

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

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

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

RAYMOND PALACIOS, Chair
ROBERT "BARNEY" BARNWELL, III
LUANNE CARAWAY
BRETT GRAHAM
KATE HARDY
GARY PAINTER
JOHN PREWITT
PAUL SCOTT
GUILLERMO "MEMO" TREVIÑO

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P R O C E E D I N G S

1
2 MR. PALACIOS: Good morning, everyone. It's a
3 great day in Austin, Texas. So good to see so many people
4 here in attendance, we appreciate you coming out. We
5 appreciate the interest that you have in the items that we
6 have in our agenda, and I know there's quite a few of you
7 that will be giving public comment so we certainly look
8 forward to your comment coming up here.

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

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

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

22 If you wish to address the board or speak on an
23 agenda item during today's meeting, please complete a
24 speaker sheet at the registration table. Please identify
25 on the speaker sheet the specific item you are interested

1 in commenting on and indicate if you wish to appear before
2 the board and present your comment or if you only wish to
3 have your written comment read into the record. If your
4 comment does not pertain to a specific agenda item, we
5 will take your comment during the general public portion
6 of the meeting.

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

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

25 And now I'd like to have a roll call of the

1 board members.

2 Board Member Barnwell?

3 MR. BARNWELL: Present.

4 MR. PALACIOS: Board Member Caraway?

5 MS. CARAWAY: Present.

6 MR. PALACIOS: Board Member Graham?

7 MR. GRAHAM: Present.

8 MR. PALACIOS: Board Member Hardy?

9 MS. HARDY: Present.

10 MR. PALACIOS: Board Member Painter?

11 MR. PAINTER: Present.

12 MR. PALACIOS: Board Member Prewitt?

13 MR. PREWITT: Present.

14 MR. PALACIOS: Board Member Scott?

15 MR. SCOTT: Present.

16 MR. PALACIOS: Board Member Treviño?

17 MR. TREVIÑO: Here.

18 MR. PALACIOS: Let the record reflect that I,

19 Raymond Palacios, am here too. We have a quorum.

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

22 (The Pledge of Allegiance was recited.)

23 MR. PALACIOS: Okay. Let's move on to agenda

24 item number 3. I am very, very pleased to announce that

25 on July 30 Governor Abbott appointed John Prewitt of

1 Cypress to our board and Paul Scott of Lubbock to our
2 board. Member Prewitt is the board's new motor carrier
3 industry representative member, and Member Scott is the
4 board's new independent dealer member. The governor has
5 also reappointed Member Graham of Denison as the
6 representative of the franchised dealers. All three of
7 these terms are set to expire on February 1, 2023.

8 Congratulations, five more years.

9 (Applause.)

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

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

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

1 Member Walker.

2 Board Member Ingram has served since February
3 of 2011. He was appointed as the independent auto dealer
4 representative by Governor Perry in February of 2011 and
5 was elected vice chair by this board in November of 2016.

6 He's chaired the Projects and Operations, Legislative and
7 Public Affairs committees, he served on the Motor Vehicle
8 Advisory Committee, he was a member of the Finance and
9 Audit Committee.

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

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

24 Those things I said about Blake, they're kind
25 of the opposite for Johnny. What I'm going to miss about

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

13 (General laughter.)

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

24 (Applause.)

25 MR. BARNWELL: I just have one thing to say,

1 pretty much ditto. You guys are both good friends and
2 admirable role models and I've learned a lot from you. I
3 appreciate your service more than you know, and I'm
4 certainly going to miss you because now I'm stuck with
5 Raymond. So we've got that going for us.

6 (General laughter.)

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

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

21 If there's an opportunity, I think we ought to
22 think about retiring Johnny's microphone. If there was
23 ever an opportunity to put up like a jersey or something
24 like that or a number, keep your microphone out of going
25 to someone else.

1 MR. GRAHAM: Memo, just remember it's going to
2 be retired anyway, it doesn't really work anymore.
3 Overused.

4 (General laughter.)

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

12 MR. PALACIOS: Okay. Thank you, gentlemen.
13 Now at this time actually we have something for you, so
14 board members, if you'll join me down here at the bottom.

15 We have a proclamation here from the Governor's
16 Office. Do you want to read it?

17 MR. BARNWELL: "The State of Texas Governor"
18 "To all whom these presence shall come,
19 greetings.

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

25 "Greg Abbott, Governor Texas."

1 (Applause; pause for presentations and photos.)

2 MR. PALACIOS: Okay. Let's move forward to
3 agenda item 3.C. As a result of the changes in our board
4 members, we are going to make some changes to committee
5 assignments. The Finance and Audit Committee will now
6 include Members Graham, Hardy, Prewitt and Member Caraway
7 will continue to serve as the committee chair. The
8 Legislative and Public Affairs Committee will include
9 Members Barnwell, Painter, Scott and Member Treviño as the
10 committee chair. Projects and Operations Committee will
11 include Members Caraway, Prewitt, Scott and Member
12 Barnwell will now serve as the committee chair.

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

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

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

25 At this point the agenda for those hearings on

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

12 But that is Sunset as we know it today.

13 Do any of the members have any questions about
14 Sunset?

15 (No response.)

16 MS. BREWSTER: All right. Moving right along.

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

21 We successfully completed our executive team
22 disaster event response exercise. This was done in July.
23 This exercise demonstrated the executive team's ability to
24 react quickly to a disaster, a surprise incident. We
25 convened in an alternate location, we tested connection to

1 needed resources, worked through complex response, safety,
2 alternate work arrangements and personnel issues. So that
3 was a fun exercise and a needed exercise to ensure that
4 our team is ready to go should there be an incident and we
5 need to keep our operations moving forward.

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

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

24 So we do disaster recovery exercises for RTS on
25 an annual basis, our other applications we alternate years

1 but certainly disaster recovery is important and we learn
2 something every time we go through the process. So just
3 thought the board would be interested in those efforts.

4 Any questions on that?

5 (No response.)

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

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

24 Additionally, the eLICENSING program was
25 honored with multiple awards at the conference. I

1 accepted two of the three awards recognizing eLICENSING,
2 and those awards include the Improvement Through
3 Efficiency Service Award, and we won that both at the
4 regional level as well as at the international level, the
5 Regional Award for Innovative Use of Technology Service,
6 and coming up we will be accepting the Trailblazer
7 International Award for this program which is awarded to
8 those efforts that are on the cutting edge and can be
9 applied across the jurisdictions.

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

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

1 Galleria June 25 through 27.

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

4 MS. BREWSTER: Thank you.

5 If there aren't any questions, Mr. Chairman,
6 I'll move to item D.

7 MR. PALACIOS: Yes, please.

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

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

1 near future.

2 MS. CARAWAY: We appreciate it.

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

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

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

20 The webDEALER project, eTITLE, the final phase
21 of the webDEALER project is in progress, requirements
22 gathering is complete. We are negotiating with the DCS
23 managed application services vendor on cost, but in terms
24 of timing, design is scheduled to begin by the end of this
25 month, with implementation targeted for spring of 2019.

1 And then after that phase is completed, the webDEALER
2 project will be closed. This has been a multi-year labor
3 of love, so we're looking forward to completing eTITLE and
4 wrapping up this project.

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

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

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

24 MR. PALACIOS: Okay. Any questions regarding
25 the projects?

1 (No response.)

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

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

14 MS. BREWSTER: You can get it through the
15 county tax assessor-collector's office or on our website.

16 And Mr. Chairman, last, but certainly not
17 least, we'd like to recognize our recent retirees and
18 employees who have reached a state service milestone.

19 MR. PALACIOS: Yes.

20 MS. BREWSTER: And I want to welcome the
21 friends and families of our celebrants who join us this
22 morning. We appreciate the support that you have provided
23 to your loved ones day in and day out and appreciate you
24 sharing your loved ones with us.

25 Margaret Barker, with our Human Resources

1 Division, will read the service announcements. So,
2 Chairman Palacios, members, if you'd just me at the front.

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

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

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

21 (Applause; pause for presentation and photos.)

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

24 Christy began her career with the State of
25 Texas Department of Public Safety. She moved to the Texas

1 Department of Transportation in June 2004 and transitioned
2 over to our agency in November 2009. She has spent the
3 past 14 years in the Vehicle Titles and Registration
4 Division. Christy currently serves as manager of the
5 Vehicle Data Management and Special Plates Unit where she
6 oversees the management of the specialty plates marketing
7 contract with My Plates, as well as processing pen records
8 and motor vehicle data contract requests for the division.

9 Congratulations on 20 years, Christy.

10 (Applause; pause for presentation and photos.)

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

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

22 (Applause; pause for presentation and photos.)

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

25 Regina began her state career working with the

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

12 Congratulations, Regina.

13 (Applause; pause for presentation and photos.)

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

17 Shirley started her state career in March of
18 1984 with the Texas Parks and Wildlife Department and
19 retired from state service in February of 2014 while at
20 the Texas Department of Transportation after almost 28
21 years of service. After she retired, Shirley earned a
22 master's degree in business administration from Park
23 University. Fortunately for us, Shirley decided to un-
24 retire and has been in the Motor Carrier Division since
25 January as an administrative assistant.

1 Thank you for your 30 years of service,
2 Shirley.

3 (Applause; pause for presentation and photos.)

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

8 (Applause.)

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

11 (Applause.)

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

14 (Applause.)

15 MS. BARKER: Gus Bernal, Customer Relations
16 Division.

17 (Applause.)

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

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

22 (Applause.)

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

25 Thank you.

1 (Applause.)

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

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

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

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

25 The ALJ in this case found that the board has

1 authority and legal grounds for denying the renewal
2 application, as well as revoking the license because of
3 four reasons. Number one, the respondent has multiple
4 criminal convictions, each of which is a crime that the
5 board has determined to be directly related to the duties
6 and responsibilities of a dealer. Number two, the
7 respondent's criminal convictions include convictions for
8 aggravated kidnapping, multiple theft convictions, as well
9 as criminal trespassing. And I apologize, I said four,
10 there's actually three. And number three, the
11 respondent's criminal convictions span a period of over 31
12 years, demonstrating that there is an ongoing pattern of
13 criminal behavior, there is a lack of rehabilitation by
14 the respondent, and finally, an inability to maintain a
15 record of good conduct.

16 The respondent, Mr. Richardson, did not file
17 briefs, pleadings or exceptions to the ALJ's proposal for
18 decision contesting the judge's findings of fact or
19 conclusions of law. So under the Texas Government Code
20 2001.058(e), the board can change a finding of fact or
21 conclusion of law made by an ALJ if the board determines
22 that the ALJ did not properly apply or interpret
23 applicable law, agency rule or prior administrative
24 decision, that a prior administrative decision on which
25 the ALJ relied on is incorrect or should be changed, and

1 finally, that the ALJ made a technical error in a finding
2 of fact that should be changed.

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

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

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

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

23 (No response.)

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

1 motion.

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

4 MR. PAINTER: Second.

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

8 (A show of hands.)

9 MR. PALACIOS: The motion passes unanimously.

10 MR. AVITIA: Thank you, members.

11 MR. PALACIOS: Thank you.

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

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

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

23 MS. THOMPSON: Good morning, Chairman, members
24 of the board. Corrie Thompson, director of the
25 Enforcement Division. I am presenting agenda item 6 for

1 you which can be found starting on page 25 in your board
2 books.

3 Before you is a recommendation to approve the
4 adoption of amendments to Rule 215.85 for publication in
5 the *Texas Register*. The purpose of the amendments is to
6 add 215.85(d) which clarifies how a licensed dealer
7 holding a GDN issued pursuant to Transportation Code
8 503.029(a)(6)(B) may pay a referral fee in cash or in
9 value to an individual who has purchased a vehicle from
10 that licensed dealer within the four year period preceding
11 that referral. There is no fiscal impact associated with
12 the amendment.

