



Policy & Procedure Chapter 90

Commercial Motor Vehicle Inspection and Title VI Program Compliance

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Accred. Stds:

90.0 COMMERCIAL VEHICLE INSPECTION AND ENFORCEMENT

- A. The purpose of this policy is to establish a procedure for the inspection of commercial motor vehicles and the enforcement of laws and regulations pertaining to commercial motor carriers by a Boone County Sheriff Deputy. Included in this chapter is; training and certification, enforcement, safety inspections, working at a state scale facility, FMCSR (Federal Motor Carrier Safety Regulations), CVSA (Commercial Vehicle Safety Alliance), federal grants and proper paperwork and channels while conducting safety inspections and commercial vehicle enforcement.

90.1 ABBREVIATIONS AND DEFINITIONS

- A. CMV- Commercial Motor Vehicle
B. Traffic Unit- Traffic Evaluation and Enforcement Unit
C. KSP- Kentucky State Police
D. FMCSA- Federal Motor Carrier Safety Administration
E. FMCSR- Federal Motor Carrier Safety Regulations
F. CVSA- Commercial Vehicle Safety Alliance- is an association responsible for the administration and enforcement of motor carrier safety and Hazmat laws working with the federal government and industry to improve commercial vehicle safety.
G. OOS- Out of Service Criteria- set forth by the CVSA- with the purpose to identify violations that render the commercial motor vehicle operator unqualified to drive and to identify critical vehicle inspection items and provide criteria for placing vehicles out of service.

- H. Safety Inspection Computer Program- This program is supplied by KSP and only used by certified deputies.
- I. MCSAP- Federal program for commercial vehicle safety inspections
- J. Level 1 Inspection- North American Standard Driver and Vehicle inspection.
- K. Level 2 Inspection- Vehicle walk-around inspection
- L. Level 3 Inspection- Driver/paperwork only inspection
- M. Level 7 Inspection- Jurisdictional Mandated

90.2 TRAINING AND CERTIFICATION

- A. Deputies engaged in commercial vehicle enforcement and inspection must meet the certification guidelines set forth by the Federal Motor Carrier Safety Administration (FMCSA).
 - 1. Deputies must successfully complete the FMCSA North American Standard Level A and B courses.
 - 2. Meet the minimum documented inspections prescribed by FMCSA and/or KSP.
- B. Each Deputy certified to conduct inspections must meet the following requirements to remain certified;
 - 1. Complete thirty-two (32) Level 1 inspections annually (for purposes of certification, annually shall mean every calendar year); and

90.3 ENFORCEMENT OF STATE AND FEDERAL CMV LAWS

- A. Deputies assigned to commercial vehicle enforcement / inspection duty shall utilize both Kentucky Revised Statutes (KRS) and the Federal Motor Carrier Safety Regulations (FMCSR) when investigating for violations.
- B. Deputies that issue citations shall do so, utilizing a Kentucky Uniform Citation Form in accordance to departmental policy (Chapter 57 BCSO P&P).
- C. Deputies can issue citations while conducting a Traffic stop for a violation or while conducting a roadside or scale facility inspection. A citation issued in accordance with a safety inspection shall be documented on the safety inspection form as well.

CMV SAFETY INSPECTIONS

- A. Certified deputies may conduct inspections on any motor carrier's vehicle and drivers which are subject to the CMV regulations. Inspections of CMV shall be conducted following the CVSA North American Standard Inspection Procedures. Additional guidelines for conducting inspections are provided below.
1. Inspection efforts should concentrate on those CMVs that have a negative impact on traffic safety. Inspections will be conducted only by CVSA certified deputies utilizing the NAS inspection processes set forth by the CVSA.
 2. Priority for inspections will be given to those situations where there is an observed violation of law or regulations. This could be a violation related to the driver or the vehicle, including equipment or size violations, or weight and load violations.
 3. On those occasions where CMV traffic patterns are minimal, CMVs with no valid CVSA decals may be selected for inspection.
 4. Vehicles displaying a valid CVSA decal will generally not be subject to re-inspection unless an equipment violation is observed or a driver violation is suspected.
 5. Deputies shall not interrupt or otherwise disturb any driver of a CMV in an off duty or sleeper berth status when the CMV is legally parked for the sole purpose of conducting a random inspection.
- B. Ability to safely remove the vehicle from the flow of Traffic and provide a safe environment to conduct the inspection.
- C. All inspections shall be documented on the designated computer program provided to the department by KSP for the inspection process.
- D. Inspections shall be promptly and efficiently conducted with no unnecessary delays imposed on the motor carrier.
- E. Deputies shall make no suggestions or recommendations for any repair facility to make repairs on vehicles inspected and found to have defects.

- F. Deputies may break security seals during an inspection of a CMV for the purpose of inspecting cargo to determine compliance with the FMCSR(s). However, U.S. Postal Service, Department of Defense/military seals or alcohol shipments that are destined to a State liquor store (regulated by BATF) shall not be broken under any circumstances. If the cargo involves the seal of another U.S government agency, the Patrol Commander must be notified through the chain of command and permission granted from the Patrol Commander, prior to breaking the seal. Seals should not be broken unless the inspecting deputy is able to replace it with another seal. Notation of the original and new seal number shall be made at the location provide on the safety inspection form. BCSO or KSP seals shall not be applied to vehicles not having seals, or to vehicles with seals that were broken prior to inspection.
- G. Deputies that discover a hazardous material or hazardous situation on a commercial vehicle that requires a HazMat Team response shall notify PSCC to contact the Boone County HazMat Team. The patrol commander shall be notified through the proper chain of command as well. Actions shall be taken to ensure the well being of the surrounding areas as well as the protection of life and property.

