TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

8:34 a.m.
Thursday,
August 16, 2018

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

RAYMOND PALACIOS, Chair
ROBERT "BARNEY" BARNWELL, III
LUANNE CARAWAY
BRET T GRAHAM
KATE HARDY
GARY PAINTER
JOHN PREWITT
PAUL SCOTT
GUILLERMO "MEMO" TREVIÑO
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   Putnam Darwin Richardson d/b/a Casual Car Sales

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8. Chapter 217, Vehicle Titles and Registration Amendments, §217.27 (Relating to clarifying requirements and procedures for the approval or denial of personalized license plates) (Proposal Published May 4, 2018 - 43 Tex. Reg. 2737) (Extension of Comment Period Published June 29, 2018 - 43 Tex. Reg. 4521)

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16. 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
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MR. PALACIOS: Good morning, everyone. It's a great day in Austin, Texas. So good to see so many people here in attendance, we appreciate you coming out. We appreciate the interest that you have in the items that we have in our agenda, and I know there's quite a few of you that will be giving public comment so we certainly look forward to your comment coming up here.

My name is Raymond Palacios, and I'm pleased to open the Board meeting of the Texas Department of Motor Vehicles. It is 8:34 a.m., and I'm now calling the Board meeting for August 16, 2018 to order.

I want to note for the record that public notice of this meeting, containing all items on the agenda, was filed with the Office of the Secretary of State on August 8, 2018.

Before we begin today's meeting, please place all cell phones and other communication devices in the silent mode, and please, as a courtesy to others, do not carry on side conversations or other activities in the meeting room.

If you wish to address the board or speak on an agenda item during today's meeting, please complete a speaker sheet at the registration table. Please identify on the speaker sheet the specific item you are interested
in commenting on and indicate if you wish to appear before the board and present your comment or if you only wish to have your written comment read into the record. If your comment does not pertain to a specific agenda item, we will take your comment during the general public portion of the meeting.

In accordance with the department's administrative rules, comments to the board will be limited to three minutes. To assist each speaker, a timer has been provided. The timer will be green for the first two minutes, yellow for one minute, and then red when your time is over. Individuals cannot accumulate time from other speakers. Comments should be pertinent to the issues stated on the comment sheet. When addressing the board, please state your name and affiliation for the record.

Before we begin today, I'd like to remind all presenters of the rules of conduct before our board meetings. In the department's rules Section 206.22, the board chair is given authority to supervise the conduct of meetings. This includes the authority to determine when a speaker is being disruptive of the meeting or is otherwise violating the timing or presentation rules I just discussed.

And now I'd like to have a roll call of the
boths board members.

    Board Member Barnwell?
    MR. BARNWELL: Present.

    MR. PALACIOS: Board Member Caraway?
    MS. CARAWAY: Present.

    MR. PALACIOS: Board Member Graham?
    MR. GRAHAM: Present.

    MR. PALACIOS: Board Member Hardy?
    MS. HARDY: Present.

    MR. PALACIOS: Board Member Painter?
    MR. PAINTER: Present.

    MR. PALACIOS: Board Member Prewitt?
    MR. PREWITT: Present.

    MR. PALACIOS: Board Member Scott?
    MR. SCOTT: Present.

    MR. PALACIOS: Board Member Treviño?
    MR. TREVIÑO: Here.

    MR. PALACIOS: Let the record reflect that I, Raymond Palacios, am here too. We have a quorum.

    All right. At this time will you all please stand and honor our country with the pledge of allegiance.

    (The Pledge of Allegiance was recited.)

    MR. PALACIOS: Okay. Let’s move on to agenda item number 3. I am very, very pleased to announce that on July 30 Governor Abbott appointed John Prewitt of
Cypress to our board and Paul Scott of Lubbock to our board. Member Prewitt is the board's new motor carrier industry representative member, and Member Scott is the board's new independent dealer member. The governor has also reappointed Member Graham of Denison as the representative of the franchised dealers. All three of these terms are set to expire on February 1, 2023. Congratulations, five more years.

(Applause.)

MR. PALACIOS: The new members have fulfilled their requirements of training. Also, all members have completed all required paperwork, have been duly sworn into office, and have received their commission from the Texas Secretary of State.

On behalf of the board, Mr. Prewitt and Mr. Scott, we welcome you. We look forward to working with you. I've personally heard nothing but great things about you, and I know the Governor's Office vets board members very, very well, so I know each of you have had a chance to meet you and talk to you, and I know you're going to be outstanding additions to this board and we look forward to working with you.

Okay. Now, this is bittersweet. While we welcome two new members, we recognize the service of two of our outgoing members, Board Member Ingram and Board
Member Walker.

Board Member Ingram has served since February of 2011. He was appointed as the independent auto dealer representative by Governor Perry in February of 2011 and was elected vice chair by this board in November of 2016. He's chaired the Projects and Operations, Legislative and Public Affairs committees, he served on the Motor Vehicle Advisory Committee, he was a member of the Finance and Audit Committee.

And I can just tell you Board Member Ingram was on the board when I first arrived and he was one of my mentors when I came on. He has always, from the beginning to the very end, conducted himself with the highest level of integrity. His comments, his decisions, his approach were always very methodical and very well reasoned. I learned a lot from just observing him, listening to him, and what I'm going to miss most are his just off-the-cuff quips. He just has a sense of humor that, you know, it's like where did that come from.

But, Johnny, what can we say about Johnny? Johnny was one of the original members, the only remaining original member of the board, having served since 2009. Johnny, as you know, was the former chair of the board.

Those things I said about Blake, they're kind of the opposite for Johnny. What I'm going to miss about
Johnny is just he had this direct, unabated approach to things, this way of just getting right down to the nitty-gritty, not beating around the bush, and I just loved your direct approach, Johnny. The legacy I think you're going to leave here, amongst others, there's a lot, but how many people can say that they were instrumental in making a decision and that decision was contested and it ultimately had to be decided by the Supreme Court, and you're named in that case. I mean, that is the coolest thing, and you won, as well. So I guess you may want to bring that up any time your kids argue with you or something. It's like the Supreme Court is on your side.

(General laughter.)

MR. PALACIOS: Gentlemen, I will say this is, again, very, very bittersweet. I want to thank you, Johnny, I want to thank you, Blake, for your service to the State of Texas. I want to thank you for your wisdom, your guidance and your leadership to this board and to this agency. Above all, I truly want to thank you for your friendship. I will tell you this, this has been the greatest part of being on this board is getting to know guys of your caliber, and I will certainly miss you. Thank you.

(Applause.)

MR. BARNWELL: I just have one thing to say,
pretty much ditto. You guys are both good friends and admirable role models and I've learned a lot from you. I appreciate your service more than you know, and I'm certainly going to miss you because now I'm stuck with Raymond. So we've got that going for us.

(General laughter.)

MR. BARNWELL: Anyway, good luck, guys. We'll look forward to visiting in the future in other lands and other places. Take care.

MR. TREVIÑO: I have not served with the two members who are retiring for as long as the other members have, but I just want to say what an honor and a pleasure it is to have served with you. And you know, coming on to a state board, you have a sense that maybe people choose service for the wrong reasons, but I tell you what, having served with you, it's really made me proud to be a member of this board, and also just your service to the State of Texas and your focus on what's important for Texas and what's good for all citizens, and I just can say enough good things about you. Thank you very much.

If there's an opportunity, I think we ought to think about retiring Johnny's microphone. If there was ever an opportunity to put up like a jersey or something like that or a number, keep your microphone out of going to someone else.
MR. GRAHAM: Memo, just remember it's going to be retired anyway, it doesn't really work anymore. Overused.

(General laughter.)

MS. CARAWAY: I just want to say thank you to both of you. I appreciate the wisdom and guidance that I gained from you two and I appreciate what you've done for the State of Texas and have done for DMV. You both have contributed a lot of wisdom and a lot of guidance to this agency, and I thank you for that. And I will miss working with both of you. Thank you.

MR. PALACIOS: Okay. Thank you, gentlemen. Now at this time actually we have something for you, so board members, if you'll join me down here at the bottom. We have a proclamation here from the Governor's Office. Do you want to read it?

MR. BARNWELL: "The State of Texas Governor"

"To all whom these presence shall come, greetings.

"Know ye that this official recognition is presented to John H. "Johnny" Walker, III in recognition of and appreciation for your years of meritorious service to the State of Texas as a founding member of the Texas Department of Motor Vehicles Board, 2009-2018.

"Greg Abbott, Governor Texas."

ON THE RECORD REPORTING
(512) 450-0342
MR. PALACIOS: Okay. Let's move forward to agenda item 3.C. As a result of the changes in our board members, we are going to make some changes to committee assignments. The Finance and Audit Committee will now include Members Graham, Hardy, Prewitt and Member Caraway will continue to serve as the committee chair. The Legislative and Public Affairs Committee will include Members Barnwell, Painter, Scott and Member Treviño as the committee chair. Projects and Operations Committee will include Members Caraway, Prewitt, Scott and Member Barnwell will now serve as the committee chair.

I will now move on to agenda item number 4 and move it over to our executive director, Ms. Brewster.

MS. BREWSTER: Thank you, Mr. Chairman, members of the board. Good morning. For the record, my name is Whitney Brewster, executive director.

As you know, the next meeting of the Sunset Commission will be August 29 and 30, that's a Wednesday and Thursday, at which time the commission will vote on each of the recommendations in our staff report and then will either adopt or not adopt the recommendations, adopt modifications to the recommendations, and potentially consider new recommendations.

At this point the agenda for those hearings on
August 29 and 30, the agenda has not yet been set so we're not quite sure if the commission is going to vote on that Wednesday or Thursday. We are aware that potential modifications to the report are being discussed and we have responded to a number of member inquiries associated with Sunset, but ultimately we won't know the final proposed modifications until the decision documents are published, and we are anticipating that that will be within a week or so of those hearings. So certainly as soon as we get indication of what those modifications are, we will share that information immediately with the board. But that is Sunset as we know it today.

Do any of the members have any questions about Sunset?

(No response.)

MS. BREWSTER: All right. Moving right along.

There have been several business continuity exercises that the agency has undergone recently that I wanted to make sure that I shared with the board because of the importance of continuity of our business.

We successfully completed our executive team disaster event response exercise. This was done in July. This exercise demonstrated the executive team's ability to react quickly to a disaster, a surprise incident. We convened in an alternate location, we tested connection to
needed resources, worked through complex response, safety, alternate work arrangements and personnel issues. So that was a fun exercise and a needed exercise to ensure that our team is ready to go should there be an incident and we need to keep our operations moving forward.

We also successfully completed a full system disaster recovery exercise of the registration and titling system in June. This demonstrated the consolidated data center and TxDMV's resources and our ability to recover RTS from a catastrophic event should that occur in the data center. Full system recovery efforts were accomplished within the DCS contract of 72 hours, so everything was brought back up within that SOA. All components and functions of RTS were recovered and tested, so this was a really, really good exercise for the agency to go through. And I do want to thank Josh Kuntz and his team for their efforts in ensuring that that testing was done and done well.

Just a couple of other items. We also successfully completed a full system disaster recovery exercise on Texas international registration program and a tabletop disaster recovery exercise of the motor carrier credentialing system application.

So we do disaster recovery exercises for RTS on an annual basis, our other applications we alternate years
but certainly disaster recovery is important and we learn
something every time we go through the process. So just
thought the board would be interested in those efforts.

Any questions on that?

(No response.)

MS. BREWSTER: Okay. I, along with several
others in the agency, had the opportunity to attend the
American Association of Motor Vehicle Administrators
conference. It was the regional conference in South
Carolina. This provided us an excellent opportunity for
us to meet with our peers from across the region and share
best practices. I had the opportunity to participate on a
panel regarding how our region has responded to natural
disasters and how we in Texas dealt with and continue to
deal with the devastating impacts of Hurricane Harvey. It
was a really, really good panel. We had also folks from
Florida and Louisiana on the panel to share their lessons
learned after going through that.

Jeremiah Kuntz gave an excellent presentation
on electronic titling and specifically what Texas is doing
through webDEALER and what we are looking forward to doing
through webLIEN. So that was very well received and
Jeremiah represented us very well.

Additionally, the eLICENSING program was
honored with multiple awards at the conference. I
accepted two of the three awards recognizing eLICENSING, and those awards include the Improvement Through Efficiency Service Award, and we won that both at the regional level as well as at the international level, the Regional Award for Innovative Use of Technology Service, and coming up we will be accepting the Trailblazer International Award for this program which is awarded to those efforts that are on the cutting edge and can be applied across the jurisdictions.

Apart from the many awards we got for eLICENSING, we also were recognized with a Public Affairs and Consumers Education, or PACE, award for the website that was created by department staff with internal resources to promote the 100 year specialty license plate. So that was a shout-out to the Government and Strategic Communications team, as well as our web team and IT. That was a huge effort but it's a fun and informative website if you have the opportunity to go take a look at it.

I also had the honor of being elected the president of the Region 2 Board, which I'm honored to serve in that capacity. One of the benefits of being president is that we have the opportunity to host the 2019 conference, and we're going to show our friends from across the region what it means to be Houston Strong, and we're going to welcome them to the J.W. Marriott Houston
Galleria June 25 through 27.

MR. PALACIOS: Well, congratulations, Whitney.
Outstanding job.

MS. BREWSTER: Thank you.
If there aren't any questions, Mr. Chairman, I'll move to item D.

MR. PALACIOS: Yes, please.

MS. BREWSTER: Okay. At the request of our fine Finance and Audit Committee chair, Member Caraway, the TxDMV will be providing training to further enhance awareness and prevention of motor vehicle related fraud, waste and abuse in Texas to the tax assessor-collector officials. The training will take place in Austin, we'll be holding it at the Capitol in September, and it will involve presentations and discussions from several of our divisions, including Vehicle Titles and Registration, IT, our Compliance and Investigations Division, General Counsel, Internal Audit, and the Enforcement Division.

We are already getting a great response rate in terms of wanting to participate and we're really excited to be working with them and it's specifically the tax assessor-collectors themselves on combating fraud, waste and abuse, and will be a good forum and opportunity for us to discuss issues. And we hope to provide more training to TAC offices, including county auditors, in the very
near future.

MS. CARAWAY: We appreciate it.

MS. BREWSTER: Thank you. Happy to do it.

Moving along to enterprise projects, just wanted to give a quick update on projects. The call center project, and this is the agency's project to upgrade the telephone system, including quality monitoring and workforce management services. Vendor proposals were received on July 27 and agency staff are evaluating those proposals and a contract award is planned by the 29th of this month. So that is moving right along.

The fraud data dashboard project, we are pleased to report that three of the planned nine reports have been developed, tested and already implemented, three more are planned for implementation on October 8, and the final three are on target for implementation by 12/31 of this year. So that will give particularly the Compliance and Investigation Division greater information in terms of fraud detection.

The webDEALER project, eTITLE, the final phase of the webDEALER project is in progress, requirements gathering is complete. We are negotiating with the DCS managed application services vendor on cost, but in terms of timing, design is scheduled to begin by the end of this month, with implementation targeted for spring of 2019.
And then after that phase is completed, the webDEALER project will be closed. This has been a multi-year labor of love, so we're looking forward to completing eTITLE and wrapping up this project.

And we're on the cusp of a new web project, webLIEN, and requirements gathering is in progress for that project, design work is scheduled to begin in September, with implementation for summer of 2019.

And last, but certainly not least, the registration and titling system refactoring project, after almost five years the RTS project is transitioning from project to maintenance and operations. Our contract with Deloitte will end on 8/31 and will not be renewed. NMVTIS, National Motor Vehicle Title and Information System, the project release will be implemented by 12/31 of this year, and that will then release EPMO from oversight of the project and move it squarely under IT's maintenance and operations responsibilities on the first of the year.

So with that, Mr. Chairman, I know I provided a lot of information on the projects and Ms. Sandberg will certainly give future updates, but just wanted you to know that we are moving right along with the project efforts.

MR. PALACIOS: Okay. Any questions regarding the projects?
(No response.)

MS. BREWSTER: All right. I did want to remind everyone that you don't want to miss out the once in a century offer. Our limited edition 100 years of license plates in Texas commemorative plate is still available but only through the end of this month, and since we released this plate September 1 of 2017, we have issued almost 500 of these plates. They cost an additional $30 annually but you get a piece of history on your vehicle and it won't be available to the public after the 31st, so be sure and get yours now.

MR. PALACIOS: Suitable for framing. Christmas coming up, you know.

MS. BREWSTER: You can get it through the county tax assessor-collector's office or on our website. And Mr. Chairman, last, but certainly not least, we'd like to recognize our recent retirees and employees who have reached a state service milestone.

MR. PALACIOS: Yes.

MS. BREWSTER: And I want to welcome the friends and families of our celebrants who join us this morning. We appreciate the support that you have provided to your loved ones day in and day out and appreciate you sharing your loved ones with us.
Division, will read the service announcements. So, Chairman Palacios, members, if you'd just me at the front.

MS. BARKER: Good morning. My name is Margaret Barker, Human Resources Division.

The following employees have reached a state service milestone of 20 years. Chuckie Harris, please join Ms. Brewster and our board members.

Chuckie came to TxDMV in March 2014 after working for the Texas Department of Transportation. He is part of the Finance and Administrative Services Division's mail and warehouse team. Chuckie is that versatile and hardworking team member who jumps in to assist wherever needed and who willingly asks for new opportunities. He handles a wide variety of job duties and is fully reliable in anything he sets his mind to accomplish or that may be assigned to him. Chuckie is always smiling and has an excellent demeanor that is noticed and acknowledged by his team members and customers alike. Chuckie is truly an asset to his team, section, division and this agency, and we congratulate him on his 20 years of service.

(Applause; pause for presentation and photos.)

MS. BARKER: Christy Michalak, please join Ms. Brewster and our board members.

Christy began her career with the State of Texas Department of Public Safety. She moved to the Texas
Department of Transportation in June 2004 and transitioned over to our agency in November 2009. She has spent the past 14 years in the Vehicle Titles and Registration Division. Christy currently serves as manager of the Vehicle Data Management and Special Plates Unit where she oversees the management of the specialty plates marketing contract with My Plates, as well as processing pen records and motor vehicle data contract requests for the division.

Congratulations on 20 years, Christy.

(Applause; pause for presentation and photos.)

MS. BARKER: Lynese Taplin, please join Ms. Brewster and our board members.

Over the years, Lynese has served the State of Texas in several roles and agencies. She originally joined the TxDMV in November 2009 and briefly left state service to travel and explore various cities throughout the U.S. She joined TxDMV in November 2017 and currently serves as an operations specialist in the Vehicle Titles and Registration Division's salvage vehicle. Her efforts help to keep Texans going, and we congratulate her on 20 years of dedicated service.

(Applause; pause for presentation and photos.)

MS. BARKER: Regina Ygnacio, please join Ms. Brewster and our board members.

Regina began her state career working with the
Criminal Justice Policy Council in 1993 and remained at the council unit until it was abolished in 2003. In September of 2003 she took a position at the Texas Department of Public Safety as a clerk and within two weeks was offered a supervisor position in the Administrative License Revocation Section handling DWI cases for all Texas counties. In 2006 Regina transferred to the Texas Department of Transportation and throughout her 25 year career she's still going strong and hopes to have many more happy days ahead and would like to thank everyone involved for making it great.

Congratulations, Regina.

(Applause; pause for presentation and photos.)

The following employee has reached a state service milestone of 30 years. Shirley Wilkerson, please join Ms. Brewster and our board members.

Shirley started her state career in March of 1984 with the Texas Parks and Wildlife Department and retired from state service in February of 2014 while at the Texas Department of Transportation after almost 28 years of service. After she retired, Shirley earned a master's degree in business administration from Park University. Fortunately for us, Shirley decided to un-retire and has been in the Motor Carrier Division since January as an administrative assistant.
Thank you for your 30 years of service, Shirley.

(Applause; pause for presentation and photos.)

MS. BARKER: The following employees also reached a state service milestone but were unable to join us this morning. At 20 years, Nemy Baeza, Vehicle Titles and Registration Division.

(Applause.)

MS. BARKER: Twenty-five years, Lisa Martinez, Enforcement Division.

(Applause.)

MS. BARKER: David Chambers, Finance and Administrative Services Division.

(Applause.)

MS. BARKER: Gus Bernal, Customer Relations Division.

(Applause.)

MS. BARKER: I apologize. It's Consumer Relations Division.

Thirty years, Pam Carter, Vehicle Titles and Registration Division.

(Applause.)

MS. BARKER: And last, employees who recently retired from the agency are Allen Goolsby and Chris Kadas.

Thank you.
(Applause.)

MR. PALACIOS: Our appreciation goes out to all that were just recognized. This agency is all about the people that we have here so we certainly greatly appreciate the tenure and the services of those that we recognize.

So moving on now, agenda item, agenda item number 5, I will ask Daniel Avitia and Brian Coats to come forward, who will address agenda item number 5.

MR. AVITIA: Chairman, members, Ms. Brewster, good morning. For the record, Daniel Avitia, director of the Motor Vehicle Division. Alongside me this morning is Mr. Brian Patrick Coats, with the Enforcement Division. He is the attorney that presented the case to SOAH and represented the agency at the hearing.

Agenda item 5, which can be found on page 6 of your board books, is a contested case regarding the Texas Department of Motor Vehicles v. Putnam Darwin Richardson d/b/a Casual Car Sales. This matter is being presented this morning for the board's consideration to issue a final order. The issue before the members today is whether the board should approve or deny Mr. Richardson's GDN renewal application and revoke Mr. Richardson's license.

The ALJ in this case found that the board has
authority and legal grounds for denying the renewal application, as well as revoking the license because of four reasons. Number one, the respondent has multiple criminal convictions, each of which is a crime that the board has determined to be directly related to the duties and responsibilities of a dealer. Number two, the respondent's criminal convictions include convictions for aggravated kidnapping, multiple theft convictions, as well as criminal trespassing. And I apologize, I said four, there's actually three. And number three, the respondent's criminal convictions span a period of over 31 years, demonstrating that there is an ongoing pattern of criminal behavior, there is a lack of rehabilitation by the respondent, and finally, an inability to maintain a record of good conduct.

The respondent, Mr. Richardson, did not file briefs, pleadings or exceptions to the ALJ's proposal for decision contesting the judge's findings of fact or conclusions of law. So under the Texas Government Code 2001.058(e), the board can change a finding of fact or conclusion of law made by an ALJ if the board determines that the ALJ did not properly apply or interpret applicable law, agency rule or prior administrative decision, that a prior administrative decision on which the ALJ relied on is incorrect or should be changed, and
finally, that the ALJ made a technical error in a finding of fact that should be changed.

Members, staff requests that the board issue a final order that concurs with the administrative law judge's proposal for decision, adopts the judge's findings of fact and conclusions of law with minor modifications as suggested by staff, denies Mr. Richardson's renewal application for a general distinguishing number to operate as an independent motor vehicle dealer in the State of Texas, and revokes Mr. Richardson's general distinguishing number.