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

24 There were changes made to the language that
25 was in the proposed rule based on the comments that were

1 received and those changes deleted what had been proposed
2 as subsection (e) as there were comments that stated that
3 it conflicted with the language that was in existing rule
4 subsection (a), so again, subsection (e) has been deleted.

5 And what (e) had said was that a referral fee under (d)
6 may not be offered or provided to an individual who is
7 employed by a licensed dealer but that it was in conflict
8 because (a) states that when somebody is acting on behalf
9 of a dealer to obtain referrals for the company, that's
10 not a brokering activity, so the department agreed with
11 that comment and has removed subsection (e).

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

23 And lastly, there was a change made to
24 subsection (d) to reflect a four year look-back period to
25 which the referral could be paid. The rule, as published

1 for comments, said a five year look-back period and the
2 four year period relates to record retention requirements
3 that are already in place, and so the language now aligns
4 with regular record retention requirements.

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

16 If the board adopts the amendments during this
17 meeting, staff anticipates that the publication will be in
18 the September 7 version of the *Register*, with a September
19 16 effective date. And if you have no comments, I would
20 ask that the board adopt the rule with the amended
21 language.

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

25 MR. GRAHAM: For clarification, page 44,

1 subsection (d) says a licensed dealer which it also says
2 in the printout which I thought was the original language
3 in what was published but I thought I heard you say that
4 that piece has changed.

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

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

13 MR. DUNCAN: The only change that we made
14 between what's in your backup book and what we've handed
15 you that's on paper is in subsection (a) on page 43, and
16 down near the bottom of that you'll see that there's that
17 reference to 503.029(a)(6)(B). And what that would do,
18 there are two sections about brokering and saying what is
19 and what is not brokering, there's one for new vehicles
20 and there's one for used vehicles, this is the used
21 vehicles section, and in response to the comments, we
22 thought we should put the reference to GDN holder,
23 everywhere it said GDN holder to narrow that. But then
24 one of our staff pointed out that if you do that in
25 subsection (a), paying people a salary to do their job if

1 they sell used cars at a new car dealership could be
2 brokering, and we realized no, that's not what we meant,
3 we just need it to apply to this new exception that we had
4 created for referral fees which is in subsection (b). So
5 the (a)(6)(B) reference is still in subsection (d), we
6 took it out of subsection (a) because it wouldn't make
7 sense in subsection (a).

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

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

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

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

21 MR. DUNCAN: In (d).

22 MS. THOMPSON: Yes, in (d). Correct. And then
23 (a) would remain the same, lines 9 through 11: "A person
24 who is a bonafide employee of a dealer holding a GDN and
25 acts for the dealer is not a broker for the purposes of

1 this section."

2 MR. GRAHAM: And so I would be correct in my
3 understanding that was printed section (d), a licensed
4 dealer holding a GDN, would reference independent used car
5 dealers and not franchised dealers.

6 MS. THOMPSON: Correct. It would speak only to
7 506.029(a)(6)(B) license holders.

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

10 MR. DUNCAN: Sorry for the confusion.

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

13 (No response.)

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

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

23 As a small business owner, we take pride in
24 establishing relationships with our customers. About 25
25 percent of our monthly business right now comes from what

1 we call repeat and referral customers, and I handle most
2 of the compliance at our dealership and I'm proud of the
3 fact the record that we've got that way. We've passed
4 every exam very good and we've established a good track
5 record that way.

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

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

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

24 MR. PALACIOS: Thank you, Mr. Beck.

25 Ms. Thompson, would you, I guess for my

1 edification and this board's, explain the provisions in
2 this rule that would prohibit what we know as brokering,
3 where you have entities that are actually actively engaged
4 in the business of brokering as other states have it?

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

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

21 MS. THOMPSON: Brokering for new motor vehicles
22 is prohibited in statute, as I said, so there should not
23 be firms that exist that broker vehicles on behalf of
24 customers who are looking to get vehicles from new car
25 dealers.

1 MR. PALACIOS: Or used car dealers, for that
2 matter.

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

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

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

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

24 The last few years have been frustrating
25 because many of our competitors have their own programs in

1 place and are very successful with them. To be clear, I
2 do not support brokering and I do not feel this language
3 infringes on that.

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

7 MR. PALACIOS: Any questions for Ms.
8 Blankenship?

9 (No response.)

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

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

14 MR. BARNWELL: Are you back? Go home.

15 (General laughter.)

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

18 Well, for the record, my name is Blake Ingram,
19 and I have three dealerships in Dallas called Auto City,
20 and I'm here to support the rule proposal changing 215.85.

21 There's not a lot that I can add on to the two
22 speakers that came before, and I don't really want to take
23 up too much of your time, I know you have a long agenda.
24 I'm more than happy to answer any questions that you have.

25 It is a strongly needed change for independent

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

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

16 MR. PALACIOS: Thank you, Blake.

17 Any questions for Blake before he leaves?

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

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

24 MS. HARDY: Separate rules. Okay.

25 MS. THOMPSON: In 215.84 that's the rule that

1 pertains to brokering of new motor vehicles; 215.85
2 specifically speaks to used motor vehicles.

3 MS. HARDY: Okay.

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

6 MS. HARDY: Okay. I get it.

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

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

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

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

17 MR. INGRAM: If nothing else.

18 MR. PALACIOS: Last chance for Blake.

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

20 MR. PALACIOS: Thank you, Blake.

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

23 (General laughter.)

24 MR. PALACIOS: Okay. Are there any further
25 questions of Ms. Thompson or any of the people that

1 provided public comment?

2 (No response.)

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

5 MR. PAINTER: Mr. Chairman, I move that the
6 board approve the adoption of amendments to Section
7 215.85, as recommended by staff.

8 MS. CARAWAY: Second.

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

12 (A show of hands.)

13 MR. PALACIOS: Motion passes unanimously.

14 Thank you very much, Ms. Thompson.

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

17 MR. ARCHER: Good morning, Mr. Chairman and
18 members of the board. For the record, my name is Jimmy
19 Archer and I'm the director of the Motor Carrier Division.

20 This item is found beginning on page 46 of your board
21 book.

22 For the board's consideration, I'm presenting
23 these amendments to Sections 219.60 and 219.64 for
24 adoption. These amendments relate to permits for oversize
25 and overweight cranes. This rule package covers three

1 types of crane permits: single trip mileage permits,
2 quarterly hubometer permits, and annual crane permits.
3 This rule package includes two main changes.

4 First, the amendments provide uniform
5 requirements for cranes with a permit travel at nighttime,
6 regardless of whether the crane is overweight. A front or
7 rear escort vehicle is not required if the crane does not
8 exceed 9 feet wide, 14 feet high or 65 feet long. A front
9 and rear escort are required if a crane is wider than 9
10 feet or longer than 65 feet. A crane cannot travel at
11 nighttime if it is wider than 10 feet, it would have to
12 travel during daytime hours only -- excuse me -- 10 feet,
13 6 inches, longer than 95 feet or taller than 14 feet.

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

25 TxDOT. Our statute requires the board to

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

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

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

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

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

1 MR. PAINTER: Yes, sir.

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

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

8 (No response.)

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

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

14 MR. TREVIÑO: Second.

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

18 (A show of hands.)

19 MR. PALACIOS: Motion passes unanimously.

20 Thank you, Mr. Archer.

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

23 MR. KUNTZ: Good morning, members. For the
24 record, Jeremiah Kuntz, director of the Vehicle Titles and
25 Registration Division.

1 Before you we have Rule 217.27. This is
2 relating to the requirements and procedures for the
3 adoption or denial of personalized license plates. This
4 rule is for final adoption.

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

21 I'll kind of go through this quickly. The
22 amendments clarify requirements and procedures for
23 approval or denial of personalized license plates,
24 identify the director of the Vehicle Titles and
25 Registration Division, or my designee, as the initial

1 decision-maker. We've also clarified that the director
2 may approve or deny an application for personalized plates
3 and may cancel a previously issued personalized plate that
4 we become aware of if it does not meet the standard.

5 We've also identified and clarified the criteria for the
6 director's consideration in evaluating the plate patterns.

7 This is probably the biggest chunk of this rule is really
8 laying out the different criteria that we will use to
9 evaluate any plate patterns that are coming before the
10 department for consideration.

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

24 We have added an appeal mechanism for rejection
25 or canceled plates so there is now basically a documented

1 appeal process where somebody can come in that has been
2 denied or had their plate revoked, they can come in and
3 they can appeal. It sets forth different parameters by
4 which they'll make that appeal and our time frames for
5 responding to them, so that that's all very clearly laid
6 out for them and so there's no ambiguity as to that appeal
7 process.

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

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

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

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

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

23 MR. TREVIÑO: Ballpark, just gut feeling,
24 10,000, a million?

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

1 would say.

2 MR. TREVIÑO: A day?

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

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

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

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

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

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

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

25 MR. PALACIOS: Okay. So we extended it a full

1 30 days and you still had no comments on the matter.

2 Okay.

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

5 (No response.)

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

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

11 MR. BARNWELL: Second.

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

15 (A show of hands.)

16 MR. PALACIOS: Motion passes unanimously.

17 We'll now move on to agenda number 9, Chapter
18 217, Vehicle Titles and Registration.

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

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

23 MR. KUNTZ: Again for the record, Jeremiah
24 Kuntz, director of the Vehicle Titles and Registration
25 Division.

1 Before you are amendments to 217.2 and 217.3
2 relating to the titling of assembled vehicles. This rule
3 is being brought before the board for authority to go
4 forward and publish for public comment, this is not for
5 final adoption.

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

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

22 What we also did was did a very exhaustive look
23 at our own statutes to go back through those again and
24 make sure that we were understanding and looking at all of
25 the different chapters that affect motor vehicles that are

1 coming into the state for titling and registration.

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

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

23 And so as you kind of move down the rows you'll
24 see OEM vehicles and see you've got manufactured vehicles,
25 OEM body, OEM frame. This is just your new vehicle that's

1 coming off the line from GM, that's that column, it's a
2 brand new vehicle. Obviously it requires a manufacturer's
3 license and has to be sold through a dealer network in the
4 State of Texas, and the manufacturer's certificate of
5 origin is required in order to initially title that
6 vehicle.

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

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

24 So what you can really see is there's body and
25 frame are those two rows and that's really where we start

1 to distinguish. An OEM body that's been attached to an
2 OEM or custom frame, so basically a reconstructed vehicle,
3 you're taking a body and a frame from two different
4 vehicles, merging them together but they were both
5 produced by a major manufacturer. And so even if you've
6 got a custom frame, maybe you've taken an OEM body and
7 you've attached to a replacement custom frame, somebody
8 has made a replacement frame, we still have an OEM body
9 that's being attached to that and we would still consider
10 those used.

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

16 Again, going across, this is a modified OEM
17 body and a modified OEM frame, you still have OEM parts,
18 both of those body and frame came from a major
19 manufacturer but you've made modifications to both of
20 those. We see this probably as our TV show example, we
21 see lots of TV shows that kind of fit into this category.

22 Chip Foose is the one that comes to my mind, you've got
23 Boyd Cottingham, there's a bunch of different guys that
24 are out there that are doing these types of builds where
25 they're really restoring old vehicles but they're still

1 using an OEM body and an OEM frame to make those
2 modifications of chopping tops, cutting fenders,
3 tightening up bumpers, those kind of things, but again,
4 you still have OEM parts that are the base that you're
5 working from.

