December 7, 2017

Full Board Meeting, 8:00 a.m.
AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS  78731
THURSDAY, DECEMBER 7, 2017
8:00 A.M.

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

1. Roll Call and Establishment of Quorum

2. Chair's Reports - Chairman Raymond Palacios

3. Executive Director's Reports - Whitney Brewster
   A. Awards, Recognition of Years of Service, and Announcements
   B. Sunset Review Status Update
   C. Hurricane Relief Response
   D. Introduction of Interim Chief Information Officer

BRIEFINGS AND ACTION ITEMS

4. Finance and Audit
   Internal Audit Update - Sandra Menjivar-Suddeeth (BRIEFING ONLY)

5. Legislative and Public Affairs - Caroline Love (BRIEFING ONLY)
   85th Legislative Implementation

6. Projects and Operations - Judy Sandberg (BRIEFING ONLY)
   Enterprise Projects Update

7. Consideration of issues related to the titling and registration of vehicles manufactured, assembled, or altered by persons other than licensed manufacturers or converters (street rods, custom vehicles, and dune buggies) - Jeremiah Kuntz (BRIEFING ONLY)
CONTESTED CASE
8. Licensure Application Denial and Appeal to SOAH under Occupations Code, §§2301.002(17), 2301.251(a), and 2301.651(a)(2); Transportation Code, §§503.21, 503.034(a)(1), 503.064(a)(1); and 43 Texas Administrative Code §§215.141(a)(1), (b)(17), 215.141(a)(19), and 215.89(b)(7) - (8) - Daniel Avitia and Heather Pierce
MVD Docket No. 17-0175723 ENF; SOAH Docket No. 608-17-4725.ENF
Texas Department of Motor Vehicles v. Rickey A. Lyons d/b/a The Race House

RULE - ADOPTION
Title 43, Texas Administrative Code
9. Chapter 219, Oversize and Overweight Vehicles and Loads - Jimmy Archer
New, §§219.34, 219.35, and 219.36
(Relating to HB 2319, North Texas Intermodal Permit; SB 1383, Fluid Milk Transport Permit; and SB 1524, Intermodal Shipping Container Port Permit)
(Proposal Published October 20, 2017 - 42 Tex. Reg. 5847)

RULES - PROPOSAL
Title 43, Texas Administrative Code
Amendments, §215.144
Chapter 217, Vehicle Titles and Registration
Amendments, §§217.71-217.73; and New, §217.74
Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders
Amendments, §221.72
(Relating to document retention requirements for users of webDealer, including webSalvage)

11. Chapter 217, Vehicle Titles and Registration - Jeremiah Kuntz
• Amendments, §217.2
(Relating to clarification of definitions of All-Terrain Vehicle (ATV) and Recreational Off-highway Vehicle (ROV))
• Amendments, §217.41
(Relating to HB 1790 on application for new disabled placard following seizure of placard)
• Amendments, §217.123 and §217.124
(Relating to charges for motor vehicle records; waiving fees for governmental entities)
EXECUTIVE SESSION

12. The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551:

- **Section 551.071** - Consultation with and advice from legal counsel regarding:
  - pending or contemplated litigation, or a settlement offer;
  - a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code, Chapter 551; or
  - any item on this agenda.

- **Section 551.074** - Personnel matters.
  - Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.

- **Section 551.089** - Security devices or security audits:
  - the deployment, or specific occasions for implementation, of security personnel or devices; or
  - a security audit.

13. **Action Items from Executive Session**

14. **Public Comment**

15 **Adjournment**

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

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

Pursuant to Sections 30.06 and 30.07, Penal Code (trespass by license holder with a concealed or openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun or a handgun that is carried openly.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact Stacy Steenken by telephone at (512) 302-2380.
I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: David D. Duncan, General Counsel, (512) 465-5665.
Texas Department of Motor Vehicles

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Whitney Brewster, Executive Director
Agenda Item: 3. A.
Subject: Executive Director’s Reports – Recognition of Years of Service

RECOMMENDATION

Board Chair and Members offer congratulations to employees receiving recognition for an award, reaching a state service milestone, or retirement.

PURPOSE AND EXECUTIVE SUMMARY

Beginning November 3, 2016, the Executive Director will announce the name of individuals who retired from the agency and will recognize employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognition at the December 7, 2017 Board meeting for retirements and state service awards include:

Mark Krupa in the Vehicle Titles & Registration Division reached 20 years of state service.
Melissa Altman in the Vehicle Titles & Registration Division reached 20 years of state service.
Christina Flores in the Vehicle Titles & Registration Division reached 20 years of state service.
Bryan Evans in the Motor Carrier Division reached 20 years of state service.
Sylvia Alvarado in the Motor Carrier Division reached 25 years of state service.
Cristina Elorriaga in the Vehicle Titles & Registration Division reached 25 years of state service.
Candy Southerland in the Vehicle Titles & Registration Division reached 25 years of state service.
Pat Barnes in Human Resources Division reached 30 years of state service.
Debbie Nelson in the Vehicle Titles & Registration Division reached 35 years of state service.

Finally, the following individuals recently retired from the agency:

Patricia Valdez - Vehicle Titles & Registration Division
Miguel Pabon - Vehicle Titles & Registration Division
Jonathan O’Quinn
Interim Director
Information Technology Services Division
Texas Department of Motor Vehicles

Jonathan O’Quinn currently serves as the Interim Chief Information Officer of the Texas Department of Motor Vehicles (TxDMV). In this role, he oversees the Information Technology Services Division (ITSD) consisting of 92 employees and additional contract staff, providing information technology services and support for all agency staff, as well as maintenance and support of the TxDMV’s major systems and technologies serving our external customers.

Jonathan has over 20 years of IT experience, with three years in Texas state government at TxDMV. Prior to working in Texas, Jonathan served numerous roles in Alaska state government, including IT Director for the Alaska Division of Motor Vehicles. He also has more than ten years in the private sector providing county and state governments IT services for voter registration and election management. Roles have included software developer, database administrator, data architect, conversion program manager, project manager and various titles for IT Director.

Jonathan attended the West Virginia Institute of Technology where he majored in Electrical Engineering.
Texas Department of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.

DATE: December 7, 2017
Action Requested: Briefing

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sandra Menjivar-Suddeath, Internal Audit Director
Agenda Item: 4
Subject: Internal Audit Division Status

RECOMMENDATION
None.

PURPOSE AND EXECUTIVE SUMMARY
The status update provides information on current Internal Audit Division (IAD) activities. The December 2017 status update contains three parts: fiscal year (FY) 2018 Audit Plan Status, External Coordination Items, and Personnel.

FINANCIAL IMPACT
None.

BACKGROUND AND DISCUSSION
At each board meeting, the IAD provides a status on current activities done.

FY 2018 Audit Plan Status
The IAD is currently working on four internal engagements and will begin another audit shortly:

- TxDMV Fund tables and Process & Handling Fees Audit (Fieldwork)
- Open Records Audit (Reporting)
- Fraud, Waste, and Abuse Risk Assessment Advisory Service (Planning)
- Travel and Training Audit (Upcoming audit)
- FY 2018 Internal Audit Follow-Up (Fieldwork)

For the FY 2018 Internal Audit Follow-Up, the IAD is reporting on the implementation status of 25 internal audit recommendations. During the first quarter, the TxDMV implemented 17 (68%) internal audit recommendations and started eight (32%) internal audit recommendations. The TxDMV revised the implementation dates for the eight internal audit recommendations.

External Coordination Items
In November 2017, the Texas Comptroller of Public Accounts and the State Office of Risk Management audited the TxDMV.

Personnel
The Internal Audit Division hired two auditors.
Internal Audit Division Status Update

Status of Fiscal Year (FY) 2018 Internal Audit Plan

<table>
<thead>
<tr>
<th>Project</th>
<th>Description</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>TxDMV Fund tables and Process &amp; Handling Fees Audit</td>
<td>An audit to determine if appropriate revenue is being deposited to the TxDMV Fund as well as whether correct amounts of revenue are being transferred to counties per agency rule.</td>
<td>Fieldwork Anticipated release date: January 2018</td>
</tr>
<tr>
<td>Open Records Audit</td>
<td>An audit to determine if open records request, also known as Public Information Requests (PIRs) are handled consistently and in accordance with state law. In addition, the audit is reviewing whether the PIRs cost are appropriate.</td>
<td>Reporting Anticipated release date: January 2018</td>
</tr>
<tr>
<td>Fraud, Waste, and Abuse Risk Assessment Advisory Service</td>
<td>An advisory service to identify and rank fraud, waste, and abuse risks for the department.</td>
<td>Planning Anticipated release date: August 2018</td>
</tr>
<tr>
<td>FY 2018 Internal Audit Follow-Up</td>
<td>This project verifies if outstanding audit recommendations have been fully implemented. Currently, the IAD reviewed internal recommendations that had a completion date or that a division submitted an implementation action between January 1 and November 30, 2017.</td>
<td>Fieldwork First Quarter memo attached. Anticipated release date: August 2018</td>
</tr>
<tr>
<td>Travel and Training Audit</td>
<td>An audit to determine if training and travel requests have appropriate approvals and justifications as well as determining if the requests are appropriate and meet the need of the TxDMV.</td>
<td>Audit Engagement letter to be sent during the second week of December.</td>
</tr>
</tbody>
</table>

External Coordination Items

1. The Texas Comptroller of Public Accounts (Comptroller) conducted a routine post-payment audit in November 2017. The audit objective was to ensure that the Department’s payroll, purchase, procurement and travel expenditures comply with state laws and regulations. The Comptroller will provide a report shortly to the department on all identified issues.

2. The State Office of Risk Management (SORM) conducted a Risk Management Program Review of TxDMV in November 2017. The SORM verified all previous recommendations had been addressed and will provide the final report shortly.

Personnel

1. Frances Barker started on November 6, 2017 as an Auditor III.

2. Jacob Geray started on November 6, 2017 as an Auditor II.
Date: 11/30/2017
To: Texas Department of Motor Vehicles Board
From: Sandra Menjivar-Suddeath, Internal Audit Director
Subject: Fiscal year (FY) 2018 Internal Audit Follow – Up: First Quarter Results

Background

The Internal Audit Division (IAD) continuously conducts follow-up activities to determine if appropriate action has been taken to address previously issued internal audit recommendations (recommendations). On a quarterly basis, the IAD reports to the TxDMV Board whether appropriate action was taken by assigning an implementation status to each recommendation reviewed during the designated period. The implementation status IAD can assign includes the following:

- **Fully Implemented**: The division fully implemented the audit recommendation by developing and using processes, systems, or policies. The changes are operating as intended.
- **Started**: The division began developing and using processes, systems, or policies to implement a recommendation but not all elements were complete. The division revised the completion date.
- **Pending**: The division has not begun developing processes or using processes, systems, or policies to implement a recommendation. The division revised the completion date.
- **Not Implemented/ Management Accepts the Risk**: The division and department no longer attend to take steps to develop a process, system, or policy to address a recommendation.
- **Not Applicable**: The recommendation is no longer relevant.

The IAD determines whether appropriate action was taken and assigns an implementation status to the recommendations when the completion date is due or when the division submits an implementation action.

First Quarter Results

For the first quarter of FY 2018, the IAD reviewed 25 audit recommendations, from seven internal audit reports, that had an estimated completion date or had been completed between January 1, 2017 and November 30, 2017. The IAD verified that the department fully implemented 17 recommendations (68%) and started eight recommendations (32%).

<table>
<thead>
<tr>
<th>Implementation status</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully Implemented</td>
<td>17</td>
<td>68%</td>
</tr>
<tr>
<td>Started</td>
<td>8</td>
<td>32%</td>
</tr>
<tr>
<td>Total</td>
<td>25</td>
<td>100%</td>
</tr>
</tbody>
</table>

For the eight recommendations that were started but not completed by the estimated date, management provided an updated completion date. The table below summarizes the recommendations, including priority level, and the updated completion date for each report.

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1 Some recommendations are no longer applicable due to the age of the recommendation and organizational changes.
<table>
<thead>
<tr>
<th>Report Number and Name</th>
<th>Summary of Started Recommendation(s</th>
<th>Original Completion Date</th>
<th>Updated Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>P14-14 A Follow-Up Audit on the Implementation of Recommendations</td>
<td>The Human Resource Division updated the estimated completion date for one recommendation related to developing a succession plan and talent management program. The recommendation has a priority of low.</td>
<td>08/31/2017</td>
<td>03/01/2018</td>
</tr>
<tr>
<td>15-2 Internal Controls over the State of Texas Titling Processes</td>
<td>The Vehicle Titles &amp; Registration Division updated the estimated completion date for one recommendation related to creating a process to monitor titling performance and transactions. The recommendation has a priority of high.</td>
<td>09/01/2017</td>
<td>08/31/2019</td>
</tr>
<tr>
<td>15-5 A Confidential Follow-Up Audit Report on the Information Security Standards Gap</td>
<td>The Information Technology Services Division updated the estimated completion date for one recommendation related to gaps identified in a Texas Administrative Code (TAC) 202 assessment. The recommendation has a priority of high.</td>
<td>08/31/2017</td>
<td>12/17/2017</td>
</tr>
<tr>
<td>16-3 An Audit on the Efficiency of the Texas International Registration Plan Compliance Audit Process</td>
<td>The Motor Carrier Division updated the estimated completion date for one recommendation related to establishing a two-tier audit review method. The recommendation has a priority of high.</td>
<td>01/01/2017</td>
<td>03/01/2018</td>
</tr>
<tr>
<td>16-04 Confidential Audit of Texas Department of Motor Vehicles’ Internal Controls Related to the Driver’s Privacy Protection Act</td>
<td>The TxDMV updated the estimated completion date for three recommendations related to transferring contract reviews and billing responsibilities and updating monitoring controls. These recommendations have a priority of low.</td>
<td>12/31/2017 12/31/2017 12/31/2017</td>
<td>12/01/2017 02/28/2018 07/31/2018</td>
</tr>
<tr>
<td>17-07 Payment Card Industry (PCI) Compliance with Credit Card Information Storage</td>
<td>The Information Technology Services Division updated the estimated completion date for one recommendation.</td>
<td>09/30/2017</td>
<td>02/09/2018</td>
</tr>
</tbody>
</table>

CC: Whitney Brewster, Executive Director
    Shelly Mellott, Deputy Executive Director
To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Caroline Love, Director of the Government and Strategic Communications Division  

Agenda Item: 5  
Subject: 85th Legislative Implementation

PURPOSE AND EXECUTIVE SUMMARY  
This briefing is part of a continued effort to provide the board with update on TxDMV implementation activities as they relate to legislation passed by the 85th Legislature, Regular Session.

FINANCIAL IMPACT  
None

BACKGROUND AND DISCUSSION  
The briefing includes the status of implementation efforts. Key dates related to the legislative session and effective dates for bills enacted will be included. The Government and Strategic Communications Division will be providing regular updates throughout the 2018-2019 biennium on the status of implementation efforts.
85th Legislative Implementation

Agenda Item 5
December 7, 2017
85th Legislative Session Update

The 85th Texas State Legislative Session began on January 10, 2017 which started the 140 day process for elected officials to consider changes to state statutes. The legislature adjourned Sine Die on May 29, 2017 and the Governor’s opportunity to sign legislation, allow legislation to become law without signature, or veto legislation ended on June 18, 2017.

As outlined in previous meetings, the Texas Department of Motor Vehicles (TxDMV) Board is charged with considering opportunities to improve the operations of the department and recommending statutory changes to the Texas Legislature under Texas Transportation Code, Section 1001.025. TxDMV’s Government and Strategic Communications Division worked with all the department’s divisions and offices to identify statutory changes the board could recommend. Those changes were also evaluated by stakeholders.

The TxDMV Board adopted a set of legislative recommendations in November 2016. These recommendations were then presented to the Office of the Governor, Lt. Governor, and Speaker of the House; as well as the chairs of the Senate and House Transportation Committees for further consideration during the session. Several of those recommendations became law. This report includes an update on implementation efforts of those measures as well as efforts related to other newly passed laws with an impact on department operations and activities.

A. Implementation of TxDMV Board Recommendations to the 85th Legislature

Previous updates have been provided regarding the passage of Board recommended legislation and implementation status. This item focuses on the status of continued implementation efforts including proposed amendments to, and the adoption of new, Administrative Rules.

I. Registration Code Changes: SB 2075 by Rodriguez (House Sponsor: Pickett)
• **Summary:** SB 2075 contains several clean up items, as well as further defining when a county tax assessor-collector office’s transactions may be performed by a different county allowing for continuity of services for customers. This legislation allows for printed receipts from online vehicle registration renewal transactions to serve as proof of registration for 31 days (to allow the actual sticker time to be received through the mail). There are also changes resulting from an internal audit recommendation associated with the time frames of county remittance of registration fees to the state to align statute with current process.

• **Implementation:** At the December 7, 2017 TxDMV Board meeting, rules will be considered for proposal amending Texas Administrative Code, Chapter 217.56 related to the Unified Carrier Registration (UCR) requirements outlined in SB 2075. The proposed rules will require a registrant to register under UCR before it can register vehicles under the International Registration Plan (IRP). The TxDMV Board proposed amendments to Chapter 217.54 of the Texas Administrative Code enabling the registration of fleet vehicles at their October 19 meeting. Public comment for these rules remain open through December 11, and it is anticipated the rules will be considered for adoption in early 2018.

II. **Motor Carrier Registration & Enforcement Changes: HB 3254 by Phillips (Senate Sponsor: Nichols)**

• **Summary:** The legislation includes many of the recommendations from the 84th Legislative Session to promote greater efficiency and safety for the motoring public in TxDMV operations as it relates to the regulation of the motor carrier industry. The language gives TxDMV new tools to address the issue of chameleon carriers (i.e., a carrier who changes names or operates under various aliases to continue operations without remedying previous penalties or sanctions, often related to safety), with provisions related to re-application and renewals of registration for motor carriers; a requirement for household goods movers to file all tariffs (i.e., what the mover charges a consumer) with the TxDMV rather than just the current requirement of only tariffs for moves between municipalities; and other clarifications.
• **Implementation:** Efforts to implement HB 3254 remain underway within the department.

III. **Title Act Changes: SB 2076 by Sen. Rodriguez (House Sponsor: Pickett)**

• **Summary:** The legislation changes statute to allow the most recently issued “Certified Copy of Original Title” (CCO) to supersede all preceding iterations of title and serve as the only valid proof of ownership, along with other various clarifications to statute. This also includes new recommendations changing state statute to properly reference and conform to the appropriate Code of Federal Regulations regarding odometer disclosure statement requirements, establishes a process to provide for Vehicle Identification Number (VIN) inspections, and further cleans up references to trailer dimensions and definitions of salvage vehicles. In addition, language was added requiring TxDMV to partner with the Texas Department of Public Safety (TxDPS) on a study of elements related to the titling, registration and inspection of vehicles with any recommendations due to the legislature by December 2018.

• **Implementation:** At the October 19 meeting of the TxDMV Board, rules were proposed in Chapter 217 of the Texas Administrative Code updating the changes to the titling process. The has adopted rules implementing the VIN inspection process through amendments to Chapter 217 of the Texas Administrative Code establishing an Identification Number Inspection. Department staff will be issuing a scope of work to institutes of higher education in the near term to address the study requirements of the bill and development of the required report which is due to the legislature December 31, 2018. Other implementation efforts remain ongoing.

IV. **Lemon Law: HB 2070 by Smithee (Senate Sponsor: Watson)**

• **Summary:** The legislation provides for statutory clarifications and simplifies how vehicles can qualify for Lemon Law status. The TxDMV Board considered the proposal to amend Chapter 215.210 of Texas Administrative Code at the October 19 meeting. HB 2070 and the proposed amendments to Administrative Code will help Texas statutes reflect practices adopted in other states.

• **Implementation:** Efforts to implement HB 2070 remain underway.
Seized Disabled Parking Placard Process: HB 1790 by Pickett
(Senate Sponsor: Rodriguez)

- **Summary:** The bill clarifies TxDMV’s role when disabled parking placards are seized by law enforcement and eliminates outdated practices.
- **Implementation:** While staff has implemented the efforts associated with this legislation, the TxDMV Board will consider the proposal of amendments to Chapter 217.41 of the Texas Administrative Code at the December 7, 2017 meeting to reflect current practices.

V. Notification to Demolish Vehicle Process Changes: HB 3131 by Martinez
(Senate Sponsor: Rodriguez)

- **Summary:** This legislation removes a redundant requirement that the department must send notice to an applicant who has been identified as the owner of a vehicle. This legislation was based upon feedback from the industry and stakeholders.
- **Implementation:** Staff continues to work on implementation and offer guidance to counties related to this legislation.

VI. TxDMV Own/Control Real Property: SB 1349 by Watson/HB 3689 by Pickett

- **Summary:** The department continues to work closely with the Office of the Governor and the Texas Department of Transportation (TxDOT) to identify a solution for housing TxDMV headquarters operations. The legislation allows TxDMV to accept property from TxDOT, and for TxDMV to maintain, improve and have control over such property. The transfer from TxDOT applies only to the Camp Hubbard location in Austin, where TxDMV headquarters is currently housed.
- **Implementation:** This legislation is effective and TxDMV will continue to coordinate closely with TxDOT on its implementation.

B. Implementation of Other 85th Legislative Items
Several other pieces of legislation passed by the 85th Legislature will have an impact on TxDMV operations. These include, but are not limited to:

- **HB 561** by Murphy allows for limited use of small vehicles (e.g. Golf Carts, Neighborhood Electric Vehicles, etc.) by delivery and logistics companies to provide for more efficient package delivery services. This bill amends current law
relating to the operation of certain small vehicles used for package delivery and authorizes a $25 license plate fee for such vehicles. The TxDMV Board adopted amendments to the Texas Administrative Code to implement this legislation at the October 19 meeting.

- **HB 1247** by Pickett outlines the notification requirements applicable to a vehicle storage facility in possession of an impounded vehicle registered in another state. This bill requires a vehicle storage facility operator to send the notice to an address obtained from the applicable governmental or private entity that has access to the relevant vehicle information and identifies the circumstances under which the operator may provide notice by publication. Guidance has been provided to counties on these new requirements and this legislation has been implemented.

- **SB 1062** by Perry allows for vehicle title transfer documentation to be processed either electronically or by paper. The legislation also references the appropriate federal regulations regarding odometer disclosure statements, which is also reflected in SB 2076 by Rodriguez. The effective date of this legislation is January 1, 2018 to allow for associated programming and implementation efforts.

- **HB 1959** by Thompson requires the department to conduct a study that identifies and assesses alternative procedures for commercial vehicle registration, licensing, and permitting. In addition it authorizes TxDMV to collaborate with another state agency or a research division of an institution of higher education in Texas to conduct the study. The study is due to the legislature by December 2021. If the study provides that a pilot program would be feasible, such a program could be conducted with the corresponding report due to the legislature by December 2022. TxDMV and TxDPS staff have met to discuss partnering on this study, and efforts are underway to begin the study process. The study requirements of this legislation are being combined with the study required in SB 2076, and a scope of work will be issued to institutes of higher education on this effort in early 2018.

- **HB 2663** by Pickett allows for counties to issue a replacement vehicle registration sticker or license plates without a fee if it is determined by the county that the item in question was not received by the customer via mail, either through an online or
mail-in renewal transaction. Guidance was provided to counties on this item and it has been implemented.

- **HB 4102** by Neave provides an opportunity for individuals to voluntarily contribute to a grant program at the time of vehicle registration to help fund the testing of evidence collected in relation to sexual assaults or other sex offenses and authorizes voluntary contributions by TxDPS. Language was added allowing for the opportunity to voluntarily contribute to the Ending Homelessness Fund at the time of vehicle registration as well. Implementation efforts remain underway.

- **SB 1524** by Nichols allows for the shipment of overweight sealed shipping containers, not more than thirty miles from applicable ports of entry, which are moving as part of an international shipment. The $6,000 permit fee is distributed to the State Highway Fund and local entities to compensate for road damage, including 4% ($240) of every permit being deposited to the TxDMV Fund to cover the costs of issuing the permit. Implementation efforts are underway as the department coordinates with the Texas Department of Transportation (TxDOT) on routing requirements. The TxDMV Board will consider adoption of rules regarding this permit at the December 7, 2017 meeting.

- **SB 1001** by Larry Taylor exempts trailers up to 7,500 pounds gross vehicle weight rating from state safety inspection requirements. This is an increase from the previous 4,500 pounds gross vehicle weight rating exemption and will require programming updates. Trailers qualifying for this exemption must still pay the state’s portion of any fees associated with the state safety inspection and those fees are collected at the time of registration while verifying a passing state inspection will no longer be required. Implementation efforts remain underway.

- **SB 1383** by Perry creates a permit authorizing the movement of fluid milk by a truck-tractor and semitrailer combination that, in addition to other criteria, is not heavier than 90,000 pounds. The TxDMV Board will consider adoption of rules regarding this permit at the December 7, 2017 meeting.

- **HB 2319** by Paddie creates a permit specific to Bowie County in northeast Texas allowing for the movement of intermodal shipping containers on specific roadways. Implementation efforts remain underway, and the department continues to
coordinate with the TxDOT on the route for these loads. The TxDMV Board will consider adoption of rules regarding this permit at the December 7, 2017 meeting.

- **HB 3215** by Goldman allows a business that owns any number of vehicles to be auctioned off by a licensed auctioneer without that business being considered to be engaging in business as a vehicle dealer.

- **SB 1952** by Hughes allows licensed out-of-state vehicle dealers to buy, sell, or exchange at public auctions antique and special vehicles without having to be licensed in Texas.

- **SB 1052** by Hughes was amended late in the session to include HB 3163 by Button which changes the definition of “vehicle lessor” so that titling the vehicle in the lessor’s name is not required. This change makes the distinction between a “vehicle lessor” and a “vehicle lease facilitator” almost non-existent and the practical effects of the change are likely to be insignificant.

- **HB 91** by White requires all state agencies that review criminal history as part of the eligibility requirements for an occupational license to study those requirements and report to legislature by December 1, 2018 on any recommendations the agency has to keep, modify, or repeal the requirement. The department must perform this review and report on the licenses it issues to dealers under Occupations Code 2301 & 2302 and under Transportation Code 503. Lastly, though not related exclusively to dealers, any state agency that pursues a regulatory action against an entity, such as an administrative sanction or license revocation, is now liable for damages, attorney’s fees, and costs if a court determines that the agency action was frivolous.

- **SB 869** by Huffman creates a new process for vehicle owners to designate a beneficiary to receive legal title to a vehicle upon the owner’s death. The department is working with stakeholders who pushed for this change to design the process in such a way as to make implementation and understanding of this new process as easy as possible for both county tax assessor-collector staff and the public. Implementation efforts remain underway.
• **SB 1501** by Zaffirini made several changes to the law regarding how vehicle storage facilities notify vehicle owners and lienholders before the facility can foreclose on a storage lien.

• **HB 1793** by Pickett exempts commercial motor vehicles registered in Texas and under IRP that have a valid safety inspection in compliance with federal standards and are not domiciled in the state from state safety inspection requirements. Vehicles qualifying for this exemption must still pay any state fees associated with the state inspection and those fees are collected at the time of registration while verifying a state inspection at the time of registration will no longer be required.

• **HB 897** by Ashby as filed expanded an existing sales tax exemption for religious motor vehicles to cover trailers used for religious purposes. The bill was amended late in the session to apply the same exemption to vehicles owned by open enrollment charter schools. Exempt registration was also granted to vehicles owned by open enrollment charter schools.

### C. Specialty and Military License Plates

In addition, eleven pieces of legislation passed by the 85th Legislature created forty-four new specialty license plates. Of these, seven bills relate to special military plates creating forty such new plates or additional options for existing plates. The remaining four are the new “Back the Blue”, Star of Texas Award recipient, Blessed are the Peacemakers, and justices of the peace specialty license plates. The majority of these plates were available by September 1, 2017, and the remaining plates were made available in November.

The Government and Strategic Communications Division will continue to provide regular updates on legislative implementation efforts.
To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Judy Sandberg, Enterprise Project Management Office Director  
Agenda Item: 6  
Subject: Enterprise Projects Update

RECOMMENDATION
This is a briefing only and no decisions or actions are requested.

PURPOSE AND EXECUTIVE SUMMARY
The purpose of this briefing is to provide an update on enterprise projects. The report includes:

- A Portfolio Dashboard
- A list of FY18/19 Projects
- A list of Closed Projects.

FINANCIAL IMPACT
All open and closed projects are within budget.

BACKGROUND AND DISCUSSION
In addition to Refactored RTS and webDealer, the FY18/19 Projects Portfolio includes new projects which were listed as initiatives in TxDMV's Legislative Appropriations Request (LAR).

Priority Group 1 Projects
1. RTS – project end date is 12/31/2018. Next release is schedule for 12/17/2017. Go/No Go Vote is set for 12/12/17.
2. webDealer – project end date is 4/30/2018. Next release, eTags/Centralized Pay, is scheduled for 12/17/2017. Go/No Go Vote is set for 12/12/17.
3. webLien – project end date is 8/31/2019. First monitoring report is due to Texas Quality Assurance Team (QAT) by 12/31/2018.

