legislative and legal constraints to redesign or discard it. If a current process does not make or save money for the state and/or its customers or stakeholders then TxDMV shall work within legislative and legal constraints to redesign or discard it. TxDMV shall operate as efficiently and effective as possible in terms of financial and personnel needs. Divisions should focus on cost savings without sacrificing performance. Division directors are accountable for meeting these needs and applicable measures. All division directors are collectively responsible for the performance of TxDMV as a whole.
- 6.1.1.5. Focus on revenue generation for transportation needs as well as the needs of its customers.
- 6.1.1.6. Decisions regarding the TxDMV divisions should be based on the overriding business need of each division to meet or provide a specific service demand, with the understanding and coordination of overarching agency-wide needs.

- 6.1.1.7. Developing and regularly updating a long-range Statewide Plan describing total system needs, establishing overarching statewide goals, and ensuring progress toward those goals.
- 6.1.1.8. The TxDMV shall establish a transparent, well-defined, and understandable system of project management within the TxDMV that integrates project milestones, forecasts, and priorities.
- 6.1.1.9. The TxDMV shall develop detailed work programs driven by milestones for major projects and other statewide goals for all TxDMV divisions.
- 6.1.1.10. The TxDMV, with input from stakeholders and policymakers, shall measure and report on progress in meeting goals and milestones for major projects and other statewide goals.

## **6.2. GOAL 2 – Optimized Services and Innovation**

The TxDMV shall be an innovative, forward thinking agency that looks for ways to promote the economic well-being and development of the industries it serves as well as the State of Texas within the legislative boundaries that have been established for the agency.

### **6.2.1. Key Objective 1**

The TxDMV shall achieve operational, cultural, structural and financial independence from other state agencies.

- 6.2.1.1. Build the TxDMV identity. This means that TxDMV shall make customers aware of what services we offer and how they can take advantage of those services.
- 6.2.1.2. Build the TxDMV brand. This means that TxDMV shall reach out to the stakeholders, industries we serve and the public, being proactive in addressing and anticipating their needs.
- 6.2.1.3. Determine immediate, future, and long term facility and capital needs. TxDMV needs its own stand-alone facility and IT system as soon as possible. In connection with these needs, TxDMV shall identify efficient and effective ways to pay for them without unduly burdening either the state, its customers or stakeholders.
- 6.2.1.4. All regulations, enforcement actions and decision at TxDMV shall be made in a timely, fair and predictable manner.

### **6.2.2. Key Objective 2**

Provide continuous education training on business trends in the industry with a particular emphasis on activities in Texas.

6.2.3. Key Objective 3

Provide continuous outreach services to all customers and stakeholders to access their respective needs and wants. This includes helping frame legislative or regulatory issues for consideration by other bodies including the legislature.

6.2.4. Key Objective 4

Examine all fees to determine their individual worth and reasonableness of amount. No fee shall be charged that cannot be defended financially and operationally.

**6.3. GOAL 3 – Customer-centric**

The TxDMV shall be a customer-centric agency that delivers today's services and decisions in a positive, solution-seeking manner while ensuring continuous, consistent and meaningful public and stakeholder involvement in shaping the TxDMV of tomorrow.

6.3.1. Key Objective 1

The TxDMV shall seek to serve its customer base through a creative and retail oriented approach to support the needs of its industries and customers.

6.3.2. Key Objective 2

The TxDMV shall develop and implement a public involvement policy that guides and encourages meaningful public involvement efforts agency-wide.

6.3.3. Key Objective 3

The TxDMV shall develop standard procedures for documenting, tracking, and analyzing customer complaint data. Successful problem resolution metrics should be monitored to support continuous improvement activities that shall permanently improve customer facing processes.

6.3.4. Key Objective 4

The TxDMV shall provide a formal process for staff with similar responsibilities to share best practices information.

6.3.5. Key Objective 5

The TxDMV shall provide central coordination of the Department's outreach campaigns.

6.3.6. Key Objective 6

The TxDMV shall develop and expand user friendly, convenient, and efficient website applications.

6.3.7. Key Objective 7

TxDmv shall timely meet all legislative requests and mandates.