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

15 And what we've got is two columns: one is
16 they're attaching that to an OEM frame or they've got a
17 custom frame, and this is where we really start to
18 diverge. When you put it on an OEM frame -- and we've got
19 examples of this, there are some kit manufacturers that
20 will sell you a 1965 Shelby Cobra replica body, it's a
21 fiberglass body, it's a replica body but it resembles a
22 1965 Shelby Cobra that you can attach to a 1995 Mustang
23 chassis. So it's got an OEM chassis that you've taken the
24 old '95 Mustang off of but you reattach a kit body for
25 like a 1965 Shelby Cobra, that's going to be that first

1 column under the non -- that's under replica. I'm sorry.
2 That's actually another column over.

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

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

21 MR. KUNTZ: Correct. Yes.

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

24 MR. KUNTZ: That's something that could be
25 anything.

1 MR. GRAHAM: I'm with you. I just want to make
2 sure I'm still tracking

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

21 And so with a custom body, custom frame, so
22 you've got a new body, new frame, if you look down, an MCO
23 is required, those kind of vehicles can only be built by a
24 licensed manufacturer to be legally titled and operated on
25 the roadway. And that's where the rub starts to get into

1 this is when you're building something new that's never
2 been a major manufacturer, it's never been built by a
3 licensed manufacturer in the state and you're building it
4 today in today's world, all of the federal statutes, all
5 of the state statutes need to apply to that vehicle in the
6 year in which it is assembled.

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

25 MR. GRAHAM: And so the licensed manufacturer,

1 if they were going to build this vehicle would then have
2 to build it to all of the federal specs and requirements.

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

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

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

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

23 MR. KUNTZ: Yes, sir.

24 MR. BARNWELL: We're hamstrung with the laws
25 that we have. I understand that.

1 MR. KUNTZ: This is the farthest we can go in
2 interpreting our law to try and define what is a new and
3 used vehicle.

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

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

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

10 MR. KUNTZ: Absolutely.

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

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

1 manufacturer. We do not have said exception in our law.

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

7 MR. KUNTZ: Correct.

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

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

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

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

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

23 MR. KUNTZ: -- I'm going to go with what I
24 know. If we were to create an exception in 2301 that said
25 hobbyists are not required to be licensed as a

1 manufacturer under 2301, that would relieve anybody that
2 is putting something together in their garage of the
3 requirement to be a licensed manufacturer. However, we
4 still have to deal with Chapter 501 which says in order to
5 make initial title for a motor vehicle in Texas, we must
6 have an MCO. Well, an MCO can only be issued by a
7 licensed manufacturer, so there would have to also be an
8 allowance that would allow somebody to bring a vehicle
9 into market for the first time without an MCO present, and
10 so there would have to be an exception or some alternative
11 process to bring that vehicle into market.

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

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

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

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

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

25 MR. BARNWELL: It would have the headlights on

1 it, you know, and turn signals and a horn and things like
2 that. But is that un-titleable -- if that's a term -- in
3 Texas? Stop grinning at me and answer the question.

4 (General laughter.)

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

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

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

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

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

25 There's some even trickier examples. For

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

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

12 MR. DUNCAN: And drive it.

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

19 MR. PALACIOS: I have a question, Jeremiah. I
20 understand the statutory requirement that would mandate
21 that before an MCO is issued that it must be issued by a
22 licensed manufacturer. I guess my question is if someone,
23 whether it's a kit car, whoever it is, they start
24 producing vehicle, is there a statutory requirement in
25 Texas that would prohibit them from being classified as a

1 licensed manufacturer, or do they need to conform to
2 federal requirements?

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

14 We have -- and again, I can defer to
15 Enforcement and Licensing on this, but we have seen
16 examples of manufacturers that have attempted to come in
17 and say, well, I'm going to provide a kit with everything
18 including the motor but I'm not putting it together, and I
19 believe our determination at that point has been no, you
20 are providing everything necessary in order to put the
21 vehicle together and if you provide every part for that
22 vehicle, you would be required to be a licensed
23 manufacturer in Texas. However, most kits that we see,
24 Factory Five, the other major kit manufacturers, will give
25 you everything but the motor and then you go somewhere

1 else to get the motor and the person putting the vehicle
2 together in their garage is the person who is making final
3 assembly of that vehicle and turning it from parts into a
4 motor vehicle, and therefore, they would be the person
5 that is required to be a licensed manufacturer.

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

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

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

1 and so forth.

2 MR. KUNTZ: Is Daniel here?

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

5 Chairman, to answer your question, I think the
6 most important aspect of being a licensed manufacturer is
7 representing that you are going to have a dealer network.

8 With regard to each of these individual assemblers, we
9 would work with Jeremiah's team to determine what their
10 specific business model is, and to this date we have not
11 done that with each of these assemblers, if you will --
12 and that's what I'm calling them. Again, the most
13 important piece of being a licensed manufacturer meaning
14 having that dealer network. Without that, I could not
15 issue a license to a manufacturer, if they so represented
16 that they are a manufacturer.

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

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

1 vehicles in the State of Texas.

2 MR. PALACIOS: Which is a different statute.
3 We get into now manufacturer acting in the capacity of a
4 dealer, but again, it's not necessarily related to federal
5 safety standards and what-have-you.

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

9 MR. PALACIOS: Okay.

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

19 MR. KUNTZ: So again I'll go back to the
20 Pennsylvania example. They have a specific hobbyist
21 exemption from all of the manufacturing requirements, so
22 in Pennsylvania you do not have to be a licensed
23 manufacturer to produce a new vehicle, they have a
24 hobbyist exemption, if you will, and there's a process by
25 which those hobbyists go through in order to title and

1 register those vehicles for the first time. Now, whether
2 or not that vehicle comports or is in compliance with
3 FMVSS, the Federal Motor Vehicle Safety Standards, that's
4 a whole other question.

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

24 MR. GRAHAM: And all of those are in regards to
25 a manufacturer.

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

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

17 MR. KUNTZ: Meaning a new vehicle.

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

22 MR. KUNTZ: All vehicles that are operated on
23 the roadway must comply with the compulsory inspection
24 requirements which inspects the presence and operability
25 of all the safety equipment. Headlights must work, you

1 have to have windshield wipers that work, all of those
2 things that are checked when you go in to do your safety
3 inspection. The other chapter of code actually sets the
4 standards for all of those pieces of equipment, so it
5 basically says if you've got headlights on your vehicle,
6 those headlights must meet the standards that FMVSS has
7 laid out, so it has to be an automotive headlight that
8 meets that federal standard.

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

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

24 MR. KUNTZ: Yes.

25 MR. GRAHAM: Motorcycles don't have airbags.

1 MR. KUNTZ: Motorcycles are not required under
2 the federal statute to have airbags. And the way the
3 federal standard works is it ages in, so a vehicle
4 manufactured in 1965 --

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

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

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

25 MR. KUNTZ: That is the dilemma that we see

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

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

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

23 MR. PALACIOS: Okay. So again, to be clear
24 then, these standards are not enshrined in statute, these
25 are DPS rules that the stakeholders want to address -- I

1 mean, part of these rules would have to be addressed by
2 DPS.

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

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

13 MR. KUNTZ: Thank you.

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

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

21 MR. KUNTZ: No. Basically what we've said is
22 if you are building an assembled vehicle that we are by
23 reference stating that that vehicle must comply with DPS's
24 standards that they have set forth and it must have a
25 vehicle safety inspection as required by DPS's statute and

1 rule. So we are not in conflict, we are in sync with them
2 requiring those vehicles to make sure that they comply
3 with all of those standards that they've got set. So if
4 they change the standard, it would just change because
5 we've got it just by reference to their standard.

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

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

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

19 MR. PALACIOS: Yes.

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

23 MR. KUNTZ: We had a member from their
24 regulatory services which oversees the inspection process
25 as well as a major from their Highway Department who would

1 be doing roadside enforcement.

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

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

19 MR. GRAHAM: Oh, sure, I know.

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

23 MR. GRAHAM: I'm just trying to think about how
24 to protect the interests of our citizens who have already
25 made investments when these rules weren't in place.

1 MR. KUNTZ: I'll cover a piece of this and I'll
2 defer to general counsel on kind of the process of how
3 this would get put into the rule. But yes, we have
4 considered grandfathering provisions. There's some
5 interesting things that we have seen as we've gone through
6 this process, and I don't want to say that every person
7 that is out there not the roadway that has a title to a
8 vehicle and is operating it on the roadway would be able
9 to be captured by that grandfathering provision, and
10 there's a reason I'm going to say that.

11 We see numerous times when we look at these
12 vehicles that the person has never disclosed that it is an
13 assembled vehicle and they are still claiming that it is
14 the original vehicle that it started as. So with many of
15 these dune buggies, they were built on an old VW Beetle
16 chassis and we numerously see -- I mean, we see these all
17 the time when we go back and look at this, that they still
18 are carrying that original title, so that title still says
19 1974 VW Beetle on it and in those cases it is going to be
20 very difficult to create a grandfathering provision
21 because they never properly titled it back prior to the
22 rule being adopted.

23 The dilemma that creates for you is how do you
24 know when those modifications actually took place. Did
25 they take place before all of these rules were adopted or

1 did they make the modifications yesterday and are trying
2 to use that grandfathering provision as a way to get their
3 vehicle through. We've had many discussions about how to
4 structure that grandfathering provision. We've talked
5 about having a limited time period where we would open it
6 up and say, hey, you've got time to come in and correct
7 your titles if they weren't. I mean, there's a lot of
8 different scenarios we could do with that, but I'll defer
9 to general counsel to kind of expand on how we would
10 structure some of those.

11 MR. DUNCAN: David Duncan, general counsel.

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

25 I'll give you an example, it's an Ariel Atom.

1 It's an open-wheeled two-seat roadster and it's a track
2 vehicle, it even says that on the original paperwork. So
3 we'll get the original paperwork and go, okay, somebody
4 titled and registered this thing and it's a track vehicle,
5 we know it's a track vehicle so we know what this vehicle
6 is, so we ended up revoking that. And that annoys people
7 that they get something from the county and then we take
8 it away.

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

20 MR. GRAHAM: I would just ask that as these
21 rules move forward that we understand what that looks
22 like, defined on paper so that we can see that and
23 understand that. And I know you've spent a lot of time on
24 this. We're trying to define exactly what our statute
25 says today and how we should interpret that and how those

1 rules should apply, and we need to clarify that and define
2 it and get it down. I know the governor is interested in
3 this topic, as the lieutenant governor is too, and there's
4 a great probability that maybe they can do some
5 clarification for us in the next session. But anyway,
6 thank you.

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

15 MR. KUNTZ: A lot.

16 (General laughter.)

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

1 structure this. I would venture to guess it's in the
2 hundreds of hours that we've spent on it.

3 MR. TREVIÑO: Thank you.

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

6 (No response.)

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

10 MR. DUNCAN: A couple of points, Mr. Chairman.
11 David Duncan, general counsel.

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

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

1 we get them in early.

2 MR. PALACIOS: Thank you.

3 Okay. Let me begin by calling up Faron Smith.
4 Are you here, Mr. Smith?

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

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

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

23 And to answer your question about somebody
24 that's from out of state, I brought my car here from New
25 Mexico because I moved back here from New Mexico with my

1 car. While it was in New Mexico it was titled, registered
2 and insured while it was in New Mexico, bring it here,
3 that's not the case, I can't do it. I basically have a
4 paperweight in my garage that I spent thousands of dollars
5 on and hundreds of hours on.

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

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

23 As I stated in the beginning of this, I'm the
24 founder of Save the Texas Dune Buggy, I'm a member of an
25 8,000 member group and we are gaining strength in

1 everything, and if this passes, it's going o be other
2 people that are joining us as well. And I've been here
3 since the beginning, I have no intention of going away
4 until we have something comprehensive.