Priority Group 2 Projects (Next Review Gate: 12/18/17, set date for projects to proceed to requirements gathering phase.)
4. Call Center Upgrade
5. Kiosk Pilot
6. E-Renewals
7. Fraud Data Dashboard

Priority Group 3 Projects (Next Review Gate: 12/18/17, set date for projects to proceed to requirements gathering phase.)
8. Enterprise Reporting
9. External Web Site Renovation
TxDMV Board Meeting
Enterprise Projects Update

December 7, 2017

Texas Department of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.
TxDMV Portfolio Dashboard

**FY17 Portfolio Overall Project Trend**

- **FY17 Avg**
- **Sep-17**
- **Oct-17**
- **Nov-17**

- No. Of Projects
- Green
- Yellow
- Red

**FY17 Portfolio Project Schedule Trend**

- **FY16 Avg**
- **FY17 Avg**
- **Sep-17**
- **Oct-17**
- **Nov-17**

- No. Of Projects
- Green
- Yellow
- Red

**FY17 Portfolio Project Budget Trend**

- **FY16 Avg**
- **FY17 Avg**
- **Sep-17**
- **Oct-17**
- **Nov-17**

- No. Of Projects
- Green
- Yellow
- Red

---

**RTS Project % Complete**

- Work Complete %
- Duration Complete %
  - PSD 8/02/13, PRD 12/31/16
- Budget %

- Expenditures
- Encumbrances

- % Complete: 91%
- % Complete: 79%
- % Complete: 81.4%
- % Complete: 17.8%

**webDEALER % Project Complete**

- Work Complete %
- Duration Complete %
  - PSD 9/01/12, PRD 4/30/18
- Budget %

- Expenditures
- Encumbrances

- % Complete: 92%
- % Complete: 63%
- % Complete: 88.5%
- % Complete: 9.4%

---

**Project Closed by Fiscal Year**

- FY15: 3
- FY16: 4
- FY17: 7

---

TxDMV Board Meeting - December 7, 2017
<table>
<thead>
<tr>
<th>Project Name</th>
<th>External Cost</th>
<th>Purpose</th>
<th>Benefit to Public</th>
<th>Benefit to Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Priority Group 1</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RTS Refactoring</td>
<td>$900K</td>
<td>Refreshes RTS technology by modernizing the core RTS system and providing business intelligence reporting capabilities.</td>
<td>Improved data quality. Improved customer service through system improvements.</td>
<td>System modernization improves Agency's agility for implementing system improvements required by changes in statute, rules, and/or policy and by continuous quality improvement in Agency processes.</td>
</tr>
<tr>
<td>Whitney Brewster, Executive Sponsor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>webDealer eTags</td>
<td>CP</td>
<td>eTitles</td>
<td>$263K</td>
<td>Allows a vehicle title to be created, stored and transferred in electronic form, improving the accuracy of the titling process.</td>
</tr>
<tr>
<td>Jeremiah Kuntz, Executive Sponsor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>webLIEN</td>
<td>$2.5M</td>
<td>Provide lien holders with a self-service web-enabled alternative to the existing Electronic Lien and Title (ELT) application for the addition or removal of liens by adding a new application to the webDealer suite called webLien.</td>
<td>Indirect benefit from dealer to dealer lien changes.</td>
<td>Improve tracking and management of registration and titling from motor vehicle sales. Reduce operating costs.A3:E6</td>
</tr>
</tbody>
</table>
# TxDMV FY18/19 Portfolio

<table>
<thead>
<tr>
<th>Project Name</th>
<th>External Cost</th>
<th>Purpose</th>
<th>Benefit to Public</th>
<th>Benefit to Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kiosk Pilot</td>
<td>$500K</td>
<td>Pilot a few self-service kiosks at remote locations that will provide TxDMV customers an option to purchase and to print vehicle registration renewal stickers.</td>
<td>Improve customer service delivery. Reduce customer wait times.</td>
<td>Increase efficiency/effectiveness of motor vehicle registration process.</td>
</tr>
<tr>
<td>Fraud Data Dashboard</td>
<td>$500K</td>
<td>Mine existing RTS data to produce enhanced reports that will help identify trends which may indicate Fraud and/or the need for further investigation.</td>
<td>Build public trust and improve the quality of customer service.</td>
<td>Use automation to help identify trends for possible investigation. Increase efficiency and effectiveness by using automation to help identify trends for potential fraud.</td>
</tr>
<tr>
<td>Call Center Upgrade</td>
<td>$900K</td>
<td>Upgrade existing telephony system to enhance customer service and provide quality monitoring and workforce management services.</td>
<td>Improve customer service delivery.</td>
<td>Increase call center efficiency and effectiveness.</td>
</tr>
<tr>
<td>e-Renewals</td>
<td>$500K</td>
<td>Provide TxDMV Customers the option to receive renewal notices electronically.</td>
<td>Improve customer experience and convenience.</td>
<td>Reduce printing/mailing costs. Increase efficiency/effectiveness of motor vehicle registration process.</td>
</tr>
</tbody>
</table>
# TxDMV FY18/19 Portfolio

<table>
<thead>
<tr>
<th>Project Name</th>
<th>External Cost</th>
<th>Purpose</th>
<th>Benefit to Public</th>
<th>Benefit to Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Priority Group 3</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise Reporting</td>
<td>$500K</td>
<td>Develop a data roadmap (strategy) and a technology framework to improve the ability to mine, store and report on existing data and information.</td>
<td>Increase information that is published and readily available to the public.</td>
<td>Increase Agency efficiency and reports quality by using automation to mine data across multiple sources and reduce or eliminate manual data collection.</td>
</tr>
<tr>
<td>Linda Flores, Executive Sponsor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>External WebSite Renovation</td>
<td>$500K</td>
<td>Improve the public website’s appearance, functionality, and usability.</td>
<td>Provide a personal and engaging customer experience.</td>
<td>Increase efficiency/effectiveness of information delivery.</td>
</tr>
<tr>
<td>Caroline Love, Executive Sponsor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobil App - MCD</td>
<td>$300K</td>
<td>Develop a mobile app for the Texas International Registration Program (TxIRP) for Multi-Year Fleet Registration, Token Trailer and recently proposed TxIRP registration enhancement programs.</td>
<td>Improve safety notification and monitoring. Continuously improve customer usability of public web site.</td>
<td>Gradual elimination of paper filing of various registration transactions. Improve customer service through continuous process improvement.</td>
</tr>
<tr>
<td>Jimmy Archer, Executive Sponsor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Closed Projects

- AMSIT
- County Equipment Refresh
- eLICENSING
- Physical Security Project
- P&H
- Single Sticker I & II
- RTS Name Parsing
- CAPPS Finance and HR
- Consolidated Call Center
- Regional Offices Telecommunications
- FileNet
- Temp Permit
- Active Directory
To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jeremiah Kuntz, Director – Vehicle Titles and Registration and David Duncan, General Counsel
Agenda Item: 7
Subject: Consideration of issues related to the titling and registration of vehicles manufactured, assembled, or altered by persons other than licensed manufacturers or converters (street rods, custom vehicles, and dune buggies)

Summary and History of Regulation of Assembled Vehicles
Texas statutes do not directly address the titling and registration of dune buggies, only “custom vehicles” and “street rods.” The relevant statutes are Trans. Code §501.038, which deals with the titling of custom vehicles and street rods, and the definitions of those terms in Trans. Code §504.501(f). That statute defines “custom vehicle” as one that is at least 25 years old and of a model year after 1948 or that is manufactured to resemble a vehicle that meets those criteria, and that has been altered from the manufacturer’s original design or which has a body constructed from materials not originally on the vehicle. “Street rod” is similarly defined, only it must be a vehicle manufactured before 1949, or a later-manufactured vehicle designed to look like a pre-1949 vehicle.

The current rule on dune buggies is found at 43 Texas Administrative Code Sect. 217.3, where the term is included as a type of vehicle that is not eligible for title. The rule reads as follows: “(6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the vehicle’s previous title and/or registration in this or any other jurisdiction: (B) vehicles designed or determined by the department to be a dune buggy. . .” This rule was adopted by the TxDMV Board to be effective on March 9, 2016. No comments were received on the rule during the public comment period.

Prior to the adoption of these changes to rule 217.3, the rule dealt with the titling of dune buggies by identifying dune buggies as a type of assembled vehicle that would not be eligible for title. This rule was adopted to be effective April 6, 2014. The section of the rule that prohibited the titling of dune buggies did not receive any comments during the public comment period.

Prior to the 2014 rule, dune buggies were not specifically addressed in department rules. There was a provision in rule 217.3 that noted that the department would not title a vehicle, with the exception of a trailer as defined in Transportation Code §501.002, that does not have a body, motor, and frame manufactured by a motor vehicle manufacturer. Under this rule, the department titled and registered dune buggies that met all legal requirements.

The department has received approximately 180 petitions for rulemaking, the first of which was received by the department on September 12, 2017 from State Representative Ed Thompson. The remaining petitions were generated through an association of dune buggy enthusiasts, and request that the department amend its rules to allow for registration and titling of dune buggies.

The department surveyed the regulatory approaches of other states, and found that there is a wide variety of approaches to the titling and registration of dune buggies. A summary of other states’ approaches to dune buggy titling and registration is attached, shown as a map of the states surveyed. The staff has also reviewed regulations and guidance of the federal National Highway Traffic Safety Administration (NHTSA) as they relate to safety standards for vehicle manufacturing. A copy of their guidance document for manufacturers is also attached, along with an interpretation letter regarding dune buggies and the application of manufacturer safety standards.
State Survey on Title and Registration of Dune Buggies

- Eligible for title and registration
- Title for off-highway only
- Must meet FMVSS
- Not Eligible for title or registration
- Did not respond to survey
National Highway Traffic Safety Administration

Safer cars. Safer Drivers. Safer roads.

NEW MANUFACTURERS HANDBOOK

Requirements for Manufacturers of Motor Vehicles and Motor Vehicle Equipment
## Agenda Briefing Notebook

December 7, 2017

2

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Requirements for Manufacturers of Motor Vehicles and Motor Vehicle Equipment Items

Disclaimer – This document is a simplified description of the requirements for manufacturers of motor vehicles and motor vehicle equipment and does not supersede any requirements contained in the statutes and regulations administered by The National Highway Traffic Safety Administration. Please refer to the statutes and regulations cited herein for a more detailed description of such requirements.

Chapter 1. Background

Federal Statutes and Regulations

The National Highway Traffic Safety Administration (NHTSA) is the U.S. government agency responsible for implementing and enforcing the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 49 U.S.C. Chapter 301 (the Vehicle Safety Act), and certain other laws relating to motor vehicle safety. Under that authority, NHTSA issues and enforces Federal motor vehicle safety standards (FMVSS) that apply to motor vehicles and to certain items of motor vehicle equipment. Implementing regulations are found in Title 49 of the Code of Federal Regulations (CFR), Parts 500-599.¹ Most CFR citations in this document are to specific sections of the regulations. For example, FMVSS No. 101 Controls and Displays can be found at 49 CFR 571.101.

How and Why Were the Federal Motor Vehicle Safety Standards Developed?

The Vehicle Safety Act was enacted to reduce traffic crashes and deaths and injuries resulting from traffic crashes. Under that authority, NHTSA issues and enforces FMVSS that apply to motor vehicles and certain items of motor vehicle equipment. The Vehicle Safety Act requires that each FMVSS be practicable, meet the need for motor vehicle safety, and be stated in objective terms.² On February 3, 1967, NHTSA published a final rule establishing the first FMVSS.³

Motor Vehicle and Motor Vehicle Equipment Certification

The Vehicle Safety Act requires that motor vehicles and regulated items of motor vehicle equipment manufactured for sale in the United States be certified to comply with all applicable FMVSS.⁴ Type approval is not required for motor vehicles and motor vehicle equipment sold in the United States. NHTSA does not issue type approval certifications and does not certify any motor vehicles or motor vehicle equipment as complying with applicable FMVSS. Instead, in accordance with 49 U.S.C. 30115, a “self-certification” process is in place, which requires the manufacturer to certify the vehicle or equipment item as complying with the applicable FMVSS. The Vehicle Safety Act requires the exercise of “reasonable care” in issuing a certification of compliance with safety standards.⁵

¹ The CFR may be browsed or searched at the link http://www.ecfr.gov/cgi-bin/text-idx?SID=48fa9e537b7babef583a42e23e4555c5&mc=true&tpl=/ecfrbrowse/Title49/49tab_02.tpl
² See 49 U.S.C. 30111
³ See 32 FR 2408
⁴ See 49 U.S.C. 30115
⁵ Ibid.

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Penalties for Violations of the Vehicle Safety Act and Implementing Regulations

Manufacturers may be subject to substantial civil penalties for failure to meet the requirements of the statutes and regulations that NHTSA administers. Currently, those penalties can be as high as $21,000 for each violation with a maximum civil penalty of $105,000,000 for a related series of violations. For example, the failure of a manufacturer to furnish notification of a noncompliance or defect to owners or to NHTSA may subject the fabricating manufacturer to substantial civil penalties.

Chapter 2. What does NHTSA Regulate?

Motor Vehicles

Motor vehicles are defined by statute as vehicles that are driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, or highways. In regulating the manufacture of motor vehicles, NHTSA has established the type classifications identified and defined in Table 1.

Table 1 – Motor Vehicle Type Classifications

<table>
<thead>
<tr>
<th>Classification</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passenger car</td>
<td>A motor vehicle with motive power, except a low-speed vehicle, multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.</td>
</tr>
<tr>
<td>Multipurpose passenger vehicle</td>
<td>A motor vehicle with motive power, except a low-speed vehicle or trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.</td>
</tr>
<tr>
<td>Truck</td>
<td>A motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.</td>
</tr>
<tr>
<td>Bus</td>
<td>A motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.</td>
</tr>
<tr>
<td>Motorcycle</td>
<td>A motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.</td>
</tr>
<tr>
<td>Trailer</td>
<td>A motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle.</td>
</tr>
<tr>
<td>Low-speed vehicle</td>
<td>A motor vehicle, that is 4-wheeled, whose speed attainable in 1 mile (1.6 km) is more than 20 miles per hour (32 kilometers per hour) and not more than 25 miles per hour (40 kilometers per hour) on a paved level surface, and whose GVWR is less than 3,000 pounds (1,361 kilograms).</td>
</tr>
<tr>
<td>Pole Trailer</td>
<td>A motor vehicle without motive power designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves</td>
</tr>
</tbody>
</table>

All motor vehicles must be classified in the manner set forth in Table 1. For example, school buses are classified as buses, motor driven cycles are classified as motorcycles, and motor homes are classified as multipurpose passenger vehicles. Vehicles such as race cars, dirt bikes, or all-terrain vehicles that are not primarily manufactured for on-road use do not qualify as motor vehicles and are therefore not regulated by NHTSA. Instead, such vehicles may be regulated by the Consumer Product Safety Commission (CPSC).

---

6 See 49 U.S.C. 30165
7 See 49 CFR Part 578
8 See 49 U.S.C. 30102
9 See 49 CFR § 571.3 Definitions
10 See www.cpsc.gov

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Motor Vehicle Equipment

The Vehicle Safety Act defines motor vehicle equipment as:

- Any system, part, or component of a motor vehicle as originally manufactured;
- Any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or
- Any device or an article of apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.\(^{11}\)

The Vehicle Safety Act requires that regulated items of motor vehicle equipment manufactured for sale in the United States be certified to comply with all applicable FMVSS.\(^{12}\) Motor vehicle equipment items that are not subject to the FMVSS do not require certification; however, such items may be found (by either NHTSA or the manufacturer) to have a safety-related defect, and if so, the manufacturer will have an obligation to furnish owners of the equipment with notification of, and a remedy for, the defect, usually at no charge to the consumer. Motor vehicle equipment items that are subject to the FMVSS are identified in Table 2.

Table 2 – Motor Vehicle Equipment Items Subject to the FMVSS

<table>
<thead>
<tr>
<th>Motor Vehicle Equipment Description</th>
<th>See FMVSS Number(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tires</td>
<td>109/110/117/119/120/129/139</td>
</tr>
<tr>
<td>Rims</td>
<td>110/120</td>
</tr>
<tr>
<td>Brake Hoses</td>
<td>106</td>
</tr>
<tr>
<td>Brake Fluid</td>
<td>116</td>
</tr>
<tr>
<td>Seat Belt Assemblies</td>
<td>209</td>
</tr>
<tr>
<td>Lamps, Reflective Devices, and Associated Equipment</td>
<td>108</td>
</tr>
<tr>
<td>Glazing (Automotive Glass and Plastics)</td>
<td>205</td>
</tr>
<tr>
<td>Motorcycle Helmets</td>
<td>218</td>
</tr>
<tr>
<td>Child Restraint Systems (Child Safety Seats)</td>
<td>213</td>
</tr>
<tr>
<td>Platform Lift Systems For The Mobility Impaired</td>
<td>404</td>
</tr>
<tr>
<td>Rear Impact Guards For Trailers</td>
<td>223</td>
</tr>
<tr>
<td>Triangular Reflective Warning Devices</td>
<td>125</td>
</tr>
<tr>
<td>Compressed Natural Gas Containers</td>
<td>304</td>
</tr>
</tbody>
</table>

---

\(^{11}\) See 49 U.S.C. 30102(a)(7)

\(^{12}\) See 49 U.S.C. 30115
Chapter 3. Procedural Requirements for Fabricating Manufacturers

Introduction

Before offering a motor vehicle or motor vehicle equipment item for sale in the United States, the fabricating manufacturer must: 1) designate a permanent resident of the United States as its agent for service of process if the fabricating manufacturer is not located in the United States (49 CFR Part 551, Subpart D Service of Process on Foreign Manufacturers and Importers) and 2) submit to NHTSA identifying information on itself and on the products it manufactures to the FMVSS, not later than 30 days after the manufacturing process begins (49 CFR Part 566 Manufacturer Identification). 13 Forms Part 565 & Part 566, as well as Equipment and Tire forms must be submitted to the NHTSA Manufacturer Portal. Information about the Portal can be found in Appendix 7.

Part 551 - Designate a Permanent Resident of the United States as its Agent for Service of Process

All foreign manufacturers, assemblers, and importers of motor vehicles or motor vehicle equipment must comply with this regulation before offering a motor vehicle or item of motor vehicle equipment for importation into the United States. The purpose of this regulation is to ensure that NHTSA is able to serve the manufacturer’s agent with administrative or judicial notice or process. A detailed explanation of this regulation may be found in 49 CFR Part 551, Subpart D.

To expedite NHTSA's processing of submissions received under Part 551, Subpart D, foreign manufacturers may submit designation information online at: http://vpic.nhtsa.dot.gov/MfrPortal/. After a manufacturer submits designation information online, NHTSA's database will email a confirmation of the form. The manufacturer must print, sign and mail the designation form to NHTSA's at this address:

U.S. Department of Transportation
NHTSA Correspondence Unit
1200 New Jersey Avenue, SE
Room W41-306
Washington, D.C. 20590

To comply with Part 551, Subpart D, the manufacturer must mail to NHTSA an original printout of the Adobe PDF with original ink signatures by both the manufacturer and agent. Submitting your designation information online, without mailing the original form with ink signatures to NHTSA, will not satisfy the requirements of Part 551, Subpart D.

See Appendix 1 for a Part 551 submission form.

Part 566 - Manufacturer Identification

Manufacturers of motor vehicles and of motor vehicle equipment to which a FMVSS applies (except tires), must submit to NHTSA identifying information and a description of the items they produce not later than 30 days after manufacturing begins. 14 Not later than 30 days after any relevant business information changes, manufacturers must notify NHTSA to ensure that their records remain current, accurate, and complete. 15

An individual business such as a corporation or limited liability company may want to operate multiple businesses without creating a new legal entity for each business. In the United States, these names are generally registered with the Office of the Secretary of State for the State in which the company is domiciled. Business laws may

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13 NHTSA maintains on its web site a list of manufacturers that have made Part 566 submissions. See http://vpic.nhtsa.dot.gov/mid/
14 See 49 CFR Part 566
15 NHTSA obtains tire manufacturer identification information when the agency assigns a plant code to the tire manufacturer. See 49 CFR 574.5

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be different from State to State and even more diverse from country to country; however, it is important for manufacturers to furnish NHTSA with all versions of its company’s legal business name, including trade names, assumed names, fictitious business names, and brand or label names that are associated with the business. Unregistered manufacturers' names on vehicle certification labels, importation documents, or vehicle ownership documents may cause confusion or delays when processing vehicles at the ports or during titling and registration of the vehicles for on-road use. Several examples of business names are shown in Table 3.

### Table 3 - Examples of Assumed / Fictitious Business Names

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Trading ADB or T/A</th>
<th>Business Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acme Company, Inc.</td>
<td>Trading As or T/A</td>
<td>Smith Productions</td>
</tr>
<tr>
<td>Jones Manufacturing</td>
<td>Doing business as or DBA or d/b/a</td>
<td>Acme Company, Inc.</td>
</tr>
<tr>
<td>Smith and Sons</td>
<td>A Division of</td>
<td>Acme Company, Inc.</td>
</tr>
<tr>
<td>Jones Manufacturing</td>
<td>A Subsidiary of</td>
<td>Acme Company, Inc.</td>
</tr>
<tr>
<td>Brown Quality Motors, Ltd.</td>
<td>Operating as or o/a</td>
<td>BQM Associates</td>
</tr>
<tr>
<td>China ABC Group Co. Ltd.</td>
<td>Doing business as or DBA or d/b/a</td>
<td>Qinghai Wu Industries</td>
</tr>
</tbody>
</table>


## Chapter 4. Vehicle Identification Numbers

### Vehicle Identification Number or VIN

Under regulations administered by NHTSA, a vehicle identification number or VIN is "a series of Arabic numbers and Roman letters that is assigned to a motor vehicle for identification purposes."\(^{16}\) Among other things, NHTSA's regulations at 49 CFR Part 565 require a motor vehicle manufacturer to assign to each motor vehicle manufactured for sale in the United States a 17-character VIN that uniquely identifies the vehicle. The VIN must be correctly formatted and include a check digit in Position 9 that is mathematically correct under a formula that is included in the regulation. VINS are required to have 17 characters that do not include the letters I, O, or Q. Beginning with the 1980 model year, the VINs of any two vehicles manufactured within a 60-year period must not be identical. All spaces provided for in the VIN must be occupied by a character specified in Part 565 and the type face used for each VIN must be in capitals and use san serif characters. This means that the characters will not have fine lines or "serifs" finishing off the main strokes of the letters. The VIN of each vehicle must appear clearly and indelibly upon either a part of the vehicle, other than the glazing, that is not designed to be removed except for repair or upon a separate plate or label that is permanently affixed to such a part.\(^{17}\)

### VIN Location on Vehicles

The VIN for passenger cars, multipurpose passenger vehicles, low-speed vehicles, and trucks of 10,000 lbs. or less gross vehicle weight rating (GVWR) must be located inside the passenger compartment and readable, without moving any part of the vehicle, through the vehicle glazing (windshield) from outside the vehicle adjacent

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\(^{16}\) See 49 CFR 565.12(r)  
\(^{17}\) See 49 CFR 565.13(e)
to the left windshield pillar. This is commonly called the “public VIN.” NHTSA regulations require that a motorcycle’s VIN need only appear on the label certifying compliance with all applicable FMVSS that the manufacturer must affix to a permanent member of the motorcycle as close as practicable to the intersection of the steering post with the handle bars in such a location that it can be easily readable without moving any part of the vehicle except for the steering mechanism. The VIN for a trailer must appear on the label certifying the vehicle’s compliance with all applicable FMVSS that the manufacturer must affix to a location on the forward half of the trailer’s left side, such that it is easily readable from outside the trailer without moving any part of the vehicle.

VIN Content

On April 30, 2008, NHTSA issued amended VIN regulations. These amendments were necessary to make certain that the VIN system would remain viable for the next 30 years. All motor vehicles that are manufactured on or after April 30, 2009 are subject to the amended regulation.

Chart 1 identifies how a VIN is formatted, the general contents of a VIN, and specifications for the characters to be used in certain positions of the VIN.

Chart 1 - General VIN Format

<table>
<thead>
<tr>
<th>1st Section</th>
<th>2nd Section</th>
<th>3rd</th>
<th>4th Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identifies Manufacturer and Type of Vehicle</td>
<td>Identifies Vehicle Attributes (Now Includes Vehicle Make)</td>
<td>Check Digit</td>
<td>MY Plant</td>
</tr>
<tr>
<td>1 2 3</td>
<td>4 5 6 7 8</td>
<td>9 10 11 12 13 14 15 16 17</td>
<td>Number sequentially assigned in Positions 12-17 if a High-Vol. Manu. or in Positions 15-17 if a Low-Vol. Manu.</td>
</tr>
</tbody>
</table>

*9*If low-vol. manu.

[@@] If car, and MPV and truck ≤ 10,000 lbs.

WMI if low-vol. manufacturer (<1,000 of a given type each year)

For vehicle not a car, and MPV and truck ≤ 10,000 lbs.

Vin: WMI 123 456 78901234567890

The VIN is comprised of four sections. Each section is described in detail below.

First Section of the VIN

The first section of a VIN consists of three characters. These first three characters of a VIN uniquely identify a motor vehicle manufacturer using the “World Manufacturer Identifier” or WMI code, if the manufacturer produces 1,000 or more vehicles of a given type each year (i.e., a “high-volume” manufacturer). A “low-volume” manufacturer that produces fewer than 1,000 vehicles of a given type each year uses the numeral “9” as the third character and Positions 12, 13, and 14 of the VIN for the remainder of the WMI. The placement of the WMI

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18 See 49 CFR 565.13(f)
19 See 49 CFR 567.4(e)
20 See 49 CFR 567.4(d)
21 See 73 Federal Register 23367, Published April 30, 2008
22 See 49 CFR 565.12(e)

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within a 17-character VIN is identified in Chart 2.

Chart 2 - Placement of the World Manufacturer Identifier in the VIN

<table>
<thead>
<tr>
<th>1st Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identifies Manufacturer and Type of Vehicle</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>&quot;g&quot; if low-vol. manu</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4th Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identifies (among other things) the 2nd part of the WMI for low-volume manufacturers in Positions 12, 13, and 14</td>
</tr>
<tr>
<td>MY</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>WMI if low-vol. manufacturer (&lt;1,000 of a given type each year)</td>
</tr>
</tbody>
</table>

Obtaining a World Manufacturer Identifier

A manufacturer that intends to assemble motor vehicles in the United States must obtain a WMI from the SAE International (Previously known as the Society of Automotive Engineers). NHTSA has a contract with that organization to assign WMIs to manufacturers that assemble motor vehicles in the United States. Manufacturers must contact the SAE directly (and not NHTSA) to request the assignment of a WMI. They may do so by telephoning 724-772-8511 or by writing to: SAE International, 400 Commonwealth Avenue, Warrendale, PA 15096, Attention: WMI Coordinator.

Second Section of the VIN

The second section of the VIN, known as the “Vehicle Descriptor Section,” consists of Positions 4 through 8. This second is used to identify “vehicle attributes” for each vehicle type as identified by 49 CFR 565.15, Table I, entitled “Type of Vehicle and Information Decipherable.” There are two special rules for passenger cars, and for multi-purpose passenger vehicles (MPVs) and trucks with a gross vehicle weight rating (GVWR) of 10,000 lbs. or less. First, manufacturers of such vehicles must report all restraint devices and their locations in the vehicles. Second, Position 7 of the VIN of such a vehicle must be alphabetic. Therefore, for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less, if Position 7 of the VIN is alphabetic, the model year identified in Position 10 of the VIN refers to a year in the range of 2010-2039. Position 7 of VINs assigned to other vehicle types (e.g., motorcycles, buses, trailers) may be either alphabetic or numeric.
Part 565 requires that manufacturers identify in the second section of the VIN, the vehicle attributes for each vehicle type as summarized in Chart 3.

### Chart 3 - Vehicle Attributes for Each Vehicle Type that must be Identified in VIN Positions 4 through 8

<table>
<thead>
<tr>
<th>Required Information for:</th>
<th>Passenger</th>
<th>Multipurpose</th>
<th>Truck*</th>
<th>Bus</th>
<th>Trailer</th>
<th>Motorcycle</th>
<th>Incomplete</th>
<th>Low Speed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Make</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Line or Model</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Series</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Body Type</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Engine Type</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>GVWR®</td>
<td></td>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>All Restraint Devices &amp; Location*</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Chassis</td>
<td></td>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cab Type</td>
<td></td>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Brake System</td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Trailer Connection Type</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Trailer Body Type</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Length</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Axle Configuration</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Motorcycle</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Brake Horsepower@@</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Footnotes to Chart 3:

@The GVWR designations in “Table II – Gross Vehicle Weight Rating Classes” must be used. The use of these designations within the VIN itself is not required.

@@Engine net brake horsepower when encoded in the VIN cannot differ by more than 10% from the actual net brake horsepower. In the case of a motorcycle with an actual net brake horsepower of 2 or less, the net brake horsepower must be not more than 2, and must be greater than 2 in the case of a motorcycle with an actual brake hp greater than 2. (The purpose of this exception is to preserve the distinction in the VIN between motorcycles and motor driven cycles.)

*Trucks and Multipurpose Passenger Vehicles of GVWR<10,000 lbs. are required to have all restraint devices and locations available -- Trucks and MPVs of GVWR>10,000 lbs. are not required to have this information.
The terms used in Chart 3 are defined in 49 CFR 565.12. These definitions, and examples of the vehicle characteristics they cover, are identified in Chart 4.

**Chart 4 – Definitions and Examples of Vehicle Attributes**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type</td>
<td>means a class of vehicle distinguished by common traits including design and purpose</td>
<td>Passenger cars, Multipurpose Passenger Vehicles (MPVs), Trucks, Buses, Trailers, Incomplete Vehicles, Low Speed Vehicles (LSVs), and Motorcycles are separate types</td>
</tr>
<tr>
<td>Make</td>
<td>means a name that a manufacturer applies to a group of vehicles or engines</td>
<td>Chevrolet, Buick, Pontiac, Cadillac</td>
</tr>
<tr>
<td>Model</td>
<td>means the name that a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type</td>
<td>Monte Carlo, Malibu, Lucerne, CTS</td>
</tr>
<tr>
<td>Line</td>
<td>means a name that a manufacturer applies to a family of vehicles within a make that have a degree of commonality in construction, such as body, chassis, or cab type</td>
<td>Super Sport, LT Classic, GXP, CX, CXL</td>
</tr>
<tr>
<td>Series</td>
<td>means a name that a manufacturer applies to a subdivision of a “line” denoting price, size or weight identification, and that is used by the manufacturer for marketing purposes</td>
<td>3500, 4500, 5500, 6500 Series</td>
</tr>
<tr>
<td>Body Type</td>
<td>means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo carrying features and the roofline</td>
<td>4-door Sedan, 2-door; 2-door Fastback, 3-door Hatchback, 2-door Convertible, 5-door Liftback, 4-door Station Wagon</td>
</tr>
<tr>
<td>Engine Type</td>
<td>means a power source with defined characteristics. The specific manufacturer and make shall be represented if the engine powers a passenger car, and a MPV or truck with a GVWR ≤10,000 lbs.</td>
<td>Fuel utilized, number of cylinders, displacement, and net brake horsepower.</td>
</tr>
</tbody>
</table>

Trucks and other vehicle types have as many as nine reportable vehicle attributes and only five VIN positions in which to report these. This causes NHTSA to be frequently asked: “How do I fit all this information into the second section of the VIN?”

Part 565 gives manufacturers the flexibility to determine how they wish to structure or “encode” the contents of this section. One way a manufacturer may encode the information is to employ a “lookup table.” For example, the manufacturer’s five VIN characters “ABCDE” may be decoded using a lookup table to identify more than five vehicle attributes. It is important to remember that the manufacturer’s coding must be decipherable to NHTSA so that the agency may carry out its safety mission. The following examples for a passenger car may help clarify this.