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## **Agency Operational Boundaries as Defined by Department Policies of the TxDMV Board (Board)**

The Board is responsible for the policy direction of the agency. The Board's official connection to the day-to-day operation of the Texas Department of Motor Vehicles (TxDMV) and the conduct of its business is through the Executive Director of the TxDMV (ED) who is appointed by the Board and serves at its pleasure. The authority and accountability for the day-to-day operations of the agency and all members of the staff, except those members who report directly to the Board, is the sole responsibility of the ED.

In accordance with its policy-making authority the Board has established the following policy boundaries for the agency. The intent of the boundaries is not to limit the ability of the ED and agency staff to manage the day-to-day operations of the agency. To the contrary, the intent of the boundaries is to more clearly define the roles and responsibilities of the Board and the ED so as to liberate the staff from any uncertainty as to limitations on their authority to act in the best interest of the agency. The ED and staff should have certainty that they can operate on a daily basis as they see fit without having to worry about prior Board consultation or subsequent Board reversal of their acts.

The ED and all agency employees shall act at all times in an exemplary manner consistent with the responsibilities and expectations vested in their positions. The ED and all agency employees shall act in a manner consistent with Board policies as well as with those practices, activities, decisions, and organizational circumstances that are legal, prudent, and ethical. It is the responsibility of the ED to ensure that all agency employees adhere to these boundaries.

Accordingly, the TxDMV boundaries are as follows:

1. The day-to-day operations of the agency should be conducted in a manner consistent with the vision, mission, values, strategic framework, and performance metrics as established by the Board. These elements must not be disregarded or jeopardized in any way.
2. A team-oriented approach must be followed on all enterprise-wide decisions to ensure openness and transparency both internally and externally.
3. The agency must guard against allowing any financial conditions and decision which risk adverse fiscal consequences, compromise Board financial priorities, or fail to

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show an acceptable level of foresight as related to the needs and benefits of agency initiatives.

4. The agency must provide timely, accurate, and honest information that will afford the Board, public, stakeholders, executive branch and the legislature the best ability to evaluate all sides of an issue or opportunity before forming an opinion or taking action on it. Any information provided that is intentionally untimely, inaccurate, misleading or one-sided will not be tolerated.
5. The agency must take all reasonable care to avoid or identify in a timely manner all conflicts of interest or even the appearance of impropriety in awarding purchases, negotiating contracts or in hiring employees.
6. The agency must maintain adequate administrative policies and procedures that are understandable and aid in staff recruitment, development and retention.
7. The agency must maintain an organizational structure that develops and promotes the program areas from an enterprise-wide perspective. No organizational silos or sub-agencies will be allowed. We are the TxDMV.
8. The agency must empower its entire staff to deliver a positive customer experience to every TxDMV customer, stakeholder or vendor to reduce their effort and make it easier for them to do business with the TxDMV.
9. The agency must at all times look to flattening its organizational structure to reduce cost as technology advances allow.
10. Agency staff shall anticipate and resolve all issues timely.
11. The agency must maximize the deployment and utilization of all of its assets – people, processes and capital equipment – in order to fully succeed.
12. The agency must not waste the goodwill and respect of our customers, stakeholders, executive branch and legislature. All communication shall be proper, honest, and transparent with timely follow-up when appropriate.
13. The agency should focus its work efforts to create value, make sure that processes, programs, or projects are properly designed, budgeted and vetted as appropriate with outside stakeholders to ensure our assumptions are correct so positive value continues to be created by the actions of the TxDMV.
14. The ED through his or her staff is responsible for the ongoing monitoring of all program and fiscal authorities and providing information to the Board to keep it apprised of all program progress and fiscal activities. This self-assessment must result in a product that adequately describes the accomplishment of all program

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goals, objectives and outcomes as well as proposals to correct any identified problems.