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

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

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

24 MR. SMITH: I do follow your logic, but still
25 the way that it's written right now, the reality of it,

1 he's written it to where maybe less than 10 vehicles can
2 actually get through. I mean, yes, we've got to start
3 somewhere but right here I don't think it's the right
4 spot.

5 MR. PALACIOS: Okay. Thank you.

6 MR. SMITH: Thanks for letting people talk.

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

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

11 Imagine you have 24 dune buggy enthusiasts
12 every Labor Day to meet in Kerrville with 36 horse powered
13 100 horsepower buggies driving the back roads at 25 to 50
14 miles an hour safely. Most of these buggies are driven
15 less than 5,000 miles a year. We could choose to drive
16 2018 Corvette Z02s, fully nationally safety compliant,
17 with 725 horsepower, 450 foot pounds of torque, built on
18 fiberglass and aluminum makeup, but we would need a
19 release of liability from the Chevy dealer in many cases
20 and it would be highly suggested if we bought a vehicle
21 like that that we take a two-day course in Las Vegas to
22 learn how to drive the car.

23 My background is in oil and gas for over 40
24 years. I was born and adopted in Germany, I'm more German
25 than anybody here, so this whole dune buggy/Volkswagen

1 scenario of assembled vehicles is very, very passionate to
2 me. My father, who I saw last year in my buggy in Las
3 Cruces, New Mexico, we went for his last ride before he p
4 passed and was laid to rest in El Paso. All of us in my
5 family have had hobbies and interests and passion.

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

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

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

24 MR. PALACIOS: Thank you, Mr. Carlile.

25 MR. CARLILE: Is it time?

1 MR. PALACIOS: We have several other speakers
2 behind you, yes, so in deference to them.

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

12 Thank you.

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

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

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

18 I just want to start by saying I've been riding
19 motorcycles for about 20 years and I've seen way too many
20 accidents and I'm done. So I ask you what are my options
21 of being one with the road and the weather and the
22 landscape other than a motorcycle. A buggy is the closest
23 candidate. You're taking away a very simple and safe
24 freedom from not only me but taking that possibility away
25 from every other citizen.

1 You say that you're concerned with our safety
2 and others on the road. How is a buggy more dangerous
3 than a motorcycle? With seatbelts, up to five point
4 harnesses, depending on the type of buggy, you really
5 think that we would be in peril strapped in tightly
6 surrounded by a cage and roll bar? You say that you're
7 concerned with our safety and others on the road. Why are
8 motorcycles all over the place? With your reasoning, they
9 should only be operated on private roads, tracks and
10 raceways. I would like to know the number of emergency
11 visits for motorcycle accidents compared to street
12 operated buggy caused ER visits.

13 You say that you're concerned for our safety
14 and others on the road. Adam Shaivitz said because many
15 of these vehicles do not have safety components or do not
16 have a body at all. The second half of this statement is
17 just as idiotic as the first, but the first half is what
18 I'm focusing on. Since when is a body a safety component?

19 The frame and the chassis have always been the structure
20 of a vehicle that holds it together. Adam said that the
21 key safety components are missing.

22 At the meeting in December you showed a slide
23 of a modern sedan stripped of fenders, door panels, hood,
24 trunk with a family of four in it, and I presume it is to
25 prove his point. But what are the key safety components?

1 The car you presented in that manner had tires, wheels, I
2 assume brakes, suspension, steering wheel, you know, all
3 the stuff that keeps the car on the road, but the one
4 thing that's not mentioned is the most important key
5 safety component of them all and that's the driver. These
6 buggies and kit cars are built and maintained by the most
7 responsible drivers on the road. They've put a torque
8 wrench on every single bolt on their vehicle and made sure
9 that everything is functioning perfectly because they
10 would not want to put their precious family members in
11 something that was not going to be safe. The fact that
12 you deem these vehicles unsafe is grossly insulting to the
13 owners and the drivers.

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

24 DMV, step up to the plate of reason,
25 rationality and redeem yourselves to us and the rest of

1 the country. This is your chance to stop looking like
2 fools and make it right. Don't take away my right to be
3 open and safe on the road.

4 Thank you for your time and your ears.

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

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

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

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

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

1 the department does issue and then revokes, it erodes a
2 trust that should exist between taxpayers and the
3 government that they fund.

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

13 December 7 of last year was the first time the
14 director was asked by us to provide data supporting his
15 claims of safety issues. We have since asked for this at
16 every working group meeting but have been provided by the
17 director with nothing. If there were data, we would like
18 to think that the director would be inclined to provide
19 this to us in order to engage in productive discussion on
20 this important issue. If there is no data, then how does
21 the department reach the conclusion that there is a
22 problem? If there is no problem, why are valuable
23 resources and time being spent developing unwarranted
24 solutions, recommendations and pathways forward, et
25 cetera?

1 The director is at the same time asking the
2 board to accept the claim that there will be no adverse
3 financial impact, when clear evidence exists to
4 demonstrate that it does and would continue to, absent the
5 board's intervention in this matter. Perhaps the director
6 is referring to implications relating to the department
7 only. We ask the board to consider the financial impact
8 to individuals and small businesses is the main reason why
9 some of us are here today.

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

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

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

23 MR. PALACIOS: I'll ask the same question that
24 I asked Mr. Smith. Again, this is a proposal, not a rule
25 adoption. I'm hearing you don't like the rules. Are you

1 in favor of just wiping it out and starting from scratch,
2 is that what I'm hearing? Because again, currently we
3 don't have a rule that really addresses, so I'm hearing
4 the current rule, I believe you're saying, is worse than
5 what we have now which is really nothing that's
6 definitive.

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

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

20 MR. GRAHAM: I'd like to just make a statement
21 to Mr. Palmer and say, first of all, that I think,
22 unfortunately, the vast majority of people running around
23 out there in these vehicles, they know what they're in and
24 they know how to drive them, they're invested in them. I
25 also agree with staff that I think that there needs to be

1 some clarity in our rules because not everybody always
2 plays within the bounds of what most of us do, so I think
3 we need some clarity as to specifically how we apply these
4 statutes.

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

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

15 MR. PALACIOS: Okay.

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

20 MR. KUNTZ: So I'll respond to a couple of
21 things, and I'm going to harken back to my college days
22 when I took a business law class and the very first thing
23 that my professor said is take all logic and reason and
24 throw it out the window because when you're dealing with
25 the law, logic, reason and statistics don't matter.

1 Unfortunately, what we're dealing with here is
2 it is not about data or statistics, we're looking at the
3 strict interpretation of what is in the statutes today and
4 interpreting what is allowed or not allowed. So first
5 off, that's kind of where I want to go with that.

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

18 We recently had one that came in where somebody
19 brought in a vehicle, there is a manufacturer who wants to
20 produce this vehicle, they request of Motor Vehicle
21 Division: Do I have to be licensed as a manufacturer? I
22 intend to operate this vehicle off highway all the time,
23 this vehicle is not intended for on road use, it's
24 intended for off road use, it's intended to be operated at
25 a track. When that manufacturer makes that determination

1 and they produce that vehicle, that vehicle has been set
2 in stone, it is an off road vehicle at that point.

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

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

22 So when we talk about Ariel Atom, that's the
23 thing that we really bring up, that's just one company.
24 We have hundreds of companies that come in that have off
25 road motorcycles or off road ATVs, ROVs, there's a lot of

1 different vehicle classes and they've made those decisions
2 for them to be off road and they cannot be converted to on
3 road use.

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

6 MR. PALACIOS: Yes, please.

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

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

21 As it relates to safety, there is only way that
22 I can respond to safety and that is there are other
23 entities who have defined a safety vehicle, and that being
24 the National Highway Traffic Safety Administration through
25 the Federal Motor Vehicle Safety Standards, as well as the

1 Texas Department of Public Safety who administers that in
2 the State of Texas and performs a safety inspection on
3 those vehicles. Any vehicle that falls short of the
4 federal standard, in my mind, is falling short of that
5 safety standard for a vehicle produced in 2018. I don't
6 know how to look at it other than that is the minimum
7 safety standard that should apply to a vehicle
8 manufactured in 2018 because I have not gone out and done
9 safety crash tests or any of those other things as NHTSA
10 has done. They are a federal agency that has expertise in
11 safety and the safe construction of vehicles, and as such,
12 we rely upon those standards and their expertise in how
13 those vehicles should be manufactured for safe operation.

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

17 MR. ELLIOTT: Good morning, Mr. Chairman.

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

21 Please proceed.

22 MR. ELLIOTT: Good morning. I'm assuming it's
23 still morning, I know we're running long. My name is Alan
24 Elliott, for the record, and I'm with the Assembled
25 Vehicle Coalition of Texas.

1 My story is not unique by any means and it is
2 one of many. In June of 2015 I purchased my dune buggy
3 from an individual in Oklahoma for \$8,000. It was legal
4 in the State of Oklahoma, so I signed papers needed for
5 the sale, I brought it home to Texas, went through all the
6 forms that I legally needed to go through, had it insured
7 with State Farm -- and yes, they know it is a dune buggy,
8 I provided pictures to them -- had it insured, had it
9 inspected, it passed inspection, changed the title to my
10 name, paid the required sales tax and fees, registered it
11 and received my plates, and I did this because the DMV
12 requires me to do that in a 30-day time period. So it's
13 very simple. Right?

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

25 As you can see, I struck out a section here

1 where originally the rule just completely targeted a dune
2 buggy, what was determined to be a dune buggy. Now that
3 that's out, I know that the proposal has five new
4 comprehensive definitions. I say comprehensive, I don't
5 think it is fully comprehensive because my dune buggy is
6 not represented in those types. It has a shortened body,
7 it's a VW chassis.

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

16 MR. PALACIOS: Go ahead, just quickly.

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

25 MR. PALACIOS: Okay. Thank you, Mr. Elliott.

1 I do have a question, Jeremiah. So as I
2 understand it then, the reason Mr. Elliott's vehicle
3 doesn't conform under this new rule is because the frame
4 has been modified?

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

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

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

1 vehicle.

2 MR. ELLIOTT: May I respond?

3 MR. PALACIOS: Yes.

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

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

18 MR. KUNTZ: I was just going to say we're
19 having to draw a line to define new and used because the
20 only way to allow for vehicles that have been modified is
21 to deem them used vehicles. At some point in time we've
22 got to draw a line and say enough modification has been
23 made to that vehicle that it's something new, it's
24 something that's never been on the roadway, somebody is
25 constructing something.

1 And again, I go back to part of the dilemma
2 that we've got is creating loopholes where people could
3 come into market and just start mass producing vehicles
4 using existing chassis. I will tell you, and we had a
5 little discussion about this after our last working group,
6 there's an interesting case study, if you will, with
7 Nissan with the old 240Z, where it's the 25th anniversary
8 of the 240Z, Nissan actually, as a major manufacturer,
9 went out and started purchasing used 240Zs from around the
10 country from people. They went through a process of
11 remanufacturing all those 240Zs and they sold them as new,
12 and so they went through that process and rebuilt those.
13 And so that's an interesting case study to look at this as
14 well as to why did they manufacture those, rebuild them
15 and then come back and call them new because at some point
16 in time that vehicle has had enough modifications to it
17 that it becomes a new vehicle, and that's what we're
18 grappling with here.