**Passenger Car Manufacturer’s Sample VIN for the Second Section of the VIN (Positions 4-8)**

<table>
<thead>
<tr>
<th>Position</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example</td>
<td></td>
<td>R</td>
<td>P</td>
<td>1</td>
<td>A</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: Please remember VINs cannot contain the characters I, O or Q and that Position 7 must be alphabetic for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less manufactured on or after April 30, 2009.
Motorcycle VINs

Part 565 requires only five vehicle attributes of a motorcycle to be reported in the second section of a VIN. Because there are five positions available in the second section, a manufacturer may use each position for one of the five attributes. A motorcycle example will show how the second section of the VIN may be encoded.

Motorcycle Manufacturer's Sample VIN for the Second Section of the VIN (Positions 4-8)

<table>
<thead>
<tr>
<th>Position</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>U</td>
<td>2</td>
<td>A</td>
<td>D</td>
<td>G</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sample Motorcycle Manufacturer's Lookup Table for the Second Section of the VIN (Positions 4-8)

<table>
<thead>
<tr>
<th>VIN Position</th>
<th>Vehicle Attribute</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Make</td>
<td>U=USA Motorcycle Co.</td>
</tr>
<tr>
<td>5</td>
<td>Line or Model</td>
<td>2=Winner</td>
</tr>
<tr>
<td>6</td>
<td>Type of Motorcycle</td>
<td>A= Scooter</td>
</tr>
<tr>
<td></td>
<td></td>
<td>B=Sport Bike</td>
</tr>
<tr>
<td></td>
<td></td>
<td>C=Cruiser</td>
</tr>
<tr>
<td>7</td>
<td>Engine Type</td>
<td>D=V-2, 200cc, gas</td>
</tr>
<tr>
<td></td>
<td></td>
<td>E= V-4, 400cc, gas</td>
</tr>
<tr>
<td></td>
<td></td>
<td>F=V-8, 1000cc, gas</td>
</tr>
<tr>
<td>8</td>
<td>Net Brake HP</td>
<td>G=V-2 - 15hp</td>
</tr>
<tr>
<td></td>
<td></td>
<td>H=V-4 - 36hp</td>
</tr>
<tr>
<td></td>
<td></td>
<td>J=V-8 - 75hp</td>
</tr>
</tbody>
</table>
Trailer VINs

The vehicle attributes "length" and "axle configuration" are applicable only to trailers. Although the term "length" is not defined in Part 565, the agency has interpreted it to mean the length of a trailer as measured from one extremity to the other. For a trailer, this would include the equipment that is part of the vehicle and by which it is towed (i.e., the tongue or equivalent connector to the towing vehicle). Axle configuration means the number of axles, e.g., 1-axle, 2-axle, 3-axle, etc. A trailer example will show how VIN Positions 4 through 8 of the second section may be encoded.

Trailer Manufacturer's Sample VIN for the Second Section of the VIN (Positions 4-8)

<table>
<thead>
<tr>
<th>Position</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example</td>
<td></td>
<td></td>
<td></td>
<td>U</td>
<td>1</td>
<td>M</td>
<td>6</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sample Trailer Manufacturer's Lookup Table for the Second Section of the VIN (Positions 4-8)

<table>
<thead>
<tr>
<th>VIN Position</th>
<th>Vehicle Attribute</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Trailer Make</td>
<td>U=USA Trailer Co.</td>
</tr>
<tr>
<td>5</td>
<td>Trailer to Towing</td>
<td>1=Ball Type Pull</td>
</tr>
<tr>
<td></td>
<td>Vehicle Connection Type</td>
<td>2=Pintle Hitch</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3=Gooseneck</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4=Straight Semi</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5=Fifth Wheel</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6=Kingpin</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7=Bumper Pull</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8=Others</td>
</tr>
<tr>
<td>6</td>
<td>Trailer Body Type</td>
<td>A=Flatbed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>B=Tank</td>
</tr>
<tr>
<td></td>
<td></td>
<td>C=Utility</td>
</tr>
<tr>
<td></td>
<td></td>
<td>D=Livestock</td>
</tr>
<tr>
<td></td>
<td></td>
<td>E=Enclosed</td>
</tr>
<tr>
<td>7</td>
<td>Trailer Length</td>
<td>6=6 feet long</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9=9 feet long</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A=26 feet long</td>
</tr>
<tr>
<td>8</td>
<td>Trailer Axle configuration</td>
<td>1=Single Axle</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2=2 Axles</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3=3 Axles</td>
</tr>
</tbody>
</table>
## Sample Tank Trailer Manufacturer’s Lookup Table for the Second Section of the VIN (Positions 4-8)

<table>
<thead>
<tr>
<th>VIN Position</th>
<th>Vehicle Attribute</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Type of Trailer</td>
<td>A=NON-CODE</td>
</tr>
<tr>
<td></td>
<td></td>
<td>B=NON-CODE ETM</td>
</tr>
<tr>
<td></td>
<td></td>
<td>C=Reserved</td>
</tr>
<tr>
<td></td>
<td></td>
<td>D=DRY BULK</td>
</tr>
<tr>
<td></td>
<td></td>
<td>E=DOT 406</td>
</tr>
<tr>
<td></td>
<td></td>
<td>F=DOT 407</td>
</tr>
<tr>
<td></td>
<td></td>
<td>G=DOT 412</td>
</tr>
<tr>
<td></td>
<td></td>
<td>V=CONTAINER CHASSIS</td>
</tr>
<tr>
<td>5</td>
<td>Type of Material</td>
<td>A=Aluminum</td>
</tr>
<tr>
<td></td>
<td></td>
<td>B=Stainless Steel</td>
</tr>
<tr>
<td></td>
<td></td>
<td>C=Carbon Steel</td>
</tr>
<tr>
<td></td>
<td></td>
<td>D=Fiberglass/Composite</td>
</tr>
<tr>
<td>6</td>
<td>Gallonage</td>
<td>0=Container Chassis</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1=1000 &gt; Galons</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2=1000 ≤ Galons &lt; 2000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3=2000 ≤ Galons &lt; 3000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4=3000 ≤ Galons &lt; 4000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5=4000 ≤ Galons &lt; 5000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>...</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9=9000 ≤ Galons &lt; 10000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>B=10000 ≤ Galons</td>
</tr>
<tr>
<td>7</td>
<td>Trailer Length</td>
<td>6=6 feet long</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9=9 feet long</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A=26 feet long</td>
</tr>
<tr>
<td>8</td>
<td>Trailer Axle</td>
<td>1=Single Axle</td>
</tr>
<tr>
<td></td>
<td>configuration</td>
<td>2=2 Axles</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3=3 Axles</td>
</tr>
</tbody>
</table>

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Second Section VIN Character Restrictions

The amended VIN regulations no longer restrict Positions 4, 5, 6, or 8 to either alphabetic or numeric characters. This gives manufacturers more permutations for their vehicle attribute coding. However, as stated above, for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less manufactured on or after April 30 2009, Position 7 of the VIN must be alphabetic, which designates that the model year in Position 10 of the VIN refers to a year in the range of 2010-2039.

Third Section of the VIN

The third section of the VIN consists of one character, called the “check digit”, which occupies Position 9 in the VIN. The check digit’s purpose is to provide a means for verifying the accuracy of any VIN transcription. NHTSA regulations establish a mathematical formula for calculating the check digit.

After all other characters in VIN have been determined by the manufacturer, the check digit is calculated by carrying out the mathematical computation specified in the regulation. First, each character in the VIN is assigned a “numerical value” as shown in Table III of the regulation, entitled “Assigned Values”.

49 CFR 565.15(c)(1) Table III – Values Assigned to Characters of VIN

| Position | A | B | C | D | E | F | G | H | J | K | L | M | N | P | R | S | T | U | V | W | X | Y | Z |
| Weight   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 1 | 2 | 3 | 4 | 5 | 7 | 9 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |

Each position of the VIN (except Position 9, the check digit) is assigned a “weight value” as shown in Table IV of the regulation, entitled “VIN Position and Weight Factor”.

49 CFR 565.15(c)(2) Table IV – Weight Factors Assigned to VIN Positions 1-8 and 10-17

<table>
<thead>
<tr>
<th>Position</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weight</td>
<td>8</td>
<td>7</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>10</td>
<td>N/A</td>
<td>9</td>
<td>8</td>
<td>7</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
</tr>
</tbody>
</table>

Next, each character’s numeric value is multiplied by the position’s weight value. After you compute several, the check digit mathematical calculations are not very difficult. Below is an example.

<table>
<thead>
<tr>
<th>Position</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sample VIN</td>
<td>1 J 9 R P 1 A 3</td>
<td>A 1 6 4 4 3 4 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assigned Value</td>
<td>1 1 9 9 7 1 1 3</td>
<td>1 1 6 4 4 3 4 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>VIN Position Weight</td>
<td>8 7 6 5 4 3 2 10</td>
<td>N/A 9 8 7 6 5 4 3 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multiply Value by Weight</td>
<td>8 7 54 45 28 3 2 30</td>
<td>9 8 42 24 20 12 12 10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

23 See 49 CFR 565.15, paragraphs (c) (1) through (4)

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The results are now added together and the total "314" is then divided by 11.

\[ 8 + 7 + 54 + 45 + 28 + 3 + 2 + 30 + 9 + 8 + 42 + 24 + 20 + 12 + 12 + 10 = 314 \]

\[
\begin{array}{c}
8 + 7 + 54 + 45 + 28 + 3 + 2 + 30 + 9 + 8 + 42 + 24 + 20 + 12 + 12 + 10 \\
\hline
314
\end{array}
\]

\[
\begin{array}{cc}
28 & 6 \\
11 & \text{equals} \ 28 \ \frac{6}{11}
\end{array}
\]

The total 314 is then divided by 11 = 28 6/11 or 28.545454

The check digit is based on either the Fractional Remainder or the Decimal Equivalent Remainder as reflected in Table V of the regulation, entitled "Ninth Position Check Digit Values".

**49 CFR 565.15(c)(4) Table V – 9th Position Check Digit Values**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Decimal Equivalent Remainder</td>
<td>0</td>
<td>.091</td>
<td>.182</td>
<td>.273</td>
<td>.364</td>
<td>.455</td>
<td>.545</td>
<td>.636</td>
<td>.727</td>
<td>.818</td>
<td>.909</td>
</tr>
<tr>
<td>Check Digit</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>9</td>
<td>X</td>
</tr>
</tbody>
</table>

All decimal equivalent remainders in Table V are rounded to the nearest thousandth (i.e., the 3rd digit to the right of the decimal point). If the 4th digit to the right of the decimal point is 5 or greater, round up; if 4 or less, round down.

In our total, 28.5454, the 4th digit to the right of the decimal point is 4, so round to 28.545. Table V shows that our decimal equivalent remainder "5/45" equates to the check digit "6".

A check digit, which can be zero through nine (0–9) or the letter “X”, appears in Position 9 of the VIN. Our computed check digit "6" will appear in Position 9 of our completed VIN: 1J9RP1A36A1644345. While the mathematical computations can be completed by hand, the agency recommends that new manufacturers develop a simple spreadsheet program to assist with calculating check digits and thereby reduce VIN errors. See Appendix 2 for a sample spreadsheet format to calculate VIN check digits.
Fourth Section

The fourth section of the VIN consists of Positions 10 through 17. Position 10 is reserved to encode the model year of the vehicle.

Fourth Section of the VIN - Model Year Placement

<table>
<thead>
<tr>
<th>4th Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position 10</td>
</tr>
<tr>
<td>Position 11</td>
</tr>
<tr>
<td>WMI if low-vol. manufacturer (&lt; 1,000 of a given type each year)</td>
</tr>
<tr>
<td>Note: ## means that the VIN Characters are: 0,1,2,3,4,5,6,7,8, or 9</td>
</tr>
</tbody>
</table>

Besides the three letters that are not allowed in the VIN itself (I, O, and Q), the letters U and Z and the number 0 are not used for the year code. The model year is the year that a manufacturer uses to designate a discrete vehicle model, irrespective of the calendar year in which the vehicle was actually produced, provided that the production period does not exceed 24 months. The year codes that must be used in the manufacturer’s VIN are found in Table VII of the regulation, entitled “Year Codes for VIN”.

49 CFR 565.15(d)(1) - Table VII – Required Year Codes for VIN

Position 11 of a VIN is used to encode the vehicle’s plant of manufacture. This term is defined by the regulation as “the plant where the manufacturer affixes the VIN.” Manufacturers may assign their own plant codes, but should report to NHTSA, in their VIN deciphering information, the city, state, and country in which the plant of manufacture is located, as well as the name of the Plant (e.g., Lansing, Michigan, USA - GMNA). Plant Name is only a required field where applicable. If the manufacturer has no plant name, then it may be left off the submission. An example will show how VIN Positions 10 and 11 of the fourth section may be encoded.

---

24 See 49 CFR 565.12(m)
25 See 49 CFR 565.12(n)

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### Manufacturer's Sample VIN for the Fourth Section of the VIN (Positions 10-11)

<table>
<thead>
<tr>
<th>Position</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Example</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Manufacturer's Lookup Table for the Fourth Section of the VIN (Positions 10 and 11)

<table>
<thead>
<tr>
<th>VIN Position</th>
<th>Vehicle Attribute</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Model Year</td>
<td>H=2017</td>
</tr>
<tr>
<td></td>
<td></td>
<td>J=2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>K=2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(From Table VII of 49 CFR 565.15(d) (1))</td>
</tr>
<tr>
<td>11</td>
<td>Plant of Manufacture</td>
<td>B=Baltimore, MD USA – Main Plant</td>
</tr>
<tr>
<td></td>
<td></td>
<td>F=Flint, MI USA – Flint Plant</td>
</tr>
<tr>
<td></td>
<td></td>
<td>L=Lansing, MI USA – GMNA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>M=Lordstown, OH USA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>K=Bowling Green, KY USA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R=Ramos Arizpe, Coahuila, Mexico</td>
</tr>
</tbody>
</table>

Positions 12 through 17 of the VIN represent the number sequentially assigned by the manufacturer in the production process if the manufacturer is a high-volume manufacturer. If the manufacturer is a low-volume manufacturer, Positions 12, 13, and 14 combined with Positions 1, 2, and 3 of the VIN uniquely identify the manufacturer. Please note that Positions 13 through 17 must be numeric, if the VINs are for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less. For any other type of vehicle, Positions 14 through 17 must be numeric.
Manufacturer’s Requirement to Furnish NHTSA with VIN Deciphering Information

It is very important that each manufacturer report to NHTSA its complete VIN deciphering information so that the agency may simplify vehicle identification information retrieval and increase the accuracy and efficiency of the vehicle recall campaigns. The VIN has become the key identifier in data systems that track compliance with Federal and state safety programs and that manage and analyze information on vehicle manufacturing processes, registrations, insurance programs, crash investigations, and safety research. Organizations that use VINs in data systems include NHTSA, manufacturers, state motor vehicle departments, law enforcement agencies, insurance companies, and motor vehicle safety researchers.

Under 49 CFR 565.26, a motor vehicle manufacturer must submit to NHTSA, either directly or through an agent, information the agency will need to decipher the manufacturer’s VIN characters not later than 60 days before the manufacturer offers for sale the first vehicle identified by that VIN or if information concerning vehicle characteristics sufficient to specify the VIN code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The purpose of the 60-day requirement is to permit users of the VIN, such as State motor vehicle agencies, to obtain the necessary deciphering information before vehicle purchasers begin registering their vehicles. The VIN deciphering information must be submitted through the NHTSA Manufacturer Portal or by email at manufacturerinfo@dot.gov. See Appendix 3 for sample VIN deciphering letters.

Chapter 5. Certification to all Applicable FMVSS

Introduction

Vehicles manufactured for sale in the United States be certified to comply with all applicable FMVSS. NHTSA’s regulations on motor vehicle certification are found at 49 CFR Part 567, while the regulations on the certification As noted above, the Vehicle Safety Act requires that regulated items of motor vehicle equipment and motor of motor vehicle equipment subject to the FMVSS are found within the standards that pertain to each such item of equipment, as published in 49 CFR Part 571, Subpart B.

Motor Vehicle Equipment Certification and NHTSA Assigned Codes

Motor vehicle equipment that is subject to an FMVSS must, as originally manufactured, conform to the standard and be so certified. In most instances, certification of compliance with the applicable FMVSS for regulated items of motor vehicle equipment is evidenced by the symbol “DOT” either inscribed on the equipment in a prescribed location, or placed on the outside of the container in which the equipment is shipped.26

Along with a marking that indicates certification of compliance with an applicable FMVSS, the fabricating manufacturer of certain regulated equipment items such as brake hoses, glazing (automotive glass and plastics), and tires must label its products with code marks or identification numbers assigned to the manufacturer by NHTSA.27 NHTSA assigns an identification number to a manufacturer of tires or glazing (automotive glass and plastics) and accepts the designation of a brake hose manufacturer after the manufacturer submits an application to the National Highway Traffic Safety Administration through the Manufacturer Portal. See Appendix 7 for a description on how to use the NHTSA Manufacturer Portal28. To avoid a delay in the issuance of NHTSA assigned code marks or identification numbers, it is wise to comply with the requirements to designate a U.S. resident as agent for service of process if the fabricating manufacturer is not located in the United States.

This is accomplished by submitting the appropriate form to the NHTSA Office of Chief Counsel. See Chapter 3, Paragraph B and Appendix 1 of this document for the Part 551 requirements and form.

Requirements for certification markings on equipment items are found in the individual standards that apply to

26 See 49 U.S.C. §§ 30112 and 30115
27 See 49 CFR 571.106, paragraph 55.2.2(b), relating to brake hoses; 49 CFR 571.205, paragraph 56.2, relating to glazing; and 49 CFR 574.5, relating to tires
those items, as published in 49 CFR Part 571. For example, FMVSS No. 205 requires a glazing manufacturer to certify its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1–1996, in letters and numerals of the same size, the symbol “DOT” and a manufacturer’s code mark that NHTSA assigned to the glazing manufacturer.

Motor Vehicle Certification

A motor vehicle must be manufactured to comply with all applicable FMVSS and bear a label certifying such compliance that is permanently affixed (riveted or affixed in such a manner that it cannot be removed without destroying or defacing it) by the vehicle’s manufacturer (i.e., the actual assembler of the vehicle). Certification labeling requirements are necessary to establish that the vehicle was manufactured to comply with all applicable FMVSS. Because the label also identifies the type classification of the vehicle, it also helps to identify which of the FMVSS, Bumper Standards (49 CFR Part 581), and Federal Theft Prevention Standards (49 CFR Part 541) apply to the vehicle.

Motor Vehicle Certification Labels

Placement of the Certification Label

For vehicles other than trailers and motorcycles, the manufacturer’s certification label must be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver’s seating position, or if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label must be affixed to the inward-facing surface of the door next to the driver’s seating position. The location of the label must be such that it is easily readable without moving any part of the vehicle except an outer door.

The manufacturer’s certification label for trailers must be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle. The certification label for motorcycles must be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except for the steering system. This label is the only location on a motorcycle that must show the VIN.

Motor Vehicle Certification Label Content

The motor vehicle certification label, among other things, identifies the vehicle’s manufacturer (i.e., the actual assembler of the vehicle), states the vehicle’s date of manufacture (month and year), Gross Vehicle Weight Rating or GVWR, Gross Axle Weight Rating or GAWR of each axle, vehicle type classification (e.g., MPV, truck), and VIN. For multipurpose passenger vehicles and trucks with a GVWR of 6,000 pounds or less, the label must contain the statement: “This vehicle conforms to all applicable Federal motor vehicle safety and theft prevention standards in effect on the date of manufacture shown above.” For passenger cars, the label must contain the statement “This vehicle conforms to all applicable Federal motor vehicle safety, bumper, and theft prevention standards in effect on the date of manufacture shown above.” For all other vehicles, the label must contain the statement: “This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above.”

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30 See 49 U.S.C. §§ 30112 and 30115, and 49 CFR part 567
31 See 49 CFR 567.4(c), (d), and (e)
32 If none of the preceding locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, D.C. 20590

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Certification Requirements for Vehicles Manufactured in Two or More Stages

A “completed” vehicle is one that requires no further manufacturing operations to perform its intended function. An “incomplete” vehicle is an assemblage consisting, at a minimum, of chassis (including the frame) structure, power train, steering system, suspension system, and braking system, in the state that those systems are to be part of the completed vehicle, but requires further manufacturing operations to become a completed vehicle. An incomplete trailer is also an incomplete vehicle. Manufacturers of incomplete vehicles must furnish at or before the time of delivery an incomplete vehicle document or “IVD” that contains, among other things, a list of each FMVSS applicable to the incomplete vehicle’s type classification and a statement whether the vehicle will or will not conform to each applicable FMVSS, or that FMVSS conformance cannot be determined.

Additionally, incomplete vehicle manufacturers must generally affix to their vehicles a label that identifies the incomplete manufacturer, the vehicle’s date of manufacture (month and year), its GVWR, GAWR, and VIN.

A final-stage manufacturer is a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle. An intermediate manufacturer is a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on a vehicle manufactured in two or more stages. Both the final-stage and intermediate manufacturers assume legal responsibility for all certification-related duties and liabilities under the Vehicle Safety Act with respect to components and systems they install or supply for installation on the incomplete vehicle, unless changed by a subsequent manufacturer. Both have responsibility to further manufacture or complete the vehicle in accordance with the IVD furnished by the incomplete vehicle manufacturer.

The intermediate manufacturer must affix a label that identifies that manufacturer, states the vehicle’s GVWR, GAWR, and VIN, and identifies the month and year in which the intermediate manufacturer performed its last manufacturing operation on the incomplete vehicle.

The final-stage manufacturer must affix a label that identifies that manufacturer, states the vehicle’s GVWR, GAWR, vehicle type classification, and VIN, and identifies the vehicle’s date of manufacture (month and year). The date selected must be the date of manufacture of the incomplete vehicle, the date of final completion, or a date between those two dates. The label must also contain one of the following three alternative certification statements:

1. “This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards, if applicable] in effect in (month, year).”

2. “This vehicle has been completed in accordance with the prior manufacturers’ IVD, where applicable. This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards, if applicable] in effect in (month, year).”

3. “This vehicle has been completed in accordance with the prior manufacturers’ IVD, where applicable, except for [insert FMVSS]. This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards if applicable] in effect in (month, year).”

---

33 See 49 CFR 567.3
34 See 49 CFR 568.4(a) and (b)
35 See 49 CFR 567.3
36 See 49 CFR 567.5(d)
Certification label content requirements for each manufacturer are summarized in Table 4.

### Table 4 - Certification Label Content Requirements by Manufacturer Type

<table>
<thead>
<tr>
<th>Manufacturer Type</th>
<th>Company’s Name</th>
<th>Date of Manufacture</th>
<th>GVWR</th>
<th>GAWR</th>
<th>Vehicle Type</th>
<th>VIN</th>
<th>Certification Statement Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completed Vehicle</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, 1 of 3 567.4(g)</td>
</tr>
<tr>
<td>Incomplete Vehicle</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No, IVD 567.5(b)(2)</td>
</tr>
<tr>
<td>Intermediate</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No 567.5(c)(2)</td>
</tr>
<tr>
<td>Final-stage</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, 1 of 3 567.5(d)(2)</td>
</tr>
</tbody>
</table>

Sample manufacturers’ certification labels covering a motorcycle, trailer, low-speed vehicle, multipurpose passenger vehicle, truck, and passenger car are provided in Appendix 3.

### Certification Label Suppliers

NHTSA does not endorse any certification label suppliers or their products; however, companies known to the agency that supply such products to motor vehicle manufacturers are identified in Appendix 5.

### Chapter 6. The Federal Motor Vehicle Safety Standards

#### FMVSS Issuance

NHTSA is authorized by the Vehicle Safety Act to issue safety standards that set minimum performance requirements for new motor vehicles and for certain items of motor vehicle equipment. Such standards must be practicable, meet the need for motor vehicle safety, and be stated in objective terms. The FMVSS specify the minimum performance requirements and, in general terms, the objective tests required to demonstrate product compliance.

#### FMVSS Organization under 49 CFR Part 571

The FMVSS are generally organized under Vehicle Crash Avoidance (Series 100), Crashworthiness (Series 200),37 Post-Crash Protection (Series 300), Miscellaneous (Series 400), Low-Speed Vehicles (Series 500), or Equipment standards. All FMVSS are found in 49 CFR Part 571, Subpart B, and are numbered to correspond to the FMVSS number. For example FMVSS No. 101 Controls and Displays is found in 49 CFR 571.101.

Because manufacturers are responsible for “self-certifying” that their products meet all applicable FMVSS before those products can be offered for sale, it is important for a manufacturer to be knowledgeable about the performance requirements of each FMVSS applicable to its products. NHTSA encourages manufacturers to conduct tests as specified in certain of the FMVSS. Manufacturers should also be familiar with the laboratory test procedures that NHTSA uses to evaluate the compliance of their products with each FMVSS. These may be found on the NHTSA web site.38

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37 Crashworthiness means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle crash

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FMVSS Applicability

A paragraph within each FMVSS identifies the types of vehicles or equipment items to which the standard applies. For example, Paragraph S3 of 49 CFR 571.101 states that FMVSS No. 101 Controls and Displays applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. Certain FMVSS requirements apply only to vehicles above or below a specified GVWR. For example, FMVSS No. 201 Occupant Protection in Interior Impact applies to passenger cars, multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds (4,536 kilograms) or less.\(^{39}\) Other FMVSS requirements may not apply to certain specialty vehicles. For example, FMVSS No. 225 Child Restraint Anchorage Systems does not apply to walk-in van-type vehicles, vehicles manufactured to be sold exclusively to the U.S. Postal Service, shuttle buses, and funeral coaches.\(^{40}\)

Reference Table Identifying FMVSS Applicability by Vehicle Type and Equipment Items

To assist manufacturers, NHTSA has created a ready reference table to show FMVSS applicability by motor vehicle type classification and motor vehicle equipment item. See Appendix 8. As FMVSS are adopted or amended, they are assigned effective dates. It is therefore wise to check the most up-to-date version of 49 CFR Part 571, Subpart B for regulatory amendments.

Chapter 7. Tire Information Labeling Requirements

FMVSS No. 110 specifies, among other things, requirements for tire selection to prevent tire overloading. The standard applies to vehicles with a GVWR of 10,000 pounds (4,536 kilograms) or less, except for motorcycles, low-speed vehicles, and incomplete vehicles.\(^{41}\) Manufacturers are required to permanently affix a tire placard in a specified location on the vehicle. The placard provides consumers with tire and loading information, including the vehicle’s seating capacity and weight. An example of the required placard is shown in Figure 1.

Figure 1 – Tire Placard

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\(^{39}\) See 49 CFR 571.201 paragraph S2

\(^{40}\) See 49 CFR 571.225 paragraph S2

\(^{41}\) See 49 CFR 571.110 paragraph S4.3
Chapter 8. Duty to Notify NHTSA of a Noncompliance with an FMVSS or a Safety-Related Defect

Notwithstanding its certification of a product, a manufacturer may subsequently determine that a noncompliance with an FMVSS or a safety-related defect exists in a motor vehicle or a motor vehicle equipment item it has produced. Manufacturers have a duty to notify NHTSA if they learn the vehicle or equipment contains a defect and in good faith they decide that the defect is related to motor vehicle safety, or in good faith they decide that the vehicle or equipment does not comply with an applicable FMVSS. The manufacturer must notify NHTSA within five working days after determining the existence of a noncompliance or a safety-related defect. Alternately, NHTSA may determine the existence of a noncompliance or a safety-related defect in a particular motor vehicle or motor vehicle equipment item and order the responsible manufacturer to recall the product.

Chapter 9. Duty to Notify Owners and Dealers and Provide a Remedy for a Noncompliance or a Safety-Related Defect

Regardless of whether the noncompliance with an FMVSS or a safety-related defect is determined to exist by the manufacturer or by NHTSA, the manufacturer must provide owners and dealers of the affected products with notification of the noncompliance or defect and must remedy the noncompliance or defect, usually without charge. The notification and remedy process is commonly referred to as a “safety recall campaign” or more simply as a “recall.” NHTSA monitors the remedy program to ensure its successful completion. The agency is not authorized to expend its funds on recalls; the expense of notifying owners and providing a remedy must be borne by the fabricating manufacturer and/or importer of the products found to contain the noncompliance or defect. Manufacturers are encouraged to contact NHTSA at 202-366-5210 or review the agency’s web site for more comprehensive information. See http://www-odi.nhtsa.dot.gov/.

Chapter 10. Record Keeping for Manufacturers

Tires

A new tire manufacturer is required by NHTSA regulations to permanently mold into each tire intended for use on a motor vehicle a “tire identification number” or “TIN.” Tire distributors and dealers that are owned or controlled by tire manufacturers are required to send to the tire manufacturers, records of any new tires they sell, including the TINs of the tires and the name and address of the tire purchasers. Independent tire distributors or dealers are required to furnish tire registration forms that identify the TIN and the tire distributor or dealer’s name and address to the purchasers of new tires, who may then mail the forms to the tire manufacturer. See Appendix 9 for a sample tire registration form. Instead of furnishing the tire purchaser with a registration form, independent tire distributors or dealers may electronically transmit tire purchaser and tire registration information to the tire manufacturer by secure means, as identified or authorized by the manufacturer.

Tire manufacturers must maintain information from the registration forms for a period of not less than 5 years from the date on which the information is recorded. Motor vehicle manufacturers are required to maintain records of the TINs for the tires installed on their vehicles and the name and address of the first purchasers of their vehicles for 5 years from the date that the vehicles are sold. These requirements are intended to ensure that purchasers receive proper notification in the event that a tire is recalled to remedy a noncompliance or
Child Restraints

In like manner, the manufacturer of a child restraint system (i.e., a child safety seat), other than one installed on a vehicle as newly manufactured, must furnish a registration form to be completed by the owners of those seats and retain information from the form for a period of not less than 6 years to ensure that the owners receive proper notification of a recall campaign.49

Motor Vehicles and Equipment

NHTSA regulations also require manufacturers of motor vehicles and motor vehicle equipment to retain claims, complaints, reports, and other records concerning alleged and proven defects and malfunctions that may be related to motor vehicle safety for a period of five calendar years from the date on which they were generated or acquired by the manufacturer.50 Under this regulation, “malfunctions that may be related to motor vehicle safety” are defined as including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications, that could in any reasonably foreseeable manner be a causative factor in, or aggravate, a crash or an injury to a person. This regulation also describes the records that manufacturers must maintain, including all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. The section describes such records as including, but not being limited to, reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under warranties; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

Chapter 11. Early Warning Reporting

Manufacturers must submit quarterly reports to NHTSA under the agency’s Early Warning Reporting (EWR) regulations that implement the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000. These regulations require manufacturers to submit information that could assist the agency in determining whether a safety-related defect exists in a vehicle or equipment item used in the United States.51 The regulations divide manufacturers of motor vehicles and motor vehicle equipment into two groups with different responsibilities for reporting information that could indicate the existence of potential safety-related defects.