Mr. Richardson did receive notice of this meeting this morning and is not present to provide comments today. I believe that General Counsel Duncan has had interaction with his attorney, they are aware that this proceeding is today and have opted not to be here today, and Mr. Richardson has replied and said he will not be here today, as I mentioned.

Members, this concludes my remarks. I'm happy to answer any questions you may have.

MR. PALACIOS: Are there any questions for Mr. Avitia or Mr. Coats?

(No response.)

MR. PALACIOS: Well, given that Mr. Richardson or a representative is not present, I'll entertain a
motion.

MS. HARDY: I move that the board adopt the ALJ's findings of fact and conclusions of law as modified.

MR. PAINTER: Second.

MR. PALACIOS: Motion by Board Member Hardy, second by Board Member Painter. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: The motion passes unanimously.

MR. AVITIA: Thank you, members.

MR. PALACIOS: Thank you.

We'll now move on to agenda item number 6 regarding the adoption of rule in Chapter 215. I'll turn it over to Ms. Corrie Thompson.

MR. DUNCAN: If I may, members. David Duncan, general counsel.

The document that Ms. Nelon, my paralegal, is handing out right now is a slightly modified version of the actual rule language, and Ms. Thompson is going to cover that in her presentation. And we're going to have copies of it given to interested parties and available out in the lobby. It just had a minor technical error in it.

MS. THOMPSON: Good morning, Chairman, members of the board. Corrie Thompson, director of the Enforcement Division. I am presenting agenda item 6 for
you which can be found starting on page 25 in your board books.

Before you is a recommendation to approve the adoption of amendments to Rule 215.85 for publication in the Texas Register. The purpose of the amendments is to add 215.85(d) which clarifies how a licensed dealer holding a GDN issued pursuant to Transportation Code 503.029(a)(6)(B) may pay a referral fee in cash or in value to an individual who has purchased a vehicle from that licensed dealer within the four year period preceding that referral. There is no fiscal impact associated with the amendment.

The proposal was published for comment in the Texas Register from June 26 through August 6 and the department did receive comments from four interested parties. The first comment was received from EAN Holdings, LLC, d/b/a Enterprise Rent-A-Car, Alamo Rent A Car, National Rent A Car, and Enterprise Car Sales, the second set of comments was received from the Texas Automobile Dealers Association, a third set of comments was received from the Texas Recreational Vehicles Association, and the last set of comments was received from the Texas Independent Automobile Dealers Association.

There were changes made to the language that was in the proposed rule based on the comments that were
received and those changes deleted what had been proposed as subsection (e) as there were comments that stated that it conflicted with the language that was in existing rule subsection (a), so again, subsection (e) has been deleted. And what (e) had said was that a referral fee under (d) may not be offered or provided to an individual who is employed by a licensed dealer but that it was in conflict because (a) states that when somebody is acting on behalf of a dealer to obtain referrals for the company, that's not a brokering activity, so the department agreed with that comment and has removed subsection (e).

In response to comments, department staff also modified the proposed rule to clarify that the intent of the rule is to apply only to a specific subset of independent dealers, and so language has been added to new subsection (d) stating that the rule only pertains to those who have been issued a license pursuant to Transportation Code 503.029(a)(6)(B) which is independent motor vehicle dealers only. The proposed language that was published in the register simply said a licensed dealer, and so based on those comments, we've added that additional clarification to the rule.

And lastly, there was a change made to subsection (d) to reflect a four year look-back period to which the referral could be paid. The rule, as published
for comments, said a five year look-back period and the
four year period relates to record retention requirements
that are already in place, and so the language now aligns
with regular record retention requirements.

The comment that general counsel made about the
language that you will see on page 43 of your board book
also narrows down the language as we did in new subsection
(d) from GDN holder down to the specific Transportation
Code license issued pursuant to 503.029(a)(6)(B). That is
being removed as it narrows it too far down. Subsection
(a) is really just giving us a general statement that if
you are an employee acting on behalf of a dealer to refer
customers to the business, you're not acting as a broker,
and so we are striking that language from the proposed
amendment.

If the board adopts the amendments during this
meeting, staff anticipates that the publication will be in
the September 7 version of the Register, with a September
16 effective date. And if you have no comments, I would
ask that the board adopt the rule with the amended
language.

MR. PALACIOS: Are there any questions for Ms.
Thompson. We do have three people who have signed up to
testify, provide comment.

MR. GRAHAM: For clarification, page 44,
subsection (d) says a licensed dealer which it also says in the printout which I thought was the original language in what was published but I thought I heard you say that that piece has changed.

MS. THOMPSON: Yes, (d) was in the original proposal but we've added additional language to it, so initially it said a licensed dealer, we have added in there "a GDN pursuant to 503.029(a)(6)(B)" which speaks specifically to independent motor vehicle dealers. That did not appear in the initial proposal.

MR. GRAHAM: And on page 43, 44, 45, those are the modified as of today, are they not?

MR. DUNCAN: The only change that we made between what's in your backup book and what we've handed you that's on paper is in subsection (a) on page 43, and down near the bottom of that you'll see that there's that reference to 503.029(a)(6)(B). And what that would do, there are two sections about brokering and saying what is and what is not brokering, there's one for new vehicles and there's one for used vehicles, this is the used vehicles section, and in response to the comments, we thought we should put the reference to GDN holder, everywhere it said GDN holder to narrow that. But then one of our staff pointed out that if you do that in subsection (a), paying people a salary to do their job if
they sell used cars at a new car dealership could be
brokering, and we realized no, that's not what we meant,
we just need it to apply to this new exception that we had
created for referral fees which is in subsection (b). So
the (a)(6)(B) reference is still in subsection (d), we
took it out of subsection (a) because it wouldn't make
sense in subsection (a).

MR. GRAHAM: And so how it's on the handout,
this is exactly how you would propose it to be in the
rule. Correct?

MS. THOMPSON: The language that you see
underlined in lines 10 and 11 would not appear, it would
go back to the rule as it currently appears in the new
handout.

MR. GRAHAM: Okay. Let's do that again. In
the new handout that was just handed out, yes, that is how
the language will appear when the rule, if it is adopted,
would appear when it's republished in the Register.

MR. GRAHAM: And it says a licensed dealer
holding a GDN pursuant to 503.029.

MR. DUNCAN: In (d).

MS. THOMPSON: Yes, in (d). Correct. And then
(a) would remain the same, lines 9 through 11: "A person
who is a bonafide employee of a dealer holding a GDN and
acts for the dealer is not a broker for the purposes of
MR. GRAHAM: And so I would be correct in my understanding that was printed section (d), a licensed dealer holding a GDN, would reference independent used car dealers and not franchised dealers.

MS. THOMPSON: Correct. It would speak only to 506.029(a)(6)(B) license holders.

MR. GRAHAM: Got it. I just wanted to make sure. All right, I'm ready.

MR. DUNCAN: Sorry for the confusion.

MR. PALACIOS: Are there any other questions for Ms. Thompson?

(No response.)

MR. PALACIOS: If not, I would like to call, we have three people who request to speak on this agenda item. Mr. Robert Beck. Are you here, Mr. Beck? Good morning.

MR. BECK: Mr. Chairman and board members. For the record, my name is Robert Beck, and my partner, Nelson Simons, and I have owned and operated Stop N Drive Motors in San Antonio for about 13 years now, and I'm testifying today in favor of agenda item 6.

As a small business owner, we take pride in establishing relationships with our customers. About 25 percent of our monthly business right now comes from what
we call repeat and referral customers, and I handle most
of the compliance at our dealership and I'm proud of the
fact the record that we've got that way. We've passed
every exam very good and we've established a good track
record that way.

I'm also in charge of our marketing campaigns,
and one of the most effective ones we use is our customer
referral program, and as I've come up with new ideas for
these programs over the years, I called the state office,
I talked to Jeff, and he said, Well, you know what you're
talking about is considered brokering. But it's not
brokering. What we want to do with our referral program
is simply not brokering. Customer referral programs are
fun, they establish and maintain rapport and good will
with our customers, and they're good for the customer and
they're good for the dealership as well.

I believe that the proposed language clearly
delineates the difference between brokering and customer
referral programs, and I hope that you will pass this and
support it.

Thank you for your time, thank you for your
service, and I'll be glad to answer any questions that you
might have.

MR. PALACIOS: Thank you, Mr. Beck.

Ms. Thompson, would you, I guess for my
edification and this board's, explain the provisions in this rule that would prohibit what we know as brokering, where you have entities that are actually actively engaged in the business of brokering as other states have it?

MS. THOMPSON: Sure. So in other states there are brokers who are basically third parties who help facilitate the sale of a vehicle between a licensed dealer and an individual who wishes to purchase a vehicle. And so this rule, staff feels, is not introducing the ability to broker in the state. Brokering is outright prohibited specifically for new motor vehicles per statute. We don't have any brokering firms or companies in the state and staff does not feel that proposing this language and adopting this rule would introduce that.

MR. PALACIOS: Okay. Now, I'll clarify, we do have brokering companies in the state however they don't operate in the same manner as they do in other states, so again, the concern would be would this rule then give these companies now leverage to act in the capacity as a broker as they do in other states.

MS. THOMPSON: Brokering for new motor vehicles is prohibited in statute, as I said, so there should not be firms that exist that broker vehicles on behalf of customers who are looking to get vehicles from new car dealers.
MR. PALACIOS: Or used car dealers, for that matter.

MS. THOMPSON: Yes, in rule it's prohibited to used car dealers as well. That's correct.

MR. PALACIOS: Okay. I will now call up Erika Blankenship. Are you present, Ms. Blankenship?

MS. BLANKENSHIP: Good morning, Mr. Chairman and board members. For the record, my name is Erika Blankenship. My husband and I own Texas Auto Center. We have three locations, two in Travis County and one in Hays. Testifying today on agenda item number 6, I am in favor of the proposed rule as it relates to allowing independent dealers to develop a referral program.

I'm our chief compliance officer for our organization. We previously had a customer referral program in place and we stopped it about five years ago. When we had the referral program in place, our employees really liked it because it helped to foster a relationship between them and our customers and it helped us to build our customer base. After consulting with our association and our attorney and learning more about the brokering law, we stopped the program because I felt it was a risk that we weren't willing to take.

The last few years have been frustrating because many of our competitors have their own programs in
place and are very successful with them. To be clear, I do not support brokering and I do not feel this language infringes on that.

I strongly support the proposed language, and appreciate your service and time, and happy to take any questions you have.

MR. PALACIOS: Any questions for Ms. Blankenship?

(No response.)

MR. PALACIOS: Hearing none, thank you very much for your time.

MR. PALACIOS: Okay. One more. Last, but not least, the Honorable Mr. Blake Ingram.

MR. BARNWELL: Are you back? Go home.

(General laughter.)

MR. INGRAM: After 7-1/2 years it seems strange to be on this side.

Well, for the record, my name is Blake Ingram, and I have three dealerships in Dallas called Auto City, and I'm here to support the rule proposal changing 215.85. There's not a lot that I can add on to the two speakers that came before, and I don't really want to take up too much of your time, I know you have a long agenda. I'm more than happy to answer any questions that you have.

It is a strongly needed change for independent
dealers. I don't know if you realize this -- you probably do -- that trust is kind of an important thing when you're looking for a used car dealer to buy your next car, and this is one of those programs where if I can convince a customer to send me their family, their friend, their co-workers, that means the world to us. And I'd like to do something more than just saying thank you because right now all I can do is just say thanks. So it's good common sense for businesses to reward those customers if they actually do like our business and like our products and it helps us foster that relationship between the customer. So please support it.

And by the way, thank you so much to staff for helping us put the language together to put this on the agenda. Thank you.

MR. PALACIOS: Thank you, Blake.

Any questions for Blake before he leaves?

MS. HARDY: Can I ask a stupid question, though, because this is only applying to independent used car dealers. Right? Would this not apply to the new side?

MS. THOMPSON: There's a completely separate rule.


MS. THOMPSON: In 215.84 that's the rule that
pertains to brokering of new motor vehicles; 215.85 specifically speaks to used motor vehicles.

MS. HARDY: Okay.

MR. DUNCAN: So this is used motor vehicles only sold by an independent dealer under license.

MS. HARDY: Okay. I get it.

MR. INGRAM: Do you think we ought to expand that?

MS. HARDY: Well, no. I just don't know why the same rule wouldn't apply under a new. Just a question. So two different rules, new and used, I get it, but based on what we're trying to do.

MR. INGRAM: Today it's just independent dealers.

MS. HARDY: No. I got it. It seems like it would apply to new too, but, okay. Thank you.

MR. INGRAM: If nothing else.

MR. PALACIOS: Last chance for Blake.

MR. INGRAM: All right. Thank you so much.

MR. PALACIOS: Thank you, Blake.

MR. BARNWELL: I reserve my right to recall the witness.

(General laughter.)

MR. PALACIOS: Okay. Are there any further questions of Ms. Thompson or any of the people that
provided public comment?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a motion.

MR. PAINTER: Mr. Chairman, I move that the board approve the adoption of amendments to Section 215.85, as recommended by staff.

MS. CARAWAY: Second.

MR. PALACIOS: Motion by Board Member Painter to adopt the motion, second by Board Member Caraway. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you very much, Ms. Thompson.

Okay. Let's move on now to Mr. Jimmy Archer, Chapter 219, Oversize and Overweight Vehicles and Loads.

MR. ARCHER: Good morning, Mr. Chairman and members of the board. For the record, my name is Jimmy Archer and I'm the director of the Motor Carrier Division. This item is found beginning on page 46 of your board book.

For the board's consideration, I'm presenting these amendments to Sections 219.60 and 219.64 for adoption. These amendments relate to permits for oversize and overweight cranes. This rule package covers three
types of crane permits: single trip mileage permits, quarterly hubometer permits, and annual crane permits. This rule package includes two main changes.

First, the amendments provide uniform requirements for cranes with a permit travel at nighttime, regardless of whether the crane is overweight. A front or rear escort vehicle is not required if the crane does not exceed 9 feet wide, 14 feet high or 65 feet long. A front and rear escort are required if a crane is wider than 9 feet or longer than 65 feet. A crane cannot travel at nighttime if it is wider than 10 feet, it would have to travel during daytime hours only -- excuse me -- 10 feet, 6 inches, longer than 95 feet or taller than 14 feet.

Second, the amendments authorize cranes with a permit to travel with properly secured equipment, in accordance with manufacturer's specifications, to the extent the equipment is necessary for the crane to perform its intended function. This amendment is consistent with the department's definition of non-divisible vehicle, as well as laws and rules for at least some of the neighboring states. For example, Louisiana allows counterweights to be transported on the crane as long as the tandem axles don't exceed 48,000 pounds and the tridem axles don't exceed 60,000 pounds.

TxDOT. Our statute requires the board to
consult with the Texas Transportation Commission prior to adopting certain rules regarding crane permits. The Texas Transportation Commission considered the proposed amendments and issued a minute order to document that they consulted with our board on the amendments. Also, Texas Department of Transportation staff did not have any comments on the proposed amendments. And the minute order is found at page 50 of your board books.

The Texas Crane Owners Association submitted a comment in which they request the department to modify the proposed amendments to allow cranes that do not exceed 9 feet in width, 14 feet in height or 65 feet in length to operate during nighttime without escort vehicles. Texas Crane Owners Association states this modification is consistent with the rule for oil well servicing units. We made those modifications in this rule.

There are no fiscal implications related to these amendments, and I would ask that the board approve these amendments for adoption. I'd be happy to answer any questions you might have.

MR. PAINTER: Jimmy, are there any requirements for any additional lighting during the nighttime movement?

MR. ARCHER: Yes. It would follow the requirements that are listed for nighttime movement. Over a certain dimension they'd have to have additional lights.
MR. PAINTER: Yes, sir.

MR. GRAHAM: Mr. Chairman, I'll just add I've reached out to some stakeholders and found nothing but support for this rule, I found no opposition whatsoever on my end.

MR. PALACIOS: Are there any other questions for Mr. Archer or any comments on this rule?

(No response.)

MR. PALACIOS: Hearing none, I'll entertain a motion to accept the rule.

MR. PREWITT: Mr. Chairman, I move that the board approve the adoption of amendments to Chapter 219, as recommended by staff.

MR. TREVIÑO: Second.

MR. PALACIOS: Motion by Board Member Prewitt to adopt the rule, second by Board member Treviño. All those in favor signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Mr. Archer.

We'll move on to item number 8, Chapter 217, Vehicles and Registration. Mr. Jeremiah Kuntz.

MR. KUNTZ: Good morning, members. For the record, Jeremiah Kuntz, director of the Vehicle Titles and Registration Division.
Before you we have Rule 217.27. This is relating to the requirements and procedures for the adoption or denial of personalized license plates. This rule is for final adoption.

We did not receive any comments during the public comment period. This rule was posted for public comment, we did not receive public comments during the first public comment period. We then went out and tried to extend the public comment period a second time to see if there was anybody that was going to comment on it, and we still did not receive any comments on this. Part of the reason that we did that was that we do receive many requests for personalization every day in VTR, and there are many times where we deny a personalization and those individuals appeal that decision, and we wanted to make sure that since we had not received comment that there was an extra opportunity, just because we see so much interest in this arena every day, to make sure that any commenters that missed it the first time had a second bite at the apple, if you will.

I'll kind of go through this quickly. The amendments clarify requirements and procedures for approval or denial of personalized license plates, identify the director of the Vehicle Titles and Registration Division, or my designee, as the initial
decision-maker. We've also clarified that the director may approve or deny an application for personalized plates and my cancel a previously issued personalized plate that we become aware of if it does not meet the standard. We've also identified and clarified the criteria for the director's consideration in evaluating the plate patterns. This is probably the biggest chunk of this rule is really laying out the different criteria that we will use to evaluate any plate patterns that are coming before the department for consideration.

As I said, we get many numerous variations of plate patterns on a daily basis. We see individuals that really try and push the limits on changing characters, trying to come up with creative ways to get plates through the system, and so we really wanted to hone in on each of the different criteria that we would use in order to evaluate those plate patterns to make sure that it was very clear to anybody that was applying what the criteria were because we really had very general and broad criteria that the plate patterns fell into. We've gotten much more specific in our criteria with this rule so that the public very clearly understands what we will consider when we're looking at those plate patterns.

We have added an appeal mechanism for rejection or canceled plates so there is now basically a documented
appeal process where somebody can come in that has been
denied or had their plate revoked, they can come in and
they can appeal. It sets forth different parameters by
which they'll make that appeal and our time frames for
responding to them, so that that's all very clearly laid
out for them and so there's no ambiguity as to that appeal
process.

And then we've added options for a person whose
personalized initial application has been denied and for a
person whose existing personalized plate has been
canceled.

So again, we're really trying to clarify these
rules so that everybody understands the rules of the game
when they're trying to apply for a personalized license
plate. And with that, that completes my presentation.

MR. PALACIOS: Are there any questions for Mr.
Kuntz?

MR. TREVIÑO: Mr. Kuntz, how many applications
do you get a year for personalized plates and what percent
do you deny?

MR. KUNTZ: I would have to get the stats on
that.

MR. TREVIÑO: Ballpark, just gut feeling,
10,000, a million?

MR. KUNTZ: We get a couple hundred a day, I
would say.

MR. TREVIÑO: A day?

MR. KUNTZ: What percent do you deny, 10 percent, 15?

MR. KUNTZ: I think that we're in that range, but we'll get you those specifics, I'm sure we can pull them.

MR. TREVIÑO: And the language for approval or denial, is that fairly consistent with other states?

MR. KUNTZ: So we did an exhaustive search, we looked at all 50 states' rules as it relates to personalization when we were going through developing this rule package, and what we tried to do was pull the best from all those different states to put together this rule package. We took quite a bit of time and actually taking all those bits and pieces and putting this together.

We'll get the stats, I'm sure my staff will be able to get them.

MR. PALACIOS: Mr. Kuntz, what was the amount of time that we extended the comment period?

MR. DUNCAN: We actually extended it slightly beyond the close of the last comment period so it was sort of in limbo for a bit, but we extended it another full 30 days.

MR. PALACIOS: Okay. So we extended it a full
30 days and you still had no comments on the matter.

Okay.

Are there any other questions for Mr. Kuntz on this agenda item?

(No response.)

MR. PALACIOS: If not, I will entertain a motion to adopt the rule.

MR. SCOTT: I move that the board approve the adopted amendments to Section 217.27, as recommended by staff.

MR. BARNWELL: Second.

MR. PALACIOS: Motion by Board Member Scott to adopt the rule, second by Board Member Barnwell. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

We'll now move on to agenda number 9, Chapter 217, Vehicle Titles and Registration.

Melanie, are you here? Do you have the comments? I don't have the list.

Okay. While you're doing that, please proceed, Mr. Kuntz.

MR. KUNTZ: Again for the record, Jeremiah Kuntz, director of the Vehicle Titles and Registration Division.
Before you are amendments to 217.2 and 217.3 relating to the titling of assembled vehicles. This rule is being brought before the board for authority to go forward and publish for public comment, this is not for final adoption.

As you are aware, we have been having working groups with various stakeholders related to assembled vehicles. We have had three working group meetings to discuss this. I know for those members that were here before, we've had some pretty extensive briefings on assembled vehicles during the first meeting that we brought this up, and then an update was given on the progress of the assembled vehicle working group.

Following all of that there were a lot of recommendations from those stakeholders to go out and look at other states. We did some looking at other states, our General Counsel's Office looked at Hawaii, Nevada, Arizona, Pennsylvania, to try and look at what other states are potentially doing out there and to try and see if there were any ideas that we could gain from what they had done.

What we also did was did a very exhaustive look at our own statutes to go back through those again and make sure that we were understanding and looking at all of the different chapters that affect motor vehicles that are
coming into the state for titling and registration.

The thing that became very apparent in looking at federal law, other states and even our own statutes was that what we really needed to focus our efforts on was to really hone in on what is a new and used vehicle, and so what these rules before you are attempting to do is really narrow that down so that we can try and make a determination as to the difference between a newly assembled vehicle or a vehicle that is a used vehicle that falls into the category of an assembled vehicle, and what we have done is really focused in on two major component parts of that vehicle and that is the frame and the body of those vehicles.

So I know you've all just received this handout that we've got. Myself and my staff went through and created this chart to somewhat be a guide that maps back to the rule so that you can kind of understand the vehicle types that we're talking about. So when you look across the very top, there's a rule reference and it's actually got a section and subsection reference there so that when you look at the rule you can kind of see how we would handle each one of those vehicles.

And so as you kind of move down the rows you'll see OEM vehicles and see you've got manufactured vehicles, OEM body, OEM frame. This is just your new vehicle that's
coming off the line from GM, that's that column, it's a
brand new vehicle. Obviously it requires a manufacturer's
license and has to be sold through a dealer network in the
State of Texas, and the manufacturer's certificate of
origin is required in order to initially title that
vehicle.