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

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

23 MR. GRAHAM: Non-replica?

24 MR. KUNTZ: Yes, because it is not a replica of
25 a previously manufactured vehicle.

1 MR. GRAHAM: Non-replica, new body, custom
2 frame.

3 MR. KUNTZ: Correct.

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

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

21 MR. GRAHAM: Okay.

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

24 Something that's come up, sort of a theme I've
25 seen in some of the comments, and I'd like to be clear for

1 you all and for the commenters, is the basis, when we do a
2 rule and when we take any action, when this board and its
3 staff does anything, the only way we're able to do that,
4 the only reason we're able to do that is the legislature
5 has specifically authorized us in statute to do that. The
6 thing we're talking about here is titling and
7 registration. When you look at the titling statute, it
8 says you can issue a title, that the department may issue
9 a title for a new vehicle and it must be accompanied by an
10 MCO, or a vehicle that's been subject to a first sale, a
11 used vehicle, and here's the paperwork you need for that,
12 and the department is given authority in those two
13 sections to give the counties, the tax assessor-collectors
14 guidance on the necessary paperwork and the processes to
15 do that.

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

25 The reason we can do any of those is the

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

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

15 MR. PALACIOS: Thank you.

16 Next up I'd like to ask Mr. Dean Watts to come
17 forward.

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

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

24 MR. PALACIOS: That sounds good.

25 MR. BARNWELL: Get me some too. Just black.

1 Anybody else want anything?

2 (General talking and laughter.)

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

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

21 And that's what I want to emphasize in this is
22 I think it's very important to sanction home built cars,
23 that sort of thing. These sorts of cars have a big
24 benefit. Kids grow up in this environment where things
25 are done out in a shop or garage and there's a big benefit

1 to that. One of my co-workers described this difference
2 in foreign workers the best way I've heard and I haven't
3 forgotten it: That's what happens when you grow up
4 without a garage. These other folks just weren't so
5 practical, they didn't get near as much done. So there is
6 a big economic impact if we disallow people to build
7 things in their shop or garage and a big motivation to do
8 that is then you can drive it on the street, you can
9 actually use and go have fun with it and make it a family
10 hobby. So that's one point is I think the economic impact
11 is kind of a big deal.

12 And the other one where I'm going to go
13 completely off what I had prepared is I think of the
14 custom vehicle and street rod provisions, I think it's
15 504.501, if only those provisions would allow a dune
16 buggy, but then there's other cars. The Exomotive Exocet,
17 I think it's been brought up before in past meetings, it
18 looks like an Ariel Atom to the casual observer but it's
19 not, it's a home built kit car that uses Mazda Miata
20 components, all the way down to just about the complete
21 chassis. All they're providing is a stronger frame to
22 make the car safe enough. Those are not track vehicles,
23 there's no sanctioned body who has a specific class to
24 race those cars, they're street cars, they're hobbyist
25 street cars.

1 Allowing this sort of car as a low volume car,
2 like the SB-100 in California that I believe provides
3 someone with a full usable title, that should be done,
4 that would be the right thing to do. I think it's
5 unprecedented to disallow a car that has been on the road
6 for 40 years. When it comes into this state, like Mr.
7 Smith comes in with his dune buggy from New Mexico and it
8 can't register it in the State of Texas, or other people
9 who have had the vehicle in Texas, maybe they've owned it
10 for 35 years and they sell it to somebody else and that
11 person cannot register it? Why would that vehicle be
12 disallowed after so many years?

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

15 MR. PALACIOS: Thank you, Mr. Watts.
16 Appreciate your time.

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

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

20 One comment. I talked casually, overhearing
21 and talking with the other board members, some of them,
22 about this matter here just here this morning just
23 listening to the undercurrent. You know, you realize -- I
24 hope all you dune buggy, home build people realize you're
25 really preaching to the choir here. There's not a person

1 here who is against safely putting these home built
2 vehicles on the road. The fact of the matter is that we
3 feel hamstrung. We have laws in place, statutes that we
4 can't just sit here and make a new rule just because it's
5 a good idea, we're limited in what we can do. And this is
6 not a good thing but it's the deal.

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

8 MR. BARNWELL: That's where we are.

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

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

14 MR. PALACIOS: Maybe Jeremiah can address that.

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

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

24 MR. BARNWELL: If there's any way for us to
25 figure out a way forward, we want to do it. Perhaps

1 proposing this rule, with its flaws -- and as far you're
2 concerned it has flaws -- it may be in compliance with the
3 law but it may not accomplish what you want it to
4 accomplish, but what I'm interested in doing is finding a
5 solution. I can't give you a solution today, I couldn't
6 vote for it, it wouldn't be legal, and I'm not going to do
7 that, I'm not going to fly in the face of the statute and
8 say I'm just going to roll off in my own direction. No
9 matter whether it's right or wrong, I'm limited in what I
10 can do, as are the rest of the board members, but we're
11 all interested vitally in seeing you be able to exercise
12 your freedoms to the extent that that is possible and safe
13 and doesn't harm other citizens of the state.

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

24 MR. WATTS: Is there any possibility of
25 expanding 504.501 to include vehicles that have engines

1 that are 25 years or older? That would solve it for the
2 dune buggy folks.

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

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

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

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

24 MR. BARNWELL: I don't know that that's
25 possible under the way the law is currently written, but

1 personally, I'm open to any suggestion that accomplishes
2 compliance with the law and gives you the maximum freedom.

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

8 MR. BARNWELL: I'm with you.

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

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

23 I hope you understand that we can delineate
24 what this agency is empowered to do, what our authority
25 is, because what I'm hearing is you think we have more

1 authority than we do, we don't. We can't just write a
2 rule to conform to what it is all of you want. To the
3 degree that we can, we will do what we can, but I would
4 ask that you work with us on this issue, again, to
5 delineate what we can do as an agency and what it is that
6 ultimately will have to be taken back to the legislature.

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

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

18 MR. GRAHAM: And, Mr. Chairman, if I could just
19 add one piece to that. I would certainly recommend that
20 as we work through this process, that if we vote on these
21 and they pass as a starting place, a working document
22 moving forward, as this group of people move forward with
23 this process and discussions with staff that we work
24 together to figure out what legislative remedies we need.

25 I mean, we are right here on the cusp of a session, this

1 is the time to go find some solutions to the pieces of the
2 puzzle that we cannot change, and so just keep that in
3 mind.

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

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

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

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

17 I will now call up Mr. Thomas Randall.

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

21 I elected purchasing a dune buggy years ago so
22 that I could take my grandkids cruising around the coast
23 like I use to do when I was a kid. I looked at titling
24 and registration rules and decided to purchase rather than
25 build one myself. It was important to me that the vehicle

1 was legal and safe since the kiddos were going to be
2 aboard with me. I searched and found a rare four-seater
3 dune buggy that was in Oklahoma -- it seems like we've had
4 a lot of Oklahoma dune buggies. It had proper the
5 Oklahoma ASVE title, it had a state issued VIN number and
6 it had current license plates, everything that I was
7 wanting so that I would have no problems titling it here
8 in Texas.

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

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

1 in the eyes of the State of Oklahoma.

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

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

21 I understand that there's issues going on here
22 but these vehicles were legal and they were licensed and
23 they were registered a few years ago and now they're not,
24 and those of us that are bringing vehicles into Texas
25 can't even get them registered. Why don't we put a lid on

1 it right now, quit tinkering with rules and try to come up
2 with a joint resolution through a legislative fix.

3 MR. PALACIOS: Thank you, Mr. Randall.
4 Appreciate your time.

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

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

8 MR. PALACIOS: Thanks for appreciating that.
9 We feel the same way.

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

15 I built my dune buggy back in 1983 after losing
16 my first wife, it was a way to work through my issues and
17 keep myself busy. After building it, I had it legally
18 titled, registered, inspected and insured as an assembled
19 vehicle so that I could legally enjoy it on the streets of
20 Texas, and I did for many years. I parked it at one point
21 after starting a family with my second wife, and sometime
22 later my son expressed the desire to learn how to drive a
23 stick shift, so I knew exactly what project to have, so
24 together he and I rebuilt the dune buggy, got it back up
25 on the streets and we again enjoyed it legally driving

1 around the streets of Texas.

2 This spring, thanks to Faron, I learned of
3 Administrative Rule 217.3 and heard about all the titles
4 being denied and revoked and I personally couldn't believe
5 that this was happening in Texas. I moved to Texas in '72
6 from Pennsylvania and I really was impressed with the
7 individual freedoms and the way the Texas government
8 upheld those freedoms, so I was obviously shocked when I
9 heard of these titles and registrations being revoked and
10 pulled from people who had been legally driving them.

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

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

24 My personal opinion of 217.3 is that sections
25 (5) and (6) as they currently stand should be revoked and

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

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

16 Thank you for your time.

17 MR. PALACIOS: Thank you, Mr. Nelson.

18 Okay. Moving right along now, let's move on to
19 Mr. Steven Reuter. Are you here?

20 MR. REUTER: It's Scott Reuter.

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

23 MR. REUTER: My name is Scott Reuter and I'm a
24 part of the Assembled Vehicle Coalition. Thank you for
25 this time to talk to you on this position regarding the

1 Texas DMV Administrative Rule 217.3.

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

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

19 Unfortunately, after lunch our voices seemed to
20 hit a brick wall. When the rules from the Texas DMV came
21 up, they were nothing like our request and/or suggestions.

22 In fact, the new rules put many, many, many more vehicles
23 off the road and if the Texas DMV was trying to get those
24 dune buggies back on the road, they were successful in
25 getting approximately less than 10 dune buggies back on

1 the road. We only have three of the long body four-
2 seaters in our club.

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

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

17 MR. PALACIOS: Thank you very much, Mr. Reuter.

18 Let's move on to Mr. John --

19 MR. STECZKOWSKI: Steczkowski.

20 MR. PALACIOS: Steczkowski. Thank you.

21 MR. STECZKOWSKI: Hi. My name is John
22 Steczkowski, and I had my prepared statement but it's kind
23 of just mirrors what everybody else has been saying. I am
24 an owner of a Exomotive Exocet which I built in my garage.
25 I went through the process of getting it legally

1 registered in Texas. Those documents with photos of the
2 car, it's insured by USAA -- which is not known as a very
3 liberal company as far as their insurance goes -- they are
4 happy to insure it, and the documents were sent off to the
5 DMV to review, they reviewed those documents and happily
6 issued my title, which was a great day.

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

18 So I was going to read my letter but I'll leave
19 that because there's a lot of things in this conversation
20 that people -- I am not in the car manufacturing business
21 but there's a lot of statements being made here that make
22 me realize I know a lot more about it than other people.
23 For one, a frame and a body of a modern car since the '60s
24 is not a conversation you can have, they are unit body
25 construction. The body is part of the structure and there

1 are frame rails, in the front and back usually, that the
2 suspension components are attached to, but they are not
3 separable as individual components. So having a
4 conversation about frames and bodies is just not a logical
5 conversation. Yes, trucks and SUVs have separate frames
6 and bodies but that's not what we're talking about.

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

19 So we need to be careful about the rules we're
20 writing that they make sense for the components that are
21 available, and I don't think that the amendments to 217.2
22 and 217.3 make sense given the components that are
23 available. So you've asked many people should we have
24 this as a starting point for the rule and my answer to
25 that is no because it doesn't make sense. So we need to

1 come up with a much simpler set of rules that allow
2 hobbyists to build cars and get them licensed on the
3 street.

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

11 MR. PALACIOS: Okay. Thank you, sir.

12 Any questions?

13 MS. HARDY: We have a comment from Jeremiah.

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

15 MR. STECZKOWSKI: I had one other comment. The
16 240Zs were not sold as new cars, they were sold as
17 restored cars of the original model year, so that is
18 just -- once again, we need car enthusiasts involved in
19 these conversations because the comments being made are
20 just not -- they're simply not true.