The first group comprises motor vehicle manufacturers that meet certain production thresholds, tire manufacturers that produce more than a certain number of tires by tire line, and all manufacturers of child restraint systems. Manufacturers of light vehicles, motorcycles, trailers, and medium-heavy vehicles (except buses and emergency vehicles) that produced, imported, offered for sale, or sold 5,000 or more vehicles of a category annually in the United States are required to furnish NHTSA with comprehensive reports every calendar quarter. Emergency vehicle manufacturers must report if they produced, imported, offered for sale, or sold 500 or more vehicles annually, and bus manufacturers must report if they produced, imported or offered for sale, or sold 100 or more buses annually in the United States. Manufacturers of passenger car, light truck, and motorcycle tires are also required to provide comprehensive quarterly reports if they produced, imported, offered for sale, or sold 15,000 or more tires in a tire line. This group of manufacturers must generally report to NHTSA production-related information, incidents related to a death or injury, consumer complaints, warranty claims (warranty adjustments for tires), property damage claims, and field reports.

The second group comprises all other manufacturers of motor vehicles and motor vehicle equipment (i.e., vehicle manufacturers that produce, import, or sell annually in the United States fewer than 5,000 light vehicles,

48 See 49 CFR Part 574
49 See 49 CFR Part 588
50 See 49 CFR Part 576
51 See 49 CFR Part 579, Subpart C
motorcycles, trailers, and medium-heavy vehicles (excluding emergency vehicles and buses); manufacturers that produce, import, or sell annually in the United States fewer than 500 emergency vehicles; manufacturers that produce, import, or sell annually in the United States fewer than 100 buses; manufacturers of original motor vehicle equipment; and manufacturers of replacement motor vehicle equipment other than child restraint systems and tires). These manufacturers must submit a report if they receive a claim or notice related to an incident involving a death, but are not required to report any other information under the EWR rule. Manufacturers are encouraged to contact NHTSA at 202-366-4238 or review the agency’s web site for more comprehensive EWR information. See http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm.

Under other NHTSA regulations, all vehicle and equipment manufacturers in both groups must provide copies of all documents sent or made available to more than one dealer, distributor, owner, purchaser, lessor or lessee, in the United States concerning customer satisfaction campaigns, consumer advisories, recalls, or other activities involving the repair or replacement of vehicles or equipment.\textsuperscript{52} A manufacturer must also report safety recalls and other safety campaigns it conducts in a foreign country that cover a motor vehicle, an item of motor vehicle equipment, or a tire that is identical or substantially similar to such a product offered for sale or sold in the United States.\textsuperscript{53}

\textbf{Chapter 12. Other Statutory/Regulatory Requirements}

Manufacturers should be aware that NHTSA administers additional statutes and regulations related to motor vehicles and motor vehicle equipment. These include:

\textbf{Theft Prevention}

This statute and implementing regulations require motor vehicle manufacturers to affix or inscribe anti-theft identification markings to major parts and replacement parts for certain lines of passenger cars, light trucks and MPVs designated as high theft lines. See 49 U.S.C. Chapter 331 and 49 CFR Parts 541-543.

\textbf{Bumper Standards}

This statute and implementing regulations establish standards to reduce physical damage to the front and rear of passenger motor vehicles from low speed collisions. See 49 U.S.C. Chapter 325 and 49 CFR Part 581.

\textbf{Fuel Economy}

This statute and implementing regulations require manufacturers to comply with the applicable average fuel economy standards. See 49 U.S.C. Chapter 329 and 49 CFR Parts 525, 526, 529, 531, 533, 535, 537, and 538.

\textbf{Domestic Content Labeling}

This statute and implementing regulations establish requirements for the disclosure of information relating to the countries of origin of the equipment on new passenger motor vehicles. See 49 U.S.C. Chapter 323 and 49 CFR Part 583.

\textbf{Consumer Information}

This statute and implementing regulations establish requirements for the disclosure of information in the owner’s manual of a motor vehicle relating to tires and the Uniform Tire Quality Grading program and the reporting of possible safety defects to NHTSA. Owner’s manuals of special vehicles such as slide-in campers and trucks that are capable of accommodating slide-in campers must also contain certain consumer information.\textsuperscript{54}

\textsuperscript{52} See 49 CFR 579.5 and 579
\textsuperscript{53} See 49 CFR Part 579, Subpart B
\textsuperscript{54} See 49 CFR 575.103

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vehicles, manufacturers are required to affix a Rollover Warning label\textsuperscript{55} and to label the vehicle with New Car Assessment Program Safety Rating information.\textsuperscript{56} See 49 U.S.C. Chapter 323 and 49 CFR Part 575.

**Chapter 13. NHTSA Contacts**

Table 5 provides NHTSA contact numbers and Internet resources to help answer questions about the information presented in the previous sections.

*Table 5 – NHTSA Contacts*

<table>
<thead>
<tr>
<th>Office of Vehicle Safety Compliance</th>
<th>NHTSA Office/Internet</th>
<th>Telephone No./Link</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General questions about importing vehicles and equipment items</strong></td>
<td>Import and Certification Division</td>
<td>(202) 366-5291</td>
</tr>
<tr>
<td><strong>Questions about how a manufacturer informs NHTSA about its company and the products it manufactures</strong></td>
<td>Import and Certification Division</td>
<td>(202) 366-5291</td>
</tr>
<tr>
<td><strong>Questions about how to provide NHTSA with the manufacturer’s vehicle identification number deciphering information</strong></td>
<td>NHTSA Manufacturer Help Desk</td>
<td>1- (888) 399-3277</td>
</tr>
<tr>
<td><strong>Questions about NHTSA ID numbers that are assigned to equipment manufacturers of brake hoses, glazing (glass), and tires</strong></td>
<td>Equipment Division</td>
<td>(202) 366-5317</td>
</tr>
<tr>
<td><strong>Information to Assist New Manufacturers</strong></td>
<td><a href="https://vpic.nhtsa.dot.gov/">https://vpic.nhtsa.dot.gov/</a></td>
<td></td>
</tr>
<tr>
<td><strong>Questions about how to submit Manufacturer Information (49 CFR 566), VIN deciphering info (49 CFR 565), and Equipment forms to NHTSA</strong></td>
<td><a href="https://vpic.nhtsa.dot.gov/">https://vpic.nhtsa.dot.gov/</a></td>
<td></td>
</tr>
<tr>
<td><strong>Questions about FMVSS as they relate to equipment items (i.e., tires, rims, brake hoses, brake fluid, seat belt assemblies, lighting equipment, glazing (automotive glass and plastics), motorcycle helmets, child restraint systems (child safety seats), platform lift systems for the mobility impaired, rear impact guards for trailers, triangular reflective warning devices, and compressed natural gas containers)</strong></td>
<td>Equipment Division</td>
<td>(202) 366-5317</td>
</tr>
</tbody>
</table>

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\textsuperscript{55} See 49 CFR 575.105

\textsuperscript{56} See 49 CFR 575.301

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Office of Defects Investigation

<table>
<thead>
<tr>
<th>Topic</th>
<th>NHTSA Office/Internet</th>
<th>Telephone No./Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Questions about Early Warning Reporting (EWR)</td>
<td>Early Warning Division</td>
<td>(202) 366-4238</td>
</tr>
<tr>
<td>Early Warning Reporting</td>
<td><a href="http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm">http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm</a></td>
<td></td>
</tr>
<tr>
<td>Questions about Defects and Recalls</td>
<td>Office of Defects Investigation</td>
<td>(202) 366-5210</td>
</tr>
</tbody>
</table>

Office of Chief Counsel

<table>
<thead>
<tr>
<th>Topic</th>
<th>NHTSA Office/Internet</th>
<th>Telephone No./Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requests for interpretation of the statutes and regulations administered by NHTSA</td>
<td>Office of Chief Counsel</td>
<td>Requests should be made in writing.</td>
</tr>
<tr>
<td>NHTSA Chief Counsel interpretive letters</td>
<td><a href="http://isearch.nhtsa.gov/">http://isearch.nhtsa.gov/</a></td>
<td></td>
</tr>
<tr>
<td>NHTSA Statutory Authorities</td>
<td><a href="http://www.nhtsa.gov/Laws-Regs">http://www.nhtsa.gov/Laws-Regs</a></td>
<td></td>
</tr>
<tr>
<td>NHTSA Regulations</td>
<td><a href="http://www.nhtsa.gov/cars/rules/">http://www.nhtsa.gov/cars/rules/</a></td>
<td></td>
</tr>
<tr>
<td>Questions about how to designate a U.S. resident as an agent for service of process</td>
<td>Office of Chief Counsel</td>
<td>(202) 366-1834</td>
</tr>
</tbody>
</table>

Chapter 14. Additional Resources

Other than those noted before, manufacturers may find helpful the resources identified in Table 6.

Table 6 – Additional Resources

<table>
<thead>
<tr>
<th>Resource</th>
<th>Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Protection Agency</td>
<td><a href="http://www.epa.gov">www.epa.gov</a></td>
</tr>
<tr>
<td>Motorcycle Industry Council</td>
<td><a href="http://www.mic.org">www.mic.org</a></td>
</tr>
<tr>
<td>National Association of Trailer Manufacturers</td>
<td><a href="http://www.natm.com">www.natm.com</a></td>
</tr>
<tr>
<td>Truck Trailer Manufacturers Association</td>
<td><a href="http://www.ttmanet.org">www.ttmanet.org</a></td>
</tr>
<tr>
<td>Recreational Vehicle Industry Association</td>
<td><a href="http://www.rvia.org">www.rvia.org</a></td>
</tr>
<tr>
<td>Tire and Rim Association, Inc.</td>
<td><a href="http://www.us-tra.org">www.us-tra.org</a></td>
</tr>
<tr>
<td>National Truck Equipment Association</td>
<td><a href="http://www.ntea.com">www.ntea.com</a></td>
</tr>
</tbody>
</table>
Chapter 15. Helpful Hints

Manufacturer's Statements of Origin or Certificates of Origin

NHTSA is not responsible for titling or registering motor vehicles or for regulating the operation of motor vehicles on public roads in the United States. That is instead the responsibility of the individual States. Some States may require a manufacturer's certificate of origin (MCO) or manufacturer's statement of origin (MSO) to register a new motor vehicle. These are not federally required documents. NHTSA, therefore, is not in a position to offer guidance to prospective vehicle manufacturers or vehicle purchasers on obtaining a needed MCO or MSO. For assistance, please contact your State's Department of Motor Vehicles (DMV).

Search the United States Code

To search the United States Code, follow this link: http://uscode.house.gov/

Search the Code of Federal Regulations

To search the Code of Federal Regulations, follow this link: http://www.ecfr.gov/cgi-bin/text-index?SID=7d86ffa476c2d4b7414acbd1b7e9b0d1&mc=true&tpl=/ecfrbrowse/Title49/49tab_02.tpl

Search the Federal Register

To search the Federal Register, follow this link: http://www.gpo.gov/fdsys/search/home.action

Search NHTSA Interpretations

To search NHTSA Interpretation letters, follow this link: http://isearch.nhtsa.gov

FMVSS Compliance Test Procedures

For FMVSS Compliance Test Procedures, follow this link: http://www.nhtsa.gov/Vehicle-Safety/Test-Procedures

Motorcycle and motorcycle frame engineering reports

Engineering reports for motorcycles and motorcycle frames are available on a fee basis through the SAE. See that organization’s web site at www.sae.org
Ms. Tammy Ruff  
Sandrail Mfg. Co.  
231 E. Alessandro Blvd 344  
Riverside, CA 92508-8963

Dear Ms Ruff:

The Federal Highway Administration has forwarded to us for reply your letter of May 5, 1999. Your letter has been supplemented with information obtained from a telephone call to your office on June 23, 1999, by the agency's Office of Vehicle Safety Compliance, as well as from your website on June 22, 1999.

You ask for a list of "the necessary equipment to enable the street legal construction of dune buggies to be driven in Hawaii" as rental vehicles.

Under the laws that we administer, a vehicle that is "street legal," i.e., which is manufactured primarily for use on the public roads, is required to comply with all applicable Federal motor vehicle safety standards. Your website information describes the Sandrail as "designed to be driven on soft sand, the beach and tall hills." Thus, the Sandrail has not been designed primarily for on road use and, in its present configuration, is not a "motor vehicle" subject to our jurisdiction.

However, your present intent is to construct "street legal" Sandrails. We shall consider those vehicles as manufactured primarily for use on the public roads and therefore "motor vehicles" which must comply with our laws regulating motor vehicles and their manufacturers.

Our Office of Vehicle Safety Compliance learned from your company on June 23, 1999, that the vehicles that Sandrail intends to manufacture will be capable of speeds of more than 25 miles per hour. The on-road Sandrail will be required to meet the same Federal motor vehicle safety standards as "multipurpose passenger vehicles" (assuming that the dune buggies retain their capability for occasional off-road operation). These standards include the requirements to provide air bags for the driver and outboard front seat passenger. Sandrail is also required to submit to this agency certain information relating to its VIN in accordance with 49 CFR Part 565 Vehicle Information Number.

Sandrail is also required, within 30 days after it commences manufacture of motor vehicles, to file with us an information statement in compliance with 49 CFR Part 566 Manufacturer Identification.

I enclose a copy of a "New Manufacturers" information package which will outline our requirements for manufacturers. If you would like more information on the Federal motor vehicle safety standards, or have any other questions, please contact the agency's Office of Vehicle Safety Compliance.

Sincerely,
Frank Seales, Jr.
Chief Counsel
Enclosure
To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Daniel Avitia, Director, Motor Vehicle Division  
Agenda Item: 8  
Subject: Licensure Application Denial and Appeal to SOAH under Texas Occupations Code §§ 2301.002(17), 2301.251(a), 2301.651(a)(2); and under Texas Transportation Code §§ 503.034(a)(1); 503.064(a)(1) and under Texas Administrative Code §§ 215.141(a)(1), (b)(17), 215.141(a)(19), 215.89(b)(7) - (8). Texas Department of Motor Vehicles v. Rickey A. Lyons d/b/a The Race House; MVD Docket 17-0175723, SOAH Docket No. 608-17-4725.ENF.

RECOMMENDATION  
Staff recommends the Board adopt the ALJ’s findings of fact and conclusions of law, as modified. A draft of the Final Order is attached to this Executive Summary for the Board’s consideration.

PURPOSE AND EXECUTIVE SUMMARY  
The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD) for consideration by the Board of the Texas Department of Motor Vehicles.

FINANCIAL IMPACT  
None

BACKGROUND AND DISCUSSION  
On January 27, 2017, Respondent applied to the DMV for a GDN license by filing an application (2017 Application). Respondent’s application for licensure was denied for two reasons:

1. Respondent made a material misrepresentation in the 2017 Application. Specifically, Respondent failed to disclose that he previously held a GDN license; and
2. Respondent was affiliated with another dealership that had their license revoked in one case and in another case had a $6,000 administrative penalty that remained unpaid as of the date of trial.

In addition, Respondent admitted during trial that he was selling cars owned by others online for a commission. This admission was not pled in the Second Amended Notice of Department of Decision because it was not a basis for the denial of licensure. However, it is relevant to further establish that Respondent is unfit to perform the duties of a license holder.

The Motor Vehicle Division (MVD) referred the contested case matter to the State Office of Administrative Hearings (SOAH) on June 15, 2017. The ALJ conducted the hearing on the merits on August 10, 2017, and the administrative record and hearing concluded on August 10, 2017. The proposal for decision (PFD) was issued on September 29, 2017.

DOCUMENTS  
The following documents are attached to this Executive Summary for consideration by the Board:

1. Notice of Department’s Decision to Deny Application, May 9, 2017;  
2. Applicant’s Request for Administrative Hearing Form, June 1, 2017;  
3. SOAH ALJ’s PFD, September 29, 2017; and  
4. Draft Order for Board Consideration.

i The ALJ misspelled Respondent’s First name, the name has been corrected here in the Agenda Item.
May 9, 2017

Rickey Lyons
P.O. Box 746616
Dallas, Texas 75376

VIA US MAIL AND CERT. MAIL

RE: IN THE MATTER OF THE LICENSE(S) OF
d/b/a The Race House
WHEN RESPONDING, PLEASE REFER TO MVD CASE No. 17-0175723.ENF

Dear Applicant:

In accordance with the notice provisions of Texas Administrative Procedure Act (TEX. GOV’T CODE §§ 2001.001 et seq.) and 43 TEX. ADMIN. CODE § 215.500, enclosed is a Notice of Department Decision ("Decision") prepared by the Texas Department of Motor Vehicles ("Department") recommending that the license application you filed with the Department be denied for the reasons stated therein.

If there are circumstances that you believe mitigate the allegations or recommendation described in the Decision you can bring them to the attention of the undersigned enforcement attorney. To discuss mitigating circumstances or the denial recommendation you must first request an administrative hearing as explained in the Decision within twenty-six (26) days from the date of the Decision. For your convenience, you may use the request for hearing form included in this packet.

The undersigned attorney can be contacted at (512) 465 - 4163 or by writing using the address above.

If this case is set for hearing before an Administrative Law Judge ("ALJ") at the State Office of Administrative Hearings ("SOAH") you are entitled to receive a Notice of Hearing. Hearings in these matters are conducted under the rules of the Department and SOAH.

ATENCIÓN: Este es un documento legal importante que puede influir negativamente en su licencia para operar como concesionario de vehículos de motor en Texas. Se le ha acusado de violar la ley. Si dentro de los 26 días de esta carta no recibimos de usted una solicitud por escrito para una audiencia en este asunto una orden final será emitida por el DMV que puede imponer sanciones contra usted, incluyendo una multa civil y / o revocación de su distribuidor de vehículos de motor licencia. Instamos enérgicamente a ponerse en contacto inmediatamente con un abogado privado o el abogado del DMV que suscribe con respecto a este documento legal. Si lo desea, alguien con el DMV puede discutir este documento con usted en el idioma Español.

If you do not request an administrative hearing within 26 days from the date of the Decision, the terms and any sanctions contained therein become final.
Sincerely,

Heather Pierce
Heather Pierce,
Attorney, Enforcement Division
(512) 465-4163

Enclosures

d/b/a The Race House
725 3rd Ave
cc: Dallas, Texas 75226-2017
VIA US MAIL AND CERT. MAIL
MOTOR VEHICLE DIVISION
TEXAS DEPARTMENT OF MOTOR VEHICLES

IN THE MATTER OF THE LICENSE(S) OF

MVD CASE NO. 17-0175723.ENF
d/b/a The Race House

NOTICE OF DEPARTMENT DECISION

The Texas Department of Motor Vehicles, (hereinafter, "Department" or "Petitioner"), is the state agency with authority to administer and enforce Texas Occupations Code Chapter 2301; Texas Transportation Code Chapters 501, 502 and 503; and 43 Texas Administrative Code Chapter 215. An investigation was conducted in the review of your application for a license with the Department. As a result of that investigation, the Department determined that you, d/b/a The Race House, (hereinafter "Respondent"), an applicant for a license, violated certain provisions of Texas Occupations Code Chapter 2301; and/or Texas Transportation Code Chapters 501, 502 and 503 and/or 43 Texas Administrative Code Chapter 215. The Department alleges that Respondent committed the following violations:

1. Respondent, a licensee or license applicant, on or about January 27, 2017, made a material misrepresentation in an Application for General Distinguishing Number (Independent Dealers), specifically, Respondent failed to disclose that he previously held general distinguishing number P103324 issued by the department in connection with the licensure application filed with the Motor Vehicle Division, which conduct constitutes grounds for sanctions under TEX. TRANSP. CODE ANN. § 503.038(a)(6), TEX. OCC. CODE ANN. § 2301.651(a)(2) and 43 TEX. ADMIN. CODE 215.141(a)(19).

The Department is authorized to deny an application for a license, revoke or suspend a license, under Texas Occupations Code § 2301.651; Texas Transportation Code § 503.038; and 43 Texas Administrative Code § 215.141(a). Further, Texas Transportation Code § 503.095 allows for a civil penalty of up to $1,000 for each violation of, or per day for a continuing violation, of Chapter 503, or a rule or order adopted under the chapter. Texas Occupations Code § 2301.801 allows for a civil penalty of up to $10,000 for each violation of, or per day for a continuing violation, of Chapter 2301, or a rule or order adopted under the chapter.

Based on the aforementioned investigation and allegations, the Department recommends to deny your application for a Dealer General Distinguishing with the Department.

If you wish to contest the allegations, or recommended action, you must first request an administrative hearing in writing. You may send your own request for hearing or use the Request For Administrative Hearing form included in this packet. Send your request for hearing to the following address:

Heather R. E. Pierce
Attorney, Enforcement Division
Texas Department of Motor Vehicle
4000 Jackson Avenue
Austin, Texas 78731
You must include your name and the MVD Cause Number appearing in the heading of this Decision in your hearing request. The Department must receive your written hearing request not later than the 26th day after the date of this Decision.

If you timely submitted a written request for a hearing, the Department may enter into an informal settlement agreement with you regarding these violations and enforcement action at any time before a final decision is rendered in this case.

If a timely written hearing request is received and no settlement is reached, an administrative hearing will be scheduled before the State Office of Administrative Hearings (SOAH). You will be notified of the hearing date and time. Hearings will be held at SOAH’s offices located at 300 W. 15th St., Austin, Texas 78701. Increased penalties or other sanctions may be recommended by the Department at the hearing.

If you do not request a hearing by the 26th day from the date of this notice, the Department Decision becomes final. After that date the Department may issue a Final Order implementing the Decision.

Should this cause be set for hearing, Petitioner prays that it be found that Respondent has violated the statutes and implementing rules alleged above; and, that, as appropriate, Respondent’s application for a license be denied; that civil penalties be imposed; and that the conduct alleged above be ceased and not resumed.

If you have any questions regarding this Decision, please contact me at 512-465-4163.

DATE OF DECISION: May 9, 2017

Respectfully Submitted,

Heather Pierce
Attorney – Enforcement Division
Bar Card 24067969
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-4163
(512) 465-5650 Fax
REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No.12-0175723.ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-0175723.ENF).

NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.

Name of person requesting hearing: ____________________________________

(Please Print)

Phone Number of person requesting hearing: ______________________________

Would you like to discuss a resolution to this case without a hearing: ___ Yes ___ No

This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.

TEXAS DEPARTMENT OF MOTOR VEHICLES
ENFORCEMENT Division
4000 Jackson Avenue – Austin, Texas 78731

This request may also be faxed to phone number (512) 465-5650
Information about the Notice of Department Decision

This document provides information about the Notice of Department Decision ("Decision") you have just received from the Enforcement Division of the Texas Department of Motor Vehicles ("Department"). If you have questions about the Decision call the enforcement attorney who signed the document at (512) 465-4204 or consult a private attorney. Please note that the enforcement attorney only represents the Department and therefore cannot give you legal advice. When contacting the Department you should refer to the case number at the top of the whenever you contact the Department about this case.

The Notice of Department Decision

The Department filed the Decision, because of allegations that you (the Respondent) may have violated one or more of the laws enforced by the Department. After an investigation by the Department if violations are believed to have occurred, a Notice of Department Decision is prepared including the allegations and recommended sanctions. Sanctions may include a civil penalty (a monetary fine), and in more serious cases, revocation of your license. The civil penalty amount depends on the nature of the violation, facts of the case, any prior violations, any harm to consumers, and any action by you to minimize harm.

Settling Your Case

You may settle this matter informally and avoid a hearing before an Administrative Law Judge ("ALJ") at the State Office of Administrative Hearings ("SOAH") by timely filing a request for hearing within 26 days of the date of the Decision and discussing the case with the enforcement attorney. During settlement discussions, you may make the enforcement attorney aware of any mitigating or extenuating circumstances that may justify a lower civil penalty or other adjustment of sanctions recommended in the Decision.

Paying the Civil Penalty

If you settle this matter before a SOAH hearing, the Enforcement attorney will prepare and send you an "Agreed Final Order" containing the terms of the settlement. You must sign the order and return a complete copy of it to the Department along with a check to pay any civil penalty imposed by the order. The Department Board Chairman or a delegate will then sign the Agreed Final Order, which ends your case. The Department will send you a copy of the signed order to you or your representative.

Notice of Hearing

If you request a hearing within 26 days of the date of the Decision and you do not settle the case, it will be set for a SOAH hearing. You will be sent a Notice of Hearing stating the time, place and nature of the hearing. If you plan on appearing at the hearing, you must notify the enforcement attorney. If you appear at the hearing without filing a response to the allegations or notifying the enforcement attorney, the hearing may be reset for another date.
Changing the Hearing Date

Contact the enforcement attorney if you wish to change the hearing date. If you and the enforcement attorney cannot agree on changing the hearing date, you should call the SOAH docket clerk at (512) 475-about how to file a motion for continuance.

The Hearing

The Texas Rules of Evidence and SOAH’s rules of procedure apply to SOAH hearings. The enforcement attorney will present evidence in the form of witness testimony and documents. You (if representing yourself) or your attorney/representative may object to the evidence and question each witness. You may present your case after the enforcement attorney’s presentation. You should bring your witnesses with you or arrange with the ALJ before the hearing to have the witnesses testify by telephone. If you need an interpreter, notify the enforcement attorney as soon as possible before the hearing. You need to bring an original and two copies of all documents you intend to present at the hearing.

After reviewing the parties’ evidence and arguments, the ALJ will issue a Proposal For Decision (“PFD”) addressing whether any violations occurred and what sanctions, if any, should apply.

If you disagree with the PFD, you may file "exceptions" explaining your disagreement. The Department will consider the PFD with the exceptions and any replies to the exceptions. You may also orally address your case before the Department Board at a scheduled meeting. The Department Board may: (1) issue a Final Order approving the PFD, (2) issue a Final Order approving the PFD with modifications, or (3) send the case back to SOAH for a new hearing.

If a Final Order is issued and you disagree with the order, you have 20 days after receiving it to file a Motion for Rehearing. If the Department Board or its delegate does not grant the Motion for Rehearing, the order will be final. If the order assessed a civil penalty or other sanction, you must comply with the order or the Department may initiate contempt action against you.

Appealing the Final Order

You may appeal a Final Order to the Travis County District Court if you have filed a proper Motion for Rehearing within 30 days after a Final Order becomes final and appealable.

Failing to Attend the Hearing (Default)

If you do not settle the case and fail to attend the hearing, the enforcement attorney may request a civil penalty and/or license revocation, and/or other sanction be entered against you. The sanctions requested may be more severe than if you had settled before the hearing date. The Department will then issue and send you a copy of a Final Order. If you disagree with the order you may file a Motion for Rehearing. The case becomes final if you do not file a motion for rehearing within 20 days after receiving the order, or if the motion is not granted.

Running Your Business While the Case is Pending
You may continue operating your business and can renew your license while your case remains pending, unless the ALJ orders you to stop operating during the case.

*Communications with the ALJ, Director or Department Board Members*

The law prohibits communications about a pending case with the ALJ and the Department, *except communications with the enforcement attorney* or when the other party is included in the communication. For example, you may send a letter to the ALJ about a pending case only if you copy the enforcement attorney on the correspondence.
REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No.17-0175722.ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-017523.ENF).

NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.

Name of person requesting hearing: ____________________________

(Please Print)

Phone Number of person requesting hearing: (972) 213-5245

Would you like to discuss a resolution to this case without a hearing: [ ] Yes [ ] No

This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.

TEXAS DEPARTMENT OF MOTOR VEHICLES
ENFORCEMENT Division
4000 Jackson Avenue – Austin, Texas 78731

This request may also be faxed to phone number (512) 465-5650

TXDMV
JUN 01 2017
ENFORCEMENT DIVISION
State Office of Administrative Hearings

Lesli G. Ginn
Chief Administrative Law Judge

September 29, 2017

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

VIA INTERAGENCY MAIL

RE: Docket No. 608-17-4725.ENF; MVD Docket No. 17-0175723 ENF; Texas Department of Motor Vehicles v. Ricky A. Lyons d/b/a The Race House

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

Travis Vickery
Administrative Law Judge

cc:
Ricky A. Lyons, 725 3rd Ave., Dallas, TX 75226 - VIA REGULAR MAIL
Ricky A. Lyons, PO Box 746616, Dallas, TX 75373 - VIA REGULAR MAIL
Ricky A. Lyons, PO Box 764616, Dallas, TX 75373 - VIA REGULAR MAIL
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 - VIA INTERAGENCY MAIL (with 1 hearing CD/Certified Evidentiary Record)

300 W. 15th Street, Suite 504, Austin, Texas 78701/ P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)
www.soah.texas.gov
SOAH DOCKET NO. 608-17-4725.ENF  
MVD DOCKET NO. 17-0175723.ENF

TEXAS DEPARTMENT OF MOTOR  
VEHICLES,  
Petitioner

v.  

RICKY A. LYONS D/B/A THE RACE HOUSE,  
Respondent

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the application of Ricky Lyons d/b/a The Race House for a General Distinguishing Number (GDN) to operate as an independent motor vehicle dealer. Staff contends that Mr. Lyons’s application should be denied for failing to disclose: (1) that he previously held a GDN; and (2) that he was affiliated with licensee, Britney Watson d/b/a Ladies’ Choice (Ladies’ Choice), whose license was revoked, and for failure to pay a civil penalty associated with Ladies’ Choice. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) recommends that Mr. Lyons’s application be denied.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law sections of this PFD without further discussion.

The hearing was held August 10, 2017, before ALJ Travis Vickery in Austin, Texas. Staff was represented by Heather R. E. Pierce, Enforcement Division attorney. Mr. Lyons appeared and represented himself. The record closed and the hearing concluded that day.
II. DISCUSSION

Staff presented the testimony of Licensing Manager Antonia Roque Knight and Investigator Paul Skendrovic, and offered 25 exhibits, which were admitted. Mr. Lyons testified and offered seven exhibits, which were admitted.

A. Applicable Law

A "dealer" is defined as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location. A person may not engage in business as a dealer, directly or indirectly, including by consignment, without a GDN for each location from which the person conducts business as a dealer. The GDN constitutes a dealer's license. A person is not required to obtain a GDN if the person sells, or offers to sell, during a calendar year fewer than five vehicles of the same type that are owned and registered in that person's name.

The Department is authorized to deny, revoke, or suspend a license if the applicant/dealer, among other things, makes a material misrepresentation in an application filed with the Department. The Department is also authorized to deny, revoke, or suspend a license, and assess a civil penalty, if the Department determines that the person is unfit to perform the duties and discharge the responsibilities of a license holder. Additionally, the revocation of a previously held license may be grounds for denying a subsequent application for a license.