15. In advance of all policy decisions that the Board is expected to make, the ED will provide pertinent information and ensure board members understand issues/matters related to the pending policy decision. Additionally, the ED or designee will develop a process for planning activities to be performed leading up to that particular policy decision and the timeframe for conducting these planning activities. It is imperative that the planning process describes not only when Board consideration will be expected but also when prior Board consultation and involvement in each planning activity will occur.
16. In seeking clarification on informational items Board members may directly approach the ED or his or her designee to obtain information to supplement, upgrade or enhance their knowledge and improve the Board's decision-making. Any Board member requests that require substantive work should come to the Board or Committee Chairs for direction.
17. The agency must seek stakeholder input as appropriate on matters that might affect them prior to public presentation of same to the Board.
18. The agency must measure results, track progress, and report out timely and consistently.
19. The ED and staff shall have the courage to admit a mistake or failure.
20. The ED and staff shall celebrate successes!

The Board expects the ED to work with agency staff to develop their written interpretation of each of the boundaries. The ED will then present this written interpretation to the Board prior to discussion between the Board and ED on the interpretation. The Board reserves the right to accept, reject or modify any interpretation. The intent is that the Board and the ED will come to a mutually agreeable interpretation of agency boundaries that will then form the basis of additional written thought on the part of the ED and staff as to how these boundaries will influence the actions of the agency.

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Performance Driven	Effective and efficient services	1	Average processing time for new franchise license applications	45 days	35 days		MVD
		2	Average processing time for franchise renewals	11 days	5 days		MVD
		3	Average processing time of franchise license amendments	20 days	8 days		MVD
		4	Average processing time for new Dealer's General Distinguishing Number (GDN) license applications	35 days	17 days		MVD
		5	Average processing time for GDN renewals	14 days	7 days		MVD
		6	Average processing time for GDN license amendments	19 days	7 days		MVD
		7	Average turnaround time for single-trip routed permits	33.88 mins	32 mins		MCD
		8	Average turnaround time for intrastate authority application processing	1.47 days	1.4 days		MCD
		9	Average turnaround time for apportioned registration renewal applications processing	2 days	2 days		MCD
		10	Average turnaround time to issue salvage or non-repairable vehicle titles	5 days	4 days		VTR
		11	Average time to complete motor vehicle complaints with no contested case proceeding	131 days	120 days		ENF
		12	Average time to complete motor vehicle complaints with contested case proceeding	434 days	400 days		ENF
		13	Average time to complete salvage complaints with no contested case proceeding	131 days	120 days		ENF
		14	Average time to complete salvage complaints with contested case proceeding	434 days	400 days		ENF
		15	Average time to complete motor carrier complaints with no contested case proceeding	297 days	145 days		ENF
		16	Average time to complete motor carrier complaints with contested case proceeding	133 days	120 days		ENF
		17	Average time to complete household goods complaints with no contested case proceeding	432 days	145 days		ENF
		18	Average time to complete household goods complaints with contested case proceeding	371 days	180 days		ENF
		19	Average time to complete Oversize/Overweight (OS/OW) complaints with no contested case proceeding	40 days	35 days		ENF
		20	Average time to complete OS/OW complaints with contested case proceeding	265 days	250 days		ENF
		21	Percent of lemon law cases resolved prior to referral for hearing	76%	60%		ENF
		22	Average time to complete lemon law cases where no hearing is held	147 days	65 days		ENF
		23	Average time to complete lemon law cases where hearing is held	222 days	150 days		ENF
		24	Percent of total renewals and net cost of registration renewal: A. Online B. Mail C. In Person	A. 15% B. 5% C. 80%	A. 16% B. 5% C. 79%		VTR
		25	Total dealer title applications: A. Through Webdealer B. Tax Office	Baseline in development	A. 5% B. 95%		VTR