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

24 MR. STECZKOWSKI: But the rules don't reflect
25 that.

1 MR. KUNTZ: So I want to make sure that we are
2 clarifying that a frame -- and we have had discussions
3 about unibodies -- we have an example of a person who has
4 attempted to take a 2005 Chevy Cobalt which is a unibody
5 constructed vehicle and claim that it is still a used
6 vehicle when they pulled suspension parts off of it and
7 assembled something known as a DF Goblin.

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

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

23 MR. KUNTZ: Again, I understand not every
24 vehicle is not going to be able to be remanufactured and
25 not every vehicle is remanufactured to something else

1 using those vehicles. That's why there's specific vehicle
2 types that kit car companies basically build off of or use
3 parts from.

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

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

13 MR. PALACIOS: Please proceed, Jeremiah.

14 MR. STECZKOWSKI: Am I incorrect?

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

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

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

22 MR. KUNTZ: So I was going to address the issue
23 of sales tax. Sales tax on any item that is not a motor
24 vehicle is 8.25 percent, motor vehicles enjoy a 2 percent
25 discount, so if a vehicle or some piece of machinery is

1 not deemed to be a motor vehicle, an additional 2 percent
2 is potentially owed on that piece of equipment. So by the
3 department denying or revoking these vehicles, we could,
4 if there is a decision to refund those monies, we could
5 send those to the Comptroller for them to collect the
6 remaining 2 percent on the sales tax.

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

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

15 MR. KUNTZ: So the example we have seen and had
16 a lot of discussion about is the DF Goblin which takes a
17 2005 Chevy Cobalt and it uses that as what is known as a
18 donor vehicle, and what they're doing is they're pulling
19 certain parts and pieces off of that donor vehicle in
20 order to construct a DF Goblin. The DF Goblin comes with
21 its own chassis, if you will, because it has its own pipe
22 frame constructed chassis that is complete and you throw
23 away the entire unibody from the 2005 Chevy Cobalt. You
24 basically get the K frame for the motor and you get the
25 suspension parts from that vehicle and you are assembling

1 something. It is no longer a Chevy Cobalt, at that point
2 it's a new vehicle.

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

7 MR. PALACIOS: Okay. I understand.

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

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

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

18 MR. STECZKOWSKI: (Speaking from audience.)
19 It's a unibody.

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

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

24 MR. GRAHAM: So what I'm kind of thinking about
25 this is when you come back to insured vehicles, I mean, if

1 you're going to be on the road, you have to be insured, if
2 you're going to be insured, you've got to have a VIN, and
3 I think you've got to have a VIN off the frame or only on
4 the vehicle? I mean, it's getting down into --

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

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

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

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

19 MR. KUNTZ: And I'll try and handle this as
20 easy as I can. Manufacturers, through the Federal Motor
21 Vehicle Safety Standards, have to provide a conforming VIN
22 when they become certified with NHTSA as a manufacturer.
23 So when you go to NHTSA, when you go to the federal level,
24 you're not registered with NHTSA, you are certified. You
25 certify to NHTSA that your vehicles that you're producing

1 meeting all the Federal Motor Vehicle Safety Standards and
2 you provide a conforming VIN. That's one of the
3 requirements at the federal level is to have a conforming
4 VIN on your vehicle. That's a 17-digit VIN that's got all
5 the different characters in the right place that identify
6 the manufacturer o the vehicle.

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

22 But until that point, the motor number was used
23 in many of the years, the frame was used for some vehicles
24 for some years, the body was used in some vehicles for
25 some years, and so depending on manufacturer and year,

1 that VIN location determines what part the title actually
2 stays with, which complicates this issue even more because
3 in certain years that title may belong to the body because
4 that's where the VIN is located that identifies that
5 vehicle, and the chassis for that year doesn't have a
6 title with it, it can only be transferred on a bill of
7 sale.

8 Which we're getting into another discussion
9 that occurred with folks of I cannot ever sell my vehicle.

10 You can sell things on a bill of sale without a title.
11 It's not worth as much to most people because it can't be
12 registered on the roadway. But in this example, you may
13 purchase a chassis on a bill of sale but that's because
14 that chassis does not have the title with it because the
15 title went with the other part. So we start getting into
16 a lot of dilemmas here when you start separating a vehicle
17 and you've now got the body and you've got the chassis, we
18 don't want that chassis and that body to keep that same
19 VIN. If somebody was to reconstruct a vehicle on the
20 chassis on this side and put a new chassis under the body
21 over here, now you've got the same VIN on two vehicles.

22 MR. GRAHAM: Yes.

23 What is our speaker's name?

24 MR. SULLIVAN: Justin Sullivan.

25 MR. GRAHAM: Justin, do you know anybody that

1 has trouble getting insurance for whatever car they have
2 to drive on the roadway?

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

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

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

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

15 We've had a lot of talk about statute and
16 legislation today. We appreciate the differences between
17 the Department of Motor Vehicles, what they can and cannot
18 do and what has to be done in statute. The one thing I
19 want to clarify, 217, which is the reason we're all here,
20 is an administrative rule and was not based in statute.
21 So that is what we've requested from the beginning to be
22 removed. This has been a two-pronged process. We have
23 asked let us fix what you can with your administrative
24 rule process and then let us together go to the
25 legislators -- of which we have many who have agreed to

1 work with us on this -- but we want your help to fix the
2 problem of a large scale but also on an immediate scale,
3 and the immediate scale is 217, administrative rule not
4 based in statute, let's get rid of it. That will help the
5 dune buggy crowd, the people you've heard from today.

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

16 So we've talked about do we want to proceed
17 with this and the reason I would recommend we do not is it
18 is clear that the vast majority of the answers to these
19 questions will have to come through legislative means.
20 The rules presented by the staff today are so far off base
21 that I do not believe it is worth proceeding with them at
22 all. Again, we have about 10 people, that number has been
23 thrown out a few times, 10 people who will be able to
24 comply with this set of rules. Previously this affected a
25 very small amount of people, we've admitted that from the

1 beginning. These new rules will affect drastically more,
2 Cobras, Caterhams, things that are legal now currently
3 will not be legal, and that is a situation we absolutely
4 want to avoid. We don't need thousands more people
5 getting those letters and standing before you today.
6 We're trying to fix this before it gets out of hand.
7 These regulations cause further issues, there's no other
8 way to state it.

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

11 Any questions for Mr. Sullivan?

12 (No response.)

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

20 MR. SULLIVAN: It is my opinion that these
21 rules will further complicate legislative solutions.
22 Whether that's not the case, I'm not in the legislature, I
23 don't know. I am worried that by approving these, opening
24 them to public comment, et cetera, that could further
25 complicate the ultimate solution. We were looking for a

1 short term solution, this is not that. So how this is
2 based in our long term solution of statutory changes, it
3 becomes irrelevant. This is not the short term solution
4 we were looking for the DMV to implement, therefore, I
5 can't say it's worth going forward with it.

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

8 (No response.)

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

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

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

16 In the handouts you'll see a picture on the
17 second page of a dune buggy that I made when I was 17
18 years old. I built it and I drove it for about a year and
19 a half before I went into the Air Force, and the reason
20 I'm showing it to you because that's how long I've been
21 working with these cars. And to this day I have a dune
22 buggy right now that I have invested money into it, I have
23 \$5,700 into it and I came to a stop because I can't get
24 the title and register it to enjoy it.

25 The first page is something I printed out from

1 the internet, and Mr. Kuntz had referenced that
2 organization in the last meeting we had back on December
3 7, 2017. He mentioned two or three times about it and I
4 just wanted you to read the first and second sentence on
5 there and especially focus on the second one that says
6 "except United States." I just thought that was
7 interesting.

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

22 And I heard the word "complex" and it's a
23 "dilemma" and in this situation here where it says there
24 is no standard, Mr. Kuntz said it's vague. I think we're
25 just splitting hairs here, I think our main purpose should

1 be safety. Anyway, that item number five, dune buggies is
2 not eligible, and number six is another one that is not
3 eligible which was merged vehicles, vehicles constructed
4 from various vehicle classes.

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

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

9 MR. PEREDO: Is it up already?

10 MR. PALACIOS: Yes, it is.

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

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

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

17 Good afternoon, Mr. Taylor.

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

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

1 wanted to build my dune buggy. Because of Rule 217.3 I
2 can't build it anymore.

3 I've got the dune buggy chassis which is
4 sitting on a '57 Volkswagen pan that's been shortened 14-
5 1/2 inches. It's got a VIN number not the pan and it's
6 got a VIN number on the body which is about a four-year-
7 old body, but I can't assemble and build those which
8 formerly was legal to build and formerly legal to drive,
9 and the VIN is 40 years old, but because of this rule I
10 can no longer put my 40-year-old vehicle back on the road
11 in the same state that it was when it was manufactured.
12 Now all the money that I spent on the motors and the
13 chassis and the body is just wasted. I can't go out and
14 buy me a completely assembled one because for the same
15 reason.

16 I still have the VIN, I have the original
17 manufacturer's tag on my body, got the original
18 manufacturer's VIN on my chassis, the only difference
19 between a 14-1/2 inch shortened chassis and a regular
20 chassis is a section taken out of the middle. It still
21 uses the same exact factory components with the front
22 suspension and the rear suspension, they're not
23 remanufactured, it's still got the original '57 model
24 transaxle. The floor pan is a '57, the tunnel is
25 shortened 14-1/2 inches, it uses a factory shift rod, uses

1 factory steering, factory brakes and tires, safety
2 mechanisms that was on that chassis when it rolled off the
3 Wolfsburg assembly line is still on that chassis, brake
4 drums, everything. The chassis is an unmodified chassis.

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

21 I'll take any questions.

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

1 you're cutting it down

2 MR. TAYLOR: Shortened it.

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

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

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

20 MR. KUNTZ: No. So the rules that were adopted
21 in 2012 would have prevented this vehicle, the rules
22 further modified in 2014 would have prevented this
23 vehicle, and these rules would also prevent this vehicle.

24 So since 2012 this vehicle that is being described would
25 not have been allowed to be titled and registered on the

1 roadway.

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

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

21 MR. PALACIOS: Okay.

22 MR. KUNTZ: And I want to make this statement
23 here because I've heard a couple of things and I want to
24 try and give the board a little bit more context. When we
25 go through a process of rulemaking, we have to try and

1 come up with definitions that are going to cover every
2 scenario. While I understand the scenario he is
3 describing sounds as if those are minor modifications to
4 an existing frame, however, we also have heard, well, we
5 don't want Franken-cars on the roadways either. We have
6 seen vehicles that have come in that have had major
7 modifications made to them, we've actually had lawsuits
8 over those vehicles where they've merged vehicle classes,
9 where they've taken the back-ends of vehicles and smashed
10 them together to create a three-wheel vehicle.

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

24 So then you get into what still constitutes a
25 used vehicle. If I was to just say I'm just going to take

1 the suspension parts off of a vehicle, is that still a
2 used vehicle. What if I just take the motor off of a used
3 vehicle and I put it into something that has a brand new
4 chassis, brand new body, is that still used because it's
5 got a used motor? At what point in time have you made
6 enough modifications to a vehicle that it's no longer
7 used.

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

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

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

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

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

22 MR. GRAHAM: So in this case the cut-down of
23 the frame, I mean, it sounds like you have a vehicle,
24 conforms, titled, registered, cut the frame, shorten it
25 down and it no longer meets the requirements. And so let

1 me tell you what I did last week. Let me tell you what we
2 do every day in the trucking business, we modify frames.
3 We take a truck that's got a bed on it and they want
4 another bed put on it and we cut it down and put the new
5 bed on it. So I'm just sitting here kind of wondering how
6 we deal with that aspect of it.