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1 At the hearing Mr. Lyons objected to Department Exhibits 1-6, 8-14, 22, and 24 for the reasons set forth in Respondent's Exhibit 1. The objections were overruled, and Department Exhibits 1-25 were admitted.
2 At the hearing, Staff objected to Respondent Exhibits 1-7 as untimely and not relevant. The objections were overruled and Respondent Exhibits 1-7 were admitted.
8 43 Tex. Admin. Code §§ 215.141(a)(1)-(4), (b)(17), .89(b). At the hearing, Staff clarified that a civil penalty is not being sought in this case.
9 Tex. Occ. Code § 2301.651(c).
In determining a person’s fitness for licensure, the Department will consider: (1) the requirements of Texas Occupations Code chapter 53;\(^\text{10}\) (2) the provisions of Texas Occupations Code § 2301.651; (3) any specific statutory licensing requirements; (4) mitigating factors; and (5) other evidence of a person’s fitness as allowed by law, including the standards identified in the Department’s rule on fitness.\(^\text{11}\) The Department’s rule on fitness includes the following as grounds for determining that a person is unfit to perform the duties of a license holder: (1) the failure to pay a civil penalty or administrative fine pursuant to the terms of a final order; as well as (2) a person who was or is a manager or affiliate of a sole proprietorship or other legal entity whose license has been subject to disciplinary action, including revocation, or assessment of a civil penalty or administrative fine.\(^\text{12}\)

B. Evidence

From March 3, 2008 through December 31, 2009, Mr. Lyons held GDN P103324.\(^\text{13}\) His license expired on December 31, 2009, due to nonrenewal. Mr. Lyons was notified by the Department when his license expired, and that he was no longer able to do business in the State without a license.\(^\text{14}\) From 2011 to 2015, Mr. Lyons was the manager of Ladies’ Choice. On or about February 19, 2016, the Department revoked Ladies’ Choice’s license and assessed a civil penalty of $6,000.\(^\text{15}\) As of July 27, 2017, the $6,000 civil penalty assessed against Ladies’ Choice had not been paid.\(^\text{16}\)

\(^{10}\) Chapter 53 of the Texas Occupations Code relates to the consequences of a criminal conviction on a license holder, and therefore is inapplicable to this case.

\(^{11}\) 43 Tex. Admin. Code § 215.89(a)(1)-(5).

\(^{12}\) 43 Tex. Admin. Code §215.89(b)(7),(8).

\(^{13}\) Dept. Ex. 1.

\(^{14}\) Dept. Ex. 1.

\(^{15}\) Dept. Exs. 2-11.

\(^{16}\) Dept. Ex. 22.
On January 27, 2017, Mr. Lyons applied to the Department for a GDN (2017 Application),\(^\text{17}\) the application at issue in this case. In the 2017 Application, Mr. Lyons answered "No" to the question, "Has the TxDMV ever licensed the applicant to act in any capacity in Texas?" (Question No. 15).\(^\text{18}\) Question No. 15 defines "TxDMV" as the Department or any division or predecessor of the Department; and defines "applicant" to include the applicant’s partner, manager, director, member, officer, or owner.\(^\text{19}\)

In Ms. Knight’s capacity as Licensing Manager, she testified that she manages the personnel and activities of the Department’s licensing division. She explained that she was a part of the licensing committee that reviewed Mr. Lyons’s 2017 Application, discovered his failure to disclose his previously-held license and subsequent affiliation with Ladies’ Choice, and recommended denying his application. The recommendation to deny Mr. Lyons’s application was based on his failure to answer Question No. 15 correctly, his affiliation with Ladies’ Choice, and his failure to pay the penalty assessed against Ladies’ Choice. Ms. Knight explained that Mr. Lyons made a material misrepresentation to the Department by denying that he had ever been previously licensed by the Department. However, she elaborated that his affiliation with Ladies’ Choice and the failure to pay the civil penalty assessed against Ladies’ Choice were the more significant factors in deciding to deny his application. Looking at the 2017 Application itself, she noted that Mr. Lyons signed the certificate of responsibility, attesting that his statements were true and complete, and acknowledging that the Department may deny an application that contains false or misleading information.\(^\text{20}\)

Mr. Skendrovic testified that he knows that Mr. Lyons was affiliated with Britney Watson and Ladies’ Choice from his work investigating consumer complaints. During his investigations, Mr. Lyons represented himself to Mr. Skendrovic as the person running Ladies’ Choice.

\(^\text{17}\) Dept. Ex. 17.
\(^\text{18}\) Dept. Ex. 17 at 106.
\(^\text{19}\) Dept. Ex. 17 at 106.
\(^\text{20}\) Dept. Ex. 17 at 107.
At the hearing, Mr. Lyons admitted that he was licensed by the Department from 2008 to 2010; that from 2011 to 2015, he was the manager of Ladies’ Choice; and that he answered Question No. 15 incorrectly when he filled out the 2017 Application. Nonetheless, he argued that the Department should have contacted him about the mistake and given him the opportunity to correct it, instead of denying the 2017 Application.

Mr. Lyons testified at length regarding the negotiations surrounding the revocation and assessment of a $6,000 civil penalty against Ladies’ Choice. He explained that he is the brother of the owner, Britney Watson; and was the manager of Ladies’ Choice from 2011 through 2015. Mr. Lyons argued that the underlying revocation and civil penalty assessed against Ladies’ Choice is in violation of the Service Members Civil Relief Act. In support of his argument, Mr. Lyons offered a copy of his sister’s Active Duty Orders which purport to demonstrate that Ms. Watson was assigned to report to duty in Washington DC starting May 10, 2012.

Having been in this industry since 2008, Mr. Lyons testified that he is aware that a person cannot sell cars without a license from the Department. He testified that he is currently unemployed, but has started The Race House of Hope, a nonprofit organization geared towards helping abused girls. When confronted with internet advertisements of cars posted for sale on The Race House of Hope’s Facebook page, Mr. Lyons admitted that he had posted them for sale online, but said they were cars owned by a friend who had offered to pay a commission that Mr. Lyons would put towards the nonprofit organization if he sold the cars. He denied that he actually sold any of the cars that he offered for sale.

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21 See also Dept Exhs. 7, 18.
23 Respondent Ex. 2.
24 Dept. Ex. 25.
C. The ALJ’s Analysis

The evidence was undisputed that: (1) Mr. Lyons was the manager of Ladies Choice; (2) the Department revoked Ladies’ Choice’s license, and assessed a civil penalty of $6,000 against it; (3) the $6,000 civil penalty has not been paid; and (4) Mr. Lyons answered Question No. 15, regarding having previously held a license, incorrectly on his 2017 Application. While Mr. Lyons argued that his answer to Question No. 15 was a mistake and that he should have been allowed to correct it, nothing in the law requires that an applicant be allowed to change a response after certification. With regard to Ladies’ Choice, although Mr. Lyons’ disputed the underlying revocation and penalty assessed against Ladies Choice, those issues have been previously decided and are not at issue in this case.25

Staff proved each of its allegations. Pursuant to the Texas Transportation Code, Texas Occupations Code, and Department rules, the Department is authorized to deny an application if the applicant makes a material misrepresentation in an application, or is determined to be unfit to be a license holder.26 A person who fails to pay a civil penalty pursuant to a final order, as well as a person who was the manager of an entity whose license has been subject to disciplinary action, including revocation or a civil penalty, may be considered unfit to be a license holder.27

Staff also demonstrated that Mr. Lyons is in violation of Texas Transportation Code § 503.021 and Texas Occupations Code § 2301.251(a) by his online activities in offering to sell vehicles of another on The Race House of Hope’s Facebook page; however, that offense was not pled in Staff’s Second Amended Notice of Hearing, and therefore will not be considered as a basis for denial of the 2017 Application. Instead, the fact that Mr. Lyons is circumventing the State’s requirements that all persons engaged in business as a dealer, directly or indirectly, must be licensed by the Department, is simply a factor the ALJ considers in assessing his credibility.

25 Dept. Exs. 2-11.
Based on the evidence presented, the ALJ concludes that Mr. Lyons made a material misrepresentation in the 2017 Application, is unfit to be a license holder at this time, and his 2017 Application should be denied.

III. FINDINGS OF FACT


2. From 2011 to 2015, Mr. Lyons was general manager of Britney Watson d/b/a Ladies’ Choice (Ladies’ Choice), GDN P113680.

3. On or about February 19, 2016, the Texas Department of Motor Vehicles (Department) revoked Ladies’ Choice’s license and assessed a civil penalty of $6,000.

4. As of July 27, 2017, the $6,000 civil penalty assessed against Ladies’ Choice had not been paid.

5. On or about January 27, 2017, Ricky Lyons d/b/a The Race House applied to the Department for a GDN to operate as an independent motor vehicle dealer (2017 Application).

6. In the 2017 Application, Mr. Lyons answered “No” to the question, “Has the TxDMV ever licensed the applicant to act in any capacity in Texas?”

7. Mr. Lyons made a material misrepresentation to the Department by denying that he had been previously licensed by the Department on his 2017 Application.

8. Mr. Lyons is not currently licensed by the Department.

9. Mr. Lyons currently attempts to sell cars owned by others online for a commission.

10. Mr. Lyons is currently unfit to be a license holder.

11. On May 9, 2017, staff (Staff) of the Department notified Mr. Lyons that it was proposing to deny his 2017 Application.

12. Mr. Lyons timely requested a hearing.

13. On June 23, 2017, Staff mailed a notice of hearing to Mr. Lyons by certified mail and first class mail.
14. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted.

15. On July 28, 2017, Staff mailed its Second Amended Notice of Department Decision to Respondent by certified mail and first class mail.

16. The hearing on the merits was held on August 10, 2017, before Administrative Law Judge Travis Vickery in Austin, Texas. Staff was represented by Heather R. E. Pierce, Enforcement Division attorney. Mr. Lyons appeared and represented himself. The hearing concluded and the record closed the same day.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over independent motor vehicle dealers pursuant to Texas Occupations Code ch. 2301 and Texas Transportation Code ch. 503.

2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.


5. The Department may deny an application for a GDN if the applicant makes a material misrepresentation in an application filed with the Department. Tex. Transp. Code § 503.034(a)(1); Tex. Occ. Code § 2301.651(a)(2).

6. The Department may deny an application for a GDN if the Department determines that the person is unfit to perform the duties and discharge the responsibilities of a license holder. 43 Tex. Admin. Code §§ 215.141(a)(1), (b)(17); .89.

7. The Department's rule on fitness includes the following as grounds for determining that a person is unfit to perform the duties of a license holder: (1) the failure to pay a civil penalty or administrative fine pursuant to the terms of a final order; as well as (2) a person who was or is a manager or affiliate of a sole proprietorship or other legal entity whose license has been subject to disciplinary action, including revocation, or assessment of a civil penalty or administrative fine. 43 Tex. Admin. Code § 215.89(b)(7),(8).
8. Mr. Lyons’ previous affiliation as manager of Ladies’ Choice and the failure of Ladies’ Choice to pay a civil penalty pursuant to the terms of a final order demonstrate that he is unfit to perform the duties of a license holder. 43 Tex. Admin. Code §§ 215.141(a)(1), (b)(17); .89(b)(7)-(8).

9. The 2017 Application should be denied because of Mr. Lyons’ material misrepresentation and unfitness to perform the duties of a license holder.

SIGNED September 29, 2017.

[Signature]

TRAVIS VICKERY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS
TEXAS DEPARTMENT OF MOTOR VEHICLES
MOTOR VEHICLE DIVISION

IN THE MATTER OF §
RICKEY A. LYONS § MVD CAUSE NO. 17-0175723
D/B/A THE RACE HOUSE § SOAH DOCKET NO. 608-17-4725.ENF

FINAL ORDER

The referenced contested case matter is before the Board of the Texas Department of Motor Vehicles (TxDMV) in the form of a Proposal for Decision (PFD) from the State Office of Administrative Hearings (SOAH) and involves the TxDMV’s denial of Ricky Lyons’ (Applicant) application for a dealer license due to applicant’s material misrepresentation and unfitness to perform the duties of a license holder.

The Board enters this Final Order, having considered the evidence, arguments, findings of fact and conclusions of law presented in:

The PFD made and filed by the Administrative Law Judge on September 29, 2017.

ACCORDINGLY, IT IS ORDERED:

1. That findings of fact numbers 1-16 and conclusions of law numbers 1-9, as set out in the ALJ’s September 29, 2017, PFD are hereby adopted;
2. That Respondent’s application for licensure is denied because of Respondent’s material misrepresentation and unfitness to perform the duties of a license holder;
3. That any findings of fact or conclusions of law proposed by the parties that are not adopted in this Order are hereby rejected; and
4. That all remaining motions, exceptions, or objections, of any party, if any, are hereby denied.

Date: ________________________  
________________________________________
Raymond Palacios, Jr., Chairman  
Board of the Texas Department of Motor Vehicles

ATTESTED:

____________________________________
Daniel Avitia, Director  
Motor Vehicle Division  
Texas Department of Motor Vehicles
To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jimmy Archer, Director, Motor Carrier Division
Agenda Item: 9
Subject: Adoption of Rules under Title 43, Texas Administrative Code, Chapter 219, Oversize and Overweight Vehicles and Loads
New, §§219.34, 219.35, and 219.36
(Relating to HB 2319, North Texas Intermodal Permit; SB 1383, Fluid Milk Transport Permit; and SB 1524, Intermodal Shipping Container Port Permit)

RECOMMENDATION

Approve adoption of new sections for publication in the Texas Register.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the new sections is to implement House Bill 2319, Senate Bill 1383, and Senate Bill 1524, which authorize three new permits for overweight vehicle combinations. The permits authorize certain vehicle combinations to exceed gross weight and axle weight limits, as long as the vehicle combination and the operator are in compliance with all of the applicable requirements and restrictions.

FINANCIAL IMPACT

There will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed new sections. Although the sale of the new permits is anticipated to generate revenue for the state and certain local jurisdictions in the state, the estimated increase in revenue cannot be determined at this time due to a lack of data on the number of applications that will be submitted and approved for the permits authorized by the new sections. Also, the fee for the permits under §219.35 and §219.36 is set by statute, rather than by rule.

BACKGROUND AND DISCUSSION

The new sections establish the requirements, restrictions, and procedures for the following permits:

- §219.34, North Texas Intermodal Permit - implements House Bill 2319, which added Transportation Code, §623.0172, Permit for Intermodal Shipping Container, to require the department to issue an annual permit for the international transportation of a sealed intermodal shipping container by a truck-tractor and semitrailer combination in portions of Bowie County, Texas.

- §219.35, Fluid Milk Transport Permit - implements Senate Bill 1383, which added Transportation Code, §623.401, Permit for Vehicles Transporting Fluid Milk, to authorize the department to issue an annual permit for the movement of fluid milk by certain truck-tractor and semitrailer combinations.

- §219.36, Intermodal Shipping Container Port Permit - implements Senate Bill 1524, which added Transportation Code, §623.402, Issuance of Permit, to authorize the department to issue an annual permit for the movement of certain vehicle combinations transporting sealed intermodal shipping containers moving in international transportation.

The proposal was published in the Texas Register on October 20, 2017. The comment period closed on November 20, 2017. The department received the attached comments from the following regarding the fee for the North Texas Intermodal Permit under §219.34: William L. Hale, P.E., Texas Department of Transportation (TxDOT); The Honorable James Carlow, Bowie County Judge; Colin T. Parrish, Statehouse Consultants, LLC; Ronnie Alexander, Domtar, Logistics and Distribution
Services Manager, Ashdown Mill; Bob Grygotis, Domtar, General Manager, Ashdown Mill; and Tammy Waters, Domtar, Manager, Communications and Government Relations.

TxDOT recommended a permit fee of $200, based on Domtar’s estimate that it will buy approximately 20 permits per year and will take approximately 1.5 trips per day, five days a week under each permit. TxDOT stated that a permit fee of $200 is “sufficient at this time to cover the anticipated increase in pavement and bridge consumption costs caused by the increased weight of permitted vehicles.”

The Honorable James Carlow, Bowie County Judge, requested the department to set the permit fee at an amount: 1) that is proportionate to the short distance within the county; and 2) that aligns with similar permits in Texas.

Domtar representatives requested the department to adjust the proposed fee of $2,000 to align with the following: 1) the distance to be traveled, which is 2.5 miles; and 2) similar permits issued by the department. Mr. Parrish submitted a comment on behalf of Domtar in which he proposed a formula, which is based on the fee for the Intermodal Shipping Container Port Permit under §219.36, to come up with a $500 fee for the North Texas Intermodal Permit. Mr. Parrish also stated that the legislature intended the permit fee to be set lower than $2,000 “except in extreme circumstances or as a last resort,” and that the fee for this permit will be “viewed as a precedent setting test case.”

The department recommends a reduction of the fee for the North Texas Intermodal Permit from $2,000 to $500 in response to the comments. However, the department disagrees with the formula and rational proposed by the commenters to reduce the fee, as explained in the department’s preamble.

If the board adopts the new sections during its December 7, 2017, open meeting, staff anticipates:

- publication in the December 29, 2017, issue of the Texas Register; and
- an effective date of January 7, 2018.
October 19, 2017

Mr. Jimmy Archer
Director, Motor Carrier Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Dear Mr. Archer:

In response to the Texas Department of Motor Vehicles’ (TxDMV) request regarding a proposed permit fee for vehicles traveling under a permit issued pursuant to the limitations of House Bill (HB) 2319, 85th Regular Legislative Session (2017), the Texas Department of Transportation (TxDOT) has concluded that a permit fee of $200 is sufficient at this time to cover the anticipated increase in pavement and bridge consumption costs caused by the increased weight of permitted vehicles.

If there is anything further you need from TxDOT to implement HB 2319, please contact Blake Calvert at (512) 463-6399 or blake.calvert@txdot.gov.

Sincerely,

William L. Hale, P.E.
Chief Engineer

cc: Whitney Brewster, Executive Director, TxDMV
    Caroline Love, Director, Government and Strategic Communications, TxDMV
    James M. Bass, Executive Director, TxDOT
    Glenn H. Green, P.E., Atlanta District Engineer, TxDOT
    Trent W. Thomas, Director, State Legislative Affairs, TxDOT
November 17, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

RE: Written Comments on Proposed New 43 TAC §219.34 Which Implements House Bill 2319

Dear Mr. Duncan:

As Bowie County Judge, I am writing on behalf of Domtar’s Ashdown Mill (manufacturer of pulp and paper products) to respectfully ask for the proposed Texas Administrative Code (TAC) §219.34 which added the permit for Intermodal Shipping Container, to be set based on the legislative text providing for permit fees of “up to $2000”. Domtar will only be utilizing a 2.5 mile stretch on Highway 71 in Texas, which contains no bridges, to move their product back through Arkansas on route to intermodal rail. My ask is that the fee be set at an amount proportionate to the short distance within the county and that it align with similar permits in our State.

Even though Domtar is located in Arkansas (only 15 miles north of Texarkana, Texas), they are a vital leader to the regional economy in Bowie County. Of the mill’s nearly 850 employees, nearly 1/3 resides in Texarkana and northeast Texas. The mill has decades of successful manufacturing experience, a skilled workforce, and have proven to be a true asset to the region.

During the 2017 legislative session, I was directly involved to ensure HB 2319 passed because I recognized the importance of this permit to our friends at Domtar. The language in the bill (up to $2000) gives clear flexibility to the DMV to set the rate at an amount that is fair to the State of Texas and to the Ashdown Mill.

I would like to thank the DMV in advance for thoroughly reviewing the fee structure for this permit and ensuring it aligns with similar permits in the state.

Sincerely,
James Carlow
Bowie County Judge
David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731
rules@txdmv.gov

Dear Mr. Duncan,
I am writing to encourage the Texas Department of Motor Vehicles (TXDMV) to use the statutory authority granted to it during the 85th legislative session, and set a permit fee lower than the maximum limit under the law, as initially set in the proposed rule under Title 43 Texas Administrative Code §623.0172, relating to a permit for intermodal shipping containers in portions of Bowie County. If TXDMV adopts the rule as proposed, this will not only be the most expensive weight permit of its kind in the state but the entire country.

Unlike nearly every other truck permit fee which is set at a fixed rate in statute, the legislature clearly included a provision authorizing the fee be set by the department at a rate no more than $2,000.00 per year. This provision necessarily implies that the legislature intended the rate to be set lower except in extreme circumstances or as a last resort.

Since the authority granted to TXDMV is not common, and will be viewed as a precedent setting test case, I encourage TXDMV to use a formula, or other defined process, to set the rate more in line with similar permits. The most similar recent permit passed by the legislature, the port shipping container permit, is set at $6,000.00 per year for 30 miles, which represents $200.00 per mile. The port shipping container permit fee was set very high by the legislature, to account for the fact that the largest container terminal in the state is in Harris County, which has an extremely dense population of bridges and elevated structures on their roadways. Using this formula as a guide, and not taking into account that the authorized area for this permit in Bowie County does not have the same bridges and elevated structures as the permit in Harris County, a 2.5 mile permit would be $500.00 for an annual fee.

Your support lowering the proposed fee to more precisely reflect the legislature’s intent, and keep Texas’ fees competitive, is appreciated.

Thank you for your time and consideration in this matter,

Colin T. Parrish, Partner
Statehouse Consultants, LLC
919 Congress Avenue, Suite 1500
Austin, Texas 78701
512-796-7968
November 17, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

RE: Written Comments on Proposed New 43 TAC §219.34 Which Implements House Bill 2319

Dear Mr. Duncan:

As the manager for logistics and distribution services for Domtar’s Ashdown Mill, I’m writing to ask for leniency when setting the permit fee for the Texas Administrative Code (TAC) §219.34 which added Transportation Code, §623.0172 - the permit for Intermodal Shipping Container. The verbiage for the permit fee is stated as “up to $2000". As the DMV makes a decision on the permit fee for Domtar, I’m asking that the short distance of 2.5 miles in Bowie County be considered and the fee set at a reasonable amount which aligns with similar permits in the state. When making the decision, please know that the road in Texas we will be utilizing is not only a short distance, but is also a very flat stretch with no bridges.

Domtar’s Ashdown Mill is part of a network of 13 pulp and paper facilities. The Ashdown Mill employs nearly 850 employees, residing in both Arkansas and northeast Texas, and serves as an economic driver not only in Little River County, but the entire region. Following a substantial capital investment at Ashdown in 2016, our mill is positioned within Domtar as a key manufacturer of fluff pulp, the absorbent material used to make infant diapers and incontinence products.

With this transition, we are serving more export markets and need to access deep water ports to ship our product by sealed, ocean-going containers. This permit is critical to us moving our product to the intermodal rail facility in West Memphis, Arkansas.

In my role at the Ashdown Mill, I have seen our competition change over the past few years to internal competition with our sister mills. As an example, Domtar’s Plymouth North Carolina Mill is the only other facility within our system producing and shipping fluff pulp as Ashdown is doing. Because they are located right on the coast, their cost for shipping and exporting is very low and cost-efficient. We are constantly challenged to keep our transportation costs down so we too can be competitive and responsive to our customers.

Streamlining the fee structure is an important step as we strive to keep our facility transportation costs in line with our competition. Your consideration of this request is appreciated.

Sincerely,

Ronnie Alexander
Logistics & Distribution Services Manager
Ashdown Mill
November 15, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

RE: Written Comments on Proposed New 43 TAC §219.34 Which Implements House Bill 2319

Dear Mr. Duncan:

I am writing in my capacity as the general manager of Domtar's Ashdown Mill to respectfully ask for the proposed Texas Administrative Code (TAC) §219.34 which added Transportation Code, §623.0172, the permit for Intermodal Shipping Container, be reviewed and set based on the legislative text providing for permit fees of "up to $2000." Our ask is that the short distance – 2.5 miles – be evaluated and the fee adjusted to an amount commensurate with the very short route within Bowie County where Domtar's products needs to travel.

Domtar is an integrated pulp and paper manufacturer that manufactures and distributes a wide variety of fiber-based products; including communication, specialty, and packaging papers, as well as absorbent hygiene products (baby diapers/adults diapers/feminine hygiene products). As part of our network of manufacturing facilities, Domtar owns a large pulp and paper mill in Ashdown, Arkansas – located 15 miles north of Texarkana, Texas. In addition, our company owns a paper converting facility in Irving, Texas and a facility in Waco, Texas that manufactures baby diapers and adult incontinence products. Of our nearly 850 employees in Ashdown, nearly 1/3 resides in Texarkana and northeast Texas.

Domtar's Ashdown Mill has decades of papermaking history and an experienced workforce. The facility is an essential pillar of the regional economy in the ARK-LA-TEX. And, like many mills across North America, their long-term future was directly affected by declining paper demand in the markets they served. But after significant investments by Domtar, Ashdown is now repositioned as a manufacturer of fluff pulp, the absorbent material used to make infant diapers and incontinence products.

This journey began several years ago when production on Ashdown's largest paper machine was converted to a fluff pulp machine. With this transition, we are now serving an increasing number of

www.domtar.com
export markets and seek deep water ports to ship our product by sealed, oceangoing containers. HB 2319 and the accompany permit give us the ability to move our product from the mill over the 2.5 mile stretch in Texas to Arkansas where we can access intermodal rail to deep water ports and reach our export markets.

Since our new fluff pulp machine came on-line in 2016, we have worked diligently to build our customer base. This new business has entailed going through rigorous qualification processes to secure new business – a process still continuing today. Based on our current customers secured to date, we are ready to begin utilizing the permit and are looking to grow the number of permits throughout 2018 as new business is secured. The customer-base for this product requires export out of the country and must have competitive freight cost to port to be attractive.

Domtar is committed to being good corporate neighbor to our friends in Texas and we want to pay our fair share to utilize the small portion of Hwy. 71 in your state. Competition has changed for our mill – our main competition used to be other companies, but now it is the internal competition with our sister mills. For example, Domtar’s Plymouth North Carolina mill is the only other facility within our system that produces and ships fluff pulp as we do. Because they are more proximate to deep-water ports, their facilities cost for shipping/exporting is often lower and generally more cost-efficient. It is our challenge in Ashdown to keep transportation costs as low as possible to remain competitive and responsive to our customers. By having a permit fee structure that aligns with the distance to be traveled, we believe our success will be enhanced.

On behalf of Domtar and our nearly 850 colleagues at the Ashdown Mill, I appreciate your consideration in addressing the fee structure for this permit.

Sincerely,

Bob Grygotis, General Manager
Ashdown Mill

Domtar
November 15, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

RE: Proposed New 43 TAC §219.34 Which Implements House Bill 2319 – Written Comments

Dear Mr. Duncan:

On behalf of my nearly 850 colleagues at Domtar’s Ashdown Mill, I am submitting comments to respectfully ask for the proposed Texas Administrative Code (TAC) §219.34 which added Transportation Code, §623.0172, be reviewed and set based on the legislative text providing for permit fees of “up to $2000”. When deciding the permit fee amount, please take into account the diminutive distance of 2.5 miles Domtar needs to move product to intermodal rail in northeast Arkansas. With the majority of statutory permitting fees in Texas being at a “set rate,” we are asking the DMV to ensure our fee is in line with other similar permits. In addition, DMV was provided clear flexibility with the “up to $2000” language stated in HB2319. If the fee is set at the upper level of $2000 for the short 2.5 mile distance, it would make it the most expensive permit per mile in the state and by far one of the highest in the country.

Our company is an integrated pulp and paper manufacturer of communication, specialty, and packaging papers, as well as absorbent hygiene products. Domtar owns a large pulp and paper facility in Ashdown, Arkansas which is located 15 miles north of Texarkana, Texas. Following a $200 million capital investment into the facility last year, the mill is focused on producing fluff pulp, the absorbent material used to make infant diapers and incontinence products.

During the 2017 Legislative Session, we worked diligently to see the passage of HB 2319 to provide us the ability to move our fluff pulp product from Ashdown over the 2.5 mile stretch in Texas back to Arkansas to access intermodal rail near West Memphis. This is critical as we are now serving an increasing number of export markets and need access to deep water ports to ship our product by sealed, oceangoing containers.

Throughout the legislative session, we had numerous conversations with legislators to discuss a fair solution for this specific overweight permit. During the discussions it was our understanding that the “up to $2000” verbiage was established to provide the DMV the flexibility to implement a fair and equitable fee (preferably on distance used) for those needed to utilize the permit. We believe this not only makes sense for Domtar, but other companies who want to see growth and success in the four-state region.

www.domtar.com
Having a permit fee that aligns with the distance to be traveled is critical as we work to keep our transportation costs to a minimum to remain competitive and responsive to our customer base.

Your support in setting this fee structure is very much appreciated.

Sincerely,

Tammy Waters
Manager, Communications & Govt. Relations
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING ADOPTION OF NEW 43 TAC SECTIONS 219.34, 219.35, AND 219.36 RELATING TO PERMITS FOR OVER AXLE AND OVER GROSS WEIGHT TOLERANCES

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to adopt new Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter C, Permits for Over Axle and Over Gross Weight Tolerances, §219.34, North Texas Intermodal Permit; §219.35, Fluid Milk Transport Permit; and §219.36, Intermodal Shipping Container Port Permit.

The preamble and the new sections are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rules are adopted.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

_________________________________________
Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

_________________________________________
Jimmy Archer, Director
Motor Carrier Division

Order Number: ____________________________ Date Passed: December 7, 2017
Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 Adoption Preamble

2 The Texas Department of Motor Vehicles (department) adopts new
3 Chapter 219, Oversize and Overweight Vehicles and Loads,
4 Subchapter C, Permits for Over Axle and Over Gross Weight
5 Tolerances, §219.34, North Texas Intermodal Permit; §219.35,
6 Fluid Milk Transport Permit; and §219.36, Intermodal Shipping
7 Container Port Permit. Sections 219.35 and 219.36 are adopted
8 without changes to the proposed text as published in the October
9 20, 2017, issue of the Texas Register (42 TexReg 5847) and will
10 not be republished. Section 219.34 is adopted with changes to
11 the proposed text and will be republished. The department
12 amended §219.34 to decrease the permit fee from $2,000 to $500.
13
14 EXPLANATION OF ADOPTED NEW SECTIONS
15 The 85th Legislature, Regular Session, 2017, authorized three
16 new permits for overweight vehicle combinations. The permits
17 authorize certain vehicle combinations to exceed gross weight
18 and axle weight limits, as long as the vehicle combination and
19 the operator are in compliance with all of the applicable
20 requirements and restrictions. New §§219.34, 219.35, and 219.36
21 establish the requirements, restrictions, and procedures
22 regarding these permits.
23

12/07/17 Preamble Exhibit A
New §219.34 implements House Bill 2319, which added Transportation Code, §623.0172, Permit for Intermodal Shipping Container, to require the department to issue an annual permit for the international transportation of a sealed intermodal shipping container by a truck-tractor and semitrailer combination in portions of Bowie County, Texas.