We then go into rebuilt salvage which is still
an OEM body, OEM frame, it's a vehicle that's been
involved in an accident but somebody is just bringing that
back up to its previous standard, so they've not made any
material changes to it, they're just trying to repair that
vehicle so that it can be operated on the roadway again.

You then look and you'll see assembled vehicles
across the top. Everything else, all the other columns
here are trying to come up with all of the different
construction methods that a person may do to a vehicle so
that we can try and handle all of those and really
demonstrate all of the different licensing requirements,
whether it's deemed a new or used vehicle under this rule,
to figure out what are the required documents in order to
title that vehicle, is an MCO required, is a bill of sale
okay, what parts receipts, those kind of things would be
required in order to get that vehicle on the roadway.

So what you can really see is there's body and
frame are those two rows and that's really where we start
to distinguish. An OEM body that's been attached to an
OEM or custom frame, so basically a reconstructed vehicle,
you're taking a body and a frame from two different
vehicles, merging them together but they were both
produced by a major manufacturer. And so even if you've
got a custom frame, maybe you've taken an OEM body and
you've attached to a replacement custom frame, somebody
has made a replacement frame, we still have an OEM body
that's being attached to that and we would still consider
those used.

You then go across, modified OEM body and an
OEM frame, so this could be an OEM body that's had chopped
top or they're making fender cuts, things like that where
they're making changes to that body but they're still
attaching it to a standard OEM frame.

Again, going across, this is a modified OEM
body and a modified OEM frame, you still have OEM parts,
both of those body and frame came from a major
manufacturer but you've made modifications to both of
those. We see this probably as our TV show example, we
see lots of TV shows that kind of fit into this category.
Chip Foose is the one that comes to my mind, you've got
Boyd Cottington, there's a bunch of different guys that
are out there that are doing these types of builds where
they're really restoring old vehicles but they're still
using an OEM body and an OEM frame to make those
modifications of chopping tops, cutting fenders,
tightening up bumpers, those kind of things, but again,
you still have OEM parts that are the base that you're
working from.

You then start to get into some more
interesting builds as you move across and these are non-
replica vehicles, so in both of these columns you've got a
new body. This is a body that did not come from a major
manufacturer, this is something that has been constructed
in somebody's garage, there may be a kit manufacturer that
is building bodies, but this is something that has never
been seen on the roadway by a major manufacturer, it never
came off of a line.

And what we've got is two columns: one is
they're attaching that to an OEM frame or they've got a
custom frame, and this is where we really start to
diverge. When you put it on an OEM frame -- and we've got
examples of this, there are some kit manufacturers that
will sell you a 1965 Shelby Cobra replica body, it's a
fiberglass body, it's a replica body but it resembles a
1965 Shelby Cobra that you can attach to a 1995 Mustang
chassis. So it's got an OEM chassis that you've taken the
old '95 Mustang off of but you reattach a kit body for
like a 1965 Shelby Cobra, that's going to be that first
column under the non -- that's under replica. I'm sorry. That's actually another column over.

So actually what we're seeing here is this is actually dune buggies in this column. So I've got a new body, so a Meyers Manx body that's being attached to an OEM frame, but this OEM frame is not modified, so what we see is Meyers Manx has a body kit for a dune buggy and you can put that on a full VW Beetle frame, and so what usually you see is a four-seater dune buggy kit that comes with this and that's being attached to a non-modified frame. The other one here is the dune buggy that's got a modified frame. There again, Meyers Manx makes a body kit that can be attached to a VW Beetle chassis that has been shortened. They've taken 14 inches out of the middle of that chassis to shorten it to make a two-seater dune buggy.

MR. GRAHAM: Quick point of clarification. So what you're saying is replica is something that looks like a car that was made but isn't made by a licensed manufacturer.

MR. KUNTZ: Correct. Yes.

MR. GRAHAM: Non-replica is just something that could be anything.

MR. KUNTZ: That's something that could be anything.
MR. GRAHAM: I'm with you. I just want to make sure I'm still tracking.

MR. KUNTZ: And the dilemma that you get into with non-replicas is anything could be a non-replica. You could go into your garage with some sheet metal and just start making a body in your garage. You know, you could make something that's never been made before. We've seen some other interesting examples of this where somebody has taken an aircraft's fuselage and attached it to a motor vehicle chassis. We have seen examples, something that would look like a parade float where somebody has taken and built something that looks like Noah's Ark and attached it to a Chevy truck chassis. Those, to us, do not replicate anything that has ever been on the roadway and this is really where we start having difficulties with starting to try and define something because these were never manufactured, and so you've got to have a category of it's never been manufactured before which means that anything and everything that's never been manufactured to resemble something that was manufactured.

And so with a custom body, custom frame, so you've got a new body, new frame, if you look down, an MCO is required, those kind of vehicles can only be built by a licensed manufacturer to be legally titled and operated on the roadway. And that's where the rub starts to get into
this is when you're building something new that's never been a major manufacturer, it's never been built by a licensed manufacturer in the state and you're building it today in today's world, all of the federal statutes, all of the state statutes need to apply to that vehicle in the year in which it is assembled.

So when we look at our state laws, the only person that can put together a vehicle that has never been subject to a first sale is a licensed manufacturer, and that goes beyond Chapter 2301 which is the license requirement. When you look at the Title Act, the Title Act says a new vehicle is a vehicle that's never been subject to a first sale. It then says an MCO is required upon initial title of that vehicle. An MCO is a manufacturer's certificate of origin. That word "manufacturer" is used in that section of code and it is a defined term. A manufacturer is only a licensed manufacturer. So the only person who can produce that document in the State of Texas legally is a licensed manufacturer, and so therefore, nobody else can produce that document which means nobody else can initially apply for title for that vehicle other than a licensed manufacturer and has sold it to somebody through a dealer network.

MR. GRAHAM: And so the licensed manufacturer,
if they were going to build this vehicle would then have
to build it to all of the federal specs and requirements.

   MR. KUNTZ: Yes, because the feds would then
look at that manufacturer and say, yes, you are in the
commerce, you are building vehicles in commerce and you
would be required to be licensed -- you would have to be
certified with a conforming VIN and meet all of the
standards at the federal level.

   MR. BARNWELL: Jeremiah, this is the proposed
rule for Texas. What are other states doing about these
tube frames, one-off cars?

   MR. KUNTZ: There are a lot of states and our
association that we belong to of American Association of
Motor Vehicle Administrators is also watching this very
closely to see where we go with this. What we have
discussed with all of the various stakeholders is in order
to get around Texas's law there would have to be a change
to Texas statute as relates to the requirements for
initial titling of a vehicle and any kind of waivers that
would be needed to the manufacturing laws.

   MR. BARNWELL: That would be a requirement for
the legislature to enact that.

   MR. KUNTZ: Yes, sir.

   MR. BARNWELL: We're hamstrung with the laws
that we have. I understand that.
MR. KUNTZ: This is the farthest we can go in interpreting our law to try and define what is a new and used vehicle.

MR. BARNWELL: Okay. And I think that's fine. So leave it up to the legislature to figure it out.

MR. KUNTZ: Well, and we know that they will seek our input on this. We've had numerous inquiries.

MR. BARNWELL: Ultimately it's their decision, however.

MR. KUNTZ: Absolutely.

MR. BARNWELL: Now, other states already have some of these kinds of exceptions in place, license manufacturer requirement?

MR. KUNTZ: So when you look at the definition of a manufacturer in Texas law versus, let's say, Pennsylvania law, in Texas it says a manufacturer is anybody who assembles or manufactures vehicles, and it's just that simple, any person who assembles or manufactures a motor vehicle. So if you put something together, that's assembly of that vehicle. In Pennsylvania they actually have a commercial purpose in their definition. It says anybody who manufactures a vehicle for the intent to sell. It's basically got a commercial purpose. They're in the commercial business of manufacturing vehicles, i.e., a hobbyist would not fall into that definition of a licensed
manufacturer. We do not have said exception in our law.

MR. BARNWELL: So if it's commercial in Pennsylvania -- just to clarify this thing because this is an interesting area to me -- if it's commercial application, then they would need to be a licensed manufacturer.

MR. KUNTZ: Correct.

MR. BARNWELL: Under the definition that we have for a licensed manufacturer. But if it's a hobbyist, which we come back now, okay, are you a dealer or are you just doing casual sales, at what level are you more than a hobbyist. You know, we're down a rabbit hole here.

MR. KUNTZ: So it goes further in Texas in that it's not just a --

MR. BARNWELL: Yes, I know, Texas is quite restrictive.

MR. KUNTZ: We would not just be changing the definition of a manufacturer. So even if we created an exception in 2301 -- and I'm getting into other sections of code --

MR. BARNWELL: I understand we're getting way out in the weeds.

MR. KUNTZ: -- I'm going to go with what I know. If we were to create an exception in 2301 that said hobbyists are not required to be licensed as a
manufacturer under 2301, that would relieve anybody that
is putting something together in their garage of the
requirement to be a licensed manufacturer. However, we
still have to deal with Chapter 501 which says in order to
make initial title for a motor vehicle in Texas, we must
have an MCO. Well, an MCO can only be issued by a
licensed manufacturer, so there would have to also be an
allowance that would allow somebody to bring a vehicle
into market for the first time without an MCO present, and
so there would have to be an exception or some alternative
process to bring that vehicle into market.

MR. BARNWELL: Sure. I understand it's a very
complicated and multi-faceted problem, but if I live in
Pennsylvania and I have titled a homemade vehicle there
for years and I move to Texas, can I title it here?
Maybe? You mean I might get away with it?

MR. KUNTZ: It depends and it's difficult to
make a broad statement about a motor vehicle.

MR. BARNWELL: This is homemade, there's no
question, this thing.

MR. GRAHAM: It would be a non-replica new
body.

MR. KUNTZ: We would say that it would probably
not meet our definition and not be allowed to be titled.

MR. BARNWELL: It would have the headlights on
it, you know, and turn signals and a horn and things like that. But is that un-titleable -- if that's a term -- in Texas? Stop grinning at me and answer the question.

(General laughter.)

MR. KUNTZ: It depends, and we would have to make title determinations on those vehicles. We do that every day on vehicles that are coming into the state that are attempting to be titled.

MR. BARNWELL: I see the problem, and I'm just trying to suss out some of the details that you already know about.

MR. KUNTZ: This rule clarifies that, that they would have to go through this exact process in bringing that vehicle into Texas and make sure that they comply with these rules in order to bring that in.

MR. DUNCAN: Mr. Barnwell. David Duncan, general counsel.

The specific scenario you described, the definition of a new motor vehicle in 2301 is a vehicle that has never been subject to a first sale regardless of mileage. So if you built it and you've never sold it, then what is it? It's got a title in Pennsylvania, sure, but it's never been sold, and so we would run it down that chart and that's where it would end up.

There's some even trickier examples. For
example, in California they've invented a category of vehicle called an SCV, a specially constructed vehicle, and you can build a kit car or a home built vehicle just from scratch there but the state has specifically limited those vehicles and says they are not eligible to be resold ever, they do not have assignment on the back of the title, it's blank, so you can't assign it, you can't sell it, you can't devise it to your heirs, you cannot give it in your will. When you die, it dies.

MR. GRAHAM: But you can title it and you can register it and drive it down the highway.

MR. DUNCAN: And drive it.

MR. BARNWELL: But here's the thing, if I'm in San Francisco and I don't have appropriate paperwork to be there in this country and I'm driving that car that I got from my Uncle Julio, I don't think anybody can stop me or arrest me. But I'm just saying, that's just a hypothetical.

MR. PALACIOS: I have a question, Jeremiah. I understand the statutory requirement that would mandate that before an MCO is issued that it must be issued by a licensed manufacturer. I guess my question is if someone, whether it's a kit car, whoever it is, they start producing vehicle, is there a statutory requirement in Texas that would prohibit them from being classified as a
licensed manufacturer, or do they need to conform to federal requirements?

MR. KUNTZ: So that it is an interesting question that we have looked at. So a lot of -- and I'm not going to say every, but a lot of kit car manufacturers, so folks that build chassis, bodies, full kits for vehicles, they go so far as to put everything into that kit except for the motor, and in Texas when we define a motor vehicle, it is a self-propelled vehicle that is capable of carrying persons or cargo, and the self-propelled part is what throws them out of not being required to be a licensed manufacturer. They have not completed that vehicle.

We have -- and again, I can defer to Enforcement and Licensing on this, but we have seen examples of manufacturers that have attempted to come in and say, well, I'm going to provide a kit with everything including the motor but I'm not putting it together, and I believe our determination at that point has been no, you are providing everything necessary in order to put the vehicle together and if you provide every part for that vehicle, you would be required to be a licensed manufacturer in Texas. However, most kits that we see, Factory Five, the other major kit manufacturers, will give you everything but the motor and then you go somewhere
else to get the motor and the person putting the vehicle
together in their garage is the person who is making final
assembly of that vehicle and turning it from parts into a
motor vehicle, and therefore, they would be the person
that is required to be a licensed manufacturer.

MR. PALACIOS: Okay. But my question, if
you're classifying them as licensed manufacturers, then
we're saying before you can issue an MCO, you must be a
licensed manufacturer, why wouldn't they just say, okay,
we're licensed manufacturers and we now qualify for the
issuance of MCOs.

MR. KUNTZ: Being a licensed manufacturer comes
with a string of other requirements, none of the least
which is having a dealer network in order to sell that
vehicle and apply for title. Also, it requires that you
comply with all state and federal laws which would kick
you into requirements that you comply with FMVSS which
means you'd need to be certified, have a conforming VIN,
crash test rate your vehicles, they would all have to
conform to the new federal standards including airbags and
all the other things that are required to be on that
vehicle.

MR. PALACIOS: Okay. So that's my question.
So there's a statutory requirement then that any licensed
manufacturer would then adhere to all federal guidelines
and so forth.

MR. KUNTZ: Is Daniel here?

MR. AVITIA: Members, Daniel Avitia for the record.

Chairman, to answer your question, I think the most important aspect of being a licensed manufacturer is representing that you are going to have a dealer network. With regard to each of these individual assemblers, we would work with Jeremiah's team to determine what their specific business model is, and to this date we have not done that with each of these assemblers, if you will -- and that's what I'm calling them. Again, the most important piece of being a licensed manufacturer meaning having that dealer network. Without that, I could not issue a license to a manufacturer, if they so represented that they are a manufacturer.

MR. PALACIOS: Okay. So what I'm hearing is the main rub is that they don't have a dealer network, not so much that they don't comport to federal guidelines and safety and so forth. Is that what you're saying?

MR. AVITIA: They could comport with all the federal guidelines with regard to safety or federal requirements, but without that dealer network, we could not issue a license to those manufacturers. Otherwise, they would not be able to sell or distribute any of those
vehicles in the State of Texas.

MR. PALACIOS: Which is a different statute.

We get into now manufacturer acting in the capacity of a dealer, but again, it's not necessarily related to federal safety standards and what-have-you.

MR. AVITIA: Right. And that's where Jeremiah is pointing out the difference between 503 and 2301 and going back and forth between those two chapters.

MR. PALACIOS: Okay.

MR. GRAHAM: So that kind of brings up a thought in regards to if you're a licensed manufacturer that it requires you to adhere to federal guidelines for all the safety and all of the things you have to do on a federal level. But now I'm wondering, because I think there's other states that don't, I guess, interpret the statute that way because they're allowing people to manufacture these cars without meeting those requirements.

So I'm trying to figure out is it not clear?

MR. KUNTZ: So again I'll go back to the Pennsylvania example. They have a specific hobbyist exemption from all of the manufacturing requirements, so in Pennsylvania you do not have to be a licensed manufacturer to produce a new vehicle, they have a hobbyist exemption, if you will, and there's a process by which those hobbyists go through in order to title and
register those vehicles for the first time. Now, whether
or not that vehicle comports or is in compliance with
FMVSS, the Federal Motor Vehicle Safety Standards, that's
a whole other question.

We have tried to steer away from that in this
rule and not get bogged down in whether or not the vehicle
meets Federal Motor Vehicle Safety Standards because what
we also discovered, when we went back and looked at our
state laws, is that that compliance with FMVSS is under
DPS's purview and that is in a different chapter of code,
so that's one of the reasons you see that stricken from
this rule. We used to have a specific section that said
the vehicle must comply with FMVSS, we've stricken that
from this rule and made a reference to our state law which
is it must comply with Chapters 547 and 548 which are
compliance with FMVSS and safety inspection which are
administered by DPS. So it's getting there through a
different method through our reference to state law. Our
state law has a reference to compliance with Federal Motor
Vehicle Safety Standards, but that's administered by DPS
and it's not something that was within our purview so we
opted to remove that and replace it with the statutory
reference to those two chapters of code.

MR. GRAHAM: And all of those are in regards to
a manufacturer.
MR. KUNTZ: Those are actually references to all of the safety equipment that is required to be present on a vehicle in order for it to be operated on the roadway, so blinkers, headlights, rearview mirrors, tires, steering wheels, airbags, whether or not an airbag has been removed from a vehicle or altered. All of those issues dealing with which Federal Motor Vehicle Safety Standards apply to the equipment is in those chapters of code, and then the inspection of those pieces of equipment is in the inspection chapter of code, so 547 and 548 work together.

MR. GRAHAM: Right. So I think a real important distinction here is since you told me that the statute reads -- really it only references manufacturers, there are no other alternatives or options for anybody to build a car.

MR. KUNTZ: Meaning a new vehicle.

MR. GRAHAM: For a new vehicle. And so would it be safe to assume that when you talk about these rules for the safety equipment, it is in reference to manufacturers and manufactured vehicles?

MR. KUNTZ: All vehicles that are operated on the roadway must comply with the compulsory inspection requirements which inspects the presence and operability of all the safety equipment. Headlights must work, you
have to have windshield wipers that work, all of those
things that are checked when you go in to do your safety
inspection. The other chapter of code actually sets the
standards for all of those pieces of equipment, so it
basically says if you've got headlights on your vehicle,
those headlights must meet the standards that FMVSS has
laid out, so it has to be an automotive headlight that
meets that federal standard.

So when we look at the Federal Vehicle Motor
Safety Standards, those standards apply to the pieces of
equipment that are present on a vehicle. It actually sets
the specifications for the illumination power of a
headlight, it's ability to be waterproof, all of those
things are set out in those specifications. What Texas
has done is adopted those through reference, so what has
happened is the legislature says DPS administers the
Federal Motor Vehicle Safety Standards on equipment, they
by reference in their rule have said we have adopted all
of those Federal Motor Vehicle Safety Standards for those
pieces of equipment through reference, and said whatever
the federal standard is, that's going to be our standard.

MR. GRAHAM: Right. But there are vehicles on
the road today that don't have airbags.

MR. KUNTZ: Yes.

MR. GRAHAM: Motorcycles don't have airbags.
MR. KUNTZ: Motorcycles are not required under the federal statute to have airbags. And the way the federal standard works is it ages in, so a vehicle manufactured in 1965 --

MR. GRAHAM: Whatever the law was in '65.

MR. KUNTZ: -- does not have to have airbags because that standard did not exist in 1965. The standard exists in 2018, so if you assemble a vehicle in 2018, all of the 2018 standards apply.

MR. GRAHAM: Right. So I'm going to kind of summarize my questions here. I'm trying really hard to wrap my head around this and this is a very, very difficult and complex thing to do in a short amount of time. Today we don't have a provision in our code, in our statute that lets a hobbyist build a car because it clearly states manufacturer, it doesn't provide any latitude. Statute also says that anything built must meet certain safety requirements, like you described, that I would almost assume, have to assume refer to vehicles built by a manufacturer because there is no other provision in state statute that lets you build a vehicle. So we wouldn't talk about vehicles built by manufacturers or somebody else when don't even let somebody build something else. Right?

MR. KUNTZ: That is the dilemma that we see
with the statute is that, yes, when you are bringing a new
vehicle to market, we don't really see how anybody else
can bring that vehicle to market other than a
manufacturer, and all of those standards would apply under
those chapters of code that DPS administers.

MR. PALACIOS: Okay. So let me clarify. Is
this a rule that DPS issued or is it statute?

MR. KUNTZ: It's both statute and rule in
reference to the vehicle equipment required for a motor
vehicle. So statute basically says that DPS in charge of
administering the standards by which equipment that is
placed on a motor vehicle must meet, and then they have
adopted in their rule a reference to FMVSS for all of the
equipment standards. In other words, they have not
adopted new standards, they didn't want to go through a
process of creating a different standard for headlights
when there was already a standard at the federal level
that they reference. So their rule says the standard for
headlights in Texas is the same as the standard that FMVSS
provides for headlights, so they've done that by reference
to say use the federal standard when you're looking at
these pieces of equipment.

MR. PALACIOS: Okay. So again, to be clear
then, these standards are not enshrined in statute, these
are DPS rules that the stakeholders want to address -- I
mean, part of these rules would have to be addressed by DPS.

MR. KUNTZ: Statute basically places the responsibility for vehicle equipment standards at DPS's level for them to administer through their department through rule. They can create new standards for different pieces of equipment if they wanted to. If FMVSS does not have a standard for some piece of equipment that's present on a vehicle, they could actually put in their own standard if they so choose.

MR. BARNWELL: Well, I think you've done a good job with this.

MR. KUNTZ: Thank you.

MR. BARNWELL: Under the circumstances, I don't know how you could have done any better based on the law as we currently have to deal with it. Thank you.

MR. PALACIOS: Are there any other questions? Well, let me ask Jeremiah. The rules that you're proposing, will they conflict with anything over on the DPS side in terms of the requirements that they have?

MR. KUNTZ: No. Basically what we've said is if you are building an assembled vehicle that we are by reference stating that that vehicle must comply with DPS's standards that they have set forth and it must have a vehicle safety inspection as required by DPS's statute and
rule. So we are not in conflict, we are in sync with them requiring those vehicles to make sure that they comply with all of those standards that they've got set. So if they change the standard, it would just change because we've got it just by reference to their standard.

MR. PALACIOS: Okay. So before we title a vehicle, what's the process then for ensuring -- is this DPS's responsibility then to do an inspection and make sure that the vehicle complies with their requirements?

MR. KUNTZ: Yes. We do not have oversight or authority to require safety inspections or to actually administer the safety inspection. What we do by reference is require that the safety inspection has been completed as per their standard, and once it's been completed, then we would use that in doing our title determination or registration.

MS. BREWSTER: Mr. Chairman, if I might just add.

MR. PALACIOS: Yes.

MS. BREWSTER: We did have a couple of members of the working group from DPS involved very closely in the dialogue.

MR. KUNTZ: We had a member from their regulatory services which oversees the inspection process as well as a major from their Highway Department who would
be doing roadside enforcement.