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

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

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

23 MR. GRAHAM: Thank you.

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

1 the complete frame, just like trucks.

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

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

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

24 So again, where I'm trying to go with that is
25 there are many different approaches that we could take.

1 Certain approaches have much more strenuous administrative
2 overhead, some have less. What we are trying to do is
3 most expeditiously using the smallest amount of going
4 through every single component part of a vehicle, using
5 the major component parts, motor, body, frame, to define a
6 vehicle and going from there. We did not want to get into
7 suspension changes and those kind of things the way Hawaii
8 does because they look at suspension changes and ride
9 height as potentially reconstructed or assembled vehicles.

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

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

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

17 (General laughter.)

18 MR. GRAHAM: Thank you, Mr. Taylor.

19 MR. PALACIOS: Appreciate it. Thank you.

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

22 MR. HINKLE: Chairman, board members, Executive
23 Director Brewster. My name is Ron Hinkle and I represent
24 the Assembled Vehicle Coalition of Texas and I too
25 register my opposition to the proposed rules.

1 You have my printed testimony but a lot of
2 things have been said, Mr. Chairman, you said it probably
3 the best, this obviously will get to the legislature, and
4 we've always understood that, so I'm going to cut out a
5 whole bunch of what I was going to say and kind of cut
6 this down a little bit.

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

24 The rules as proposed, in my opinion, says more
25 about what you can't do than what you can do. And just

1 reviewing the December 2017 board meeting transcript
2 provides a lot of conversation between the board and the
3 staff on the subject that it's either considered murky or
4 it's been complicated, as well as certain statutory
5 language working against itself. What we believe is a
6 simple solution in the short term I'm afraid has become
7 truly a complicated issue and will continue to be so in
8 the long term should these rules be adopted.

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

22 I think by not adopting this rule and putting
23 some freezing on some of these issues that these things
24 have been happening, because it's been very subjective on
25 what cars have been revoked and what have not, I think you

1 can allow the concerns from some of the vehicle owners
2 here. And it's a huge growing group out there, it was a
3 few hundred, it's about to be a few thousand and a few
4 thousand more beyond that that are going to get that much
5 more concerned and are going to voice their concern about
6 this. Also, a lot of concerned legislators and staff that
7 I've talked to that their constituents have been
8 disenfranchised in a lot of ways, their vehicles have been
9 taken from them, if you will, in their opinion the way
10 they view things, by a government agency, and it's causing
11 a lot of concern.

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

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

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

19 MR. KUNTZ: We did not reinstate previously
20 revoked titles. What we did is we said that we would not
21 go back and revoke any titles that were already issued.
22 We did have titles that came in after that freeze. We had
23 an individual specifically that came in with a sandrail
24 after we had already said that we would not -- and again,
25 when we made that commitment to the board, we said we

1 would not revoke anybody that already had titles but we
2 would not accept any new titles. Somebody managed to get
3 one through, it was revoked, it was a sandrail that had
4 managed to get a title.

5 So we are not actively going through our
6 database and looking for vehicles to go and revoke, so
7 that practice, yes, has already been frozen, if you will.

8 But we are not allowing new vehicles to enter into the
9 system either. When we say we're freezing it, we're
10 freezing everything, no new ones but we're not going out
11 and revoking ones that already had titles.

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

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

17 That is shutting down a whole bunch of people
18 who currently have cars that they bought and they can't
19 put them together. It is really shutting down the DF Kit
20 Car group, Senator Birdwell's constituent. He's going
21 away because of this, because of this interpretation
22 because he's not assembling the vehicle, he's not the
23 manufacturer, he's providing parts to a hobbyist, anyone
24 in this room, but if that hobbyist puts it together, he
25 has to have a manufacturer's license. Now that kit cannot

1 be sold to Texas, and I'm going to quote the owner, he's
2 not going to show up here anymore, he's pretty frustrated
3 with this whole thing because he sees his business
4 declining very, very rapidly.

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

7 MR. HINKLE: I understand.

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

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

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

21 MR. KUNTZ: The first thing I want to address
22 is the current rule was adopted in 2014 and we've heard
23 testimony from DF Kit Car, their company started in 2015,
24 so their company, their business was started after the
25 rule was already in place and in effect.

1 Justin Sullivan, we've gone through his
2 paperwork, we can back through it and give you an exact
3 timeline of when his vehicle received a title. Again,
4 we've gone back to, and we've addressed this in this rule,
5 you know, there are 254 county tax assessor-collectors
6 across the state, there are about 3,000 employees in those
7 offices. As you have seen here, my staff and I have spent
8 countless hours looking at this issue. I doubt any one of
9 those clerks have spent any hours looking at those issues
10 and understand what is being presented to them and what
11 its impact is on the titling. They are trying to make
12 their best determinations of the paperwork brought before
13 them. A title was issued.

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

21 Again, that was a new vehicle that was being
22 brought into market, and I will go back to the example
23 that I brought up earlier. Manufacturers come to the
24 department on a regular basis and request title
25 determinations from the Motor Vehicle Division that are

1 looked at by VTR. That happens on a regular basis for a
2 lot of industry partners. They come forward and say, I've
3 got this vehicle that I want to start manufacturing. We
4 look at those vehicles, look at their intended purpose,
5 make a title determination which will tell them before
6 they start their business whether or not that vehicle will
7 be qualified for title and registration.

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

24 MR. PALACIOS: Are there any questions for Mr.
25 Hinkle while he's up? He's the last speaker.

1 MR. GRAHAM: I do, Mr. Chairman.

2 I see a couple of real speed bumps for us here.

3 One is the question of one car making you a manufacturer
4 and then you've got to comply with all the rules of a
5 manufacturer, the second being -- and this one, I think,
6 is really a tough one which is the question of whether or
7 not an assembled vehicle has to meet the federal safety
8 requirements, meaning they've got to have airbags, they've
9 got to have anti-lock brakes, yada, yada, yada.

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

17 MR. HINKLE: Well, I really wish the DF Kit Car
18 owner was here. He got extremely frustrated in the second
19 working group by some comments that were made about his
20 company and about whether or not -- I think at one time
21 staff said it was considered an off road vehicle, and I
22 think the intent -- again, I'm speaking for the owner, I'm
23 trying to recollect something, I may be wrong and I hope
24 he can somehow address it for you guys -- but I think he,
25 if I can recall some emails to explain this early on, I

1 think he was told that he had to get a federal
2 manufacturer's license, so he wrote to NHTSA and NHTSA, I
3 believe, came back and said as a kit car he wouldn't have
4 to have a manufacturer's license because he's not
5 manufacturing the car, putting the parts together, which
6 those parts are already Federal Motor Vehicle Safety
7 Standards approved, if you will.

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

23 MR. GRAHAM: And so really when I said those
24 were the two points that I just kind of kept coming back
25 to, it's really the manufacturer issue because meeting the

1 safety requirements is because of that. So at the end of
2 the day, it's if you make one car you're a manufacturer
3 and then you've got to meet all these things. So I'm just
4 trying to get to the crux of the issue. All right. Thank
5 you.

6 MR. HINKLE: Thank you.

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

9 (No response.)

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

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

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

23 MR. KUNTZ: So the states all handle these
24 issues differently, very differently. Like I said, in
25 Hawaii there's a heavy regulatory scheme that they have

1 created around that. Pennsylvania also has an inspection
2 process with inspectors that are basically employees of
3 the department that actually inspect the vehicles that are
4 also heavily regulated. So each state has different
5 regulations. Some states have just said, Katie bar the
6 door, anything goes. But at the end of the day for us
7 it's a statutory definition of manufacturer and new and
8 used vehicles. That's where we get into all of the issues
9 is right there in statute.

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

19 MR. PREWITT: Okay. Thank you.

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

24 MR. KUNTZ: No, we're not, but again, if we see
25 new transactions that are coming across that have come

1 across since then and we become aware of those, yes, we
2 are revoking those because they shouldn't have been
3 approved anyway.

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

8 MR. KUNTZ: Manufacturer requirement or the
9 Title Act?

10 MR. BARNWELL: Yes.

11 MR. DUNCAN: Definition of manufacturer in 2301
12 in 1971.

13 MR. BARNWELL: So what I'm interested in is the
14 legislative intent at the time because that's really what
15 we're coming down to here. We're transferring our idea of
16 what the legislative intent is, and in 1972 I don't know
17 what they had in mind when they used the term
18 "manufacturer." It seems to me that the rule today, if
19 there is no record of intent, and if manufacturer is taken
20 in a more loose way, there's room to have a less
21 restrictive rule. These are very restrictive rules. In
22 fact, it takes up a huge piece of paper in very small
23 print and it still doesn't answer the real issues here of
24 why shouldn't a hobbyist be able to build his own car.
25 What's the danger? What's the safety requirements?

1 I'm personally not -- I think that the working
2 groups have done a lot of work on this but I'm not sure
3 what would happen if we just said, no, we're not going to
4 do 217.2 and .3, in fact, we're going to throw them out.
5 What would be the upshot of that?

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

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

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

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

22 MR. KUNTZ: What I would say is statute is what
23 is limiting on a manufacturer and a used or new vehicle.
24 So in statute a new vehicle is any vehicle that has not
25 previously been subject to a first sale, a used vehicle is

1 a vehicle that has been previously subject to a first
2 sale. So that's the only direction that the legislature
3 has given us as to what is a new or used vehicle. So then
4 if you take an assemblage of parts from various places,
5 you manufacture some parts yourself and you put them
6 together, the question then becomes is it new or used.
7 And that's where I go back to is a used motor in and of
8 itself enough to qualify everything else that's around
9 that vehicle as a used vehicle, and I would say no.

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

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

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

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

15 (General laughter.)

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

1 MR. KUNTZ: So I'll respond this way.

2 MR. BARNWELL: Like this?

3 MR. KUNTZ: No, never like that.

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

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

21 MR. KUNTZ: Sure, absolutely.

22 MR. BARNWELL: And so trying to move forward
23 with this thing, I'm interested in eventually arriving at
24 the right solution, regardless of what's required. I want
25 these people to understand what we're required to do and

1 understand what their path forward is and let them then
2 fix it if it needs fixing. That's all I'm saying about
3 that.

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

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

23 MR. BARNWELL: Well, that would be up to the
24 legislature and up to our representatives to figure that
25 out.

1 MR. KUNTZ: Exactly.

2 MR. BARNWELL: But I will say to you that this
3 is a small segment, it's not even a gnat on the major
4 manufacturer, it wouldn't move the needle because you're
5 talking about less than 5,000 vehicles in a state that has
6 25 million vehicles.

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

17 The dilemma that we have right now is that is
18 in the federal statutes and it requires that NHTSA
19 actually create rules to allow for that petition process
20 by which somebody can petition NHTSA to say I'm a low
21 volume manufacturer and I'm not going to be able to meet
22 this standard because of the economic hardship it creates.
23 The dilemma we have at this day and time is NHTSA has not
24 taken up and considered rules. They have no process by
25 which somebody can actually make that application and

1 apply for a waiver. So that right there, if they were to
2 take those actions, would provide relief at the federal
3 level from meeting all of those Federal Motor Vehicle
4 Safety Standards.

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

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

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

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

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

1 Is that correct, is that timeline accurate?

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

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

15 MR. DUNCAN: Oh, before, no.

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

18 MR. DUNCAN: And also, one of the commenters,
19 if we do something and the legislature doesn't like it and
20 they change the statute, first, the rule is overridden by
21 the statute as soon as it becomes effective, and then
22 we'll go back and clean up our rules as soon as possible
23 after the legislature passes a new statute. I mean,
24 there's no question that we can't do something that even
25 affects the legislative process. If they go in and go,

1 no, no, no, that's a terrible solution, and they start
2 drafting a bill that would override our rule, it will
3 override our rule, no question.