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER	
Optimized Services and Innovation		26	Percent of total lien titles issued: A. Electronic Lien Title B. Standard Lien Title	A. 16% B. 84%	A. 20% B. 80%		VTR	
		27	Percent of total OS/OW permits: A. Online (self-issued) B. Online (MCD-issued) C. Phone D. Mail E. Fax	A. 57.47% B. 23.03% C. 11.33% D. 1.76% E. 6.4%	A. 58% or greater B. 25% or greater C. 10% or less D. 1.7% or less E. 5.3% or less		MCD	
		28	Average time to complete lemon law and warranty performance cases after referral	Baseline in development	25 days		OAH	
		29	Average time to issue a decision after closing the record of hearing	Baseline in development	30 days		OAH	
		Implement appropriate best practices	30	Percent of audit recommendations implemented	Baseline in development	90% annual goal for these recommendations which Internal Audit included in a follow-up audit		IAD
		Continuous business process improvement and realignment	31	Percent of projects approved by the agency's governance team that finish within originally estimated time (annual)	57%	100%		EPMO
			32	Percent of projects approved by the agency's governance team that finish within originally estimated budget (annual)	71%	100%		EPMO/ FAS
			33	Percent of monitoring reports submitted to Texas Quality Assurance Team (TXQAT) by or before the due date	79%	100%		EPMO
			34	Percent of project manager compliance with EPMO project management standards based upon internal quality assurance reviews	Baseline in development	100%		EPMO
		Executive ownership and accountability for results	35	Percent of employees due a performance evaluation during the month that were completed on time by division.	Baseline in development	100%		HR
		36	Percent of goals accomplished as stated in the directors performance evaluation	Baseline in development	Measure annually at the end of the fiscal year		EXEC	
	Organizational culture of continuous improvement and creativity	37	Employees who rate job satisfaction as above average as scored by the Survey of Employee Engagement (SEE)	3.47 (SEE 2012)	3.65	3.60 (SEE 2013)	HR	
		38	Increase in the overall SEE score	337 (SEE 2012)	360	351 (SEE 2013)	HR	
Focus on the internal customer	Focus on the internal customer	39	Percent of favorable responses from customer satisfaction surveys	Baseline in development	90%		EPMO	
		40	Annual agency voluntary turnover rate	6.5% (FY 2013)	5.0%		HR	
	Increase transparency with external customers	41	Number of education programs conducted and number of stakeholders/customers attending education programs	4.48/80.61	4/80		MCD	
		42	Number of education programs conducted and number of stakeholders/customers attending education programs	36/335	42/390		VTR	
		43	Number of eLearning training modules available online through the Learning Management System and number of modules completed by stakeholders/customers	eLearning Modules Available - 28 Completed - 735	Available - 31 Completed - 814		VTR	

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Customer Center		44	Number of Shows and Exhibits attended to educate stakeholders/customers about TxDMV services and programs	6	7		MVD
		45	Number of education programs conducted and number of stakeholders/customers attending education programs	3/250	3/250		ENF
		46	Number of education programs conducted and number of stakeholders/customers attending education programs	3/150	4/300		ABTPA
		47	Percent of customers and stakeholders who express above average satisfaction with communications to and from TxDMV	Baseline in development	80%		All Divisions
	Excellent Service Delivery	48	Average hold time	9 min	9 min		CRD
		49	Abandoned call rate	22%	20%		CRD
		50	Average hold time	Baseline in development	1 min		ITS
		51	Abandoned call rate	Baseline in development	5%		ITS
		52	Average hold time	Credentialing - 1.6 minutes Permits - 2.08 minutes CFS - 54.38 seconds	Credentialing - 1.5 minutes Permits - 2 minutes CFS - 50 seconds		MCD
		53	Abandoned call rate	Credentialing - 7% Permits - 6.42% CFS - 5.63%	Credentialing - 6% Permits - 5% CFS - 5%		MCD
<b>Key:</b>		<b>Critical</b>	<b>Off Target</b>	<b>On target</b>	<b>Not yet started</b>		
<b>Vision:</b> The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.							
<b>Mission:</b> To serve, protect, and advance the citizens and industries in the state with quality motor vehicle related services.							
<b>Philosophy:</b> The Texas Department of Motor Vehicles is customer-focused and performance driven. We are dedicated to providing services in an efficient, effective and progressive manner as good stewards of state resources. With feedback from our customers, stakeholders and employees, we work to continuously improve our operations, increase customer satisfaction and provide a consumer friendly atmosphere.							
<b>Values:</b> We at the Texas Department of Motor Vehicles are committed to: <b>TEXAS-Transparency, Efficiency, EXcellence, Accountability, and Stakeholders.</b>							