MR. GRAHAM: One more thing, one more clarification. So let's just say these rules are passed by this board and become the rules, we have vehicles on Texas roads right now that don't meet these rules. I know that we've had cases where we've had to revoke titles because of our interpretation of all this, and then there's going to be handful of people, hundreds, I don't know if thousands, that own vehicles that they can no longer operate. Is there anything we can do to protect their interests? I mean, we're passing this rule now, we're clarifying this now, this wasn't the case when they bought these vehicles and invested their dollars in it. Can we grandfather people? How does that work?

MR. PALACIOS: Just one clarification, Board Member Graham. Right now we're proposing rules, so certainly between the proposal and the adoption there's plenty of opportunity to see how this works

MR. GRAHAM: Oh, sure, I know.

MR. PALACIOS: To your point where we could maybe amend, but I'll let Jeremiah address your specific question.

MR. GRAHAM: I'm just trying to think about how to protect the interests of our citizens who have already made investments when these rules weren't in place.
MR. KUNTZ: I'll cover a piece of this and I'll defer to general counsel on kind of the process of how this would get put into the rule. But yes, we have considered grandfathering provisions. There's some interesting things that we have seen as we've gone through this process, and I don't want to say that every person that is out there not the roadway that has a title to a vehicle and is operating it on the roadway would be able to be captured by that grandfathering provision, and there's a reason I'm going to say that.

We see numerous times when we look at these vehicles that the person has never disclosed that it is an assembled vehicle and they are still claiming that it is the original vehicle that it started as. So with many of these dune buggies, they were built on an old VW Beetle chassis and we numerous times see -- I mean, we see these all the time when we go back and look at this, that they still are carrying that original title, so that title still says 1974 VW Beetle on it and in those cases it is going to be very difficult to create a grandfathering provision because they never properly titled it back prior to the rule being adopted.

The dilemma that creates for you is how do you know when those modifications actually took place. Did they take place before all of these rules were adopted or
did they make the modifications yesterday and are trying to use that grandfathering provision as a way to get their vehicle through. We've had many discussions about how to structure that grandfathering provision. We've talked about having a limited time period where we would open it up and say, hey, you've got time to come in and correct your titles if they weren't. I mean, there's a lot of different scenarios we could do with that, but I'll defer to general counsel to kind of expand on how we would structure some of those.

MR. DUNCAN: David Duncan, general counsel.

As Jeremiah said, we've looked at this fairly closely and we've actually had a couple of folks come to us that have a registration and a title and it says ASV on it, which is assembled vehicle in our old parlance, and those folks we would definitely grandfather. Others, as Jeremiah notes, one of the things that we're proposing practically, sort of the mechanics of this, would be from now on when there's an assembled vehicle what has happened previously, and one of the things that has caused some of the problems, is folks will walk into a county office, get a title and a registration and they're out on the road, and then we get the paperwork and go, no, no, no, we know what this vehicle is.

I'll give you an example, it's an Ariel Atom.
It's an open-wheeled two-seat roadster and it's a track vehicle, it even says that on the original paperwork. So we'll get the original paperwork and go, okay, somebody titled and registered this thing and it's a track vehicle, we know it's a track vehicle so we know what this vehicle is, so we ended up revoking that. And that annoys people that they get something from the county and then we take it away.

So we're proposing to send all of these to Austin initially so Jeremiah's people will take the first look at these, ask whatever questions they need to ask. So what we're thinking is on grandfathered vehicles we would do the same thing, or the potential for grandfathered vehicles, they would send us what paperwork they have and Jeremiah's staff would do, for lack of a better word, a title determination. They would look closely at that vehicle, ask for additional information as needed, and make a determination, and require photos and documentation.

MR. GRAHAM: I would just ask that as these rules move forward that we understand what that looks like, defined on paper so that we can see that and understand that. And I know you've spent a lot of time on this. We're trying to define exactly what our statute says today and how we should interpret that and how those
rules should apply, and we need to clarify that and define it and get it down. I know the governor is interested in this topic, as the lieutenant governor is too, and there's a great probability that maybe they can do some clarification for us in the next session. But anyway, thank you.

MR. TREVIÑO: I'd also like to compliment staff on this matrix that you've built on a very complex subject. But I did want to get a sense of the amount of time that you have spent on this in terms of man hours, between our department and other departments, not a specific 2,000 man hours but just a sense of how much time has been spent and how many different departments have been involved in this.

MR. KUNTZ: A lot.

(General laughter.)

MR. KUNTZ: I know just with myself, my chief of titles, my deputy, some of the planners that we've got, I've got two planners that have been working on this a well, we've probably all spent 100 hours at least working on this just behind the scenes, and that's just together, when we're all together. I don't have any clue as to how many days of work of six hour days or eight hour days that they're spending researching other states, looking at other provisions, trying to wrack our brains on how to
structure this. I would venture to guess it's in the hundreds of hours that we've spent on it.

MR. TREVIÑO: Thank you.

MR. PALACIOS: Any other questions for Mr. Kuntz, Mr. Avitia or Mr. Duncan?

(No response.)

MR. PALACIOS: If not, we have 13 people who have signed up to speak on this matter, and I will start that process now.

MR. DUNCAN: A couple of points, Mr. Chairman.

David Duncan, general counsel.

For the speakers there is a three minute time limit and there's a timer right next to the podium. Additionally, members, some of the speakers have handouts and we've ordered the handouts by the speaker, so what we'll do, we'll give you the handout for each speaker just before they speak so they don't get mixed up.

Apologies, we didn't realize that they were going to have handouts. And on contested cases we have limited how handouts are done, and in those instances we know who's going to show up and we can tell them way in advance if you don't get your handouts in early we're not going to give them to you. On future rule examples like this, if there's an association or somebody, we'll try to get with them and make sure that if they have any handouts
we get them in early.

MR. PALACIOS: Thank you.

Okay. Let me begin by calling up Faron Smith.

Are you here, Mr. Smith?

MR. SMITH: For the record, I'm Faron Smith with the Assembled Vehicle Coalition and also the founder Save the Texas Dune Buggy, sandrails, and kit cars are part of this group as well, on Facebook.

And just a few points. We are picking up steam across the nation. We've got people all over the nation, really and truly because of Facebook all over the world watching what's happening right here right now, and they're watching to see what we're going to do here.

Over the last two consecutive weekends, the group that I'm with, the Manx Club, has held two different drives, if you will, or events in Pigeon Forge, Tennessee on a field called Tail of the Dragon. It's a road and what they do is they bring in people and they all drive them. There's hundreds of units that have actually come in for that, and I just can't help but wonder what are those states that allow sandrails, kit cars and dune buggies know that Texas doesn't.

And to answer your question about somebody that's from out of state, I brought my car here from New Mexico because I moved back here from New Mexico with my
car. While it was in New Mexico it was titled, registered and insured while it was in New Mexico, bring it here, that's not the case, I can't do it. I basically have a paperweight in my garage that I spent thousands of dollars on and hundreds of hours on.

At the first working group I was a member, I had high hopes that we actually were going to be able to come to an agreement and actually do something that was positive for both Texas as well as the assembled vehicle group. It was apparent right from the beginning they're not going to work with us. It's difficult -- I don't think any of our suggestions that we've come up with throughout the entire three working groups have even been considered, much less listened to.

The ruling right now that's proposed, it's far more restrictive than what we were before. It restricts far more people and it becomes a problem for even other, I guess, genres, if you will, and I think that this is really going to be a big problem in the very near future if you go through with this. So I am definitely opposing this rule I think it's absolutely ridiculous, to put it blunt.

As I stated in the beginning of this, I'm the founder of Save the Texas Dune Buggy, I'm a member of an 8,000 member group and we are gaining strength in
everything, and if this passes, it's going to be other
people that are joining us as well. And I've been here
since the beginning, I have no intention of going away
until we have something comprehensive.

MR. PALACIOS: I have a question for you. So
you understand this is a rule proposal, not a rule
adoption. So to the extent that -- and going back,
currently we have no rule, so what I'm hearing from you is
no rule is better than this rule. So I guess I would ask
would it not be better if we passed the proposal and then
again between the proposal and the final adoption we have
time to receive comments and to the extent that we could
modify the rule?

MR. SMITH: I can see passing a rule but not
this one.

MR. PALACIOS: But again, until we move forward
with a proposal, we can't receive comments. I mean, if
the rule doesn't pass, there's no rule to even amend, so
you're starting with nothing, as opposed to if we go
forward with the proposal, we at least now have an
opportunity to receive comments, and possibly, to the
extent that we can, amend the current rule as it's
written. I mean, do you follow my logic?

MR. SMITH: I do follow your logic, but still
the way that it's written right now, the reality of it,
he's written it to where maybe less than 10 vehicles can actually get through. I mean, yes, we've got to start somewhere but right here I don't think it's the right spot.

MR. PALACIOS: Okay. Thank you.

MR. SMITH: Thanks for letting people talk.

MR. PALACIOS: Okay. Next up we have Mr. Bruce Carlile.

MR. CARLILE: Thank you for the opportunity to speak. I'm Bruce Carlile from Houston.

Imagine you have 24 dune buggy enthusiasts every Labor Day to meet in Kerrville with 36 horse powered 100 horsepower buggies driving the back roads at 25 to 50 miles an hour safely. Most of these buggies are driven less than 5,000 miles a year. We could choose to drive 2018 Corvette Z02s, fully nationally safety compliant, with 725 horsepower, 450 foot pounds of torque, built on fiberglass and aluminum makeup, but we would need a release of liability from the Chevy dealer in many cases and it would be highly suggested if we bought a vehicle like that that we take a two-day course in Las Vegas to learn how to drive the car.

My background is in oil and gas for over 40 years. I was born and adopted in Germany, I'm more German than anybody here, so this whole dune buggy/Volkswagen
scenario of assembled vehicles is very, very passionate to me. My father, who I saw last year in my buggy in Las Cruces, New Mexico, we went for his last ride before he passed and was laid to rest in El Paso. All of us in my family have had hobbies and interests and passion.

The Meyers Manx -- and Bruce Meyers is 91 years old, still alive, is a legend, he rolls with people like Jay Leno, he's the father of this whole situation. If you look at Harley Davidson, it had financial difficulty, it has bailed out a few years ago, my point being this is an iconic car to the American population, and I think people like Faron Smith for bringing this forward.

These cars are structurally built two was, as Mr. Kuntz stressed. My car on the right is all structurally built integrity, it has been inspected through all the ASE certification and still has issues legally being on the road. So frankly, these I'm going to call them laws or rules almost force people to not comply with the laws in order to follow their dream.

I think it's really more about money than safety, that's what I typically see in my day job. If you look at the revenue that the VW community generates through shows --

MR. PALACIOS: Thank you, Mr. Carlile.

MR. CARLILE: Is it time?
MR. PALACIOS: We have several other speakers behind you, yes, so in deference to them.

MR. CARLILE: Well, let me finish up by saying this is costing you guys a lot of money and the state if you look at the time it takes to register vehicles, which is what I've read in a lot of your research documents, the millions of dollars worth of revenue that you generate with titling and so forth. And again, I apologize for exceeding, but it's really true about money and peeling back the complexity of all of this would help the whole state in its entirety in its tax base and revenue.

Thank you.

MR. PALACIOS: Thank you very much for your comments.

Next I'd like to call up Mr. Matt Fobian.

MR. FOBIAN: My name is Matt Fobian. I'm connected with Faron's organizations.

I just want to start by saying I've been riding motorcycles for about 20 years and I've seen way too many accidents and I'm done. So I ask you what are my options of being one with the road and the weather and the landscape other than a motorcycle. A buggy is the closest candidate. You're taking away a very simple and safe freedom from not only me but taking that possibility away from every other citizen.
You say that you're concerned with our safety and others on the road. How is a buggy more dangerous than a motorcycle? With seatbelts, up to five point harnesses, depending on the type of buggy, you really think that we would be in peril strapped in tightly surrounded by a cage and roll bar? You say that you're concerned with our safety and others on the road. Why are motorcycles all over the place? With your reasoning, they should only be operated on private roads, tracks and raceways. I would like to know the number of emergency visits for motorcycle accidents compared to street operated buggy caused ER visits.

You say that you're concerned for our safety and others on the road. Adam Shaivitz said because many of these vehicles do not have safety components or do not have a body at all. The second half of this statement is just a idiotic as the first, but the first half is what I'm focusing on. Since when is a body a safety component? The frame and the chassis have always been the structure of a vehicle that holds it together. Adam said that the key safety components are missing.

At the meeting in December you showed a slide of a modern sedan stripped of fenders, door panels, hood, trunk with a family of four in it, and I presume it is to prove his point. But what are the key safety components?
The car you presented in that manner had tires, wheels, I assume brakes, suspension, steering wheel, you know, all the stuff that keeps the car on the road, but the one thing that's not mentioned is the most important key safety component of them all and that's the driver. These buggies and kit cars are built and maintained by the most responsible drivers on the road. They've put a torque wrench on every single bolt on their vehicle and made sure that everything is functioning perfectly because they would not want to put their precious family members in something that was not going to be safe. The fact that you deem these vehicles unsafe is grossly insulting to the owners and the drivers.

This situation makes the DMV look like idiots to the rest of the country. Texas is one of the leaders in the second amendment and you want to outlaw dune buggies. So listen, I don't want Franken-cars on the road either, so it's up to you and us to forget about why and whoever had a temper tantrum about dune buggies and to move forward with getting these vehicles that we've spent a lot of time and a lot of money back on the road. They aren't just cars, they symbolize a passion, a family bond, generations of memories.

DMV, step up to the plate of reason, rationality and redeem yourselves to us and the rest of
the country. This is your chance to stop looking like fools and make it right. Don't take away my right to be open and safe on the road.

    Thank you for your time and your ears.

MR. PALACIOS: Okay. Next up we have Mr. Joe Palmer.

MR. PALMER: Good morning, Mr. Chair, members of the board. My name is Joe Palmer. I'm from Fort Worth, Texas and representing myself.

    It's nice to be in a room with car people. My great-grandfather owned a Pontiac dealership in Pennsylvania, which was mentioned before. My grandmother, consequently, had a '70 GTO convertible that she sold before I turned 16. I was disappointed, but life goes on.

    I once sold 21 cars in five weeks, maybe some people are impressed by that, my claim to fame.

    Referrals were talked about before and I think referrals are great when they're unsolicited, unpaid for, it's a signal of trust. And I think trust is at the core of this issue before you right now. Let me explain to you what I mean. When an individual accomplishes the list of tasks that have been required by the department in order to get a vehicle titled and registered in Texas, they are reasonable to expect that title and registration will be issued. When the department does not issue, or worse yet,
the department does issue and then revokes, it erodes a
trust that should exist between taxpayers and the
government that they fund.

   According to the DMV site, the Texas DMV is a
dynamic state agency dedicated to customer service,
consumer protection and the success of motor vehicle
related industries. The Texas DMV mission is to serve,
protect and advance the citizens and industries in the
state with quality motor vehicle related services. The
VTR director is asking the board to support and help
advance policy interpretations and changes that are not
based on data.

   December 7 of last year was the first time the
director was asked by us to provide data supporting his
claims of safety issues. We have since asked for this at
every working group meeting but have been provided by the
director with nothing. If there were data, we would like
to think that the director would be inclined to provide
this to us in order to engage in productive discussion on
this important issue. If there is no data, then how does
the department reach the conclusion that there is a
problem? If there is no problem, why are valuable
resources and time being spent developing unwarranted
solutions, recommendations and pathways forward, et
cetera?
The director is at the same time asking the board to accept the claim that there will be no adverse financial impact, when clear evidence exists to demonstrate that it does and would continue to, absent the board's intervention in this matter. Perhaps the director is referring to implications relating to the department only. We ask the board to consider the financial impact to individuals and small businesses is the main reason why some of us are here today.

As the department essentially stated in its self-advisory report to last year's Sunset Commission, the purpose of this board is to provide oversight and direction for the department to make sure that it does not operate in a way inconsistent with the purpose of the department. It is well within the authority of the board to reverse the decisions of the director.

We ask the board to let us own our vehicles and to restore full ownership to those whose registration and titles have been revoked. Let us enjoy them, let us truly have liberty for all.

I'd be happy to answer any question, including the questions that the chair asked others before me.

MR. PALACIOS: I'll ask the same question that I asked Mr. Smith. Again, this is a proposal, not a rule adoption. I'm hearing you don't like the rules. Are you
in favor of just wiping it out and starting from scratch, is that what I'm hearing? Because again, currently we don't have a rule that really addresses, so I'm hearing the current rule, I believe you're saying, is worse than what we have now which is really nothing that's definitive.

MR. PALMER: Thank you for the question, and I'm not here as an expert, but again, I would reiterate that without the existence of a problem, without the establishment with data and evidence that there is a problem, then this department does not need to spend any time seeking a solution.

The Ariel Atom, incidentally, is a $90,000 vehicle. Last time I looked there was a year waiting list. These vehicles are safe, they're professionally crafted, and they have turn signals, headlights, all these things that DOT inspects. These regulations, these safeguards do exist right now for these kit cars, dune buggies and sandrail cars, and the Ariel Atom as well.

MR. GRAHAM: I'd like to just make a statement to Mr. Palmer and say, first of all, that I think, unfortunately, the vast majority of people running around out there in these vehicles, they know what they're in and they know how to drive them, they're invested in them. I also agree with staff that I think that there needs to be
some clarity in our rules because not everybody always
plays within the bounds of what most of us do, so I think
we need some clarity as to specifically how we apply these
statutes.

And so I'm just trying to get my head around --
the hardest part of this for me personally is getting my
head around what's defined by statute and what allows
interpretation, and that's been real hard. Some of the
questions that I've asked have been in line with trying to
understand what's written by law and what allows us to
make some decisions with latitude. So we do have to start
somewhere and that's where I think we are today.

But anyway, I appreciate your comments, thank
you for your time.

MR. PALACIOS: Okay.

MR. TREVIÑO: And I don't want staff to respond
to every commenter but I would like to have staff respond
to any of the suggestions or thoughts that the commenter
or previous commenters have

MR. KUNTZ: So I'll respond to a couple of
things, and I'm going to harken back to my college days
when I took a business law class and the very first thing
that my professor said is take all logic and reason and
throw it out the window because when you're dealing with
the law, logic, reason and statistics don't matter.
Unfortunately, what we're dealing with here is it is not about data or statistics, we're looking at the strict interpretation of what is in the statutes today and interpreting what is allowed or not allowed. So first off, that's kind of where I want to go with that.

As to the Ariel Atom, this issue, this specific vehicle has been brought up as an example many times and I do want to make sure that we clarify because it's relevant to what we've done in this rule as well. Ariel Atom produces a fully manufactured vehicle, it is a self-propelled vehicle, as the presenter has described, it is a very expensive track vehicle. Ariel Atom, as a company, has chosen not to be a licensed manufacturer and have a dealer network to distribute their vehicles. We make title determinations at the department in cooperation with the Motor Vehicle Department every single day that somebody comes in.

We recently had one that came in where somebody brought in a vehicle, there is a manufacturer who wants to produce this vehicle, they request of Motor Vehicle Division: Do I have to be licensed as a manufacturer? I intend to operate this vehicle off highway all the time, this vehicle is not intended for on road use, it's intended for off road use, it's intended to be operated at a track. When that manufacturer makes that determination
and they produce that vehicle, that vehicle has been set in stone, it is an off road vehicle at that point.

What we are clarifying in here is you can't make a choice as a consumer to change what that manufacturer has already made. That manufacturer already made the determination that vehicle is for off road use, it's not made for on road use. If it had been made for on road use, it would have complied with all of the FMVSS statutes, they would have been a licensed manufacturer, they would have had a dealer network in Texas to distribute their vehicles. They made a business decision to build a vehicle that would not be operated on the roadway, and as such, we are going to continue that with that vehicle for the life of that vehicle.

We're not going to create a backdoor by which somebody can manufacture vehicles that they claim are for off road use to then turn around and have a consumer make a consumer decision that, no, I want to operate that vehicle on the roadway and therefore come in through a backdoor and avoid all of the regulatory scheme that exists in the State of Texas.

So when we talk about Ariel Atom, that's the thing that we really bring up, that's just one company. We have hundreds of companies that come in that have off road motorcycles or off road ATVs, ROVs, there's a lot of
different vehicle classes and they've made those decisions for them to be off road and they cannot be converted to on road use.

MR. PALMER: May I ask a question of the director for clarification?

MR. PALACIOS: Yes, please.

MR. PALMER: I'm hearing from you the term "dealer network" perhaps more often than I'm hearing safety. (Speaker was turned away from microphone; difficult to hear.) Was safety the original impetus for you embarking on this, and if so, is safety going to continue to be your primary motivation, and why would data not factor into safety concerns and safety related studies?

MR. KUNTZ: So the thing I do want to clarify is when this rule first passed in 2012, there was a rule that passed in 2012, I was not the director so I did not embark on the path. It was later amended in 2014 and I still was not the director in 2014, so it was not me personally that was taking this issue on.

As it relates to safety, there is only way that I can respond to safety and that is there are other entities who have defined a safety vehicle, and that being the National Highway Traffic Safety Administration through the Federal Motor Vehicle Safety Standards, as well as the
Texas Department of Public Safety who administers that in the State of Texas and performs a safety inspection on those vehicles. Any vehicle that falls short of the federal standard, in my mind, is falling short of that safety standard for a vehicle produced in 2018. I don't know how to look at it other than that is the minimum safety standard that should apply to a vehicle manufactured in 2018 because I have not gone out and done safety crash tests or any of those other things as NHTSA has done. They are a federal agency that has expertise in safety and the safe construction of vehicles, and as such, we rely upon those standards and their expertise in how those vehicles should be manufactured for safe operation.

MR. PALACIOS: Thank you very much, Mr. Palmer. We still have nine other speakers so let's move forward with Mr. Alan Elliott.

MR. ELLIOTT: Good morning, Mr. Chairman.

MR. PALACIOS: Good morning. Just one point of notice here. Let the record reflect it's 10:49 and Board Member Hardy has stepped out.

Please proceed.

MR. ELLIOTT: Good morning. I'm assuming it's still morning, I know we're running long. My name is Alan Elliott, for the record, and I'm with the Assembled Vehicle Coalition of Texas.
My story is not unique by any means and it is one of many. In June of 2015 I purchased my dune buggy from an individual in Oklahoma for $8,000. It was legal in the State of Oklahoma, so I signed papers needed for the sale, I brought it home to Texas, went through all the forms that I legally needed to go through, had it insured with State Farm -- and yes, they know it is a dune buggy, I provided pictures to them -- had it insured, had it inspected, it passed inspection, changed the title to my name, paid the required sales tax and fees, registered it and received my plates, and I did this because the DMV requires me to do that in a 30-day time period. So it's very simple. Right?

So why am I here? To my knowledge I did everything that the State of Texas and DMV required of me to register my dune buggy so that I could drive it on the roads of Texas. At that time nothing was posted, flagged, informed to me that I had an illegal vehicle due to the administrative rule 217.3. So I'm asking why am I to suffer the loss of the use and my investment in my dune buggy. You have a picture of it, it's not a Frankenstein type vehicle. I followed the law and this type of vehicle has been on the Texas highways for 50-plus years -- I mean, it's nothing new.