New §219.35 implements Senate Bill 1383, which added Transportation Code, §623.401, Permit for Vehicles Transporting Fluid Milk, to authorize the department to issue an annual permit for the movement of fluid milk by certain truck-tractor and semitrailer combinations.

New §219.36 implements Senate Bill 1524, which added Transportation Code, §623.402, Issuance of Permit, to authorize the department to issue an annual permit for the movement of certain vehicle combinations transporting sealed intermodal shipping containers moving in international transportation.

COMMENTS
The department received comments from the following regarding the fee for the North Texas Intermodal Permit under §219.34:
William L. Hale, P.E., Texas Department of Transportation
Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

(TxDOT); The Honorable James Carlow, Bowie County Judge; Colin T. Parrish, Statehouse Consultants, LLC; Ronnie Alexander, Domtar, Logistics and Distribution Services Manager, Ashdown Mill; Bob Grygotis, Domtar, General Manager, Ashdown Mill; and Tammy Waters, Domtar, Manager, Communications and Government Relations.

COMMENTS

The department asked TxDOT for their recommendation on the initial fee for this permit, based on Domtar’s estimate that it will buy approximately 20 permits per year and will take approximately 1.5 trips per day, five days a week under each permit. In a letter dated October 19, 2017, TxDOT concluded that “a permit fee of $200 is sufficient at this time to cover the anticipated increase in pavement and bridge consumption costs caused by the increased weight of permitted vehicles.”

The Honorable James Carlow, Bowie County Judge, requested the department to set the permit fee at an amount: 1) that is proportionate to the short distance within the county; and 2) that aligns with similar permits in Texas.

Domtar representatives submitted four comments, requesting the
Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads
department to adjust the proposed permit fee to align with the
following: 1) the distance to be traveled, which is 2.5 miles;
and 2) similar permits issued by the department. Mr. Parrish
submitted a comment on behalf of Domtar in which he proposed a
formula, which is based on the fee for the Intermodal Shipping
Container Port Permit under §219.36, to come up with a $500 fee
for the North Texas Intermodal Permit. Mr. Parrish also stated
that the legislature intended the permit fee to be set lower
than $2,000 “except in extreme circumstances or as a last
resort,” and that the fee for this permit will be “viewed as a
precedent setting test case.”

RESPONSE

The department reduced the permit fee in §219.34 from $2,000 to
$500, which is a fair and reasonable fee for this annual permit.
However, the department does not adopt the formula proposed by
Mr. Parrish, we disagree with the argument that the permit fee
should be based on the distance of the road on which the permit
is authorized, we disagree with the argument that the
legislature intended the permit fee to be set lower than $2,000
“except in extreme circumstances or as a last resort,” and we
don’t intend to set a precedent on determining future permit
fees.
Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

Transportation Code, §623.0172(h) requires the department to initially set the fee for this permit in an amount not to exceed $2,000. This section also says that beginning in 2022 on September 1 of each even-numbered year, the department shall set the fee for this permit based on the results of the study conducted by TxDOT in compliance with the requirements listed in §623.0172(l). Section 623.0172(l) does not list distance as a factor for TxDOT’s study, which will be used to determine the future fee for this permit. The legislature did not intend for the initial fee to set a precedent for the future fee for this permit because the legislature provided the factors on which the future fee must be based. Also, there is no language in §623.0172 that says the department must set the fee lower than $2,000 “except in extreme circumstances or as a last resort.”

Section 623.0172(e)(2) authorizes TxDOT to establish the route for this permit. TxDOT established the route as US 71/US 59 from the Arkansas state border to the eastbound entrance ramp for Interstate Highway 49 in Bowie County. Domtar stated that this portion of US 71 is 2.5 miles long. Although the authorized route is 2.5 miles long, the permit holder can travel on this 2.5-mile stretch of US 71 as many times as they want for an entire year because the North Texas Intermodal Permit is an
Texas Department of Motor Vehicles
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annual permit. In addition, §623.0172(j) says the portion of the
permit fee that is deposited into the state highway fund may
only be used for transportation projects in the TxDOT district
designated in the permit application. If the legislature
intended the permit fee to only cover the maintenance costs for
the 2.5-mile stretch of US 71, it would have written
§623.0172(j) differently.

Although the statute for the Intermodal Shipping Container Port
Permit under §219.36 says the permit is limited to 30 miles from
the port authority or port of entry, the statute also says the
permit may only be used on highways and roads approved by TxDOT.
There is no guarantee that the Intermodal Shipping Container
Port Permit will actually authorize the permit holder to travel
on 30 miles of highways or roads. Also, §623.0172 does not say
the fee for the North Texas Intermodal Permit should be based on
the fee for the Intermodal Shipping Container Port Permit.

Although TxDOT recommended a fee of $200, this estimate was
based on Domtar’s estimate that it will buy approximately 20
permits per year and will take approximately 1.5 trips per day,
five days a week under each permit. TxDOT’s estimate was based
on the anticipated increase in pavement and bridge consumption
Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 costs caused by the increased weight of the permitted vehicles.

2 As stated above, the legislature did not intend for the permit

3 fee to only be used on the 2.5-mile stretch of US 71. In

4 addition, Mr. Bob Grygotis, the General Manager for Domtar’s

5 Ashdown Mill, commented that they “are looking to grow the

6 number of permits throughout 2018 as new business is secured.”

7

8 Other permits are more expensive, such as a single-trip permit

9 for an overwidth load, which costs $60 regardless of the

10 distance traveled. The overwidth load does not cause damage to

11 the road like an overweight load. If a person needs to transport

12 1.5 loads for five days a week, the cost will be $450 for one

13 week and $23,400 for 52 weeks for an overwidth load under

14 single-trip permits.

15

16 STATUTORY AUTHORITY

17 The new sections are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of

18 Motor Vehicles (board) with the authority to adopt rules that

19 are necessary and appropriate to implement the powers and the

20 duties of the department under the Transportation Code;

21 Transportation Code, §623.002, which authorizes the board to

22 adopt rules that are necessary to implement and enforce

12/07/17 Preamble  Exhibit A
Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

Transportation Code, Chapter 623; and more specifically,
Transportation Code, §623.407(a), which requires the department
to adopt rules that are necessary to implement Transportation
Code, Chapter 623, Subchapter U, Vehicles Transporting Fluid
Milk; and Transportation Code, §623.411(a), which requires the
department to adopt rules that are necessary to implement
Transportation Code, Chapter 623, Subchapter U, Intermodal
Shipping Containers.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621 and 623.
SUBCHAPTER C. PERMITS FOR OVER AXLE AND
OVER GROSS WEIGHT TOLERANCES

§219.34. North Texas Intermodal Permit.

(a) Purpose. This section prescribes the requirements, restrictions, and procedures regarding the annual permit for transporting an intermodal shipping container under the provisions of Transportation Code, §623.0172.

(b) Application for permit.

(1) To qualify for a North Texas intermodal permit, a person must submit an application to the department.

(2) The application shall be in a form prescribed by the department and at a minimum, will require the following:

(A) name and address of the applicant;

(B) name of contact person and telephone number or email address; and

(C) vehicle information, including vehicle year, make, license plate number and state of issuance, and vehicle identification number.

(3) The application shall be accompanied by the total annual permit fee of $500.

(4) Fees for permits issued under this section are payable as required by §219.11(f) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).
Texas Department of Motor Vehicles  
Chapter 219, Oversize and Overweight Vehicles and Loads

(c) Amendments. An annual permit issued under this section will not be amended except in the case of department error.

(d) Transfer of permit. A permit issued under this section may only be transferred once during the term of the permit from one vehicle to another vehicle in the permittee's fleet provided:

(1) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been surrendered to the department; or

(2) the title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been transferred from the permittee.

(e) Restrictions pertaining to road conditions. Movement of a permitted vehicle is prohibited when road conditions are hazardous based upon the judgment of the operator and law enforcement officials. Law enforcement officials shall make the final determination regarding whether or not conditions are hazardous. Conditions that should be considered hazardous

12/07/17 New Sections
Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1. include, but are not limited to:

   (1) visibility of less than 2/10 of one mile; or

   (2) weather conditions such as wind, rain, ice, sleet, or snow.

   (f) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions published by the department.

   (g) Construction or maintenance areas. The permitted vehicle may not travel through any state highway construction or maintenance area if prohibited by the construction restrictions published by the department.

   (h) Night movement. Night movement is allowed under this permit, unless prohibited by the curfew movement restrictions published by the department.

   (i) Manufacturer's tire load rating. Permits issued under this section do not authorize the vehicle to exceed the manufacturer's tire load rating.

§219.35. Fluid Milk Transport Permit.

(a) Purpose. This section prescribes the requirements, restrictions, and procedures regarding the annual permit for transporting fluid milk under the provisions of Transportation Code, Chapter 623, Subchapter U, as added by Chapter 750 (S.B. 23/84).
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(b) Application for permit.

(1) To qualify for a fluid milk transport permit, a person must submit an application to the department.

(2) The application shall be in a form prescribed by the department and at a minimum, will require the following:

(A) name and address of the applicant;

(B) name of contact person and telephone number or email address;

(C) vehicle information, including vehicle year, make, license plate number and state of issuance, and vehicle identification number; and

(D) a list of counties in which the vehicle will be operated.

(3) The application shall be accompanied by the total annual permit fee of $1,200.

(4) Fees for permits issued under this section are payable as required by §219.11(f) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).

(c) Issuance and placement of permit and windshield sticker; restrictions.

(1) A permit and a windshield sticker will be issued once the application is approved, and each will be mailed to the
applicant at the address contained in the application.

(2) The windshield sticker shall be affixed to the inside of the windshield of the vehicle in accordance with the diagram printed on the back of the sticker and in a manner that will not obstruct the vision of the driver. Any attempt to remove the sticker from the windshield will render the sticker void and will require a new permit and sticker.

(3) A replacement sticker for a lost, stolen, or mutilated windshield sticker may be issued, provided that the permittee submits a request on a form approved by the department which shall include a statement, signed by the permittee, affirming that the sticker was lost, stolen, or mutilated. The replacement sticker shall only be valid for the permitted vehicle.

(d) Amendments. An annual permit issued under this section will not be amended except in the case of department error.

(e) Transfer of permit. A permit issued under this section may only be transferred once during the term of the permit from one vehicle to another vehicle in the permittee's fleet provided:

(1) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the
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negotiable title or other qualifying documentation, as
determined by the department, has been surrendered to the
department; or

(2) the title to the permitted vehicle is transferred
to someone other than the permittee, and the permittee presents
proof that the negotiable title or other qualifying
documentation, as determined by the department, has been
transferred from the permittee.

(f) Termination of permit. An annual permit issued under
this section will automatically terminate, and the windshield
sticker must be removed from the vehicle:

(1) on the expiration of the permit;

(2) when the lease of the vehicle expires;

(3) on the sale or other transfer of ownership of the
vehicle for which the permit was issued; or

(4) on the dissolution or termination of the
partnership, corporation, or other legal entity to which the
permit was issued.

(g) Restrictions pertaining to road conditions. Movement of
a permitted vehicle is prohibited when road conditions are
hazardous based upon the judgment of the operator and law
enforcement officials. Law enforcement officials shall make the
final determination regarding whether or not conditions are
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hazardous. Conditions that should be considered hazardous include, but are not limited to:

(1) visibility of less than 2/10 of one mile; or

(2) weather conditions such as wind, rain, ice, sleet, or snow.

(h) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions published by the department.

(i) Construction or maintenance areas.

(1) The permitted vehicle may not travel through any state highway construction or maintenance area if prohibited by the construction restrictions published by the department.

(2) The permittee is responsible for contacting the appropriate local jurisdiction for construction or maintenance restrictions on non-state maintained roadways.

(j) Night movement. Night movement is allowed under this permit, unless prohibited by the curfew movement restrictions published by the department.

(k) Manufacturer's tire load rating. Permits issued under this section do not authorize the vehicle to exceed the manufacturer's tire load rating.

§219.36. Intermodal Shipping Container Port Permit.
(a) Purpose. This section prescribes the requirements, restrictions, and procedures regarding the annual permit for transporting an intermodal shipping container under the provisions of Transportation Code, Chapter 623, Subchapter U, as added by Chapter 108 (S.B. 1524), Acts of the 85th Legislature, Regular Session, 2017.

(b) Application for permit.

(1) To qualify for an intermodal shipping container port permit, a person must submit an application to the department.

(2) The application shall be in a form prescribed by the department and at a minimum, will require the following:

(A) name and address of the applicant;

(B) name of contact person and telephone number or email address;

(C) vehicle information, including vehicle year, make, license plate number and state of issuance, and vehicle identification number;

(D) a list of counties in which the vehicle will be operated; and

(E) a list of municipalities in which the vehicle will be operated.

(3) The application shall be accompanied by the total
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1 annual permit fee of $6,000.

(4) Fees for permits issued under this section are payable as required by §219.11(f) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).

(c) Issuance and placement of permit and windshield sticker; restrictions.

(1) A permit and a windshield sticker will be issued once the application is approved, and each will be mailed to the applicant at the address contained in the application.

(2) The windshield sticker shall be affixed to the inside of the windshield of the vehicle in accordance with the diagram printed on the back of the sticker and in a manner that will not obstruct the vision of the driver. Any attempt to remove the sticker from the windshield will render the sticker void and will require a new permit and sticker.

(3) A replacement sticker for a lost, stolen, or mutilated windshield sticker may be issued, provided that the permittee submits a request on a form approved by the department which shall include a statement, signed by the permittee, affirming that the sticker was lost, stolen, or mutilated. The replacement sticker shall only be valid for the permitted vehicle.

(d) Amendments. An annual permit issued under this section...
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will not be amended except in the case of department error.

(e) Transfer of permit. A permit issued under this section
may only be transferred once during the term of the permit from
one vehicle to another vehicle in the permittee's fleet
provided:

(1) the permitted vehicle is destroyed or otherwise
becomes permanently inoperable, to an extent that it will no
longer be utilized, and the permittee presents proof that the
negotiable title or other qualifying documentation, as
determined by the department, has been surrendered to the
department; or

(2) the title to the permitted vehicle is transferred
to someone other than the permittee, and the permittee presents
proof that the negotiable title or other qualifying
documentation, as determined by the department, has been
transferred from the permittee.

(f) Termination of permit. An annual permit issued under
this section will automatically terminate, and the windshield
sticker must be removed from the vehicle:

(1) on the expiration of the permit;

(2) when the lease of the vehicle expires;

(3) on the sale or other transfer of ownership of the
vehicle for which the permit was issued; or
(4) on the dissolution or termination of the
partnership, corporation, or other legal entity to which the
permit was issued.

(g) Restrictions pertaining to road conditions. Movement of
a permitted vehicle is prohibited when road conditions are
hazardous based upon the judgment of the operator and law
enforcement officials. Law enforcement officials shall make the
final determination regarding whether or not conditions are
hazardous. Conditions that should be considered hazardous
include, but are not limited to:

(1) visibility of less than 2/10 of one mile; or
(2) weather conditions such as wind, rain, ice, sleet, or snow.

(h) Curfew restrictions. The operator of a permitted
vehicle must observe the curfew movement restrictions published
by the department.

(i) Construction or maintenance areas.

(1) The permitted vehicle may not travel through any
state highway construction or maintenance area if prohibited by
the construction restrictions published by the department.
(2) The permittee is responsible for contacting the
appropriate local jurisdiction for construction or maintenance
restrictions on non-state maintained roadways.
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(j) Night movement. Night movement is allowed under this permit, unless prohibited by the curfew movement restrictions published by the department.

(k) Manufacturer's tire load rating. Permits issued under this section do not authorize the vehicle to exceed the manufacturer's tire load rating.
To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Jeremiah Kuntz, Director, Vehicle Titles and Registration Division  
Agenda Item: 10  
Subject: Proposal of Rules under Title 43, Texas Administrative Code,  
Chapter 215, Motor Vehicle Distribution  
Amendments, §215.144  
Chapter 217, Vehicle Titles and Registration  
Amendments, §§217.71, 217.72, 217.73; and New §217.74  
Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders,  
Amendments, §221.72  
(Relating to document retention requirements for users of webDealer, including webSalvage)

RECOMMENDATION

Approval to publish the proposed amendments and proposed new rule in the Texas Register for public comment.

PURPOSE AND EXECUTIVE SUMMARY

Proposed amendments to Chapter 217, Subchapter C, §§217.71, 217.72, and 217.73 rename the subchapter and subsection titles. Proposed amendments also clarify that the purpose of the subchapter is to prescribe the policies and procedures under which the department may make automated equipment for use of RTS available to a county tax assessor-collector and for users who opt to use webDEALER.

Proposed amendments to §217.71(b) add definitions for title application and webDEALER and correct a grammatical error. Proposed amendments to §217.72(d)(2) make a minor wording change.

Proposed amendments also add new §217.74, Access to and Use of webDEALER, which includes requirements for submitting a title application through webDEALER, including a requirement that the user must retain the title document or other ownership evidence pertaining to the transaction for a minimum of four calendar years.

Along with the proposed amendments and new section described above, the department proposes related amendments to §215.144 and §221.72. These proposed amendments relate to record retention requirements for users of webDEALER who are either a GDN holder or a salvage vehicle dealer.

Additional amendments correct a punctuation error and update the punctuation of "nonrepairable" motor vehicles to be consistent with statute by deleting the unnecessary hyphen in §215.144, and add county to tax assessor-collector throughout §217.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed amendments.

BACKGROUND AND DISCUSSION

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the Texas Register on or about December 29, 2017. Comments on the proposed amendments will be accepted until 5:00 pm on January 29, 2018.
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO 43 TAC SECTION 215.144, RECORDS

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 215, Motor Vehicle Distribution, Subchapter E, General Distinguishing Numbers, §215.144, Records.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the Texas Register for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

_________________________________________
Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

_____________________________________
Corrie Thompson, Director
Enforcement Division

Order Number: _______________________ Date Passed: December 7, 2017
Proposed Preamble

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 215, Motor Vehicle Distribution, Subchapter E, General Distinguishing Numbers, §215.144, Records.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments add an exception to the general requirement in §215.144(k) that a license holder may maintain records in electronic format. The exception, proposed §215.144(l), requires a license holder utilizing webDEALER to comply with proposed §217.74 (relating to Access to and Use of webDEALER), which includes a requirement that a physical document be retained at least four calendar years from date of submission. The proposed amendment clarifies that original hard copy titles need not be maintained at the licensed location, but must be made available to the department on request.

Proposed amendments also correct a punctuation error in §215.144(d).

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are

12/07/17 Preamble

Exhibit A
in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments.

Corrie Thompson, Director of the Enforcement Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed amendments.

PUBLIC BENEFIT AND COST

Ms. Thompson has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing or administering the amendment will be security in back-up documentation to support transactions processed through webDEALER. There are no anticipated economic costs for persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not
restrict or limit an owner's right to property that would
otherwise exist in the absence of government action, and so does
not constitute a taking or require a takings impact assessment

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years
the proposed amendments are in effect, no government program
would be created or eliminated. Implementation of the proposed
amendments would not require the creation of new employee
positions or elimination of existing employee positions.
Implementation would not require an increase or decrease in
future legislative appropriations to the department or an
increase or decrease of fees paid to the department.
Additionally, the proposed amendments do not create a new
regulation, or expand, limit, or repeal an existing regulation.
The proposed amendment does not affect the number of individuals
subject to the rule's applicability and will not affect this
state's economy.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments may be submitted to
David D. Duncan, General Counsel, Texas Department of Motor

12/07/17 Preamble

Exhibit A
Texas Department of Motor Vehicles
Chapter 215, Motor Vehicle Distribution

Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on January 29, 2018.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and more specifically, Transportation Code, §501.0041, which authorizes the department to adopt rules to administer Transportation Code, Chapter 501.

CROSS REFERENCE TO STATUTE

Transportation Code, §501.0234.
SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

§215.144. Records.

(a) Purchases and sales records. A dealer must maintain a complete record of all vehicle purchases and sales for a minimum period of 48 months and make the record available for inspection and copying by a representative of the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer must keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle.

(c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13 months must be maintained at the dealer's licensed location. Original titles are not required to be kept at the licensed location, but must be made available to the agency upon reasonable request. A dealer's record for prior time periods may be kept off-site.

(d) Request for records. Within 15 days of receipt of a request sent by mail or electronic document transfer from a representative of the department, a dealer must deliver a copy of the specified records to the address listed in the request.
If a dealer has a concern about the origin of a records request, the dealer may verify that request with the division prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

- the date of the purchase;
- the date of the sale;
- the VIN;
- the name and address of the person selling the vehicle to the dealer;
- the name and address of the person purchasing the vehicle from the dealer;
- the name and address of the consignor if the vehicle is offered for sale by consignment;
- except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a copy of the receipt, titled "Tax Collector's Receipt for Texas Title Application/Registration/Motor Vehicle Tax";
- a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:
  - the title application;
  - the work-up sheet;
  - the front and back of manufacturer's certificate of
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(origin or manufacturer's statement of origin, unless the title is obtained through the electronic title system;

(D) the front and back of the title, unless the title is obtained through the electronic title system;

(E) the factory invoice;

(F) the sales contract;

(G) the retail installment agreement;

(H) the buyer's order;

(I) the bill of sale;

(J) any waiver;

(K) any other agreement between the seller and purchaser; and

(L) Form VTR-136, relating to County of Title Issuance, completed and signed by the buyer;

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for motor vehicles offered for sale by a dealer, and a properly stamped original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for motor vehicles sold by a dealer if the title transaction is entered into the electronic system by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and
(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

(A) title;

(B) manufacturer's statement of origin;

(C) manufacturer's certificate of origin; or

(D) other evidence of ownership.

(2) A dealer must apply in the name of the purchaser of a vehicle for the registration of the vehicle with the appropriate county tax assessor-collector as selected by the purchaser.

(3) To comply with Transportation Code, §501.0234(f), a registration is considered filed within a reasonable time if the registration is filed within:

(A) 20 working days of the date of sale of the vehicle for a vehicle registered in Texas; or

(B) 45 days of the date of sale of the vehicle for a dealer-financed transaction involving a vehicle that is
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registered in Texas.

(4) The dealer is required to provide to the purchaser the receipt for the registration application.

(5) The dealer is required to maintain a copy of the receipt for the registration application in the dealer's sales file.

(g) Out of state sales. For a sales transaction involving a vehicle to be transferred out of state, the dealer must:

(1) within 20 working days of the date of sale, either file the application for certificate of title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

(2) maintain in the dealer's record at the dealer's licensed location a photocopy of the completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public Accounts.

(h) Consignment sales. A dealer offering a vehicle for sale by consignment shall have a written consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle, take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of the purchaser for transfer of title and registration, if the vehicle is to be registered, with the appropriate county tax assessor-
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1 collector as selected by the purchaser. The dealer must, for a
2 minimum of 48 months, maintain a record of each vehicle offered
3 for sale by consignment, including the VIN and the name of the
4 owner of the vehicle offered for sale by consignment.
5
6 (i) Public motor vehicle auctions.
7
8 (1) A GDN holder that acts as a public motor vehicle
9 auction must comply with subsection (h) of this section.
10
11 (2) A public motor vehicle auction:
12
13 (A) is not required to take assignment of title of a
14 vehicle it offers for sale;
15
16 (B) must take assignment of title of a vehicle from a
17 consignor prior to making application for title on behalf of the
18 buyer; and
19
20 (C) must make application for title on behalf of the
21 purchaser and remit motor vehicle sales tax within 20 working
22 days of the sale of the vehicle.
23
24 (3) A GDN holder may not sell another GDN holder's
25 vehicle at a public motor vehicle auction.
26
27 (j) Wholesale motor vehicle auction records. A wholesale
28 motor vehicle auction license holder must maintain, for a
29 minimum of 48 months, a complete record of each vehicle purchase
30 and sale occurring through the wholesale motor vehicle auction.
31
32 The wholesale motor vehicle auction license holder shall make
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(1) A wholesale motor vehicle auction license holder must maintain at the licensed location a record reflecting each purchase and sale for at least the preceding 24 months. Records for prior time periods may be kept off-site.

(2) Within 15 days of receipt of a request sent by mail or by electronic document transfer from a representative of the department, a wholesale motor vehicle auction license holder must deliver a copy of the specified records to the address listed in the request.

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale shall, at a minimum, contain:

(A) the date of sale;
(B) the VIN;
(C) the name and address of the person selling the vehicle;
(D) the name and address of the person purchasing the vehicle;
(E) the dealer license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;
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(F) all information necessary to comply with the Truth in Mileage Act;

(G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by a representative of the department, except as provided by subsection (l) of this section. [A license holder does not have to maintain a copy of a vehicle title if the title is submitted through the electronic title system. Original hard copy titles are not required to be kept at the licensed location, but must be made available to the department upon request.]

12/07/17 Amendments

Exhibit B
(1) Use of webDEALER. A license holder utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems), must comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed location, but must be made available to the department upon request.
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO 43 TAC SECTIONS 217.71-217.73, AND NEW SECTION 217.74, RELATING TO REGISTRATION AND TITLE SYSTEM

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 217, Vehicle Titles and Registration, Subchapter C, Registration and Title System, §217.71, Automated Vehicle Registration and Title System, §217.72, Automated Equipment, and §217.73, Agreement; and add new §217.74, Access to and Use of webDEALER.

The preamble, proposed amendments, and new section are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rules are authorized for publication in the Texas Register for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

_________________________________________
Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

_________________________________________
Jeremiah Kuntz, Director
Vehicle Titles and Registration

Order Number: ________________________ Date Passed: December 7, 2017
The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter C, Registration and Title System, §217.71, Automated Vehicle Registration and Title System; §217.72, Automated Equipment; and §217.73, Agreement. The department also proposes new §217.74, Access to and Use of webDEALER.

EXPLANATION OF PROPOSED AMENDMENTS AND NEW SECTION

Proposed amendments to Chapter 217, Subchapter C, amend the subchapter heading by changing “System” to “Systems.” The proposed amendments will make clear that the subchapter applies to both the Registration and Title System (RTS) and webDEALER.

Proposed amendments to §217.71 rename the section Automated and Web-Based Vehicle Registration and Title Systems. Proposed amendments to §217.71(a)(2) clarify the purpose of the subchapter, which is to prescribe the policies and procedures under which the department may make automated equipment for use of RTS available to a county tax assessor-collector and for users who opt to use webDEALER.

Proposed amendments to §217.71(b) add a definition for title
application and webDEALER and correct a grammatical error.

Proposed amendments to §217.72 rename the section Automated Equipment for the Registration and Title System and make a minor wording change in subsection (d)(2), clarifying that automated equipment may be located at sites other than the county tax assessor-collector's office at the discretion, as opposed to election, of a county tax assessor-collector.

Proposed amendments to §217.73 rename the section Agreement Related to Automated Equipment.

Proposed new §217.74, Access to and Use of webDEALER, and provide that at the discretion of a county tax assessor-collector, the county may request access to, and accept title applications submitted through, webDEALER. The proposed new section provides that a person who wishes to become a user of webDEALER must receive authorization from each entity to whom they submit title applications, that a deputy appointed by a county tax assessor-collector may be authorized to use webDEALER, and that a person authorized to use webDEALER may have their authorization revoked, rescinded, or cancelled at any time at the discretion of a county tax assessor-collector or the
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Finally, the proposed new section establishes the requirements for submitting a title application through webDEALER, including a requirement that the user must retain the title document or other ownership evidence pertaining to the transaction for a minimum of four calendar years.

Finally, proposed amendments add county to tax assessor-collector throughout.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments and new section as proposed are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments and new section.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed amendments and new section.

PUBLIC BENEFIT AND COST

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Mr. Kuntz has also determined that for each year of the first five years the amendments and new section are in effect, the public benefit anticipated as a result of enforcing or administering the amendments and new section will be consistent use of the systems and decreased transaction processing time. There are no significant anticipated economic costs for persons required to comply with the proposed amendments and new section. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments and new section are in effect, no government program would be created or eliminated. Implementation of the proposed amendments and new section would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. Additionally, the proposed amendments and new section do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendments and new section does not affect the number of
individuals subject to the rule's applicability and will not affect this state's economy.

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

SUBMITTAL OF COMMENTS
Written comments on the proposed amendments and new section may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on January 29, 2018.

STATUTORY AUTHORITY
The amendments and new section are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and
the duties of the department; and more specifically,
Transportation Code, §501.0041, which authorizes the department
to adopt rules to administer Transportation Code, Chapters 501;
and §502.0021, which authorizes the department to adopt rules to
administer Transportation Code, Chapter 502.

CROSS REFERENCE TO STATUTE
Transportation Code, §§501.022, 501.023, and 501.0234.
§217.71. Automated and Web-Based Vehicle Registration and Title Systems.

(a) Purpose.

(1) Transportation Code, Chapters 501 and 502, charge the department with the responsibility for issuing titles and registering vehicles operating on the roads, streets, and highways of the state.

(2) To provide a more efficient, cost-effective system for registering and titling vehicles, submitting title and registration records to county tax assessor-collectors and the department, maintaining records, improving inventory control of accountable items, and collecting and reporting of applicable fees consistent with those statutes, the department has designed:

(A) an automated system known as the registration and title system. This system expedites registration and titling processes, provides a superior level of customer service to the owners and operators of vehicles, and facilitates availability of the department's motor vehicle records for official law enforcement needs. Automated equipment compatible with the registration and title system is indispensable to the operational integrity of the system; and
(B) a web-based system known as webDEALER. This system expedites registration and titling processes, provides a superior level of customer service to the owners and operators of vehicles, and facilitates availability of the department's motor vehicle records for official law enforcement needs.

(3) This subchapter prescribes the policies and procedures under which the department may make the automated [that] equipment available to a county tax assessor-collector as designated agent of the state for processing title and vehicle registration documents and the policies and procedures for users who opt to use webDEALER.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Automated equipment--Equipment associated with the operation of the registration and titling system, including, but not limited to, microcomputers, printers, software, and cables.

(2) Department--The Texas Department of Motor Vehicles.

(3) Executive director--The executive director of the Texas Department of Motor Vehicles.

(4) Fair share allocation--The amount of automated equipment determined by the department to be effective at providing a reasonable level of service to the public. This
Texas Department of Motor Vehicles
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amount will be determined on transaction volumes, number of county substations, and other factors relating to a particular county's need.

(5) RTS--The department's registration and title system.

(6) Title application--A form as defined by §217.2 of this title (relating to Definitions), and includes the electronic process provided by the department that captures the information required by the department to create a motor vehicle title record.

(7) webDEALER--The department's web-based titling and registration system used to submit title applications to county tax assessor-collectors and the department. This term includes any other web-based system which facilitates electronic submission of title applications, including webSALVAGE and webLIEN.

§217.72. Automated Equipment for the Registration and Title System.