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

17 MR. PREWITT: So question. If we're
18 considering in the context of all the comments that have
19 been made, if we believe that there has to be legislative
20 redress on the issue for the agency to change to meet the
21 constituent's demands, would it make sense to table this
22 for an appropriate period of time until such time as we
23 can time it with the legislature where it doesn't run --
24 in other words, the idea being if we're making a rule,
25 then we have to change it 12 months from now, why make the

1 rule? Would it be better not just to table it, or is that
2 just destructive to the process? I'm asking.

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

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

23 MR. GRAHAM: I will echo Board Member
24 Barnwell's comments. I feel very strongly the way that he
25 does, and I do believe we need to get some clarity on what

1 this is going to look like at some point so that everyone
2 will know exactly where they stand, and so we're going
3 down that road now.

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

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

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

21 MR. PALACIOS: Thank you, Board Member Graham.

22 Are there any questions for Jeremiah? And I'll
23 just make a comment. When we convened these working
24 groups and we devoted a tremendous amount of resources and
25 time, it was with the intent to come up with a solution

1 that would give the stakeholders some relief to the extent
2 that we could and it doesn't look like we've reached that
3 point. So I guess I'd ask, Jeremiah, if we go forward
4 with the rule proposals, we have two choices or actually
5 three choices: we go forward with the proposals, we
6 don't, or we table it. If we stand pat the way we are,
7 what I'm hearing from the stakeholders is that they feel
8 that we are worse off if we were to move forward with
9 these rules than we are now. I just want some
10 clarification. Other than the rules regarding
11 modifications of frames, are you restricting any other
12 vehicles from being titled now or is it just that one
13 category that would, I guess, more define now the
14 restrictions.

15 MR. KUNTZ: So I'll go to the chart again and
16 that is there are vehicles in here that would be replica
17 vehicles, there's a column for replica vehicles. We've
18 been focused on non-replica vehicles here talking about
19 dune buggies. There are replica vehicles where it is a
20 new body and new frame and under this we don't know any
21 other way how to look at that vehicle other than a new
22 vehicle because you've got a brand new frame and a brand
23 new body, everything on that vehicle is new, and it's
24 difficult to look at that vehicle as a used vehicle just
25 because it resembles an old vehicle. And so those are the

1 things, I think, that most people are really focused on
2 here, that's what a lot of folks refer to as kit cars.

3 MR. PALACIOS: Right.

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

16 MR. PALACIOS: And that's my point. That
17 category you're just kind of clarifying existing statute.

18 I mean, we are not writing a new rule to usurp statute,
19 we're just clarifying statute, so whether to not that rule
20 is written, that's statute.

21 So again, getting back to the only restriction
22 now, I guess, that is a new rule, as I would see it,
23 again, back to the modification of frames where if you
24 modify the frame and it has a non-OEM body, that no longer
25 qualifies, but nothing else has changed as I see it. So

1 if we don't ultimately adopt any rules, we're not
2 restricting the titling of vehicles any more than what we
3 already have in place now, again, with the exception of
4 the frames.

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

14 MR. PALACIOS: Okay.

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

21 MR. PALACIOS: What are your feelings on that?

22 MR. KUNTZ: And I guess I should have laid that
23 out as an option too. You have those three options that I
24 mentioned before which is not move forward, table, or move
25 forward. When you move forward you will have two options

1 at the end of this process as well which is to approve or
2 not approve the final adoption of the rules. So you could
3 enter into the public comment, allow the public to
4 comment, to provide insight, to your point, Member
5 Painter, maybe provide some additional clarity if somebody
6 has got some additional information that is helpful that
7 could be provided to the legislature, and ultimately you
8 could make a determination not to move forward with the
9 rule. That is an option as well.

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

25 MR. PAINTER: That's correct.

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

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

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

11 MR. KUNTZ: Correct.

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

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

17 (General talking and laughter.)

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

21 (No response.)

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

24 It is 12:39, would y'all like a break? Okay,
25 five-ten minutes.

1 (Whereupon, a brief recess was taken.)

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

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

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

21 So I have some prepared and I also have some
22 off-the-cuff. So at QuickView we've been involved in
23 inquiring on these generic MVInet records for 16-plus
24 years. We take these records and we repackage them,
25 enhance them, add extra features that allow these records

1 to be integrated in vendor's software that is designed for
2 auto dealers. As of today we have over 1,100 companies,
3 we have 10,000 vetted and credentialed users, and as one
4 company, QuickView actually consumes 25 percent of all
5 records that come from MVInet, so one-quarter of the
6 records. This is accomplished through an electronic
7 access to the MVInet systems here at the state, and
8 needless to say, that connection is very important.

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

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

1 work out and develop a cooperative relationship.

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

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

6 At this time we will now move into closed
7 session. It is now 12:57 on August 26, 2018. We'll go
8 into closed session under Texas Government Code Sections
9 551.071, 551.074 and 551.089. For those of you in the
10 audience, I anticipate being in executive session for
11 approximately an hour and a half at the latest, and we'll
12 reconvene in open session after that.

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

15 (Whereupon, at 12:57 p.m., the meeting was
16 recessed, to reconvene this same day, Thursday, August 16,
17 2018, following conclusion of the executive session.)

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

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

24 I'll note for the record that Board Members
25 Scott, Barnwell and Caraway have departed.

1 MR. KUNTZ: For the record, Jeremiah Kuntz,
2 director of Vehicle Titles and Registration Division.

3 We're going to consider agenda item number 10.

4 This is proposal for rules for Chapter 217. The purpose
5 of this rule is to implement some provisions from Senate
6 Bill 1062 from the 85th Legislative Session relating to
7 the department accepting electronic signatures on secure
8 documents.

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

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

25 And so with that, that will complete my

1 presentation. We have received good feedback from
2 industry that they are in full support of this and would
3 like to see it move forward.

4 MR. PALACIOS: Thank you.

5 MR. TREVIÑO: Are other agencies using these
6 signatures?

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

13 MR. PALACIOS: Thank you.

14 Are there any other questions for Mr. Kuntz?

15 (No response.)

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

19 MR. PREWITT: Second.

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

24 (A show of hands.)

25 MR. PALACIOS: Motion passes unanimously.

1 Please proceed, Mr. Archer, Chapter 217.

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

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

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

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

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

25 MS. HARDY: Second.

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

5 (A show of hands.)

6 MR. PALACIOS: Great. Motion passes
7 unanimately.

8 Let's move on to the vice chair election.

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

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

15 MR. PAINTER: Second.

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

20 (A show of hands.)

21 MR. PALACIOS: Congratulations.

22 MS. HARDY: Congratulations. Your salary just
23 doubled.

24 (General laughter.)

25 MR. TREVIÑO: Thank you, Mr. Chairman.

1 MR. PALACIOS: Okay. Let's move on now to
2 Finance and Audit.

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

6 I am addressing item 13.A. Amendment of the FY
7 2018-19 interagency agreement between the department and
8 the Texas Department of Transportation. We are asking
9 board action to approve amending the FY18-19 interagency
10 agreement.

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

20 The additional \$2.3 million under consideration
21 today will compensate TxDOT for managing projects listed
22 on pages 186 and 187 of your board materials. We received
23 this new funding to finance repairs and maintenance for
24 space here on Camp Hubbard. The two agencies worked
25 together to identify major renovations and repairs needed.

1 The original comprehensive list was presented at the June
2 board meeting for the purpose of authorizing the agency to
3 create capital projects and to request carryforward of
4 unspent maintenance dollars from this year to next year.

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

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

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

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

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

24 MS. FLORES: It would probably be bid out. So
25 at some point, once we've entered into this agreement,

1 they will then go out and get the bids necessary for the
2 actual work.

3 MR. PREWITT: Thank you.

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

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

10 MR. GRAHAM: Thank you.

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

20 MR. TREVIÑO: Second.

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

25 (A show of hands.)

1 MR. PALACIOS: Motion passes unanimously.

2 Next item.

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

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

24 And basically our expenditure budget is \$168
25 million and it's broken into these categories. Under

1 program administration, one thing I'll point out, it's a
2 full year of funding for our new Compliance and
3 Investigations Division, and under Central Administration
4 it might look a little high but that's where our contract
5 is for our license plates. So that's one item that we
6 will need your approval on.

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

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

23 The second contract is with the American
24 Association of Motor Vehicle Administrators, AAMVA, and
25 this is to fund annual fees for access to the National

1 Motor Vehicle Title Information System, NMVTIS -- and I
2 always put in parentheses "Title Check" -- and the amount
3 of that contract is \$334,000.

4 Before I conclude my presentation, I'd like to
5 point out that this was a group effort. I have a staff
6 over in the corner there and I'll have them all stand up.

7 It's the revenue estimators and the budget analysts, and
8 they all worked tirelessly to put together the FY 2019
9 budget and our legislative appropriations request.

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

14 Stand up, y'all.

15 (Applause.)

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

1 National Motor Vehicle Title Information System.

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

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

6 MS. HARDY: Spontaneous.

7 (General laughter.)

8 MR. PALACIOS: I won't even try to repeat it.
9 Motion by Board Member Treviño, second by Board Member
10 Graham. All in favor please signify by raising your right
11 hand.

12 (A show of hands.)

13 MR. PALACIOS: Motion passes unanimously.

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

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

18 (General laughter.)

19 MR. PALACIOS: It's coming.

20 Internal Audit.

21 MS. MENJIVAR-SUDDEATH: Good afternoon. For
22 the record, Sandra Menjivar-Suddeath, and I am presenting
23 item 13.E. which is the fiscal year 2019 annual audit
24 plan, and I'm requesting board approval. The annual plan
25 starts on page 279 of your board book.

1 The audit plan is the work plan for the
2 Internal Audit Division. It's lists the audits that we
3 will be doing, as well as contingency audits if we have
4 more time, and as well as the other internal audit duties
5 such as fraud, waste and abuse, quality assurance, items
6 like that. This year's audit plan includes ten
7 engagements, which two are required, the FY 2020 annual
8 audit plan and the 2018 annual report, as well as followup
9 audits, and high risk engagements of the Compliance and
10 Investigations Division, hiring and classification, Lemon
11 Law, information security risk assessment, payment card
12 industry compliance, and the Enterprise Project Management
13 Office advisory service.

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

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

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

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

23 MS. MENJIVAR-SUDDEATH: Yes.

24 MR. TREVIÑO: Great. Thank you.

25 MS. HARDY: I move that the board approve the

1 fiscal year 2019 internal audit plan.

2 MR. PAINTER: Second.

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

7 (A show of hands.)

8 MR. PALACIOS: Motion passes unanimously.
9 Wonderful.

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

16 MR. GRAHAM: Sea Turtle.

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

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

25 With that, I would entertain a motion.

1 MR. PALACIOS: Any questions?

2 (No response.)

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

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

10 MR. TREVIÑO: Second.

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

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

15 MR. PALACIOS: all opposed?

16 (A show of hands: Board Member Palacios.)

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

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

21 (General talking and laughter.)

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

25 MR. PAINTER: Motion to adjourn.

1 MR. PREWITT: Second.

2 MR. PALACIOS: Everyone motions. I'll take
3 Sheriff Painter's motion, second by Board Member Prewitt.
4 All in favor?

5 (A chorus of ayes.)

6 MR. PALACIOS: We are now adjourned.

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

C E R T I F I C A T E

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2
3 MEETING OF: TxDMV Board
4 LOCATION: Austin, Texas
5 DATE: August 16, 2018

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

11 DATE: August 22, 2018
12
13
14
15
16

17 /s/ Nancy H. King
18 (Transcriber)
19

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