As you can see, I struck out a section here
where originally the rule just completely targeted a dune buggy, what was determined to be a dune buggy. Now that that's out, I know that the proposal has five new comprehensive definitions. I say comprehensive, I don't think it is fully comprehensive because my dune buggy is not represented in those types. It has a shortened body, it's a VW chassis.

So in closing, I would like to say for every law and for every rule there's a logical reason with data and statistics to support it. My first question: What is the reason and logic used to create this rule? Is there any data that prohibits this type vehicle with a shortened frame being a type that can be driven on Texas highways? And then why does the DMV ignore my dune buggy because there's not a style there?

MR. PALACIOS: Go ahead, just quickly.

MR. ELLIOTT: My solution is add a definition of an assembled vehicle that includes my type, and because a lot of people don't know about this rule, grandfather all dune buggies, sandrails, kit cars with all registrations and titles reinstated until the DMV can produce the reasons and logic and data that support this rule, and then I believe it should be implemented by the state legislature.

MR. PALACIOS: Okay. Thank you, Mr. Elliott.
I do have a question, Jeremiah. So as I understand it then, the reason Mr. Elliott's vehicle doesn't conform under this new rule is because the frame has been modified?

MR. KUNTZ: Yes. It has a modified frame and it has a body that was never an OEM body. So again, what we are attempting to do in this rule is try and draw a line to say what is the difference between a new vehicle and a used vehicle, and what this would fall under the category of is a new vehicle. In other words, it is a vehicle that was not subject to a first sale because that assemblage was never representative of a vehicle that was on the roadway and enough of the original vehicle parts that were used in putting this together have been modified to the extent that it is no longer able to be representative of that original vehicle -- in other words, the chassis has been modified.

MR. PALACIOS: So had the frame not been shortened, it would conform under the new rule?

MR. KUNTZ: Again, we're trying to draw a line here to say what is new and what is used, and yes, that is the line that we've drawn is if you have an unmodified chassis but you take a body that is not representative of anything, that's brand new and you put it on that chassis that's been unmodified, then you would still be a used
vehicle.

MR. ELLIOTT: May I respond?

MR. PALACIOS: Yes.

MR. ELLIOTT: It's my understanding that if the chassis is not modified the fiberglass put on that body is okay. My fiberglass body is not much different than the long body fiberglass body; it's just shorter. It doesn't make sense to me that the short body should be excluded for that reason. If a mechanical engineer needs to inspect the welds to be sure that it's still safe since it's been shortened, that's acceptable. I've had my chassis completely re-welded, plates put in to be sure it's -- VW chassis floor pans are pretty thin anyway. I wanted more metal in it and my seats were more secure, it's fully seatbelted.

MR. GRAHAM: So, Jeremiah, I know you were about to expand on that.

MR. KUNTZ: I was just going to say we're having to draw a line to define new and used because the only way to allow for vehicles that have been modified is to deem them used vehicles. At some point in time we've got to draw a line and say enough modification has been made to that vehicle that it's something new, it's something that's never been on the roadway, somebody is constructing something.
And again, I go back to part of the dilemma that we've got is creating loopholes where people could come into market and just start mass producing vehicles using existing chassis. I will tell you, and we had a little discussion about this after our last working group, there's an interesting case study, if you will, with Nissan with the old 240Z, where it's the 25th anniversary of the 240Z, Nissan actually, as a major manufacturer, went out and started purchasing used 240Zs from around the country from people. They went through a process of remanufacturing all those 240Zs and they sold them as new, and so they went through that process and rebuilt those. And so that's an interesting case study to look at this as well as to why did they manufacture those, rebuild them and then come back and call them new because at some point in time that vehicle has had enough modifications to it that it becomes a new vehicle, and that's what we're grappling with here.

MR. GRAHAM: So based on this criteria, explain where his vehicle falls.

MR. KUNTZ: Based on this criteria, it would fall into that new category.

MR. GRAHAM: Non-replica?

MR. KUNTZ: Yes, because it is not a replica of a previously manufactured vehicle.
MR. GRAHAM: Non-replica, new body, custom frame.

MR. KUNTZ: Correct.

MR. GRAHAM: Okay. And just for clarification, we had some discussion at one point about the fact that there was one other issue -- and this is for counsel, we can let him sit down if you are done -- we had some discussion at some point that also one of the criteria that was affecting this discussion was the fact that in our statute in Texas if you make one vehicle you're deemed a manufacturer. How does that play into kind of this discussion?

MR. KUNTZ: So again, in looking at some of the other states, particularly when we look at Hawaii, Hawaii deems you to be a manufacturer when you produce your second of the exact same vehicle. We, again, don't have any kind of leeway on that to say, hey, if you only build one that you're somehow exempt. So the first vehicle that you build under our statutes would require you to be a licensed manufacturer if you're building something new.

MR. GRAHAM: Okay.

MR. DUNCAN: And members, if I may. David Duncan, general counsel.

Something that's come up, sort of a theme I've seen in some of the comments, and I'd like to be clear for
you all and for the commenters, is the basis, when we do a
rule and when we take any action, when this board and its
staff does anything, the only way we're able to do that,
the only reason we're able to do that is the legislature
has specifically authorized us in statute to do that. The
thing we're talking about here is titling and
registration. When you look at the titling statute, it
says you can issue a title, that the department may issue
a title for a new vehicle and it must be accompanied by an
MCO, or a vehicle that's been subject to a first sale, a
used vehicle, and here's the paperwork you need for that,
and the department is given authority in those two
sections to give the counties, the tax assessor-collectors
guidance on the necessary paperwork and the processes to
do that.

And everybody knows there's a couple of little
odd quirks that they've added to that, ATVs and ROVs, so
all terrain vehicles, off road vehicles, what are those
things called, the Gator and different things like that,
those are actually allowed to be titled but not registered
to be driven on the road and yet there are certain roads
they can be driven on. So they've carved out some of
these little odd -- another one is custom vehicles and
street rods.

The reason we can do any of those is the
legislature said you can do this. There's no statistics
we use to start a rule, there's no general safety, we
don't do anything because it's a good idea, we can't do
anything because it's a good idea, it must be something
that the legislature has specifically told us you may do
this and here's how. And so I just want to be clear that
we're not doing this because we like or dislike or we
think dune buggies are safe or unsafe, we need to put them
in a bucket that the legislature has given to us, and
that's what this is.

MR. GRAHAM: Mr. Elliott, I just want to say I
kind of ran you off a while ago. I was deep in thought.
I apologize. Thank you for taking the time to come talk
to us.

MR. PALACIOS: Thank you.
Next up I'd like to ask Mr. Dean Watts to come
forward.

Let the record reflect that Board Member Hardy
did return. I didn't note the time but she's back. And
Board Member Treviño is on his way out.

MR. GRAHAM: Board Member Graham is going to
get a cup of coffee but I won't leave the room. How's
that?

MR. PALACIOS: That sounds good.

MR. BARNWELL: Get me some too. Just black.
Anybody else want anything?

(General talking and laughter.)

MR. WATTS: Good morning, Mr. Chairman and members of the board. Thank you for letting me speak. My name is Dean Watts, I live in Georgetown. I have five kids and I am a mechanical engineer.

And there's a couple of points, I'm not going to stick to my written statement so much. One point, I think, is that there's a greater economic impact with some of the restrictions that are being put in place with 217.3 than what's being acknowledged, and I'm going to take a little bit different angle on that. I've got a lot of work experience in product design and manufacturing and I've been to foreign countries where we work with groups there. What we found is a very clear signal that U.S. engineers and technicians were able to get more done per person than our foreign counterparts, and I'm not denigrating them, they're just as intelligent as we are, but they don't have the practical background that a lot of Americans have.

And that's what I want to emphasize in this is I think it's very important to sanction home built cars, that sort of thing. These sorts of cars have a big benefit. Kids grow up in this environment where things are done out in a shop or garage and there's a big benefit
to that. One of my co-workers described this difference in foreign workers the best way I've heard and I haven't forgotten it: That's what happens when you grow up without a garage. These other folks just weren't so practical, they didn't get near as much done. So there is a big economic impact if we disallow people to build things in their shop or garage and a big motivation to do that is then you can drive it on the street, you can actually use and go have fun with it and make it a family hobby. So that's one point is I think the economic impact is kind of a big deal.

And the other one where I'm going to go completely off what I had prepared is I think of the custom vehicle and street rod provisions, I think it's 504.501, if only those provisions would allow a dune buggy, but then there's other cars. The Exomotive Exocet, I think it's been brought up before in past meetings, it looks like an Ariel Atom to the casual observer but it's not, it's a home built kit car that uses Mazda Miata components, all the way down to just about the complete chassis. All they're providing is a stronger frame to make the car safe enough. Those are not track vehicles, there's no sanctioned body who has a specific class to race those cars, they're street cars, they're hobbyist street cars.
Allowing this sort of car as a low volume car, like the SB-100 in California that I believe provides someone with a full usable title, that should be done, that would be the right thing to do. I think it's unprecedented to disallow a car that has been on the road for 40 years. When it comes into this state, like Mr. Smith comes in with his dune buggy from New Mexico and it can't register it in the State of Texas, or other people who have had the vehicle in Texas, maybe they've owned it for 35 years and they sell it to somebody else and that person cannot register it? Why would that vehicle be disallowed after so many years?

So I think some discussion on a low volume provision would be a good idea.

MR. PALACIOS: Thank you, Mr. Watts.

Appreciate your time.

And I'd like to note Board Member Treviño has returned.

MR. BARNWELL: Thank you. I'm sorry.

One comment. I talked casually, overhearing and talking with the other board members, some of them, about this matter here just here this morning just listening to the undercurrent. You know, you realize -- I hope all you dune buggy, home build people realize you're really preaching to the choir here. There's not a person
here who is against safely putting these home built
vehicles on the road. The fact of the matter is that we
feel hamstrung. We have laws in place, statutes that we
can't just sit here and make a new rule just because it's
a good idea, we're limited in what we can do. And this is
not a good thing but it's the deal.

MR. WATTS: I have a question related to that.

MR. BARNWELL: That's where we are.

MR. WATTS: You say 15 years ago when someone
could still register a dune buggy that they purchased or
brought in from out of state, what changed since then?

MR. BARNWELL: And I have to tell you that I
know the answer to that.

MR. PALACIOS: Maybe Jeremiah can address that.

MR. BARNWELL: Jeremiah, or perhaps David
Duncan can speak to that. I know you guys weren't around
here either.

MR. DUNCAN: The allowance that had dune
buggies being titled and registered in Texas as through
something called the Registration and Title Manual which
is guidance. The staff decided to write guidance that
didn't have any basis in rule or in statute that I'm aware
of. I'm sorry but that's just the case.

MR. BARNWELL: If there's any way for us to
figure out a way forward, we want to do it. Perhaps
proposing this rule, with its flaws -- and as far you're concerned it has flaws -- it may be in compliance with the law but it may not accomplish what you want it to accomplish, but what I'm interested in doing is finding a solution. I can't give you a solution today, I couldn't vote for it, it wouldn't be legal, and I'm not going to do that, I'm not going to fly in the face of the statute and say I'm just going to roll off in my own direction. No matter whether it's right or wrong, I'm limited in what I can do, as are the rest of the board members, but we're all interested vitally in seeing you be able to exercise your freedoms to the extent that that is possible and safe and doesn't harm other citizens of the state.

So maybe we start with this proposal and maybe we get a lot of comments on it, and I don't know what paths forward that your organizations might take but we might be able to do something further with the legislature. Get ahold of your representatives, let's talk about this some more, show them the financial problems that you've got. It's not a small problem, there's, I would imagine, several million dollars of these vehicles that are in garages right now that can't be used, and that's not a good thing.

MR. WATTS: Is there any possibility of expanding 504.501 to include vehicles that have engines
that are 25 years or older? That would solve it for the
dune buggy folks.

MR. BARNWELL: Well, that would solve it for a
lot of people. But there's going to be a discussion that
needs to be had. Coming to us and telling us what's wrong
with it, believe me, you're preaching to the choir, we
understand the problems that you have. What we're
struggling with is trying to find a solution that would
accommodate you and still be in compliance with the law,
and it's my understanding -- and I'll know more about this
in the future -- it's my understanding that at this point
our hands are basically tied, and what we want to do is
find a path forward. Now, how do we do that? We can
propose this rule and we can get comments on it and we can
have a discussion and try to come up with a reasoned way
forward that we can then go and help you with the
legislature, potentially. Obviously, I couldn't commit
this board to do anything.

MR. WATTS: Would you accept the proposed
revisions with one change --

MR. BARNWELL: We're going to publish it first.

MR. WATTS: If you could allow the modified
frame with a never before produced.

MR. BARNWELL: I don't know that that's
possible under the way the law is currently written, but
personally, I'm open to any suggestion that accomplishes compliance with the law and gives you the maximum freedom.

MR. WATTS: I think engineering requirements like weight distribution, front to rear and side to side and maybe center of gravity height, those sorts of things should be included so Noah's Ark isn't driving down the road.

MR. BARNWELL: I'm with you.

MR. WATTS: But categories that just certain cars that have been on the road for 40 years --

MR. PALACIOS: We get back to legislative issues. So let me just stop you here. I was going to save this for the end but again I'm going to reiterate what Board Member Barnwell is saying, and for all the stakeholders that are here. I hope, first off, that you appreciate that this agency is taking this matter very, very seriously. It is because of your concerns, the issues you've raised with this agency and legislators that we have taken and devoted numerous resources, I mean, just a tremendous amount of resources on this. All of us have spent hours and hours working with our staff, legislators, to come up with a resolution.

I hope you understand that we can delineate what this agency is empowered to do, what our authority is, because what I'm hearing is you think we have more
authority than we do, we don't. We can't just write a
rule to conform to what it is all of you want. To the
degree that we can, we will do what we can, but I would
ask that you work with us on this issue, again, to
delineate what we can do as an agency and what it is that
ultimately will have to be taken back to the legislature.

And back to Board Member Barnwell's point, most
of what we're dealing with are legislative issues. Again,
we can't write rules that override legislative mandate,
we're not empowered to do that. So again, 90 percent of
what I'm hearing now are legislative issues, so again, I
hope you can appreciate that and understand, again, we are
doing our best to work with you. Back to Member
Barnwell's point, we love dune buggies, we love these cars
and so forth, but again, we have laws that we need to
abide by.

So anyway, with that, I'll move on.

MR. GRAHAM: And, Mr. Chairman, if I could just
add one piece to that. I would certainly recommend that
as we work through this process, that if we vote on these
and they pass as a starting place, a working document
moving forward, as this group of people move forward with
this process and discussions with staff that we work
together to figure out what legislative remedies we need.
I mean, we are right here on the cusp of a session, this
is the time to go find some solutions to the pieces of the puzzle that we cannot change, and so just keep that in mind.

I mean, I've already heard a couple of things. Number one, the statute specifically says manufacturer only, doesn't have a provision for anybody that builds something on their own. The provision that discusses if you build one car, you're a manufacturer, build one unit, you're a manufacturer. There's opportunities there.

MR. WATTS: You mean a hobbyist completing a kit car in their own garage, they're declared a manufacturer?

MR. GRAHAM: That's my interpretation, absolutely. Thank you.

MR. PALACIOS: Let's move forward because we've got quite a few left. Thanks very much for your time.

I will now call up Mr. Thomas Randall.

MR. RANDALL: My name is Thomas Randall. I'm a retired sheriff's lieutenant with nearly 39 years in law enforcement.

I elected purchasing a dune buggy years ago so that I could take my grandkids cruising around the coast like I use to do when I was a kid. I looked at titling and registration rules and decided to purchase rather than build one myself. It was important to me that the vehicle
was legal and safe since the kiddos were going to be aboard with me. I searched and found a rare four-seater dune buggy that was in Oklahoma -- it seems like we've had a lot of Oklahoma dune buggies. It had proper the Oklahoma ASVE title, it had a state issued VIN number and it had current license plates, everything that I was wanting so that I would have no problems titling it here in Texas.

I brought the vehicle back to Texas a year ago, insuring it immediately as a 1969 ASVE Manx style dune buggy through Barrett Jackson Collector car insurance, since they too believed it to be a 49-year-old classic that it was. I sent it to my mechanic to go through it front to back so that there were no major mechanical or safety issues. It was while I was looking for clubs and events that I ran across this rule change that we're talking about and it was the rule change that disallowed this from being registered in Texas.

I went to my local tax office, they knew nothing about this, so I decided it would be best for me not to attempt to try to title it until I could learn more about this. My car has sat for a year now not being able to be registered in Texas even though it has been legal decades before. It has the correct title, it has the correct insurance, it's been safely constructed, at least
in the eyes of the State of Oklahoma.

I listened to the reasons that were given earlier by staff in the very first board meeting and I watched some of your faces and the confused expressions that were on your faces. I too didn't really find it as complicated as it was confusing as to why this is going on. Why is it that we needed to spell out a dune buggy specifically in the rule? They were called out specifically for that. What was the purpose and why now?

I've got a substantial investment in this vehicle. It's been sitting idle for a year because I do follow the rules. It's costing our group thousands of dollars to navigate the bureaucracy and the legislative process to try to resolve this, a problem that we didn't create and for many decades never existed in Texas. It doesn't exist in many other states also. I'd hope that the board recognizes and stops this right where we are right now, puts us to a position where we again have the ability to operate our titled and legal vehicles until we can come up with a legislative solution.

I understand that there's issues going on here but these vehicles were legal and they were licensed and they were registered a few years ago and now they're not, and those of us that are bringing vehicles into Texas can't even get them registered. Why don't we put a lid on
it right now, quit tinkering with rules and try to come up
with a joint resolution through a legislative fix.

MR. PALACIOS: Thank you, Mr. Randall.

Appreciate your time.

Next I'd like to call Mr. Steve Nelson.

MR. NELSON: Really appreciate what a can of
worms we've opened up here.

MR. PALACIOS: Thanks for appreciating that.

We feel the same way.

MR. NELSON: Mr. Chairman and members of the
board. Thank you for the opportunity of speaking with you
today. My name is Steve Nelson. I live in Mansfield,
Texas, and I'm one of the very few lucky individuals who
has a sandrail that is grandfathered in.

I built my dune buggy back in 1983 after losing
my first wife, it was a way to work through my issues and
keep myself busy. After building it, I had it legally
titled, registered, inspected and insured as an assembled
vehicle so that I could legally enjoy it on the streets of
Texas, and I did for many years. I parked it at one point
after starting a family with my second wife, and sometime
later my son expressed the desire to learn how to drive a
stick shift, so I knew exactly what project to have, so
together he and I rebuilt the dune buggy, got it back up
on the streets and we again enjoyed it legally driving
This spring, thanks to Faron, I learned of Administrative Rule 217.3 and heard about all the titles being denied and revoked and I personally couldn't believe that this was happening in Texas. I moved to Texas in '72 from Pennsylvania and I really was impressed with the individual freedoms and the way the Texas government upheld those freedoms, so I was obviously shocked when I heard of these titles and registrations being revoked and pulled from people who had been legally driving them.

This is referring to the original 217.3 section that made "dune buggies" not eligible to be titled. Obviously I was flabbergasted, could not understand how that could have happened. I tried to do some research to find any background, logic, discussions or whatever why this blanket ban came into effect and I could find nothing.

Now, I understand that currently the working group has come up with a number of modifications and I thank Mr. Kuntz favor being open to modifying it, but I think the modifications I've seen are just trying to stuff another handful of worms back into that can. It's not going to work.

My personal opinion of 217.3 is that sections (5) and (6) as they currently stand should be revoked and
replaced with a section that basically specifies the
safety equipment that's required, which I understand DPS
already has rules and regulations for that, along with the
stipulation that any vehicle has to be inspected by a
master technician to be passed to make sure it is safe and
operating safely on the streets of Texas. In addition, I
think we should now have a hobbyist class of assembler as
someone who creates one or fewer vehicles per year. I
think this would go a long way to separate them from major
manufacturers.

So in closing, if the current sections in 217.3
aren't revoked or changed, not only will I be unable to
sell my grandfathered dune buggy to anyone else to enjoy
in Texas, I'll be unable to even pass it on to my son, and
I'll be stuck with a grandfathered albatross.

Thank you for your time.

MR. PALACIOS: Thank you, Mr. Nelson.
Okay. Moving right along now, let's move on to
Mr. Steven Reuter. Are you here?

MR. REUTER: It's Scott Reuter.

MR. PALACIOS: Oh, I'm sorry. Scott Reuter,
yes.

MR. REUTER: My name is Scott Reuter and I'm a
part of the Assembled Vehicle Coalition. Thank you for
this time to talk to you on this position regarding the
Texas DMV Administrative Rule 217.3.

I've been a part of this with Faron since the beginning and I've been working with the team in the background. I've watched the meetings online and I've even watched the Sunset Commission meeting in which they mentioned to the Texas DMV about the ratio of government employees versus general public population did not seem equally represented.

The working group was supposedly created to work with the Texas DMV to write this new rule to help with our wonderful hobby. The third working group meeting, which is the first working group meeting that was finally open for me to be invited, was starting out fantastically and it somehow resembled that the Texas DMV understanding our position on this situation. It was also mentioned at the working group meeting that the legislators had talked to or convinced the Texas DMV to, as I recall, get those buggies back on the road.

Unfortunately, after lunch our voices seemed to hit a brick wall. When the rules from the Texas DMV came up, they were nothing like our request and/or suggestions. In fact, the new rules put many, many, many more vehicles off the road and if the Texas DMV was trying to get those dune buggies back on the road, they were successful in getting approximately less than 10 dune buggies back on.
the road. We only have three of the long body four-seaters in our club.

Although I was not invited to be a part of the working group, I've been keeping a very watchful eye on the situation, as I mentioned. I'm one of the few that can call themselves lucky because I've been grandfathered in as I have had it legally registered and I've owned my buggy for 17 years. It seems weird that I am legal and my friends are not. After all, we met at get-togethers and functions, our friendships have continue for many years, this is how many of our friendships have evolved. In fact, I helped Faron with most of his buggy. We help each other when help is needed.

So let us go back to having fun with our unique automobiles. Let us go back to having fund with our friends. Thank you.

MR. PALACIOS: Thank you very much, Mr. Reuter.
Let's move on to Mr. John --

MR. STECZKOWSKI: Steczkowski.

MR. PALACIOS: Steczkowski. Thank you.

MR. STECZKOWSKI: Hi. My name is John Steczkowski, and I had my prepared statement but it's kind of just mirrors what everybody else has been saying. I am an owner of a Exomotive Exocet which I built in my garage.
I went through the process of getting it legally registered.
registered in Texas. Those documents with photos of the car, it's insured by USAA -- which is not known as a very liberal company as far as their insurance goes -- they are happy to insure it, and the documents were sent off to the DMV to review, they reviewed those documents and happily issued my title, which was a great day.