(a) Initial allocation of automated equipment. When requested by resolution of the commissioners court of a county, and subject to the terms and conditions specified in subsection (d) of this section, the department will:

(1) make a fair share allocation of automated equipment
available to that county to be used by its county tax assessor-collector in implementing and operating RTS;

(2) provide the county tax assessor-collector with computer programs and personnel training; and

(3) furnish official automated forms and, for the initial start-up of the system, automated equipment supplies.

(b) Additional automated equipment. At the request of the county tax assessor-collector of a county, subject to the terms and conditions specified in subsection (d) of this section, and for an amount of consideration that will cover the department's costs, the department will enter into an agreement with the commissioners court of that county under which the department will lease automated equipment to that county in addition to the fair share allocation for that county. Leased equipment will remain the property of the department and will be used primarily for RTS.

(c) Automated Registration and Titling System fee. The department will collect an additional fee of $.50 for each registration for the purposes set forth in Transportation Code, §502.356. The fee shall be deposited into a subaccount in the Texas Department of Motor Vehicles fund.

(d) Conditions of availability.

(1) A county must:
(A) meet electrical power supply criteria specified by the department prior to installation of the automated equipment;

(B) bear all costs incurred for 24-hour per day electrical power consumption for operation of the equipment;

(C) provide for the physical security and protection of the equipment and shall indemnify the department for any loss or damages to the equipment while in the custody and control of the county;

(D) provide the department's maintenance personnel access to the equipment during business hours of the involved county office; and

(E) notify the department not less than 30 working days prior to relocating or adding automation equipment, or of the closing or remodeling of an office, that may affect automated equipment operations.

(2) At the discretion [election] of a county tax assessor-collector, automated equipment may be located at sites other than those of the county tax assessor-collector, including privately owned, for-profit enterprises performing registration and title functions for the county tax office. With regard to equipment located at sites other than those of the county tax assessor-collector, the department's responsibility will be limited to ensuring that the equipment remains operational. The
Texas Department of Motor Vehicles
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1 county will be responsible for all training, user support,
2 forms, supplies, user policy and procedures, and other support
3 associated with this equipment.
4
5 (3) Automated equipment made available to a county
6 pursuant to this section shall remain the property of the
7 department and must be used by the county tax assessor-collector
8 for operation of RTS; provided, however, that while not in RTS
9 usage, the equipment may be utilized for another statutory duty
10 or function of that office.

§217.73. Agreement Related to Automated Equipment.

(a) Prior to receiving automated equipment pursuant to
§217.72 of this title (relating to Automated Equipment for the
Registration and Title System), a county must enter a written
agreement with the department.

(b) The agreement shall:

(1) be in a form prescribed by the department;

(2) include at a minimum each of the terms and conditions
specified in §217.72;

(3) be executed on behalf of the department by the
executive director or the director's designee not below the
level of Director of the Vehicle Titles and Registration
Division; and

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(4) be approved by resolution or order of the commissioners court and executed on behalf of the county by the county judge and the county tax assessor-collector.

§217.74. Access to and Use of webDEALER.
(a) At the discretion of a county tax assessor-collector, the county may request access to, and accept title applications submitted through, webDEALER. A county tax assessor-collector must utilize webDEALER in order to accept a title application in the county as provided by subsection (b) of this section.

(b) A person who wishes to become a user of webDEALER must contact each entity to whom they submit title applications for authorization to utilize webDEALER. A user must receive authorization from each entity, including each county tax assessor-collector, to whom the user submits title applications.

Title applications submitted to the department require the authorization by the department.

(c) A county tax assessor-collector may authorize a deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies) to utilize webDEALER.

(d) A person authorized under subsection (b) of this section may have their authorization to use webDEALER revoked,
rescinded, or cancelled at any time, with no notice, at the
discretion of a county tax assessor-collector or the department.

(e) When submitting a title application through webDEALER, a user must:

(1) stamp the word "SURRENDERED" across the front, face
and the next open assignment or reassignment space of any secure
title document or other acceptable ownership evidence as
determined by the department in:

(A) arial font;

(B) black ink; and

(C) a size of 1/4" height x 2 1/4" length;

(2) retain the physical document described in subsection
(e)(1) of this section for a minimum of four calendar years from
the date of submitting a scanned copy of the stamped title
document using the webDEALER system; and

(3) submit any documents required to be submitted with
the title application with a scanned resolution of at least 200
dots per inch (DPI).
The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders, Subchapter D, Records, §221.72, Record Retention.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the Texas Register for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

________________________________________
Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles
Texas Department of Motor Vehicles  
Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders

Proposed Preamble

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders, Subchapter D, Records, §221.72, Record Retention.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments to §221.72 add new §221.72(c) requiring salvage vehicle dealers who use the department's web-based title application known as webDEALER to comply with proposed §217.74 of this title (relating to Access to and Use of webDEALER), which includes a requirement that a physical document be retained at least four calendar years from date of submission.

The proposed amendment clarifies that original hard copy titles need not be maintained at the licensed location, but must be made available to the department on request. Simultaneous with these proposed amendments, the department is also proposing related amendments in Chapter 217, Subchapter C, Registration and Title Systems. One proposed amendment is a proposed definition of webDEALER, which includes any other web-based system which facilitates electronic submission of title applications, including webSALVAGE.
Texas Department of Motor Vehicles
Chapter 221, Salvage Vehicle Dealers, Salvage Pool
Operators and Salvage Vehicle Rebuilders

1

2 Other amendments correct the punctuation of "nonrepairable"
3 motor vehicles to be consistent with statute by deleting the
4 unnecessary hyphen.
5
6 FISCAL NOTE
7 Linda M. Flores, Chief Financial Officer, has determined that
8 for each of the first five years the amendments as proposed are
9 in effect, there will be no fiscal implications for state or
10 local governments as a result of enforcing or administering the
11 proposed amendments.
12
13 Corrie Thompson, Director of the Enforcement Division, has
14 determined that there will be no significant impact on local
15 economies or overall employment as a result of enforcing or
16 administering the proposed amendments.
17
18 PUBLIC BENEFIT AND COST
19 Ms. Thompson has also determined that for each year of the first
20 five years the amendments are in effect, the public benefit
21 anticipated as a result of enforcing or administering the
22 amendment will be security in back-up documentation to support
transactions processed through webDEALER. In addition, since users will no longer be required to submit the physical document to the department, transaction processing time will be improved. There are no significant anticipated economic costs for persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions.
Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. Additionally, the proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendment does not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on January 29, 2018.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and more specifically, Transportation Code,
§501.0041, which authorizes the department to adopt rules to administer Transportation Code, Chapter 501.

CROSS REFERENCE TO STATUTE

SUBCHAPTER D. RECORDS

§221.72. Record Retention.

(a) A salvage vehicle dealer must retain at the licensed business location, or have electronic access at the licensed business location of records stored electronically, a complete record of all purchases and sales of salvage motor vehicles and nonrepairable motor vehicles for a minimum period of 36 months from the date of the transaction.

(b) A salvage vehicle dealer shall maintain at the licensed business location a record of each vehicle that is scrapped or destroyed, and a photocopy of the front and back of all salvage vehicle titles and nonrepairable vehicle titles, or a photocopy or electronic copy of all salvage records of title, and, if applicable, a photocopy of any out-of-state evidence of ownership surrendered to the department, until the fourth anniversary of the date the report was acknowledged as received by the department.

(c) A salvage vehicle dealer utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems), must comply with
§217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed location, but must be made available to the department upon request.
To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Jeremiah Kunz, Director, Vehicle Titles and Registration Division  
Agenda Item: 11-1  
Subject: Proposal of Rule under Title 43, Texas Administrative Code  
Chapter 217, Vehicle Titles and Registration  
Amendments, §217.2  
(Relating to clarification of definitions of All-Terrain Vehicle (ATV) and Recreational Off-highway Vehicle (ROV))

RECOMMENDATION

Approval to publish the proposed amendments in the Texas Register for public comment.

PURPOSE AND EXECUTIVE SUMMARY

Proposed amendments add the definitions for an all-terrain vehicle (ATV) and a recreational off-highway vehicle (ROV) by reference to Transportation Code, §502.001. The amendments specify that an ATV and ROV are designed primarily for recreational use. Other amendments rearrange the definitions to maintain alphabetical order and paragraphs are renumbered accordingly.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed amendments.

BACKGROUND AND DISCUSSION

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the Texas Register on or about December 15, 2017. Comments on the proposed amendments will be accepted until 5:00 p.m. on January 29, 2018.
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO 43 TAC SECTION 217.2, DEFINITIONS

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 217, Vehicle Titles and Registration, Subchapter A, Motor Vehicle Titles, §217.2, Definitions.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the Texas Register for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

_________________________________________
Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles
Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

Proposed Preamble

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter A, Motor Vehicle Titles, §217.2, Definitions.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments to §217.2 add the definitions for an all-terrain vehicle (ATV) and a recreational off-highway vehicle (ROV) by reference to Transportation Code, §502.001. The amendments specify that an ATV and ROV are designed primarily for recreational use. Other amendments correct punctuation and rearrange the definitions to maintain alphabetical order. The paragraphs are renumbered accordingly.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that there will be no impact on local
Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 economies or overall employment as a result of enforcing or
2 administering the proposed amendments.

3

4 PUBLIC BENEFIT AND COST
5 Mr. Kuntz has also determined that for each year of the first
6 five years the amendments are in effect, the public benefit
7 anticipated as a result of enforcing or administering the
8 amendment will be greater clarity in the applicability of title
9 requirements with respect to ATVs and ROVs. There are no
10 anticipated economic costs for persons required to comply with
11 the proposed amendments. There will be no adverse economic
12 effect on small businesses, micro-businesses, or rural
13 communities.

14

15 TAKINGS IMPACT ASSESSMENT
16 The department has determined that this proposal affects no
17 private real property interests and that this proposal does not
18 restrict or limit an owner's right to property that would
19 otherwise exist in the absence of government action, and so does
20 not constitute a taking or require a takings impact assessment
22
23 GOVERNMENT GROWTH IMPACT STATEMENT
Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

The department has determined that during the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. Additionally, the proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendment does not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

SUBMITTAL OF COMMENTS
Written comments on the proposed amendments may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on January 29, 2018.

STATUTORY AUTHORITY
The amendments are proposed under Transportation Code,
Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

§1002.001, which provides the board of the Texas Department of
Motor Vehicles with the authority to adopt rules that are
necessary and appropriate to implement the powers and the duties
of the department; and more specifically, Transportation Code,
§501.0041, which provides the department may adopt rules to
administer Chapter 501.

CROSS REFERENCE TO STATUTE

Transportation Code, §§501.002, 502.001 and 663.001.
SUBCHAPTER A. MOTOR VEHICLE TITLES

§217.2 Definitions.

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

(1) Alias--The name of a vehicle owner reflected on a title, when the name on the title is different from the name of the legal owner of the vehicle.

(2) Alias title--A title document issued by the department for a vehicle that is used by an exempt law enforcement agency in covert criminal investigations.

(3) All-terrain vehicle or ATV--A motor vehicle as defined by Transportation Code, §502.001, and designed primarily for recreational use. The term does not include a "utility vehicle" as defined by Transportation Code, §663.001, or a self-propelled, motor-driven vehicle designed or marketed by the manufacturer primarily for non-recreational uses.

Bond release letter--Written notification from the United States Department of Transportation authorizing United States Customs to release the bond posted for a motor vehicle imported into the United States to ensure compliance with federal motor vehicle safety standards.

Title application--A form prescribed by the division.
director that reflects the information required by the department to create a motor vehicle title record.

(5) Date of sale--The date of the transfer of possession of a specific vehicle from a seller to a purchaser.

(6) Division director--The director of the department's Vehicle Titles and Registration Division.

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

(8) Exempt agency--A governmental body exempt by law from paying title or registration fees for motor vehicles.


(10) House moving dolly--An apparatus consisting of metal beams and axles used to move houses. House moving dollies, by nature of their construction and use, actually form large semitrailers.

(11) Identification certificate--A form issued by an
inspector of an authorized safety inspection station in accordance with Transportation Code, Chapter 548.

(12) Implements of husbandry--Farm implements, machinery, and tools used in tilling the soil, including self-propelled machinery specifically designed or especially adapted for applying plant food materials or agricultural chemicals. This term does not include an implement unless it is designed or adapted for the sole purpose of transporting farm materials or chemicals. This term does not include any passenger car or truck. This term does include a towed vehicle that transports to the field and spreads fertilizer or agricultural chemicals; or a motor vehicle designed and adapted to deliver feed to livestock.

(13) Manufacturer's certificate of origin--A form prescribed by the department showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser, whether importer, distributor, dealer, or owner, and when presented with an application for title, showing, on appropriate forms prescribed by the department, each subsequent transfer between distributor and dealer, dealer and dealer, and dealer and owner.

(14) Moped--A motor-driven cycle whose attainable speed is not more than 30 miles per hour and that is equipped with a motor that produces not more than two-brake
horsepower. If an internal combustion engine is used, the piston
displacement may not exceed 50 cubic centimeters and the power
drive system may not require the operator to shift gears.

(15) Motor vehicle importation form--A declaration form
prescribed by the United States Department of Transportation and
certified by United States Customs that relates to any motor
vehicle being brought into the United States and the motor
vehicle's compliance with federal motor vehicle safety
standards.

(16) Non United States standard motor vehicle--A motor
vehicle not manufactured in compliance with federal motor
vehicle safety standards.

(17) Obligor--An individual who is required to make
payments under the terms of a support order for a child.

(18) Person--An individual, firm, corporation, company,
partnership, or other entity.

(19) Recreational off-highway vehicle or ROV--A motor
vehicle as defined by Transportation Code, §502.001, and
designed primarily for recreational use. The term does not
include a "utility vehicle" as defined by Transportation Code,
§663.001, or a self-propelled, motor-driven vehicle designed or
marketed by the manufacturer primarily for non-recreational
uses.
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(20) [(19)] Safety certification label--A label placed on a motor vehicle by a manufacturer certifying that the motor vehicle complies with all federal motor vehicle safety standards.

(21) [(20)] Statement of fact--A written declaration that supports an application for a title, that is executed by an involved party to a transaction involving a motor vehicle, and that clarifies an error made on a title or other negotiable evidence of ownership. An involved party is the seller or an agent of the seller involved in the motor vehicle transaction. When a written declaration is necessary to correct an odometer disclosure error, the signatures of both the seller and buyer when the error occurred are required.

(22) Title application--A form prescribed by the division director that reflects the information required by the department to create a motor vehicle title record.

(23) [(21)] Verifiable proof--Additional documentation required of a vehicle owner, lienholder, or agent executing an application for a certified copy of a title.

(A) Individual applicant. If the applicant is an individual, verifiable proof consists of a copy of a current photo identification issued by this state or by the United States or foreign passport.
(B) Business applicant. If the applicant is a business, verifiable proof consists of an original or copy of a letter of signature authority on letterhead, a business card, or employee identification and a copy of current photo identification issued by this state or by the United States or foreign passport.

(C) Power of attorney. If the applicant is a person in whose favor a power of attorney has been executed by the owner or lienholder, verifiable proof consists of the documentation required under subparagraph (A) or (B) of this paragraph both for the owner or lienholder and for the person in whose favor the power of attorney is executed.
RECOMMENDATION

Approval to publish the proposed amendments in the Texas Register for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments is to implement HB 1790, which eliminates the requirement that the department conduct a hearing to determine whether the revocation of a disabled parking placard should continue or be rescinded and adds that a person from whom a placard has been seized can apply for a new placard by submitting an application under Transportation Code, §681.003.

FINANCIAL IMPACT

There will be no significant fiscal implications related to the proposed amendments.

BACKGROUND AND DISCUSSION

The proposed amendments:

- delete the requirement for a hearing to determine whether the revocation of a disabled parking placard should continue or be rescinded;
- add and clarify language that a person can apply for a new placard by submitting an application to the county tax assessor-collector of the county in which the person with the disability resides or in which the person is seeking medical treatment if the person is not a resident of this state; 
- delete the requirement that a law enforcement officer who has seized and destroyed a placard provide the department with a notice that the placard was destroyed, a copy of the citation issued, and a brief summary of events giving rise to the citation; and
- require a law enforcement officer who seizes and destroys a placard to notify the department by email.

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the Texas Register on or about December 29, 2017. Comments on the proposed amendments will be accepted until 5:00 p.m. on January 29, 2017.
BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO 43 TAC SECTION 217.41, DISABLED PERSON LICENSE PLATES AND IDENTIFICATION PLACARDS

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.41, Disabled Person License Plates and Identification Placards.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the Texas Register for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

________________________________________
Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

________________________________________
Jeremiah Kuntz, Director
Vehicle Titles and Registration Division

Order Number: __________________________ Date Passed: December 7, 2017
Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

Proposed Preamble

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.41, Disabled Person License Plates and Identification Placards.

EXPLANATION OF PROPOSED AMENDMENTS

House Bill (HB) 1790, 85th Legislature, Regular Session, 2017, amended Transportation Code, §681.012(b), eliminating the requirement that the department conduct a hearing to determine whether the revocation of a disabled parking placard should continue or be rescinded. The amended statute allows a person from whom a placard has been seized to apply for a new application by submitting an application under Transportation Code, §681.003.

Amendments are necessary to implement the changes made by HB 1790. Specifically, amendments are proposed to §217.41 to eliminate the requirement for a hearing and clarify that a person may apply for a new placard by submitting an application to the county tax assessor-collector of the county in which the person with the disability resides or is seeking medical treatment if the person is not a resident of this state.
Amendments are also proposed to delete the requirement that a law enforcement officer who has seized and destroyed a placard must provide the department with a notice that the placard was destroyed, a copy of the citation issued, and a brief summary of events giving rise to the citation. Instead, the proposed amendment would require a law enforcement officer who seizes and destroys a placard to notify the department by email.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be no significant fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments.

Jeremiah Kuntz, Director of the Title and Registration Division, has determined that there will be no impact on local economies or overall employment as a result of enforcing or administering the proposed amendments.

PUBLIC BENEFIT AND COST

Mr. Kuntz has also determined that for each year of the first five years the amendments are in effect, the public benefit
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anticipated as a result of enforcing or administering the amendments will be a simplified process for both law enforcement and persons seeking a replacement placard. There are no anticipated economic costs for persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in
Texas Department of Motor Vehicles
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future legislative appropriations to the department or an
increase or decrease of fees paid to the department.
Additionally, the proposed amendments do not create a new
regulation, or expand, limit, or repeal an existing regulation.
The proposed amendment does not affect the number of individuals
subject to the rule's applicability and will not affect this
state's economy.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments may be submitted to
David D. Duncan, General Counsel, Texas Department of Motor
Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email
to rules@txdmv.gov. The deadline for receipt of comments is
5:00 p.m. on January 29, 2018.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code,
§1002.001, which provides the board of the Texas Department of
Motor Vehicles (board) with the authority to adopt rules that
are necessary and appropriate to implement the powers and the
duties of the department under the Transportation Code; and more
specifically, Transportation Code, §504.0011, which authorizes
the board to adopt rules to implement and administer
Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 Transportation Code, Chapter 504; and Transportation Code, §681.002, which requires the department to provide for the issuance of a disabled parking placard to a person with a disability.

CROSS REFERENCE TO STATUTE

7 Transportation Code, Chapters 504 and 681.
SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

§217.41. Disabled Person License Plates and Identification Placards.

(a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the responsibility for issuing specially designed license plates and identification placards for disabled persons. For the department to perform these duties efficiently and effectively, this section prescribes the policies and procedures for the application, issuance, and renewal of Disabled Person license plates and placards.

(b) Issuance.

(1) Disabled Person license plates.

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

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

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

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

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

(d) Replacement.

(1) License plates. If Disabled Person license plates are lost, stolen, or mutilated, the owner may obtain replacement license plates by applying with a county tax assessor-collector.

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

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

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

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

(1) License plates.

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

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

(i) Plate ownership verification may include:

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

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

(III) the owner's current registration receipt.

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

(2) Identification placards.

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

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

(f) Seizure and revocation of placard.

(1) If a law enforcement officer seizes and destroys a placard under Transportation Code, §681.012, the officer shall notify the department by email. [not later than the fifth day after the date of the seizure, the officer shall]
Texas Department of Motor Vehicles  
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1 destroy the placard and provide the department with the
2 following items:
3
4   [(A) a notice that the placard was destroyed;]  
5   [(B) a copy of the citation issued under Transportation
6   Code, §681.011(a) or (d); and]
7   [(C) a brief summary of the events giving rise to the
8   citation.]  

9 (2) The person to whom the seized placard was issued may
10 apply for a new placard by submitting an application to the  
11 county tax assessor-collector of the county in which the person
12 with the disability resides or in which the applicant is seeking
13 medical treatment if the applicant is not a resident of this
14 state. [petition for a hearing under Chapter 206, Subchapter D
15 of this title (relating to Procedures in Contested Cases).]  
16   [(A) If the department has not received the items
17 specified in paragraph (1) of this subsection, the department
18 will advise the petitioner to obtain a replacement placard from
19 the county tax assessor-collector.]  
20   [(B) If the department determines from written evidence
21 that the citation was dismissed or withdrawn, the department
22 will advise the petitioner to obtain a replacement placard from
23 the county tax assessor-collector.]  
24   [(C) If the department has received the items specified
in paragraph (1) of this subsection and if the citation has not been dismissed or withdrawn, the department may negotiate a settlement providing for issuance of a replacement placard, including an agreement by the petitioner to abide by all laws regarding placards. If a settlement is not reached, the department will refer the matter to the State Office of Administrative Hearings for a hearing.]
To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Jeremiah Kuntz, Director, Vehicle Titles and Registration Division  
Subject: Proposal of Rules under Title 43, Texas Administrative Code, Chapter 217, Vehicle Titles and Registration Amendments, §217.123 and §217.124 (Relating to charges for motor vehicle records; waiving fees for governmental entities)

RECOMMENDATION

Approval to publish the proposed amendments in the Texas Register for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments is to clarify procedures for and access to motor vehicle records and associated cost of records.

FINANCIAL IMPACT

There will be positive fiscal implications for state or local governments and toll project entities as a result of enforcing or administering the proposed amendments. Texas state and local governmental entities and toll project entities that regularly access motor vehicle record information will have access to certain records at no cost resulting in savings for those entities.

BACKGROUND AND DISCUSSION

The proposed amendments include:

- **§217.123** - adding a copy of law enforcement credentials to the list of identification documents needed in order to receive records; expanding the scope of public entities that are exempt from certain fees to include all Texas governmental entities and toll project entities, and adding subsection (e) to address deposits and balances; and

- **§217.124** - providing law enforcement access to certain records at no cost. In addition, deposit, minimum balance and fee information has been reorganized and simplified to better inform department customers. The amendments to §217.124 add subsection (f) to address reciprocity agreements.

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the Texas Register on or about December 29, 2017. Comments on the proposed amendments will be accepted until 5:00 p.m. on January 29, 2018.
## Motor Vehicle Data Services - 217.124 Rule Edits

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*TxDMV currently offers subscriptions for this data, but they are currently not in rule.

**TxDMV currently does NOT have a subscription/contract or fees related to this data/file, and it is currently not in rule.

NOTE: Deposits for weekly subscriptions are weekly cost x 13 weeks.
RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO 
43 TAC SECTIONS 217.123 AND 217.124 RELATING TO 
MOTOR VEHICLE RECORD INFORMATION

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to 
amend Chapter 217, Vehicle Titles and Registration, Subchapter F, Motor Vehicle Record 
Information, §217.123, Access to Motor Vehicle Records; and §217.124, Cost of Motor Vehicle 
Records.

The preamble and the proposed amendments are attached to this resolution as Exhibits A- 
B, and are incorporated by reference as though set forth verbatim in this resolution, except that 
they are subject to technical corrections and revisions, approved by the General Counsel, 
necessary for compliance with state or federal law or for acceptance by the Secretary of State for 
filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the board that the attached rules are authorized for 
publication in the Texas Register for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions 
authorized in this order pursuant to the requirements of the Administrative Procedure Act, 

__________________________________________
Raymond Palacios, Jr., Chairman 
Board of the Texas Department of Motor Vehicles

Recommended by:

__________________________________________
Jeremiah Kuntz, Director 
Vehicle Titles and Registration Division

Order Number: ____________________________ Date Passed: December 7, 2017
Proposed Preamble


EXPLANATION OF PROPOSED AMENDMENTS

Amendments are proposed to §217.123 and §217.124 to clarify procedures for and access to motor vehicle records and associated cost of records.

The changes to §217.123 add a requirement that law enforcement officers seeking to access personal information provide a copy of current law enforcement credentials. The changes expand the scope of public entities that are exempt from certain fees to include all Texas governmental entities and Texas toll project entities. Also, amendments throughout §217.123 change "agency" to "Texas governmental entity" and renumber paragraphs as necessary.

The amendments to §217.124 provide for law enforcement access to certain records at no cost. In addition, deposit, minimum
balance and fee information has been reorganized and simplified to better inform department customers. The amendments to §217.124 add a new subsection (f) to address department reciprocity agreements with other governmental entities for records access.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be minor positive fiscal implications for state or local governments and toll project entities as a result of enforcing or administering the proposed amendments. Texas state and local governmental entities and toll entities that regularly access motor vehicle record information will have access to certain records at no cost resulting in savings for those entities.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that there will be no impact on local economies or overall employment as a result of enforcing or administering the proposed amendments.

PUBLIC BENEFIT AND COST
Mr. Kuntz has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be to clarify who has access to motor vehicle records and the associated costs for copies of the records. There are no anticipated economic costs for persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, or micro-businesses, or rural communities.

TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee
positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. Additionally, the proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

SUBMITTAL OF COMMENTS
Written comments on the proposed amendments may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on January 29, 2018.

STATUTORY AUTHORITY
The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; and more
specifically, Transportation Code, §730.014, which provides that
the department may adopt rules to implement and administer

CROSS REFERENCE TO STATUTE

Government Code, §552.130; Transportation Code, Chapter 730; and
18 U.S.C. §2721 et seq.
SUBCHAPTER F. MOTOR VEHICLE RECORD INFORMATION


(a) Request for records. A person seeking motor vehicle record information shall submit a written request on the form required by the department. Information will be released in accordance with Title 18 U.S.C. §2721 et seq., Transportation Code, Chapter 730, and Government Code, §552.130. A completed and properly executed form must include, at a minimum:

1. the name and address of the requestor;
2. the Texas license number, title or document number, or vehicle identification number of the motor vehicle about which information is requested;
3. a photocopy of the requestor's identification;
4. a statement that the requested information may only be released if the requestor is the subject of the record, if the requestor has written authorization for release from the subject of the record, or if the intended use is for a permitted use as indicated on the form;
5. a certification that the statements made on the form are true and correct; and
6. the signature of the requestor.

(b) Identification required. A person may not apply for receipt of personal information unless the person presents
current photo identification containing a unique identification number. The identification document must be a:

(1) driver's license or state identification certificate issued by a state or territory of the United States;
(2) United States or foreign passport;
(3) United States military identification card;
(4) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document;
(5) concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;
(6) copy of current law enforcement credentials if the requestor is a law enforcement officer.

(c) Electronic access. The department may make motor vehicle record information available under the terms of a written service agreement.

(1) Agreement with business or individuals. The written service agreement with a business or individual must contain:

(A) the specified purpose of the agreement;
(B) an adjustable account, if applicable, in which an initial deposit and minimum balance is maintained in
Texas Department of Motor Vehicles
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1 accordance with §217.124 of this title (relating to Cost of
2 Motor Vehicle Records);[the amount of:]
3 [(i) $200 for an on-line access account; or]
4 [(ii) $1,000 for a prepaid account for batch
5 purchase of motor vehicle record information;]
6 (C) termination and default provisions;
7 [(D) service hours for access to motor vehicle
8 records for on-line access;]
9 (D)[(E)] the contractor's signature;
10 (E)[(F)] a statement that the use of motor
11 vehicle record information obtained by virtue of a service
12 agreement is conditional upon its being used:
13 (i) in accordance with 18 U.S.C. §2721 et
14 seq. and Transportation Code, Chapter 730; and
15 (ii) only for the purposes defined in the
16 agreement; and
17 (F)[(G)] the statements required by subsection
18 (a) of this section.
19 (2) Agreements with Texas governmental
20 entities[agencies].
21 (A) The written service agreement with a Texas
22 governmental entity[an agency] must contain:
23 (i) the specified purpose of the agreement;
Texas Department of Motor Vehicles  
Chapter 217, Vehicle Titles and Registration  

[(ii) method of payment;]  
[(iii) notification regarding the charges;]  

(ii)[(iv)] a statement that the use of motor vehicle record information obtained by virtue of a service agreement is conditional upon its being used in accordance with 18 U.S.C. §2721 et seq. and Transportation Code, Chapter 730, and only for the purposes defined in the agreement;  

(iii)[(v)] the statements required by subsection (a) of this section;  

(iv)[(vi)] the signature of an authorized official; and  

(v)[(vii)] an attached statement citing the entity's[agency's] authority to obtain social security number information, if applicable.  

(B) Texas governmental entities, as defined in Government Code, §2252.001, and including the Texas Law Enforcement Telecommunication System and toll project entities, as defined by Transportation Code, §372.001, are exempt from the payment of fees, except as provided by §217.124(e) of this title.  

(d) Ineligibility to receive personal information. The department may prohibit a person, business, or Texas governmental entity[agency] from receiving personal information.
if the department finds a violation of a term or condition of
the agreement entered into in accordance with subsection (c) of
this section.

(e) Initial deposits and minimum balances. Notwithstanding
§217.124 of this title, the department may modify initial
deposit and minimum balance requirements on a case by case basis
depending on customer usage.


(a) Standard costs. The department will charge fees in
accordance with Government Code, Chapter 552 and the cost rules
promulgated by the Office of the Attorney General in 1 Texas
Administrative Code, Chapter 70 (relating to Cost of Copies of
Public Information).

(b) Law enforcement. An employee of a state, federal or
local law enforcement entity is exempt from the payment of fees
for motor vehicle records in subsections (c)(1), (2), (3), and
(4) of this section if the records are necessary to carry out
lawful functions of the law enforcement agency.

(c) Motor vehicle record costs. For new contracts and
renewals, the costs are:

(1) Title history - $5.75;

(2) Certified title history - $6.75;
Texas Department of Motor Vehicles
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(3) Title and registration verification (record search) - $2.30;

(4) Certified title and registration verification (record search) - $3.30; and

(5) Duplicate registration receipt for current registration period - $2.

(d) Electronic motor vehicle records and files.

