



GOVERNOR GREG ABBOTT

To: Guillermo Treviño, Chair
Whitney Brewster, Executive Director
Tracey Beaver, General Counsel
Texas Department of Motor Vehicles

From: Erin Bennett, Director
Regulatory Compliance Division, Office of the Governor

Date: June 9, 2020

Subject: Proposed Title 43 Texas Administrative Code Section 217.182 (RCD Rule Review #2020-008)

I. Preface

The Texas Department of Motor Vehicles (“department”) proposed an amendment to 43 TAC §217.182, which adds the issuance of an off-highway vehicle license plate to the list of registration transactions in the rule.¹ The department submitted the proposed rule to the Regulatory Compliance Division (“division”) for review on April 23, 2020. The division invited public comments on the proposed rule for a 30-day period ending May 28, 2020, but received no comments.

II. Analysis

The department proposed the amendment to §217.182 in response to House Bill 1548, 86th Legislature, Regular Session (2019), which required the department to establish a process for the issuance of license plates for certain off-highway vehicles and authorized the highway operation of off-highway vehicles with license plates under certain circumstances. According to the department, by adding the issuance of an off-highway vehicle license plate to the list of registration transactions in §217.182, the department will be able to impose an administrative fee for the issuance of off-highway vehicle license plates to cover the costs of issuing those license plates.² Specifically, §217.183 requires a processing and handling fee in the amount of \$4.75 to be collected with each registration transaction listed in §217.182.

¹ Rule Submission Memorandum from the Texas Department of Motor Vehicles (April 23, 2020), at 1 (on file with the Regulatory Compliance Division of the Office of the Governor). 45 Tex. Reg. 2535 (2020) (to be codified at 43 TAC §217.182) (proposed April 17, 2020) (Tex. Dep’t. Motor Vehicles).

² Rule Submission Memorandum from the Texas Department of Motor Vehicles (April 23, 2020), at 1.

The department submitted proposed §217.182 to the division because the assessment of the administrative fee, or processing and handling fee, will result in a higher price for a license plate provided to an operator of an off-highway vehicle and, thus, the proposed rule affects market competition pursuant to Section 57.105(d)(2), Texas Occupations Code.³ However, House Bill 1548 added Section 504.002(b) to the Texas Transportation Code, and this subsection explicitly authorizes the department to charge an administrative fee in an amount established by department rule to cover the costs of issuing off-highway vehicle license plates. The department has chosen to implement this administrative fee through its existing processing and handling fee structure, which is also authorized in statute.⁴ Section 502.1911(a), Texas Transportation Code, authorizes the department to charge a processing and handling fee to cover the costs of collecting fees to issue license plates. Thus, proposed §217.182, which provides for the assessment of an administrative fee on the issuance of an off-highway vehicle license plate through the addition of that transaction to the rule's list of registration transactions, is consistent with state policy as established in state statute.

III. Determination

Because the division has determined that proposed §217.182 is consistent with state policy, the proposed rule is approved by the division and may be finally adopted.

³ *Id.* at 3.

⁴ *Id.* at 2-3.