And I drove that car for 18 months not the roads of Texas, started many conversations with people at gas stations, smiles, I'm probably on a lot of Instagram accounts, and then I got a letter about two weeks ago saying that my car was, in fact, not legal in Texas and that I needed to return my title and license plates, etcetera, which also means basically my taxes I paid to get the car registered have been effectively stolen from me, and since I don't have an ownership document, I can't even sell the car, so I've had $15,000 effectively stolen from me which is about the value of the car.

So I was going to read my letter but I'll leave that because there's a lot of things in this conversation that people -- I am not in the car manufacturing business but there's a lot of statements being made here that make me realize I know a lot more about it than other people. For one, a frame and a body of a modern car since the '60s is not a conversation you can have, they are unit body construction. The body is part of the structure and there
are frame rails, in the front and back usually, that the suspension components are attached to, but they are not separable as individual components. So having a conversation about frames and bodies is just not a logical conversation. Yes, trucks and SUVs have separate frames and bodies but that's not what we're talking about.

There was also a comment made that Cobra kit cars can be built on a Mustang chassis. That is simply false. There are Cobra kit cars that are sold with a frame that you attach Mustang components to but there is not a Cobra kit car that goes on a Mustang chassis, virtually because a Mustang is a unit body and it's not logical, you can't take the structure off of a body and leave the frame, it would just be these flimsy pieces of sheet metal. The roof, in fact, is part of the frame. If you take the roof off of a unit body car it becomes undriveable on the street because it is so flexible, you have to add additional reinforcements.

So we need to be careful about the rules we're writing that they make sense for the components that are available, and I don't think that the amendments to 217.2 and 217.3 make sense given the components that are available. So you've asked many people should we have this as a starting point for the rule and my answer to that is no because it doesn't make sense. So we need to
come up with a much simpler set of rules that allow hobbyists to build cars and get them licensed on the street.

The other comment I'll make is we talked about federal safety laws. A 2017 car that the airbags no longer function or have been removed will pass a DPS safety inspection, so you can't say that all the federal laws and rules that are required for that need to be required in a hobbyist built kit car because they're not required now.

MR. PALACIOS: Okay. Thank you, sir.

Any questions?

MS. HARDY: We have a comment from Jeremiah.

MR. PALACIOS: Oh, Jeremiah, I'm sorry.

MR. STECZKOWSKI: I had one other comment. The 240Zs were not sold as new cars, they were sold as restored cars of the original model year, so that is just -- once again, we need car enthusiasts involved in these conversations because the comments being made are just not -- they're simply not true.

MR. KUNTZ: I'll address a couple of things. One, we are fully aware of unibody construction on new vehicles.

MR. STECZKOWSKI: But the rules don't reflect that.
MR. KUNTZ: So I want to make sure that we are clarifying that a frame -- and we have had discussions about unibodies -- we have an example of a person who has attempted to take a 2005 Chevy Cobalt which is a unibody constructed vehicle and claim that it is still a used vehicle when they pulled suspension parts off of it and assembled something known as a DF Goblin.

We are fully aware that those vehicles cannot be remanufactured to something because that unibody frame is meant to be the only vehicle that it was meant to be. So we have considered that, we understand that vehicles have changed over time. In those instances it becomes impossible to turn a 2005 unibody Chevy Cobalt and remanufacture it as a used vehicle into something else and still maintain its assemblage as a used vehicle, so we are aware of that, we do understand it. We understand that these rules require you to use the used frame and a used body and we understand that new modern vehicles are not going to be able to do that, most modern vehicles are with that unibody construction.

MR. STECZKOWSKI: For the last 50 years they've been like that.

MR. KUNTZ: Again, I understand not every vehicle is not going to be able to be remanufactured and not every vehicle is remanufactured to something else
using those vehicles. That's why there's specific vehicle
types that kit car companies basically build off of or use
parts from.

The other thing that I want to address, because
it's a statement that's made in here about the taxes paid,
and I want to be very clear. Sales taxes are always due
on the purchase of any item from another person,
regardless of whether it's a motor vehicle or not --

MR. STECZKOWSKI: Not if it's bought out of
state. That's not a correct statement. If you buy
something out of state, it does not have to have sales
tax.

MR. PALACIOS: Please proceed, Jeremiah.

MR. STECZKOWSKI: Am I incorrect?

MR. PALACIOS: Thank you. Your time is
finished. Thank you.

MR. STECZKOWSKI: My point is there's a lot of
incorrect statements being made and we need to be very
careful that we use facts.

MR. PALACIOS: Well, I think that's debatable,
but thank you for your time.

MR. KUNTZ: So I was going to address the issue
of sales tax. Sales tax on any item that is not a motor
vehicle is 8.25 percent, motor vehicles enjoy a 2 percent
discount, so if a vehicle or some piece of machinery is
not deemed to be a motor vehicle, an additional 2 percent is potentially owed on that piece of equipment. So by the department denying or revoking these vehicles, we could, if there is a decision to refund those monies, we could send those to the Comptroller for them to collect the remaining 2 percent on the sales tax.

MR. STECZKOWSKI: (Speaking from audience.) So you're threatening me with more money?

MR. PALACIOS: Okay. Jeremiah, I have a question. Regarding the unibody, are you saying if we have a vehicle that is assembled with, again, the example of a Chevy Cobalt and I guess they make modifications to it, would this fall under the new rule as being a vehicle that can be titled?

MR. KUNTZ: So the example we have seen and had a lot of discussion about is the DF Goblin which takes a 2005 Chevy Cobalt and it uses that as what is known as a donor vehicle, and what they're doing is they're pulling certain parts and pieces off of that donor vehicle in order to construct a DF Goblin. The DF Goblin comes with its own chassis, if you will, because it has its own pipe frame constructed chassis that is complete and you throw away the entire unibody from the 2005 Chevy Cobalt. You basically get the K frame for the motor and you get the suspension parts from that vehicle and you are assembling
something. It is no longer a Chevy Cobalt, at that point it's a new vehicle.

And that's what we're trying to accomplish here is to say you have not used the chassis of that because you did throw away the unibody and you only used other parts from that, so it would be deemed a new vehicle.

MR. PALACIOS: Okay. I understand.

Down to the last two speakers. Mr. Justin Sullivan.

MR. GRAHAM: While he's coming up, I'd like to ask Kate a question. When you're talking about VINs on vehicles, I'm aware VINs are inside the door frames of most vehicles on the chassis, on the cab. I'm thinking about frames and I'm not thinking about VINs being on frames, although they might be stamped. Are they stamped, the frames stamped?

MS. HARDY: Yes. I mean we have --

MR. STECZKOWSKI: (Speaking from audience.)

It's a unibody.

MR. PALACIOS: You've already had your time, sir. Please respect this panel.

MS. HARDY: They're stamped a number of places, like you said. On the frame, I believe so.

MR. GRAHAM: So what I'm kind of thinking about this is when you come back to insured vehicles, I mean, if
you're going to be on the road, you have to be insured, if
you're going to be insured, you've got to have a VIN, and
I think you've got to have a VIN off the frame or only on
the vehicle? I mean, it's getting down into --

MS. HARDY: Specifically I can't answer that, for insurance reasons does it have to be on the frame or is it somewhere else.

MR. GRAHAM: So I guess one thing I'll just ask you and then we won't take too long on this because I know this has gone on a long time. If they're going to drive on the road, if anyone is going to drive on the road, they have to be insured, and if they're going to be insured, they've got to have some type of VIN, and how does that work?

MR. KUNTZ: Well, this is a whole other --

MR. GRAHAM: Oh, did I do that? I'm sorry. I'm not trying to rabbit trail us any more than we already have.

MR. KUNTZ: And I'll try and handle this as easy as I can. Manufacturers, through the Federal Motor Vehicle Safety Standards, have to provide a conforming VIN when they become certified with NHTSA as a manufacturer. So when you go to NHTSA, when you go to the federal level, you're not registered with NHTSA, you are certified. You certify to NHTSA that your vehicles that you're producing
meeting all the Federal Motor Vehicle Safety Standards and
you provide a conforming VIN. That's one of the
requirements at the federal level is to have a conforming
VIN on your vehicle. That's a 17-digit VIN that's got all
the different characters in the right place that identify
the manufacturer o the vehicle.

The dilemma we get into with VINs, and
particularly in this issue, as you go backwards in time
and you start looking at old vehicles and reconstruction
of old vehicles and merging two vehicles together, we in
the title manual have very specific provisions on what
part of the vehicle the VIN is going to be located. And
so when you look at our title manual, by manufacturer and
by year we identify is the VIN on the body or is it on the
frame because for each manufacturer that changed over
time. There was a line in the sand that was drawn -- and
I do not remember the year but it was, I believe, when the
Federal Motor Vehicle Safety Standards came into
existence -- that all manufacturers starting having
conforming VINs that were all placed in similar locations
on those vehicles.

But until that point, the motor number was used
in many of the years, the frame was used for some vehicles
for some years, the body was used in some vehicles for
some years, and so depending on manufacturer and year,
that VIN location determines what part the title actually stays with, which complicates this issue even more because in certain years that title may belong to the body because that's where the VIN is located that identifies that vehicle, and the chassis for that year doesn't have a title with it, it can only be transferred on a bill of sale.

Which we're getting into another discussion that occurred with folks of I cannot ever sell my vehicle. You can sell things on a bill of sale without a title. It's not worth as much to most people because it can't be registered on the roadway. But in this example, you may purchase a chassis on a bill of sale but that's because that chassis does not have the title with it because the title went with the other part. So we start getting into a lot of dilemmas here when you start separating a vehicle and you've now got the body and you've got the chassis, we don't want that chassis and that body to keep that same VIN. If somebody was to reconstruct a vehicle on the chassis on this side and put a new chassis under the body over here, now you've got the same VIN on two vehicles.

MR. GRAHAM: Yes.

What is our speaker's name?

MR. SULLIVAN: Justin Sullivan.

MR. GRAHAM: Justin, do you know anybody that
has trouble getting insurance for whatever car they have
to drive on the roadway?

MR. SULLIVAN: I'm not aware of any.

MR. GRAHAM: Okay. Anyway, sorry, just
curious. Go ahead.

MR. SULLIVAN: I don't want to repeat myself so
I'm just going to kind of continue some of the discussions
that have happened today as opposed to sticking to my
statement here.

On the VIN issue, we're not trying to reinvent
the wheel. Texas already has a procedure which they can
issue a VIN, as well as most states where this is not an
issue, Pennsylvania, the places we discussed, they will
issue that VIN for you when you register the vehicle.

We've had a lot of talk about statute and
legislation today. We appreciate the differences between
the Department of Motor Vehicles, what they can and cannot
do and what has to be done in statute. The one thing I
want to clarify, 217, which is the reason we're all here,
was an administrative rule and was not based in statute.
So that is what we've requested from the beginning to be
removed. This has been a two-pronged process. We have
asked let us fix what you can with your administrative
rule process and then let us together go to the
legislators -- of which we have many who have agreed to
work with us on this -- but we want your help to fix the problem of a large scale but also on an immediate scale, and the immediate scale is 217, administrative rule not based in statute, let's get rid of it. That will help the dune buggy crowd, the people you've heard from today.

I do want to mention one other thing. We've all brought up several categories of vehicles and you might notice that only one we've talked about today will be legal in the proposed rules and that is the unmodified dune buggy. The Goblin, the Atom, the Cobra kit car will not be legal under these registrations, the most popular one currently on the market. The Lotus Caterham replica is the second most popular -- those are my opinions of what I've seen -- the second most popular vehicle also will not be legal under these regulations.

So we've talked about do we want to proceed with this and the reason I would recommend we do not is it is clear that the vast majority of the answers to these questions will have to come through legislative means. The rules presented by the staff today are so far off base that I do not believe it is worth proceeding with them at all. Again, we have about 10 people, that number has been thrown out a few times, 10 people who will be able to comply with this set of rules. Previously this affected a very small amount of people, we've admitted that from the
beginning. These new rules will affect drastically more, Cobras, Caterhams, things that are legal now currently will not be legal, and that is a situation we absolutely want to avoid. We don't need thousands more people getting those letters and standing before you today. We're trying to fix this before it gets out of hand. These regulations cause further issues, there's no other way to state it.

MR. PALACIOS: Okay. So a little time left unless you're finished.

Any questions for Mr. Sullivan?

(No response.)

MR. PALACIOS: Again, I'll ask the same question. You've kind of addressed it already regarding the rules as they're proposed. As I said over and over, this is only a proposal, not an adoption of rules, so from your perspective you would rather not work to try to amend these to the extent we can, it's your opinion, as I'm hearing, that we just not move forward at all.

MR. SULLIVAN: It is my opinion that these rules will further complicate legislative solutions. Whether that's not the case, I'm not in the legislature, I don't know. I am worried that by approving these, opening them to public comment, et cetera, that could further complicate the ultimate solution. We were looking for a
short term solution, this is not that. So how this is based in our long term solution of statutory changes, it becomes irrelevant. This is not the short term solution we were looking for the DMV to implement, therefore, I can't say it's worth going forward with it.

MR. PALACIOS: Okay. Any other questions for Mr. Sullivan?

(No response.)

MR. PALACIOS: Thank you very much for your time, Mr. Sullivan.

Next Mr. Ron Hinkle. You wanted to go last. Right? Okay. We have another person, so if you want to go last, I'll call up Mr. Jesse Peredo.

MR. PEREDO: Good morning, ladies and gentlemen. My name is Jesse Peredo.

In the handouts you'll see a picture on the second page of a dune buggy that I made when I was 17 years old. I built it and I drove it for about a year and a half before I went into the Air Force, and the reason I'm showing it to you because that's how long I've been working with these cars. And to this day I have a dune buggy right now that I have invested money into it, I have $5,700 into it and I came to a stop because I can't get the title and register it to enjoy it.

The first page is something I printed out from
the internet, and Mr. Kuntz had referenced that organization in the last meeting we had back on December 7, 2017. He mentioned two or three times about it and I just wanted you to read the first and second sentence on there and especially focus on the second one that says "except United States." I just thought that was interesting.

But on the get-together on December 7, 2017, Mr. Kuntz had a page on his video demonstration that was called types of vehicle construction and it was one through three. Number one was the original manufacturer, number two was rebuilt constructed brand, number three was assembled, and under number three assembled it had six different type of vehicles. The first one was newly assembled, the second one was replicas, the third one was race cars, the fourth one was street rod vehicles, and the fifth one was dune buggies, and beside that it had there is no standard definition, and he said it's kind of vague. And I think that's where we're having the problem now is that we need to make a definition for that so that when we go to the legislature we can get this fixed.

And I heard the word "complex" and it's a "dilemma" and in this situation here where it says there is no standard, Mr. Kuntz said it's vague. I think we're just splitting hairs here, I think our main purpose should
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be safety. Anyway, that item number five, dune buggies is not eligible, and number six is another one that is not eligible which was merged vehicles, vehicles constructed from various vehicle classes.

He also had a picture of five dune buggies, three of them were Meyers style --

MR. PALACIOS: Are you about finished because your time is up?

MR. PEREDO: Is it up already?

MR. PALACIOS: Yes, it is.

MR. PEREDO: Well, I'll leave it at that and I hope we get to taking the next step.

MR. PALACIOS: Okay. Thank you very much for your time.

Okay. One more. I thought we were getting to the end. Two more. Mr. Ray Taylor.

Good afternoon, Mr. Taylor.

MR. TAYLOR: Good afternoon. I want to thank you for letting me appear here. My name is Ray Taylor from Grandview, Texas.

I've always enjoyed dune buggies and Volkswagens, and when I first got my dune buggy I didn't have the time to build it because I was busy working 60 hours a week and taking care of my family. In 2016 I suffered a motor vehicle accident, became disabled and I
wanted to build my dune buggy. Because of Rule 217.3 I can't build it anymore.

I've got the dune buggy chassis which is sitting on a '57 Volkswagen pan that's been shortened 14-1/2 inches. It's got a VIN number not the pan and it's got a VIN number on the body which is about a four-year-old body, but I can't assemble and build those which formerly was legal to build and formerly legal to drive, and the VIN is 40 years old, but because of this rule I can no longer put my 40-year-old vehicle back on the road in the same state that it was when it was manufactured. Now all the money that I spent on the motors and the chassis and the body is just wasted. I can't go out and buy me a completely assembled one because for the same reason.

I still have the VIN, I have the original manufacturer's tag on my body, got the original manufacturer's VIN on my chassis, the only difference between a 14-1/2 inch shortened chassis and a regular chassis is a section taken out of the middle. It still uses the same exact factory components with the front suspension and the rear suspension, they're not remanufactured, it's still got the original '57 model transaxle. The floor pan is a '57, the tunnel is shortened 14-1/2 inches, it uses a factory shift rod, uses
factory steering, factory brakes and tires, safety mechanisms that was on that chassis when it rolled off the Wolfsburg assembly line is still on that chassis, brake drums, everything. The chassis is an unmodified chassis.

You're saying because I took 14-1/2 inches out of it, it now makes it a new vehicles. It's just 14-1/2 inches shorter but every single piece that came on that, the gas tank, the steering column, all that came from Wolfsburg exactly the way it is except shortened 14-1/2 inches. I don't see how that makes a new vehicle out of it, I really don't see how it makes it a new vehicle because it's just shortened. It's not like it's a custom frame, this is a factory frame using all factory components. How does that make a new vehicle? That's just logic. I mean, I could take a Volkswagon body and shorten it 14-1/2 inches and set it back on that frame. It's got all the mounting holes for the body to mount on, all it would have is instead of chopped top it would have a shortened top on my car. So how is that different, how is that a new manufactured body?

I'll take any questions.

MR. PALACIOS: So I just want to be clear. The concern you have, I guess, with the vehicles that you're building have to do with the proposal now to reclassify your vehicle due to I guess you modified the chassis,
you're cutting it down

    MR. TAYLOR:  Shortened it.

    MR. PALACIOS:  Okay. I'm just curious, are you
splitting it in half and welding it together, or are you
cutting --

    MR. TAYLOR:  Shortening it, yes. Shortened it
front to rear, shortened it 14-1/2 inches to fit the body.
I still used the factory beam, used the factory shift
drive that's been shortened 14-1/2 inches, used the
factory gas pedal, whole brake assembly, clutch assembly,
the factory engine, factory transaxle, factory rear
suspension, factory rear suspension mounts, factory front
suspension mounts, factory gas tank, upgraded to a fuel
master cylinder.

    MR. PALACIOS:  Okay. So, Jeremiah, previously
would this vehicle comport to our titling and registration
requirements if it had been chopped before? Would these
new rules now prohibit something that was already in
place?

    MR. KUNTZ:  No. So the rules that were adopted
in 2012 would have prevented this vehicle, the rules
further modified in 2014 would have prevented this
vehicle, and these rules would also prevent this vehicle.
So since 2012 this vehicle that is being described would
not have been allowed to be titled and registered on the
roadway.

MR. PALACIOS: Because of the fact that the chassis was modified?

MR. KUNTZ: So in 2012 the rule required a motor, body and frame to be from a licensed manufacturer in the State of Texas, so in 2012 any assembled vehicle that was constructed with a motor, body and frame from anything other than a licensed manufacturer was banned. So kit cars, none of those were allowed in 2012. In 2014 that was later amended and removed the requirement for the motor, body and frame to be from a licensed manufacturer, it allowed for other parts to be used in that assemblage, but it went through and specifically itemized out the vehicles that were not eligible, race vehicles, off road vehicles, dune buggies and stripped vehicles, so in 2014 it still wouldn't have met that classification because he's describing a dune buggy, what we all refer to as dune buggies. So since 2012 this vehicle has not been allowed to be titled and registered which is the genesis of all of this discussion that we're having here today.

MR. PALACIOS: Okay.

MR. KUNTZ: And I want to make this statement here because I've heard a couple of things and I want to try and give the board a little bit more context. When we go through a process of rulemaking, we have to try and
come up with definitions that are going to cover every scenario. While I understand the scenario he is describing sounds as if those are minor modifications to an existing frame, however, we also have heard, well, we don't want Franken-cars on the roadways either. We have seen vehicles that have come in that have had major modifications made to them, we've actually had lawsuits over those vehicles where they've merged vehicle classes, where they've taken the back-ends of vehicles and smashed them together to create a three-wheel vehicle.

The problem that we get into is trying to come up with words to say where do you draw that line to say, okay, it's okay to do this modification but not this modification, and that's where we get into this dilemma of, okay, how far do we want to allow somebody to modify a vehicle and what words do we use to describe that vehicle that would allow something that is well built but not allow something that is a Franken-vehicle or the like, and we're trying to use this modification to the chassis or modification to the body. I'm not saying that's the only way to address this issue but for us when we start looking at the statute and trying to figure out where is there leeway to not require licensure, it's on used vehicles.

So then you get into what still constitutes a used vehicle. If I was to just say I'm just going to take
the suspension parts off of a vehicle, is that still a used vehicle. What if I just take the motor off of a used vehicle and I put it into something that has a brand new chassis, brand new body, is that still used because it's got a used motor? At what point in time have you made enough modifications to a vehicle that it's no longer used.

MS. HARDY: Are Franken-cars, do they get insured?

MR. KUNTZ: Most vehicles that you're referring to, we do not allow on the roadway today.

MR. PALACIOS: Mr. Taylor, if you want to sit, feel free.

MR. TAYLOR: I would like to talk to you for a minute.

MR. KUNTZ: The issue that we get into is when you blow it wide open to say any modifications to any of vehicle, any parts can be put together to create a vehicle, at what point do you say, okay, you've gone too far, you've created something new that's never been on the roadway before, it's no longer a used vehicle.

MR. GRAHAM: So in this case the cut-down of the frame, I mean, it sounds like you have a vehicle, conforms, titled, registered, cut the frame, shorten it down and it no longer meets the requirements. And so let
me tell you what I did last week. Let me tell you what we do every day in the trucking business, we modify frames. We take a truck that's got a bed on it and they want another bed put on it and we cut it down and put the new bed on it. So I'm just sitting here kind of wondering how we deal with that aspect of it.

MR. KUNTZ: And I would go back to the chart where you still have the body from an OEM and you've got a modified OEM chassis which would be allowed. You're not putting a brand new cab on that vehicle.

MR. GRAHAM: So in this case his vehicle was not -- it was not --

MR. TAYLOR: It's a Meyers Manx. But every piece about the chassis -- I don't mind having my welds certified, I don't mind getting it certified on the welds. I'm not using any new components on my frame, I still have the factory seat rails on the floor pan, we're talking a traditional Meyers Manx based on a VW tunnel, the tunnel, the center mount. And you talk about these S10s, '52 Mercs, chopped top, shaved, channeled, sitting on a shortened S10 frame is far more modified than my Meyers Manx and they're still legal.

MR. GRAHAM: Thank you.

MR. TAYLOR: I'm talking about a complete frame, not just a the suspension components, I'm talking
the complete frame, just like trucks.

MR. GRAHAM: And you can see the amount of ways this things spins off. I mean, it never ends, the angles.