(1) Master file of motor vehicle registration and title database - $5,000 plus $0.38 per 1,000 records;

(2) Weekly updates to motor vehicle registration and title database - deposit of $1,755 and $135 per week;

(3) e-Tag file - deposit of $845 and $65 per week;

(4) Dealer supplemental file - deposit of $1,235 and $95 per week;

(5) Special plates file - deposit of $1,235 and $95 per week;

(6) Batch inquiry to motor vehicle registration and title database - deposit of $1,000, minimum balance of $750 and $23 per run plus $0.12 per record;

(7) Online motor vehicle inquiry (MVInet) access - deposit of $200, minimum balance of $150 and $23 per computer run plus $0.12 per record; and

(8) Scofflaw remarks (inquiry, addition or deletion) -
Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 deposit of $500, minimum balance of $350 and $23 per run plus $0.12 per record.

2 (e) Exemption applicability. The exemption granted in §217.123(c)(2)(B) of this title (relating to Access to Motor Vehicle Records) does not apply to subsection (d)(1), (6), or (8) of this section.

3 [The cost for motor vehicle information will be:]
4 [(1) Title and registration verification (record search) - $2.30;]
5 [(2) Title history - $5.75;]
6 [(3) Online access to motor vehicle records database - $23 per month plus $.12 per record entry;]
7 [(4) Motor vehicle registration and title database - $5,000 plus $.38 per 1,000 records copied to media;]
8 [(5) Weekly updates to motor vehicle registration and title database, with media provided by the department - $135; and]
9 [(6) Batch inquiry to motor vehicle records database - $23 per computer run plus $.12 per record searched.]

10 (f) Reciprocity agreements. The department may enter into reciprocity agreements for records access with other governmental entities that may waive some or all of the fees established in this section.
Board Policy Documents

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (4/7/16)

Agency Boundaries (9/13/12)

KPIs (9/12/14)
Texas Department of Motor Vehicles  
TxDMV Board Governance Policy

1. PURPOSE

The directives presented in this policy address board governance of the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. The TxDMV Board Governance Policy shall be one that is comprehensive and pioneering in its scope.

3. POLICY

3.1. TxDMV Board Governing Style

The Board shall govern according to the following general principles: (a) a vision for the agency, (b) diversity in points of view, (c) strategic leadership, providing day-to-day detail as necessary to achieve the agency vision, (d) clear distinction of Board and Executive Director roles, (e) collective decision making, (f) react proactively rather than reactively and with a strategic approach. Accordingly:

3.1.1. The Board shall provide strategic leadership to TxDMV. In order to do this, the Board shall:

3.1.1.1. Be proactive and visionary in its thinking.

3.1.1.2. Encourage thoughtful deliberation, incorporating a diversity of viewpoints.

3.1.1.3. Work together as colleagues, encouraging mutual support and good humor.

3.1.1.4. Have the courage to lead and make difficult decisions.

3.1.1.5. Listen to the customers and stakeholders needs and objectives.

3.1.1.6. Anticipate the future, keeping informed of issues and trends that may affect the mission and organizational health of the TxDMV.

3.1.1.7. Make decisions based on an understanding that is developed by appropriate and complete stakeholder participation in the process of identifying the needs of the motoring public, motor vehicle industries,
and best practices in accordance with the mission and vision of the agency.

3.1.1.8. Commit to excellence in governance, including periodic monitoring, assessing and improving its own performance.

3.1.2. The Board shall create the linkage between the Board and the operations of the agency, via the Executive Director when policy or a directive is in order.

3.1.3. The Board shall cultivate a sense of group responsibility, accepting responsibility for excellence in governance. The Board shall be the initiator of policy, not merely respond to staff initiatives. The Board shall not use the expertise of individual members to substitute for the judgment of the board, although the expertise of individual members may be used to enhance the understanding of the Board as a body.

3.1.4. The Board shall govern the agency through the careful establishment of policies reflecting the board’s values and perspectives, always focusing on the goals to be achieved and not the day-to-day administrative functions.

3.1.5. Continual Board development shall include orientation of new Board members in the board’s governance process and periodic board discussion of how to improve its governance process.

3.1.6. The Board members shall fulfill group obligations, encouraging member involvement.

3.1.7. The Board shall evaluate its processes and performances periodically and make improvements as necessary to achieve premier governance standards.

3.1.8. Members shall respect confidentiality as is appropriate to issues of a sensitive nature.

3.2. **TxDMV Board Primary Functions/Characteristics**

TxDMV Board Governance can be seen as evolving over time. The system must be flexible and evolutionary. The functions and characteristics of the TxDMV governance system are:

3.2.1. Outreach

3.2.1.1. Monitoring emerging trends, needs, expectations, and problems from the motoring public and the motor vehicle industries.

3.2.1.2. Soliciting input from a broad base of stakeholders.
3.2.2. Stewardship

3.2.2.1. Challenging the framework and vision of the agency.

3.2.2.2. Maintaining a forward looking perspective.

3.2.2.3. Ensuring the evolution, capacity and robustness of the agency so it remains flexible and nimble.

3.2.3. Oversight of Operational Structure and Operations

3.2.3.1. Accountability functions.

3.2.3.2. Fiduciary responsibility.

3.2.3.3. Checks and balances on operations from a policy perspective.

3.2.3.4. Protecting the integrity of the agency.

3.2.4. Ambassadorial and Legitimating

3.2.4.1. Promotion of the organization to the external stakeholders, including the Texas Legislature, based on the vision of the agency.

3.2.4.2. Ensuring the interests of a broad network of stakeholders are represented.

3.2.4.3. Board members lend their positional, professional and personal credibility to the organization through their position on the board.

3.2.5. Self-reflection and Assessment

3.2.5.1. Regular reviews of the functions and effectiveness of the Board itself.

3.2.5.2. Assessing the level of trust within the Board and the effectiveness of the group processes.

3.3. Board Governance Investment

Because poor governance costs more than learning to govern well, the Board shall invest in its governance capacity. Accordingly:

3.3.1. Board skills, methods, and supports shall be sufficient to ensure governing with excellence.
3.3.1.1. Training and retraining shall be used liberally to orient new members, as well as maintain and increase existing member skills and understanding.

3.3.1.2. Outside monitoring assistance shall be arranged so that the board can exercise confident control over agency performance. This includes, but is not limited to, financial audits.

3.3.1.3. Outreach mechanisms shall be used as needed to ensure the Board’s ability to listen to stakeholder viewpoints and values.

3.3.1.4. Other activities as needed to ensure the Board’s ability to fulfill its ethical and legal obligations and to represent and link to the motoring public and the various motor vehicle industries.

3.3.2. The Board shall establish its cost of governance and it will be integrated into strategic planning and the agency’s annual budgeting process.

3.4. Practice Discipline and Assess Performance

The Board shall ensure the integrity of the board’s process by practicing discipline in Board behavior and continuously working to improve its performance. Accordingly:

3.4.1. The assigned result is that the Board operates consistently with its own rules and those legitimately imposed on it from outside the organization.

3.4.1.1. Meeting discussion content shall consist solely of issues that clearly belong to the Board to decide or to monitor according to policy, rule and law. Meeting discussion shall be focused on performance targets, performance boundaries, action on items of Board authority such as conduct of administrative hearings, proposal, discussion and approval of administrative rule-making and discussion and approval of all strategic planning and fiscal matters of the agency.

3.4.1.2. Board discussion during meetings shall be limited to topics posted on the agenda.

3.4.1.3. Adequate time shall be given for deliberation which shall be respectful, brief, and to the point.

3.4.2. The Board shall strengthen its governing capacity by periodically assessing its own performance with respect to its governance model. Possible areas of assessment include, but are not limited to, the following:

3.4.2.1. Are we clear and in agreement about mission and purpose?
3.4.2.2. Are values shared?

3.4.2.3. Do we have a strong orientation for our new members?

3.4.2.4. What goals have we set and how well are we accomplishing them?

3.4.2.5. What can we do as a board to improve our performance in these areas?

3.4.2.6. Are we providing clear and relevant direction to the Executive Director, stakeholders and partners of the TxDMV?

3.4.3. The Board Chair shall periodically promote regular evaluation and feedback to the whole Board on the level of its effectiveness.
Texas Department of Motor Vehicles
Strategic Planning Policy

1. PURPOSE

The directives presented in this policy address the annual Strategic Planning process at the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. TxDMV Strategic Planning Policy attempts to develop, document and expand its policy that is comprehensive in its scope in regards to the strategic planning process of the Board and the Department beyond that of the state strategic planning process.

3. POLICY

3.1. TxDMV Board Strategic Planning

This policy describes the context for strategic planning at TxDMV and the way in which the strategic plan shall be developed and communicated.

3.1.1. The Board is responsible for the strategic direction of the organization, which includes the vision, mission, values, strategic goals, and strategic objectives.

3.1.2. TxDMV shall use a 5-year strategic planning cycle, which shall be reviewed and updated annually, or as needed.

3.1.3. The 5-year strategic plan shall be informed by but not confined by requirements and directions of state and other funding bodies.

3.1.4. In developing strategic directions, the Board shall seek input from stakeholders, the industries served, and the public.

3.1.5. The Board shall:

3.1.5.1. Ensure that it reviews the identification of and communication with its stakeholders at least annually.

3.1.5.2. Discuss with agency staff, representatives of the industries served, and the public before determining or substantially changing strategic directions.
3.1.5.3. Ensure it receives continuous input about strategic directions and agency performance through periodic reporting processes.

3.1.6. The Board is responsible for a 5-year strategic plan that shall identify the key priorities and objectives of the organization, including but not limited to:

3.1.6.1. The creation of meaningful vision, mission, and values statements.

3.1.6.2. The establishment of a Customer Value Proposition that clearly articulates essential customer expectations.

3.1.6.3. A Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis, to be updated annually.

3.1.6.4. An assessment of external factors or trends (i.e., customer needs, political factors, economic factors, industry trends, technology factors, uncertainties, etc.)

3.1.6.5. Development of the specific goals and objectives the Department must achieve and a timeline for action.

3.1.6.6. Identification of the key performance indicators to measure success and the initiatives that shall drive results.

3.1.6.7. Engage staff at all levels of the organization, through the executive director, in the development of the strategic plan through surveys, interviews, focus groups, and regular communication.

3.1.6.8. Ensure the strategic planning process produces the data necessary for LBB/GOBPP state required compliance while expanding and enhancing the strategic plan to support the needs of the TxDMV. The overall strategic plan shall be used as a tool for strategic management.

3.1.7. The Board delegates to the Executive Director the responsibility for implementing the agency’s strategic direction through the development of agency wide and divisional operational plans.
Texas Department of Motor Vehicles
TxDMV Goals and Objectives

1. PURPOSE

The information presented in this policy addresses the goals and key objectives of the Board of the Texas Department of Motor Vehicles (TxDMV) as they relate to the mission, vision, and values of the TxDMV.

2. SCOPE

The scope of this policy is to define the desired state the TxDMV Board is working to achieve. This policy is designed to be inspirational in outlining the desired state of the agency that supports the TxDMV Board vision and meeting agency goals.

3. TxDMV MISSION

To serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.

4. TxDMV VISION

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas with transparency, efficiency, excellence, accountability, and putting stakeholders first.

   5.1. Transparency – Being open and inclusive in all we do.
   5.2. Efficiency – Being good stewards of state resources by providing products and services in the most cost-effective manner possible.
   5.3. Excellence – Working diligently to achieve the highest standards.
   5.4. Accountability – Accepting responsibility for all we do, collectively and as individuals.
   5.5. Stakeholders – Putting customers and stakeholders first, always.

6. TxDMV GOALS

   6.1. GOAL 1 – Performance Driven

The TxDMV shall be a performance driven agency in its operations whether it is in customer service, licensing, permitting, enforcement or rule-making. At all times the TxDMV shall mirror in its performance the expectations of its customers and stakeholder by effective, efficient, customer-focused, on-time, fair, predictable and thorough service or decisions.
6.1.1. **Key Objective 1**

The TxDMV shall be an agency that is retail-oriented in its approach. To accomplish this orientation TxDMV shall concentrate the focus of the agency on:

6.1.1.1. **Delivering its products and services to all of its customers and stakeholders in a manner that recognizes that their needs come first.** These needs must be positively and proactively met. TxDMV works for and with its customers and stakeholders, not the other way around.

6.1.1.2. **Operating the agency’s licensing and registration functions in a manner akin to how a private, for-profit business.** As a private, for-profit business, TxDMV would have to listen to its customers and stakeholders and implement best practices to meet their needs or its services would no longer be profitable or necessary. Act and react in a manner that understands how to perform without a government safety net and going out of business.

6.1.1.3. **Simplify the production and distribution processes and ease of doing business with the TxDMV.** Adapting and maintaining a business value of continuous improvement is central to TxDMV operations and processes.

6.1.1.4. **All operations of the TxDMV shall stand on their own merits operationally and financially.** If a current process does not make sense then TxDMV shall work within legislative and legal constraints to redesign or discard it. If a current process does not make or save money for the state and/or its customers or stakeholders then TxDMV shall work within legislative and legal constraints to redesign or discard it. TxDMV shall operate as efficiently and effective as possible in terms of financial and personnel needs. Divisions should focus on cost savings without sacrificing performance. Division directors are accountable for meeting these needs and applicable measures. All division directors are collectively responsible for the performance of TxDMV as a whole.

6.1.1.5. **Focus on revenue generation for transportation needs as well as the needs of its customers.**

6.1.1.6. **Decisions regarding the TxDMV divisions should be based on the overriding business need of each division to meet or provide a specific service demand, with the understanding and coordination of overarching agency-wide needs.**
6.1.1.7. Developing and regularly updating a long-range Statewide Plan describing total system needs, establishing overarching statewide goals, and ensuring progress toward those goals.

6.1.1.8. The TxDMV shall establish a transparent, well-defined, and understandable system of project management within the TxDMV that integrates project milestones, forecasts, and priorities.

6.1.1.9. The TxDMV shall develop detailed work programs driven by milestones for major projects and other statewide goals for all TxDMV divisions.

6.1.1.10. The TxDMV, with input from stakeholders and policymakers, shall measure and report on progress in meeting goals and milestones for major projects and other statewide goals.

6.2. GOAL 2 – Optimized Services and Innovation

The TxDMV shall be an innovative, forward thinking agency that looks for ways to promote the economic well-being and development of the industries it serves as well as the State of Texas within the legislative boundaries that have been established for the agency.

6.2.1. Key Objective 1

The TxDMV shall achieve operational, cultural, structural and financial independence from other state agencies.

6.2.1.1. Build the TxDMV identity. This means that TxDMV shall make customers aware of what services we offer and how they can take advantage of those services.

6.2.1.2. Build the TxDMV brand. This means that TxDMV shall reach out to the stakeholders, industries we serve and the public, being proactive in addressing and anticipating their needs.

6.2.1.3. Determine immediate, future, and long term facility and capital needs. TxDMV needs its own stand-alone facility and IT system as soon as possible. In connection with these needs, TxDMV shall identify efficient and effective ways to pay for them without unduly burdening either the state, its customers or stakeholders.

6.2.1.4. All regulations, enforcement actions and decision at TxDMV shall be made in a timely, fair and predictable manner.

6.2.2. Key Objective 2
Provide continuous education training on business trends in the industry with a particular emphasis on activities in Texas.

6.2.3. **Key Objective 3**

Provide continuous outreach services to all customers and stakeholders to access their respective needs and wants. This includes helping frame legislative or regulatory issues for consideration by other bodies including the legislature.

6.2.4. **Key Objective 4**

Examine all fees to determine their individual worth and reasonableness of amount. No fee shall be charged that cannot be defended financially and operationally.

6.3. **GOAL 3 – Customer-centric**

The TxDMV shall be a customer-centric agency that delivers today’s services and decisions in a positive, solution-seeking manner while ensuring continuous, consistent and meaningful public and stakeholder involvement in shaping the TxDMV of tomorrow.

6.3.1. **Key Objective 1**

The TxDMV shall seek to serve its customer base through a creative and retail oriented approach to support the needs of its industries and customers.

6.3.2. **Key Objective 2**

The TxDMV shall develop and implement a public involvement policy that guides and encourages meaningful public involvement efforts agency-wide.

6.3.3. **Key Objective 3**

The TxDMV shall develop standard procedures for documenting, tracking, and analyzing customer complaint data. Successful problem resolution metrics should be monitored to support continuous improvement activities that shall permanently improve customer facing processes.

6.3.4. **Key Objective 4**

The TxDMV shall provide a formal process for staff with similar responsibilities to share best practices information.

6.3.5. **Key Objective 5**
The TxDMV shall provide central coordination of the Department’s outreach campaigns.

6.3.6. **Key Objective 6**

The TxDMV shall develop and expand user friendly, convenient, and efficient website applications.

6.3.7. **Key Objective 7**

TxDMV shall timely meet all legislative requests and mandates.
Agency Operational Boundaries as Defined by Department Policies of the TxDMV Board (Board)

The Board is responsible for the policy direction of the agency. The Board’s official connection to the day-to-day operation of the Texas Department of Motor Vehicles (TxDMV) and the conduct of its business is through the Executive Director of the TxDMV (ED) who is appointed by the Board and serves at its pleasure. The authority and accountability for the day-to-day operations of the agency and all members of the staff, except those members who report directly to the Board, is the sole responsibility of the ED.

In accordance with its policy-making authority the Board has established the following policy boundaries for the agency. The intent of the boundaries is not to limit the ability of the ED and agency staff to manage the day-to-day operations of the agency. To the contrary, the intent of the boundaries is to more clearly define the roles and responsibilities of the Board and the ED so as to liberate the staff from any uncertainty as to limitations on their authority to act in the best interest of the agency. The ED and staff should have certainty that they can operate on a daily basis as they see fit without having to worry about prior Board consultation or subsequent Board reversal of their acts.

The ED and all agency employees shall act at all times in an exemplary manner consistent with the responsibilities and expectations vested in their positions. The ED and all agency employees shall act in a manner consistent with Board policies as well as with those practices, activities, decisions, and organizational circumstances that are legal, prudent, and ethical. It is the responsibility of the ED to ensure that all agency employees adhere to these boundaries.

Accordingly, the TxDMV boundaries are as follows:

1. The day-to-day operations of the agency should be conducted in a manner consistent with the vision, mission, values, strategic framework, and performance metrics as established by the Board. These elements must not be disregarded or jeopardized in any way.

2. A team-oriented approach must be followed on all enterprise-wide decisions to ensure openness and transparency both internally and externally.

3. The agency must guard against allowing any financial conditions and decision which risk adverse fiscal consequences, compromise Board financial priorities, or fail to
show an acceptable level of foresight as related to the needs and benefits of agency initiatives.

4. The agency must provide timely, accurate, and honest information that will afford the Board, public, stakeholders, executive branch and the legislature the best ability to evaluate all sides of an issue or opportunity before forming an opinion or taking action on it. Any information provided that is intentionally untimely, inaccurate, misleading or one-sided will not be tolerated.

5. The agency must take all reasonable care to avoid or identify in a timely manner all conflicts of interest or even the appearance of impropriety in awarding purchases, negotiating contracts or in hiring employees.

6. The agency must maintain adequate administrative policies and procedures that are understandable and aid in staff recruitment, development and retention.

7. The agency must maintain an organizational structure that develops and promotes the program areas from an enterprise-wide perspective. No organizational silos or sub-agencies will be allowed. We are the TxDMV.

8. The agency must empower its entire staff to deliver a positive customer experience to every TxDMV customer, stakeholder or vendor to reduce their effort and make it easier for them to do business with the TxDMV.

9. The agency must at all times look to flattening its organizational structure to reduce cost as technology advances allow.

10. Agency staff shall anticipate and resolve all issues timely.

11. The agency must maximize the deployment and utilization of all of its assets – people, processes and capital equipment – in order to fully succeed.

12. The agency must not waste the goodwill and respect of our customers, stakeholders, executive branch and legislature. All communication shall be proper, honest, and transparent with timely follow-up when appropriate.

13. The agency should focus its work efforts to create value, make sure that processes, programs, or projects are properly designed, budgeted and vetted as appropriate with outside stakeholders to ensure our assumptions are correct so positive value continues to be created by the actions of the TxDMV.

14. The ED through his or her staff is responsible for the ongoing monitoring of all program and fiscal authorities and providing information to the Board to keep it apprised of all program progress and fiscal activities. This self-assessment must result in a product that adequately describes the accomplishment of all program
goals, objectives and outcomes as well as proposals to correct any identified problems.

15. In advance of all policy decisions that the Board is expected to make, the ED will provide pertinent information and ensure board members understand issues/matters related to the pending policy decision. Additionally, the ED or designee will develop a process for planning activities to be performed leading up to that particular policy decision and the timeframe for conducting these planning activities. It is imperative that the planning process describes not only when Board consideration will be expected but also when prior Board consultation and involvement in each planning activity will occur.

16. In seeking clarification on informational items Board members may directly approach the ED or his or her designee to obtain information to supplement, upgrade or enhance their knowledge and improve the Board’s decision-making. Any Board member requests that require substantive work should come to the Board or Committee Chairs for direction.

17. The agency must seek stakeholder input as appropriate on matters that might affect them prior to public presentation of same to the Board.

18. The agency must measure results, track progress, and report out timely and consistently.

19. The ED and staff shall have the courage to admit a mistake or failure.

20. The ED and staff shall celebrate successes!

The Board expects the ED to work with agency staff to develop their written interpretation of each of the boundaries. The ED will then present this written interpretation to the Board prior to discussion between the Board and ED on the interpretation. The Board reserves the right to accept, reject or modify any interpretation. The intent is that the Board and the ED will come to a mutually agreeable interpretation of agency boundaries that will then form the basis of additional written thought on the part of the ED and staff as to how these boundaries will influence the actions of the agency.
<table>
<thead>
<tr>
<th>GOAL</th>
<th>STRATEGY</th>
<th>#</th>
<th>MEASURE</th>
<th>Baseline</th>
<th>Target</th>
<th>Actual</th>
<th>OWNER</th>
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<td>1</td>
<td>Average processing time for new franchise license applications</td>
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<td>Average processing time for franchise renewals</td>
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<td>Average processing time of franchise license amendments</td>
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<td>Average processing time for new Dealer’s General Distinguishing Number (GDN) license applications</td>
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<td>Average processing time for GDN renewals</td>
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<td>Average processing time for GDN license amendments</td>
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<td>Average turnaround time for single-trip routed permits</td>
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<td>Average turnaround time for intrastate authority application processing</td>
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<td>Average turnaround time to issue salvage or non-repairable vehicle titles</td>
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<td>Average time to complete motor vehicle complaints with no contested case proceeding</td>
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<td>Average time to complete motor carrier complaints with no contested case proceeding</td>
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<td>Average time to complete motor carrier complaints with contested case proceeding</td>
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<td>Average time to complete household goods complaints with no contested case proceeding</td>
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<td>Average time to complete Oversize/Overweight (OS/OW) complaints with no contested case proceeding</td>
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<td>Average time to complete OS/OW complaints with contested case proceeding</td>
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<td>21</td>
<td>Percent of lemon law cases resolved prior to referral for hearing</td>
<td>76%</td>
<td>60%</td>
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<td>22</td>
<td>Average time to complete lemon law cases where no hearing is held</td>
<td>147 days</td>
<td>65 days</td>
<td>ENF</td>
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<td>23</td>
<td>Average time to complete lemon law cases where hearing is held</td>
<td>222 days</td>
<td>150 days</td>
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<td>24</td>
<td>Percent of total renewals and net cost of registration renewal: A. Online B. Mail C. In Person</td>
<td>A. 15% B. 5% C. 80%</td>
<td>A. 16% B. 5% C. 79%</td>
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<td>25</td>
<td>Total dealer title applications: A. Through Webdealer B. Tax Office</td>
<td>Baseline in development</td>
<td>A. 5% B. 96%</td>
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<td>26</td>
<td>Percent of total lien titles issued:</td>
<td>A. 16%</td>
<td>A. 20%</td>
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<td>A. Electronic Lien Title</td>
<td>B. 84%</td>
<td>B. 80%</td>
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<td>B. Standard Lien Title</td>
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<td>27</td>
<td>Percent of total OS/OW permits:</td>
<td>A. 57.47%</td>
<td>A. 58% or greater</td>
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<td></td>
<td>A. Online (self-issued)</td>
<td>B. 23.03%</td>
<td>B. 25% or greater</td>
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<td>C. Phone</td>
<td>C. 11.33%</td>
<td>C. 10% or less</td>
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<td>D. Mail</td>
<td>D. 1.76%</td>
<td>D. 1.7% or less</td>
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<td>E. Fax</td>
<td>E. 6.4%</td>
<td>E. 5.3% or less</td>
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<td>28</td>
<td>Average time to complete lemon law and warranty performance cases after referral</td>
<td>Baseline in development</td>
<td>25 days</td>
<td>OAH</td>
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<td>Average time to issue a decision after closing the record of hearing</td>
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<td>OAH</td>
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<td>30</td>
<td>Percent of audit recommendations implemented</td>
<td>Baseline in development</td>
<td>90% annual goal for these recommendations which Internal Audit included in a follow-up audit</td>
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<td>31</td>
<td>Percent of projects approved by the agency’s governance team that finish within originally estimated time (annual)</td>
<td>57%</td>
<td>100%</td>
<td>EPMO</td>
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<td>32</td>
<td>Percent of projects approved by the agency’s governance team that finish within originally estimated budget (annual)</td>
<td>71%</td>
<td>100%</td>
<td>EPMO/FAS</td>
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<td></td>
<td>33</td>
<td>Percent of monitoring reports submitted to Texas Quality Assurance Team (TXQAT) by or before the due date</td>
<td>79%</td>
<td>100%</td>
<td>EPMO</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>34</td>
<td>Percent of project manager compliance with EPMO project management standards based upon internal quality assurance reviews</td>
<td>Baseline in development</td>
<td>100%</td>
<td>EPMO</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>35</td>
<td>Percent of employees due a performance evaluation during the month that were completed on time by division.</td>
<td>Baseline in development</td>
<td>100%</td>
<td>HR</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>36</td>
<td>Percent of goals accomplished as stated in the directors performance evaluation</td>
<td>Baseline in development</td>
<td>Measure annually at the end of the fiscal year</td>
<td>EXEC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Optimize Services and Innovation</td>
<td>37</td>
<td>Employees who rate job satisfaction as above average as scored by the Survey of Employee Engagement (SEE)</td>
<td>3.47 (SEE 2012)</td>
<td>3.60 (SEE 2013)</td>
<td>HR</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>337 (SEE 2012)</td>
<td>360</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>38</td>
<td>Increase in the overall SEE score</td>
<td>351 (SEE 2013)</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>337 (SEE 2012)</td>
<td>360</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>39</td>
<td>Percent of favorable responses from customer satisfaction surveys</td>
<td>Baseline in development</td>
<td>90%</td>
<td>EPMO</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>40</td>
<td>Annual agency voluntary turnover rate</td>
<td>6.5% (FY 2013)</td>
<td>5.0%</td>
<td>HR</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>41</td>
<td>Number of education programs conducted and number of stakeholders/customers attending education programs</td>
<td>4.48/80.61</td>
<td>4/80</td>
<td>MCD</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>42</td>
<td>Number of education programs conducted and number of stakeholders/customers attending education programs</td>
<td>36/335</td>
<td>42/390</td>
<td>VTR</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>43</td>
<td>Number of eLearning training modules available online through the Learning Management System and number of modules completed by stakeholders/customers</td>
<td>eLearning Modules Available - 29 Completed - 735</td>
<td>Available - 31 Completed - 814</td>
<td>VTR</td>
<td></td>
</tr>
<tr>
<td>GOAL</td>
<td>STRATEGY</td>
<td>#</td>
<td>MEASURE</td>
<td>Baseline</td>
<td>Target</td>
<td>Actual</td>
<td>OWNER</td>
</tr>
<tr>
<td>-----------------------------</td>
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<td>-------------------------------------------------------------------------</td>
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<td>--------</td>
</tr>
<tr>
<td>Customer Center</td>
<td>44</td>
<td>Number of Shows and Exhibits attended to educate stakeholders/customers about TxDMV services and programs</td>
<td>6</td>
<td>7</td>
<td></td>
<td>MVD</td>
<td></td>
</tr>
<tr>
<td></td>
<td>45</td>
<td>Number of education programs conducted and number of stakeholders/customers attending education programs</td>
<td>3/250</td>
<td>3/250</td>
<td></td>
<td>ENF</td>
<td></td>
</tr>
<tr>
<td></td>
<td>46</td>
<td>Number of education programs conducted and number of stakeholders/customers attending education programs</td>
<td>3/150</td>
<td>4/300</td>
<td></td>
<td>ABTPA</td>
<td></td>
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<tr>
<td></td>
<td>47</td>
<td>Percent of customers and stakeholders who express above average satisfaction with communications to and from TxDMV</td>
<td>Baseline in development</td>
<td>80%</td>
<td></td>
<td>All Divisions</td>
<td></td>
</tr>
<tr>
<td>Excellent Service Delivery</td>
<td>48</td>
<td>Average hold time</td>
<td>9 min</td>
<td>9 min</td>
<td></td>
<td>CRD</td>
<td></td>
</tr>
<tr>
<td></td>
<td>49</td>
<td>Abandoned call rate</td>
<td>22%</td>
<td>20%</td>
<td></td>
<td>CRD</td>
<td></td>
</tr>
<tr>
<td></td>
<td>50</td>
<td>Average hold time</td>
<td>Baseline in development</td>
<td>1 min</td>
<td></td>
<td>ITS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>51</td>
<td>Abandoned call rate</td>
<td>Baseline in development</td>
<td>5%</td>
<td></td>
<td>ITS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>52</td>
<td>Average hold time</td>
<td>Credentialing -1.6 minutes Permits - 2.08 minutes CFS - 54.38 seconds</td>
<td>Credentialing - 1.5 minutes Permits - 2 minutes CFS - 50 seconds</td>
<td>MCD</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>53</td>
<td>Abandoned call rate</td>
<td>Credentialing - 7% Permits - 6.42% CFS - 5.63%</td>
<td>Credentialing - 6% Permits - 5% CFS - 5%</td>
<td>MCD</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Key:** Critical | Off Target | On target | Not yet started

**Vision:** The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

**Mission:** To serve, protect, and advance the citizens and industries in the state with quality motor vehicle related services.

**Philosophy:** The Texas Department of Motor Vehicles is customer-focused and performance driven. We are dedicated to providing services in an efficient, effective and progressive manner as good stewards of state resources. With feedback from our customers, stakeholders and employees, we work to continuously improve our operations, increase customer satisfaction and provide a consumer friendly atmosphere.

**Values:** We at the Texas Department of Motor Vehicles are committed to: TEXAS-Transparency, Efficiency, ExCellence, Accountability, and Stakeholders.