MR. KUNTZ: Again, as I mentioned, this is one approach. Other places have taken different approaches. Hawaii came up in our discussions. Hawaii has 98 pages of regulations in their rules regarding what constitutes a new vehicle. They go through every single type of modification, if I make modifications to the chassis, if I make modifications to the suspension, if I make modifications to the motor, to the transmission, to the wheel base, to the axles. They go through every single part of that vehicle and they make a determination if you make this modification it becomes a new vehicle, if it's not this modification it doesn't become a new vehicle. So again, there's other approaches.

They have a major regulatory scheme surrounding that approach to those 98 pages of regulation that require an engineer to certify the plans for building that vehicle. Those are submitted to their department, they review those plans prior to the person coming in and applying to ensure that it's safe. All of that has regulatory overhead.

So again, where I'm trying to go with that is there are many different approaches that we could take.
Certain approaches have much more strenuous administrative overhead, some have less. What we are trying to do is most expeditiously using the smallest amount of going through every single component part of a vehicle, using the major component parts, motor, body, frame, to define a vehicle and going from there. We did not want to get into suspension changes and those kind of things the way Hawaii does because they look at suspension changes and ride height as potentially reconstructed or assembled vehicles.

So again, there's all kinds of different things that you could use in order to make a determination as to what is new and what's used.

MR. PALACIOS: Thank you. Any more questions for Mr. Taylor?

MR. TAYLOR: I'd be happy to answer anything from anybody and everybody.

(General laughter.)

MR. GRAHAM: Thank you, Mr. Taylor.

MR. PALACIOS: Appreciate it. Thank you.

Okay. Finally, Mr. Hinkle. Are you still here? There you are.

MR. HINKLE: Chairman, board members, Executive Director Brewster. My name is Ron Hinkle and I represent the Assembled Vehicle Coalition of Texas and I too register my opposition to the proposed rules.
You have my printed testimony but a lot of things have been said, Mr. Chairman, you said it probably the best, this obviously will get to the legislature, and we've always understood that, so I'm going to cut out a whole bunch of what I was going to say and kind of cut this down a little bit.

I think you've heard the frustration from many people today that are seeking a resolution to their dilemma regarding their vehicles not being able to be titled and registered or having a vehicle titled and registration revoked. The original intent of the coalition, when we first petitioned the department to review the rules, suggested both short term and long term solutions. Those short term solution recommendations were to reinstate revoked titles and registration of those vehicles that had been inspected then legally titled and registered. Two was to create a working group to establish a framework and collect data on the types of vehicles and best practices from other states, identify and describe types of vehicles to be considered not road worthy, and then provide feedback to the board. Of course, the long term recommendation is to get statutory clarification.

The rules as proposed, in my opinion, says more about what you can't do than what you can do. And just...
reviewing the December 2017 board meeting transcript provides a lot of conversation between the board and the staff on the subject that it's either considered murky or it's been complicated, as well as certain statutory language working against itself. What we believe is a simple solution in the short term I'm afraid has become truly a complicated issue and will continue to be so in the long term should these rules be adopted.

The coalition suggested a better set of strategies that might be to freeze the current revocation process for those vehicles that have already passed ASE safety inspection and has been provided the proper paperwork to county clerks and the department. Also, return the titles and registration to those vehicles that have been revoked and that had already passed ASE safety inspection and were provided the paperwork from the county clerks and the department. And finally, grandfather those vehicles that have already been titled and registered prior to any rule that banned certain vehicles that passed proper safety inspection and they provided the required paperwork to the county clerks and the department.

I think by not adopting this rule and putting some freezing on some of these issues that these things have been happening, because it's been very subjective on what cars have been revoked and what have not, I think you
can allow the concerns from some of the vehicle owners here. And it's a huge growing group out there, it was a few hundred, it's about to be a few thousand and a few thousand more beyond that that are going to get that much more concerned and are going to voice their concern about this. Also, a lot of concerned legislators and staff that I've talked to that their constituents have been disenfranchised in a lot of ways, their vehicles have been taken from them, if you will, in their opinion the way they view things, by a government agency, and it's causing a lot of concern.

And I think we need to freeze what we're doing, let's go to the legislature and find a better solution.

MR. PALACIOS: Thank you, Mr. Hinkle. Please stay.

Jeremiah, it's my understanding that we did in fact reinstate previously revoked titles. Can you kind of go over what has been done.

MR. KUNTZ: We did not reinstate previously revoked titles. What we did is we said that we would not go back and revoke any titles that were already issued. We did have titles that came in after that freeze. We had an individual specifically that came in with a sandrail after we had already said that we would not -- and again, when we made that commitment to the board, we said we
would not revoke anybody that already had titles but we
would not accept any new titles. Somebody managed to get
one through, it was revoked, it was a sandrail that had
managed to get a title.

So we are not actively going through our
database and looking for vehicles to go and revoke, so
that practice, yes, has already been frozen, if you will.
But we are not allowing new vehicles to enter into the
system either. When we say we're freezing it, we're
freezing everything, no new ones but we're not going out
and revoking ones that already had titles.

MR. PALACIOS: Okay. So Mr. Hinkle, I guess
the question I have for you is -- and it sounds like it's
unanimous, none of the people that came and presented are
in favor of this rule -- you say you wanted a short term
fix which is, in essence, revoking no titles and freezing
existing ones. Short of that, again, what is it about the
proposed rule? And what I'm hearing, I believe it has to
do with, for most of the people who have spoken, the
modified frame prohibition now which those types of
vehicles would have still been ineligible for titling even
without this rule. So I guess what is it that --
understanding what we're enabled to do, what is it that
we're missing here in these rules that you would like this
agency to adopt?

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MR. HINKLE: It goes back to what I said, it has more to what you can't do than what you can do. A lot of these vehicles have been on the road for a long time and I think someone said in some cases 25-30 years, all of a sudden now today they can't, and some of that stuff didn't have any statutory backing to say they can't. We're talking about where a hobbyist becomes a manufacturer, and I'm going to suggest that when a manufacturer was defined in statute, I'm going to bet I'm probably right -- and I can't prove it and I'm not sure anyone in this room can prove it -- that the legislature did not think of a hobbyist getting a kit car or a dune buggy in their garage and putting it together needed to be a licensed manufacturer. I don't think the legislature ever, ever, ever thought or conceived that idea, but that's what's being interpreted.

That is shutting down a whole bunch of people who currently have cars that they bought and they can't put them together. It is really shutting down the DF Kit Car group, Senator Birdwell's constituent. He's going away because of this, because of this interpretation because he's not assembling the vehicle, he's not the manufacturer, he's providing parts to a hobbyist, anyone in this room, but if that hobbyist puts it together, he has to have a manufacturer's license. Now that kit cannot
be sold to Texas, and I'm going to quote the owner, he's not going to show up here anymore, he's pretty frustrated with this whole thing because he sees his business declining very, very rapidly.

MR. PALACIOS: Okay. But let me get back again, this is not a new rule.

MR. HINKLE: I understand.

MR. PALACIOS: This is not something we're proposing, this has been in place forever. This is statute.

MR. HINKLE: And I'm not trying to be argumentative, I apologize, I'm very passionate about this. If that has always been a rule, then these cars have been allowed to begin -- Justin Sullivan's car was legally inspected by an ASE safety inspector, titled and registered, proper paperwork to the county clerks, to the DMV, he had it for three years, then it got revoked. It's hard to say --

MR. PALACIOS: Would you like to address that, Jeremiah, explain why that happened?

MR. KUNTZ: The first thing I want to address is the current rule was adopted in 2014 and we've heard testimony from DF Kit Car, their company started in 2015, so their company, their business was started after the rule was already in place and in effect.
Justin Sullivan, we've gone through his paperwork, we can back through it and give you an exact timeline of when his vehicle received a title. Again, we've gone back to, and we've addressed this in this rule, you know, there are 254 county tax assessor-collectors across the state, there are about 3,000 employees in those offices. As you have seen here, my staff and I have spent countless hours looking at this issue. I doubt any one of those clerks have spent any hours looking at those issues and understand what is being presented to them and what its impact is on the titling. They are trying to make their best determinations of the paperwork brought before them. A title was issued.

We review those when we become aware of them and make a determination as to whether or not that was actually legally issued by the county clerk or not. And so in those instances where we have discovered that a clerk in error has issued a title, our standard process is to revoke those titles and get them out of the system, which is exactly what happened with Mr. Sullivan.

Again, that was a new vehicle that was being brought into market, and I will go back to the example that I brought up earlier. Manufacturers come to the department on a regular basis and request title determinations from the Motor Vehicle Division that are
looked at by VTR. That happens on a regular basis for a lot of industry partners. They come forward and say, I've got this vehicle that I want to start manufacturing. We look at those vehicles, look at their intended purpose, make a title determination which will tell them before they start their business whether or not that vehicle will be qualified for title and registration.

DF Kit Car never came before this department. They chose to go to the county clerk's office to try and see if they could get title and registration to those vehicles and assumed that because they had obtained title to their own vehicles that they would be able to get title to any vehicle that they sold or kit that they sold to other individuals. So they actually manufactured two vehicles themselves, completed those two vehicles and went to a county and obtained title and registration in their own name, i.e., they manufactured two complete vehicles under their company. So there's nothing that I can see in their scenario that they should have complied with the rules that were in place when they started their business, should have gotten a title determination about those vehicles, and they actually went through completing two full vehicles as a manufacturer.

MR. PALACIOS: Are there any questions for Mr. Hinkle while he's up? He's the last speaker.
MR. GRAHAM: I do, Mr. Chairman.

I see a couple of real speed bumps for us here. One is the question of one car making you a manufacturer and then you've got to comply with all the rules of a manufacturer, the second being -- and this one, I think, is really a tough one which is the question of whether or not an assembled vehicle has to meet the federal safety requirements, meaning they've got to have airbags, they've got to have anti-lock brakes, yada, yada, yada.

What would be your opinion on that? I feel like for a lot of people in Texas right now, a lot of people that are in this room that have these vehicles and can't drive them, that's probably by numbers, I would think, one of the greater things that have caused them not to be able to do that. Anything you could share with us that might be a solution or insight?

MR. HINKLE: Well, I really wish the DF Kit Car owner was here. He got extremely frustrated in the second working group by some comments that were made about his company and about whether or not -- I think at one time staff said it was considered an off road vehicle, and I think the intent -- again, I'm speaking for the owner, I'm trying to recollect something, I may be wrong and I hope he can somehow address it for you guys -- but I think he, if I can recall some emails to explain this early on, I
think he was told that he had to get a federal manufacturer's license, so he wrote to NHTSA and NHTSA, I believe, came back and said as a kit car he wouldn't have to have a manufacturer's license because he's not manufacturing the car, putting the parts together, which those parts are already Federal Motor Vehicle Safety Standards approved, if you will.

And NHTSA, I think, was pretty clear by saying it's not the vehicle put together that has to meet Federal Motor Vehicle Safety Standards, it's the parts. Well, the parts are all DOT and all that kind of stuff and you send it to the hobbyist, he puts it together, it's not the vehicle that has to comply, it's the parts that do, but you put all the parts together and then voila, you have a vehicle that meets Federal Motor Vehicle Safety Standards. But all that side, that car can't be put together because under the interpretation here is that a hobbyist, a private citizen has to be a manufacturer, and I don't think anyone ever thought that the legislature truly intended that that was going to be the idea way back when they said -- I mean, clearly they're talking about major car manufacturers, vehicle manufacturers.

MR. GRAHAM: And so really when I said those were the two points that I just kind of kept coming back to, it's really the manufacturer issue because meeting the
safety requirements is because of that. So at the end of the day, it's if you make one car you're a manufacturer and then you've got to meet all these things. So I'm just trying to get to the crux of the issue. All right. Thank you.

MR. HINKLE: Thank you.

MR. PALACIOS: Any other questions for Mr. Hinkle?

(No response.)

MR. PALACIOS: Thank you very much. Really appreciate your time.

Okay. Here we are towards the conclusion. Are there any questions for Jeremiah on this issue? Yes, Board Member Prewitt.

MR. PREWITT: Jeremiah, in the process of the working group, just hearing some of the testimony today, we heard about Oklahoma giving title to some of these cars, as well as other states, have we looked at the systems in those states and what differentiates those from Texas? Just on a thumbnail basis, is that just more of it goes back to the statutory issue where it has to be approved on a statutory basis?

MR. KUNTZ: So the states all handle these issues differently, very differently. Like I said, in Hawaii there's a heavy regulatory scheme that they have
created around that. Pennsylvania also has an inspection process with inspectors that are basically employees of the department that actually inspect the vehicles that are also heavily regulated. So each state has different regulations. Some states have just said, Katie bar the door, anything goes. But at the end of the day for us it's a statutory definition of manufacturer and new and used vehicles. That's where we get into all of the issues is right there in statute.

We've tried every way to try and wiggle around that and the best we can do is you've got to define what is a new or used vehicle and you've got to use some criteria by which to measure whether or not it's new or used. And so that's what we have attempted to do here is to say these are the construction types where you are still a used vehicle, if you go beyond those you're considered new and you have to meet all the regulatory schemes for a new vehicle manufacturer.

MR. PREWITT: Okay. Thank you.

MR. TREVIÑO: I just want to be clear, too, that you guys are not actively combing your databases to revoke any types of licenses of these types of vehicles. Is that correct?

MR. KUNTZ: No, we're not, but again, if we see new transactions that are coming across that have come
across since then and we become aware of those, yes, we are revoking those because they shouldn't have been approved anyway.

MR. BARNWELL: When was the original -- David may even know this off the top of his head; he knows a lot of arcane information -- when was the original statute, that we're now basing 217.2 and .3, on adopted?

MR. KUNTZ: Manufacturer requirement or the Title Act?

MR. BARNWELL: Yes.


MR. BARNWELL: So what I'm interested in is the legislative intent at the time because that's really what we're coming down to here. We're transferring our idea of what the legislative intent is, and in 1972 I don't know what they had in mind when they used the term "manufacturer." It seems to me that the rule today, if there is no record of intent, and if manufacturer is taken in a more loose way, there's room to have a less restrictive rule. These are very restrictive rules. In fact, it takes up a huge piece of paper in very small print and it still doesn't answer the real issues here of why shouldn't a hobbyist be able to build his own car. What's the danger? What's the safety requirements?
I'm personally not -- I think that the working
groups have done a lot of work on this but I'm not sure
what would happen if we just said, no, we're not going to
do 217.2 and .3, in fact, we're going to throw them out.
What would be the upshot of that?

MR. KUNTZ: So if we were to just throw out --
in other words, just repeal the entire section of 217.3?

MR. BARNWELL: Yes, let's just throw them out.
Okay, now that we've made that little step, what happens
then?

MR. KUNTZ: We would rely upon statute which
already -- the intent of rules is to clarify where statute
has not gone far enough to clarify the regulatory scheme
or the actions of somebody who is attempting to fall
within the statute are required to do. So we have
authority to adopt rules, to create processes, to create
procedures by which somebody can title and register a
vehicle. 217 is intended to clarify what is in statute.

MR. BARNWELL: But it narrows what qualifies
based on what interpretation of what the statute meant?
Whose is that?

MR. KUNTZ: What I would say is statute is what
is limiting on a manufacturer and a used or new vehicle.
So in statute a new vehicle is any vehicle that has not
previously been subject to a first sale, a used vehicle is
a vehicle that has been previously subject to a first
sale. So that's the only direction that the legislature
has given us as to what is a new or used vehicle. So then
if you take an assemblage of parts from various places,
you manufacture some parts yourself and you put them
together, the question then becomes is it new or used.
And that's where I go back to is a used motor in and of
itself enough to qualify everything else that's around
that vehicle as a used vehicle, and I would say no.

What we are looking at is trying to say has
that assemblage of parts ever been put together in that
fashion or some similar fashion that it could be deemed,
yes, that is still a used vehicle that has just been
modified from its original configuration. When you start
taking parts from various places, jamming them together,
you lose that used car.

MR. BARNWELL: I understand, but you have to
understand where I'm coming from. I'm anti-regulation.
Every regulation that I look at, whether it's federal or
state, every regulation I look at I always ask myself is
this regulation for regulation's sake or is it really
accomplishing something positive for society and for our
citizens. And so the problem that I have -- and I know
that you're wrestling with this yourself -- is that we're
trying to put into place rules that really hamper a

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substantial segment -- they're a small segment but it's
real money -- segment of our citizens in trying to do what
Texans have always done, you know, live their own lives.

I'm opposed to the regulation on the basis that
I think it's overly restrictive and perhaps the
legislature needs to take some steps themselves, but I
don't think I need to take any steps to make it even more
restrictive than it is. I want it less restrictive than
the proposed regulation because I'm see people get hurt.
I don't know if that's possible at this juncture. It
might take legislative action to do that. But I want to
talk to David and talk to you about that more and I'd like
to get some input from you on that, because as currently
proposed, the rule bugs me -- that's a technical term.

(General laughter.)

MR. BARNWELL: And you know how much I
appreciate and respect your work ethic and your commitment
and the way you've approached all these problems, it's
nothing personal. I don't think you're crazy about it.
It's the best you can do, perhaps, but I'm not sure that
we need to take this step in this proposed rule. And I'm
very interested in push-back from you and David on this
because this is meant to say I'm open to learning more
about this, I'm not just saying this is it and don't tell
me anything else.
MR. KUNTZ: So I'll respond this way.

MR. BARNWELL: Like this?

MR. KUNTZ: No, never like that.

I will use what my general counsel has advised me many times which is we while in our personal lives may have our own perception about regulations, in our professional live when we step into the role as an employee of the Texas Department of Motor Vehicles, we are creatures of statute and we are bound by what that statute allows us or does not allow us to do. And I have to put aside all my personal preferences and what I would personally believe should be in statute and I have to look at that statute and enforce it the way that --

MR. BARNWELL: I think that's the way you've always approached things, and I appreciate that, and I think that's a perfectly appropriate approach, and that's my approach too. Now, you've done a lot more study on this than I have and you're eminently more qualified than I am to have an opinion, but I've still got my own stupid opinion.

MR. KUNTZ: Sure, absolutely.

MR. BARNWELL: And so trying to move forward with this thing, I'm interested in eventually arriving at the right solution, regardless of what's required. I want these people to understand what we're required to do and
understand what their path forward is and let them then fix it if it needs fixing. That's all I'm saying about that.

MR. KUNTZ: The second part of my response will be this and that is that generally in state law when we see regulatory schemes of an industry, it is to create a fair and balanced playing field for all those involved in that industry to abide by, and thereby, a major manufacturer that is bound and required to comply with all the Federal Motor Vehicle Safety Standards to have airbags, crash test ratings, everything else, that regulatory scheme helps to create that balanced playing field that one manufacturer is not manufacturing at a standard that is substandard to that minimum criteria at the federal level and it's requiring that standard of all parties involved.

So I say that in that I believe there are other stakeholders involved in this issue that may have opinions during the legislative session. I don't know what those opinions are but I can only guess that they may have an opinion about those regulatory schemes and the definitions that are currently in place in Texas statute.

MR. BARNWELL: Well, that would be up to the legislature and up to our representatives to figure that out.
MR. KUNTZ: Exactly.

MR. BARNWELL: But I will say to you that this is a small segment, it's not even a gnat on the major manufacturer, it wouldn't move the needle because you're talking about less than 5,000 vehicles in a state that has 25 million vehicles.

MR. KUNTZ: And I will say this because I don't know if we've covered this in a whole lot of detail in the past, but the Federal Motor Vehicle Safety Standard does consider low volume manufacturers. They have in their federal statute allowances for folks that are doing low volume, less than 5,000; they also have another provision for replicas that would allow up to 325 replica vehicles by a low volume manufacturer to be produced in a year and not have to meet all of the Federal Motor Vehicle Safety Standards.

The dilemma that we have right now is that is in the federal statutes and it requires that NHTSA actually create rules to allow for that petition process by which somebody can petition NHTSA to say I'm a low volume manufacturer and I'm not going to be able to meet this standard because of the economic hardship it creates. The dilemma we have at this day and time is NHTSA has not taken up and considered rules. They have no process by which somebody can actually make that application and
apply for a waiver. So that right there, if they were to
take those actions, would provide relief at the federal
level from meeting all of those Federal Motor Vehicle
Safety Standards.

MR. BARNWELL: But it still wouldn't help us
with the state.

MR. KUNTZ: We would still need the state law
to take action. But if both of those incidents occurred,
then yes, it would provide the path forward for those
hobbyists to build their vehicles.

MR. BARNWELL: I understand. We've talked
about the NHTSA intentional lack of rulemaking that would
be called for by the statute. But that's their agency and
we're our agency.

Okay. Listen, thank you. I appreciate all the
input and all the hard work on this thing. I see how
complicated it is and it's not going to be a snap your
fingers kind of thing to certainly answer everybody's
problems.

MR. TREVIÑO: I'd like to ask staff if we
follow through with approving these proposals for comment
and then at some point once that comment period is over
adopt some variance of these rules, it wouldn't give time
for a legislative fix. Right? It would go into effect
probably prior to, some before the legislative session.
Is that correct, is that timeline accurate?

MR. DUNCAN: Barely. My guess is if the board's desire is to go with this proposed rule, we would get it to the Register as quickly as possible after this, it would not hit the Register for about three weeks, it's open for 30 days, then we have to respond to all the comments, we'd get a lot of comments on this rule, and then have to bring that back to the board. Bringing it back in October would be optimistic, and more likely December, so then you adopt it and we would send it back to the Register, it would be effective sometime in January or February. So barely.

MR. KUNTZ: To answer your question directly, would a legislative fix be in place before this. No.

MR. DUNCAN: Oh, before, no.

MR. TREVIÑO: Not before. So an opportunity for a legislative fix prior to adoption of any new rule.

MR. DUNCAN: And also, one of the commenters, if we do something and the legislature doesn't like it and they change the statute, first, the rule is overridden by the statute as soon as it becomes effective, and then we'll go back and clean up our rules as soon as possible after the legislature passes a new statute. I mean, there's no question that we can't do something that even affects the legislative process. If they go in and go,
no, no, no, that's a terrible solution, and they start
drafting a bill that would override our rule, it will
override our rule, no question.

MR. KUNTZ: And to the legislative process, the
most frequently used implementation date for legislation
is September 1. You could, with two-thirds of both bodies
of the House and Senate, if you receive favorable
consideration in both of those houses, have an immediate
effective date, but even then you're generally looking
pretty much at the end of the legislative session. In
order for this to be considered quickly, it would have to
be added as an emergency item by the governor to be heard
within the first 90 days, I believe is the emergency
provision. So again, you're really looking at mainly
closer to the end of session or September 1 for an
effective date for a legislative solution.

MR. PREWITT: So question. If we're
considering in the context of all the comments that have
been made, if we believe that there has to be legislative
redress on the issue for the agency to change to meet the
constituent's demands, would it make sense to table this
for an appropriate period of time until such time as we
can time it with the legislature where it doesn't run --
in other words, the idea being if we're making a rule,
then we have to change it 12 months from now, why make the
rule? Would it be better not just to table it, or is that just destructive to the process? I'm asking.

MR. KUNTZ: So for the benefit of the board, I'll kind of address why we are where we are today procedurally as well. We received around 200 petitions for rulemaking which is a formalized process in statute whereby somebody can petition the board to actually enter into rulemaking. So based on that petition for rulemaking, the agency entered into the rulemaking process. That petition does not mean that you must adopt rules, it does not mean you must pass them, it does not mean you must put them up for public comment. All it does is it requires that we must enter into the rulemaking process, by which we have done today, and you can make whichever decision you want today as a board.

You could allow this to go to public comment, you could not allow this to go to public comment which would basically just turn this off completely, or you could table it for a future board meeting. The board has all of those options before it. We will have fulfilled our statutory obligation to enter into rulemaking with any one of those actions.

MR. GRAHAM: I will echo Board Member Barnwell's comments. I feel very strongly the way that he does, and I do believe we need to get some clarity on what
this is going to look like at some point so that everyone will know exactly where they stand, and so we're going down that road now.

I mentioned I struggled with the aspects of this that were statute and which were interpretation because I think that's really important to understand where we're really boxed in, and that's really hard and that's going to require a lot more work by myself and the board and the staff to figure out all of that. I also really think this is going to have some action in the session and I certainly would have a hard time supporting and posing rules right on the front-end of a session knowing that there would possibly be some things happen.

I would like to see the groups continue to try to find some resolution, so in my mind, if I vote to move this forward, I'm fine with that because I just want to see you work together. You can work together even if it's not pushed forward.

So those are my thoughts and I just wanted to share them. Thank you.

MR. PALACIOS: Thank you, Board Member Graham.

Are there any questions for Jeremiah? And I'll just make a comment. When we convened these working groups and we devoted a tremendous amount of resources and time, it was with the intent to come up with a solution.
that would give the stakeholders some relief to the extent that we could and it doesn't look like we've reached that point. So I guess I'd ask, Jeremiah, if we go forward with the rule proposals, we have two choices or actually three choices: we go forward with the proposals, we don't, or we table it. If we stand pat the way we are, what I’m hearing from the stakeholders is that they feel that we are worse off if we were to move forward with these rules than we are now. I just want some clarification. Other than the rules regarding modifications of frames, are you restricting any other vehicles from being titled now or is it just that one category that would, I guess, more define now the restrictions.

MR. KUNTZ: So I'll go to the chart again and that is there are vehicles in here that would be replica vehicles, there's a column for replica vehicles. We've been focused on non-replica vehicles here talking about dune buggies. There are replica vehicles where it is a new body and new frame and under this we don't know any other way how to look at that vehicle other than a new vehicle because you've got a brand new frame and a brand new body, everything on that vehicle is new, and it's difficult to look at that vehicle as a used vehicle just because it resembles an old vehicle. And so those are the
things, I think, that most people are really focused on here, that's what a lot of folks refer to as kit cars.

MR. PALACIOS: Right.

MR. KUNTZ: And that's really the unfortunate part about this and what I think a lot of folks are not really understanding from our stakeholder group is while this rule is clarifying that issue, it is not changing the statute, that's still a new vehicle and bringing that vehicle forward, there is no title with that vehicle from a previous sale. That's not changed by this rule in an form or fashion, it clarifies it, but at the end of the day there is no previously issued title that can be claimed as a used vehicle. Those vehicles will come into market as brand new vehicles and that's the dilemma that we see.

MR. PALACIOS: And that's my point. That category you're just kind of clarifying existing statute. I mean, we are not writing a new rule to usurp statute, we're just clarifying statute, so whether to not that rule is written, that's statute.

So again, getting back to the only restriction now, I guess, that is a new rule, as I would see it, again, back to the modification of frames where if you modify the frame and it has a non-OEM body, that no longer qualifies, but nothing else has changed as I see it. So
if we don't ultimately adopt any rules, we're not restricting the titling of vehicles any more than what we already have in place now, again, with the exception of the frames.

MR. KUNTZ: Correct. I do not believe that we're stepping backwards with this rule in restricting anything that we are not already currently restricting. We don't allow vehicles that don't represent a vehicle class to come into market that have been that modified anyway. They generally fall into those categories of dune buggy, track vehicle or off road vehicle, so if they're not representing something that's already been on the road, we're not allowing those today.

MR. PALACIOS: Okay.

MR. PAINTER: Mr. Chairman, if we would move forward with these rules for public comment, would that not help the legislature to make some kind of decision to see what kind of comments the public would have about it to see if they wanted to act or not, instead of a few members of an association?

MR. PALACIOS: What are your feelings on that?

MR. KUNTZ: And I guess I should have laid that out as an option too. You have those three options that I mentioned before which is not move forward, table, or move forward. When you move forward you will have two options
at the end of this process as well which is to approve or not approve the final adoption of the rules. So you could enter into the public comment, allow the public to comment, to provide insight, to your point, Member Painter, maybe provide some additional clarity if somebody has got some additional information that is helpful that could be provided to the legislature, and ultimately you could make a determination not to move forward with the rule. That is an option as well.

MR. DUNCAN: Just to clarify. Really there are three options when you propose a rule, so you can expressly withdraw it, you can let it die on the vine -- actually four -- you can adopt it, and then the other one is if during the rulemaking somebody makes a comment and you realize you've missed something, then what you do is you go out with an amended proposal because you're not allowed to affect new persons or new subjects, so you can't do a new subject area, you can't affect new people between proposal and adoption. So you've actually got some options in front of you, and to Sheriff Painter's point, getting the comments is just getting comments. There's no requirement that you act on it. You could get it back and look at the whole stack and go, yeah, it's just not worth it.

MR. PAINTER: That's correct.
MR. DUNCAN: And not even bring it back to the board. Mr. Chairman, it's fully your authority not to schedule it at all, six months go by, it dies on its own.

MR. PAINTER: I'd rather see if there's other comments across the state.

MR. PALACIOS: Okay. So I guess what I'm hearing, Sheriff, if it's the pleasure of the board here, if we do move this proposal forward, seek comments, we're not at that point obligated to come back and even ask for a final vote on adoption of the rule.

MR. KUNTZ: Correct.

MR. PALACIOS: Okay. Are there any other questions for Jeremiah or David?

MR. BARNWELL: I'd just like to point out that it seems like every time Jeremiah gets up there we have a long, drawn-out discussion.

(General talking and laughter.)

MR. PALACIOS: Okay. I think we have given this topic plenty of time and discussion. At this time, again, I will entertain a motion to adopt the proposal.

(No response.)

MR. PALACIOS: Hearing none, we'll table the issue.

It is 12:39, would y'all like a break? Okay, five-ten minutes.
(Whereupon, a brief recess was taken.)

MR. PALACIOS: We're going to go ahead and get going. We're going to move things slightly out of order here. I'm going to move to item number 18, public comment, and then we are going to move into executive session. So I believe I have Mr. Hardy. How are you?

MR. HARDY: Good afternoon. I'm H.S. Hardy with QuickView Technologies. Some of what I'm going to comment on was redundant from the last time but we have two new board members.

As it is, QuickView, my company, is an original recipient of motor vehicle records containing personal information from Texas DMV by virtue of a service agreement for electronic access which is commonly known as MVInet. For some of you car dealers out there, that's also known as a TWiX, if you ever heard that term before. QuickView, through a secure website access, rediscloses these records that include personal information to entities and individuals that have permitted purpose to view personal information as their assigned agent.

So I have some prepared and I also have some off-the-cuff. So at QuickView we've been involved in inquiring on these generic MVInet records for 16-plus years. We take these records and we repackage them, enhance them, add extra features that allow these records
to be integrated in vendor's software that is designed for auto dealers. As of today we have over 1,100 companies, we have 10,000 vetted and credentialed users, and as one company, QuickView actually consumes 25 percent of all records that come from MVInet, so one-quarter of the records. This is accomplished through an electronic access to the MVInet systems here at the state, and needless to say, that connection is very important.

This past Sunday there was some maintenance done on the MVInet system which is very typical. We did not know that it was actually going to be a major upgrade, so after the time for the upgrade was completed, our connection to the state MVInet system was dead as a doornail, and so the panic set in. And I'm going to give credit to the Lord that by Sunday afternoon we were 80 percent functional and by Monday afternoon we were 100 percent functional.

So in closing -- and this is written, I've actually penciled in maybe the word "please" and now I've changed it to "desperately" -- so in closing, I desperately ask for us, Texas DMV, for us to work together in a cooperative way for the benefit of the Texas stakeholders that utilize us to deliver these important motor vehicle records, and I am hopeful that someone from the department will reach out and let's see what we can
work out and develop a cooperative relationship.

So thank you very much, and you've heard this before: (Pressed a button on a gadget) "That was easy."

MR. PALACIOS: Thank you, Mr. Hardy, appreciate your time.

At this time we will now move into closed session. It is now 12:57 on August 26, 2018. We'll go into closed session under Texas Government Code Sections 551.071, 551.074 and 551.089. For those of you in the audience, I anticipate being in executive session for approximately an hour and a half at the latest, and we'll reconvene in open session after that.

We that, we are recessed from public meeting and are now going into executive session.

(Whereupon, at 12:57 p.m., the meeting was recessed, to reconvene this same day, Thursday, August 16, 2018, following conclusion of the executive session.)

MR. PALACIOS: It's approximately 3:14 p.m. on August 16, 2018. The Board of the Texas Department of Motor Vehicles is now in open session. We want to note that no action was taken in closed session.

We'll now move on to agenda item number 10, Chapter 217, Vehicle Titles and Registration.

I'll note for the record that Board Members Scott, Barnwell and Caraway have departed.
MR. KUNTZ: For the record, Jeremiah Kuntz, director of Vehicle Titles and Registration Division.

We're going to consider agenda item number 10. This is proposal for rules for Chapter 217. The purpose of this rule is to implement some provisions from Senate Bill 1062 from the 85th Legislative Session relating to the department accepting electronic signatures on secure documents.

I'll keep this brief. Basically what this rule allows is entities like insurance companies, auto dealers, various folks that are using secure title documents or powers of attorney to use electronic signature software that they are in control of, like DocuSign or other instruments like that, in order to execute our documents.

This rule would allow them to use their own software to execute the documents, it basically states that they would be liable for making sure that that system is secure, that there's unique user names and passwords for anybody that's accessing that system to use the electronic signature functionality, and that any liability that arises out of the use of that system would be borne by the entity that authorized that system. So we will allow them to submit those documents through our webDEALER applications, webDEALER, webSALVAGE, all of those things.

And so with that, that will complete my
presentation. We have received good feedback from industry that they are in full support of this and would like to see it move forward.

MR. PALACIOS: Thank you.

MR. TREVIÑO: Are other agencies using these signatures?

MR. KUNTZ: I do not know. We have specific statutory authority to use electronic signature. What this is clarifying is that they can use their own electronic signature software. We've had electronic signature in webDEALER through our own system, so this is branching out to let them use their own software.

MR. PALACIOS: Thank you.

Are there any other questions for Mr. Kuntz?

(No response.)

MR. GRAHAM: I move that the board approve the proposed new subchapter to Chapter 217 for publication in the Texas Register for public comment.

MR. PREWITT: Second.

MR. PALACIOS: Motion by Board Member Graham, second by Board Member Prewitt to accept the rule proposal. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.
Please proceed, Mr. Archer, Chapter 217.

MR. ARCHER: Mr. Chairman, members of the board. Jimmy Archer, director of the Motor Carrier Division. This item may be found on page 131 of your board books.

This is proposing changes to the Administrative Code Chapter 217 to be published in the Register that would incorporate by reference any amendments to the National Registration Plan that became effective on January 1, 2018, and incorporate by reference any amendments to the National Registration Plan that became effective on January 1, 2019, which include the provision that was passed this last year by IRP that allows the option of a registrant carrying an electronic image of his cab card rather than carry a paper copy. They would be able to carry an paper copy or an electronic image, it gives them that option.

MR. PALACIOS: Are there any questions for Mr. Archer?

MR. GRAHAM: It sounds like you're really charging on the technological front.

I move that the board approve the proposed amendments to Section 217.56 for publication in the Texas Register for public comment.

MS. HARDY: Second.
MR. PALACIOS: Motion by Board Member Graham, second by Board Member Hardy to accept the rule proposal. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Great. Motion passes unanimously.

Let's move on to the vice chair election.

As you know, with the departure of Board Member Ingram, we have a vice chair opening, and I will entertain a motion for selection of a new vice chair.

MS. HARDY: Chairman, I move that the board select, elect, whatever we do, Member Treviño as our next vice chair.

MR. PAINTER: Second.

MR. PALACIOS: Okay. I have a motion and two seconds, by Board Member Hardy and Board Member Prewitt and Painter. All those in favor please signify by raising your right hand. Come on, Memo, get that hand up.

(A show of hands.)

MR. PALACIOS: Congratulations.

MS. HARDY: Congratulations. Your salary just doubled.

(General laughter.)

MR. TREVIÑO: Thank you, Mr. Chairman.
MR. PALACIOS: Okay. Let's move on now to Finance and Audit.

MS. FLORES: Thank you. For the record, I'm Linda Flores, I'm the chief financial officer for the Texas Department of Motor Vehicles.

I am addressing item 13.A. Amendment of the FY 2018-19 interagency agreement between the department and the Texas Department of Transportation. We are asking board action to approve amending the FY18-19 interagency agreement.

We have an agreement that currently has a not to exceed payment of $1 million. We are asking to amend that contract to $3.3 million for FY19. When the original contract was approved in '18, the board authorized the executive director to modify terms, if necessary, with consultation of the board chair, however, due to the major change in payment to TxDOT, we're submitting it to the board for consideration and approval. This is a two-year agency agreement effective September 1, 2018.

The additional $2.3 million under consideration today will compensate TxDOT for managing projects listed on pages 186 and 187 of your board materials. We received this new funding to finance repairs and maintenance for space here on Camp Hubbard. The two agencies worked together to identify major renovations and repairs needed.
The original comprehensive list was presented at the June board meeting for the purpose of authorizing the agency to create capital projects and to request carryforward of unspent maintenance dollars from this year to next year.

Part of this process also includes requesting approval from the Governor's Office and the Legislative Budget Board. A letter was submitted to our oversight agencies in July and we're still awaiting a final outcome of that request, so this action is still contingent upon that approval. And staff does recommend your approval of this amendment.

MR. PALACIOS: Okay. Are there any questions for Ms. Flores or Ms. Bankhead on this matter?

MR. PREWITT: Mr. Chairman, just in terms of this cost, have we gotten bids or any kind of quotes?

MS. FLORES: No, sir. What we did was the two staff -- we worked with the facilities support staff from TxDOT, they're more knowledgeable, if you will, about the cost for some of these items like electrical upgrades and bathroom renovations, so those estimates came from their staff.

MR. PREWITT: Will the work be performed by state employees or non-state employees?

MS. FLORES: It would probably be bid out. So at some point, once we've entered into this agreement,
they will then go out and get the bids necessary for the actual work.

    MR. PREWITT: Thank you.

    MR. GRAHAM: Mr. Chairman, I assume you've been involved in this. Are you supportive of this?

    MR. PALACIOS: Yes. I will note for the record the chair of the Finance and Audit Committee is also supportive of this. I had a chance to talk to her about it and she's supportive.

    MR. GRAHAM: Thank you.

    MS. HARDY: I move that the board authorize the agency's executive director to negotiate and execute an amendment to the fiscal year's 2018-19 interagency contract between the Texas Department of Transportation and the Texas Department of Motor Vehicles, with any final changes as well as any amendments to the contract subject to the approval of the board chairman and contingent on approval of carryover authority by the Legislative Budget Board and Governor's Office.

    MR. TREVIÑO: Second.

    MR. PALACIOS: Okay. Motion by Board Member Hardy, second by Board Member Treviño to accept the contract. All those in favor please signify by raising your right hand.

    (A show of hands.)
MR. PALACIOS: Motion passes unanimously.

Next item.

MS. BANKHEAD: Good afternoon. For the record, my name is Renita Bankhead. I'm the assistant chief financial officer, and I'm going to talk about the FY 2019 recommended operating budget. We are requesting board approval for this item and also to allow the executive director to negotiate and execute the routine and required contracts contained within. This presentation begins on page 188 of your materials.

I'm just going to go through some really high level things. Revenue $1.9 billion. Most of our revenue goes to the State Highway Fund; the DMV Fund is $160 million which we use to support our operations. The major drivers in that are motor vehicle registration and the processing and handling fee, and if you look at our top five revenue sources, that's where you see motor vehicle registration and titles. And the titles are going to go back to where they were in past years because we had a bump up this year because of Hurricane Harvey, so we'll be back down to where we typically are. But our budget is structurally sound, it is balanced, and it's based on the revenues that we're planning on bringing in.

And basically our expenditure budget is $168 million and it's broken into these categories.
program administration, one thing I'll point out, it's a full year of funding for our new Compliance and Investigations Division, and under Central Administration it might look a little high but that's where our contract is for our license plates. So that's one item that we will need your approval on.

I'm going to skip over capital, I'm going to talk about contracts for a second. Most of our contracts are governed by statute, either in the Government Code or the Administrative Code. As you can see, the statutorily required contracts take up a pretty big piece of the contract that the agency lets each year. This information about contracts begins on page 206 of your materials.

We are asking for specifically board approval for a contract for the Southwest Research Institute. This is for them to continue the services related the Texas Commercial Vehicle Information Exchange Window which provides information on motor carrier safety. Note that the amount that is in your board documents of $1.1 million also includes balances from a contract that was approved in the previous year. The contract that is going to be approved this year is for $600,000.

The second contract is with the American Association of Motor Vehicle Administrators, AAMVA, and this is to fund annual fees for access to the National
Motor Vehicle Title Information System, NMVTIS -- and I always put in parentheses "Title Check" -- and the amount of that contract is $334,000.

Before I conclude my presentation, I'd like to point out that this was a group effort. I have a staff over in the corner there and I'll have them all stand up. It's the revenue estimators and the budget analysts, and they all worked tirelessly to put together the FY 2019 budget and our legislative appropriations request.

And this concludes my presentation. Are there any questions? And note that there are two items that we will need board approval on: the FY 2019 operating budget and the two contracts.

Stand up, y'all.

(Applause.)

MR. TREVIÑO: I would like to move that the board approve the FY 2019 operating budget as presented, including the delegation to the executive director to negotiate, execute and sign, one, for routine required contracts contained in the recommended FY 2019 operating budget, including any amendments, and for specific approval of the following contracts, including any amounts after consultation with the board chairman, one for Southwest Research Institute, and the other contract for the American Association of Motor Vehicle Administrators,
National Motor Vehicle Title Information System.

MR. GRAHAM: I'll second that highly detailed and incredibly well put motion.

MR. TREVIÑO: I can go into further detail if you like.

MS. HARDY: Spontaneous.

(General laughter.)

MR. PALACIOS: I won't even try to repeat it.

Motion by Board Member Treviño, second by Board Member Graham. All in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Okay. We are going to move on to agenda item -- let's see, what are we going to go to.

MR. GRAHAM: I've been waiting all day for the Sea Turtle.

(General laughter.)

MR. PALACIOS: It's coming.

Internal Audit.

MS. MENJIVAR-SUDDDEATH: Good afternoon. For the record, Sandra Menjivar-Suddeath, and I am presenting item 13.E. which is the fiscal year 2019 annual audit plan, and I'm requesting board approval. The annual plan starts on page 279 of your board book.
The audit plan is the work plan for the Internal Audit Division. It's lists the audits that we will be doing, as well as contingency audits if we have more time, and as well as the other internal audit duties such as fraud, waste and abuse, quality assurance, items like that. This year's audit plan includes ten engagements, which two are required, the FY 2020 annual audit plan and the 2018 annual report, as well as followup audits, and high risk engagements of the Compliance and Investigations Division, hiring and classification, Lemon Law, information security risk assessment, payment card industry compliance, and the Enterprise Project Management Office advisory service.

With that, I will open it up if you have any questions.

MR. TREVIÑO: Ms. Menjivar-Suddeath, do you feel you have the resources necessary to ensure the safety and soundness of this enterprise?

MS. MENJIVAR-SUDDEATH: I'm not going to look at Ms. Flores -- just kidding -- we do.

MR. TREVIÑO: Great. And staff has been helpful in preparing this document?

MS. MENJIVAR-SUDDEATH: Yes.

MR. TREVIÑO: Great. Thank you.

MS. HARDY: I move that the board approve the
fiscal year 2019 internal audit plan.

MR. PAINTER: Second.

MR. PALACIOS: Okay. Motion by Board Member Hardy, second by Board Member Painter to accept the fiscal year 2019 internal audit plan. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Wonderful.

For the sake of time, because I know there's a couple of board members that have to leave and I want to make sure that we have a quorum, we're going to skip item number 14. Projects and Operations, and we'll go straight to the next item that's going to require board action which is the specialty plate.

MR. GRAHAM: Sea Turtle.

MR. KUNTZ: Yes, sir, the Sea Turtle. For the record, Jeremiah Kuntz, director of Vehicle Titles and Registration Division. Agenda item number 15 is a new specialty plate design for your consideration.

This plate design is being sponsored by Texas A&M at Galveston. The proceeds from this are going to support the Wildlife and Fisheries science for turtle conservation efforts.

With that, I would entertain a motion.
MR. PALACIOS: Any questions?

(No response.)

MR. PALACIOS: If not, hearing none, I'll entertain a motion to accept the plate design.

MR. GRAHAM: I'll make a motion on behalf of Sea Turtle lovers all across this great state that we approve the Sea Turtle plate, specialty plate, and appreciate everyone in Galveston, all the hard work they're doing.

MR. TREVIÑO: Second.

MR. PALACIOS: All in favor please signify by raising your right hand.

(A show of hands: Board Members Graham, Hardy, Painter, Prewitt and Treviño.)

MR. PALACIOS: all opposed?

(A show of hands: Board Member Palacios.)

MR. GRAHAM: Really, the Sea Turtle? How do you oppose the Sea Turtle?

MR. PALACIOS: I know. If it were green maybe I would have voted for it.

(General talking and laughter.)

MR. PALACIOS: All right. We are now towards the end of the agenda, so unless there's any further business, I would like to entertain a motion to adjourn.

MR. PAINTER: Motion to adjourn.
MR. PREWITT: Second.

MR. PALACIOS: Everyone motions. I'll take Sheriff Painter's motion, second by Board Member Prewitt.

All in favor?

(A chorus of ayes.)

MR. PALACIOS: We are now adjourned.

(Whereupon, at 3:32 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:  TxDMV Board
LOCATION:  Austin, Texas
DATE:  August 16, 2018

I do hereby certify that the foregoing pages, numbers 1 through 195, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

DATE:  August 22, 2018

/s/ Nancy H. King
(Transcriber)

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