90.5 KSP SCALE HOUSE/WEIGH STATION FACILITY

- A. Certified deputies are permitted to perform safety inspections at the weigh stations.
- B. When performing safety inspections at a weigh station, all Boone County Sheriff Policy and Procedures must be followed.

90.6 ASSISTANCE TO OTHER AGENCIES

- A. The Traffic Unit should assist requesting law enforcement agencies whenever practicable. Agencies outside of Boone County that request assistance with a CMV inspection will be assisted after approval from a Traffic or Patrol supervisor.
- B. All Sheriff Department Policy and Procedures shall be followed while assisting outside agencies.

90.7 OUT OF SERVICE CRITERIA

- A. Deputies shall abide by the CVSA OOS Criteria when performing safety inspections. Each certified deputy should

keep an updated copy of the OOS criteria with him/her while conducting safety inspections.

- B. Deputies shall consider all of the applicable FMCSR when dealing with OOS vehicles or drivers, with special notations to the following.
 - 1. 396.7 of the FMCSR allows for deputies to have a vehicle that is being placed OOS to continue in operation to the nearest place where repairs can safely be affected.
 - 2. 396.9 Interpretations of the FMCSR allows for vehicles that are out of service to be towed away from the inspection location. This regulation sets up a flexible situation that will permit the deputy to use his/her best judgment on a case-by-case basis.

90.8 FEDERAL GRANT/OVERTIME

- A. Any federal grant involving commercial vehicle inspection and enforcement shall be worked in accordance to the guidelines set forth within the grant application.
- B. All paperwork that is generated and required by the grant, shall be turned into the Traffic Unit supervisor in a timely manner. After review by the supervisor, it shall be forwarded to the grant manager.
- C. The grant manager shall be designated by the Sheriff or Patrol Commander. The grant manager shall administer the grant and all grant paperwork in accordance with the grant application and grant rules.
- D. Deputies that do not follow the guidelines and standards set forth within the grant procedures shall not be permitted to work grant overtime.

90.9 QUARTERLY/YEARLY REPORTS

- A. All certified dare required to complete quarterly and yearly CMV reports. All reports must be submitted to the Traffic Unit supervisor at his/her request.

90.10 TITLE VI PROGRAM COMPLIANCE

- A. Policy Statement

1. The Department, as a sub-grantee of the KSP, recognizes its responsibility to comply with and enforce the provisions of Title VI of the Civil Rights Act of 1964 (Title VI), and related Nondiscrimination Authorities to include: Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) and the Kentucky Civil Rights Act (KRS 344.015(2)(a).2).
2. This section of the policy is intended to prevent discrimination on the basis of race, color, national origin, sex, age, disability, low-income, and/or Limited English Proficiency during commercial motor vehicle inspection and enforcement activities by providing training, reporting compliance, and handling of allegations of discrimination in accordance with the requirements of 49 CFR Parts 21 and 303 and related Nondiscrimination Authorities identified in the signed title VI Program Assurance.
3. The Department further recognizes that under this policy, no person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination during commercial motor vehicle inspection or enforcement activity on the basis of race, color, national origin, sex, age, low income, limited English proficiency, or disability. With the following exception.
 - a. Deputies may take into account the reported race, ethnicity, or gender of a specific suspect(s) based on reasonably credible, reliable, locally relevant information that links a person of a specific demographic to a particular criminal incident or links a specific series of crimes in an area to a group of individuals of a particular race, ethnicity, or gender.
4. The supervisor assigned to the Traffic Unit is assigned as the Department's Title VI Program Coordinator and shall be responsible for all aspects of compliance with this policy.

B. Notification to Beneficiaries/Participants

1. The Department has placed public notification on its website to inform beneficiaries of our Title VI Program assurances and responsibilities.

2. The department has developed a pamphlet that informs beneficiaries of our Title VI assurances and responsibilities.
3. The notifications include the prohibitions of exclusion from, denial of benefits, or discrimination based on the protected categories identified above and how to obtain additional information regarding departmental non-discrimination obligations.
4. The notifications provide information for individuals who believe that they have been discriminated against as to filing a complaint.

C. Compliance Reporting

1. The Department will provide to the KSP, at its request, appropriate assurances as to compliance with the Title VI Program.
2. These assurances will be approved and signed by the Sheriff.

D. Training

1. The Traffic Unit supervisor is responsible for conducting training to Traffic Unit deputies regarding this program.
2. The training should include the information from the policy statement, the protected classes identified in the policy, the process for an individual to file a complaint, and from the FMCSA Title VI Program, to include the Safety Inspections and Compliance Reviews Program Power Point and the E.L.P. Testing and Enforcement memo.
3. The training will be presented through the Department Power DMS program and/or in-person at the discretion of the Traffic Unit supervisor.
4. The training will be conducted biennially by the Traffic Unit supervisor or by a qualified instructor as designated. Training for deputies newly assigned to the Traffic Unit will be conducted upon assignment.

E. Complaint Disposition Process

1. An individual who believes s/he has been discriminated against because of the protected classes listed, by a deputy operating under this Title VI Program, may initially file a complaint with either
 - a. The KSP; or
 - b. The Boone County Sheriff's Department.
2. Complaints may be submitted in person, on-line, or via U.S. Mail and may be received via the Department provided complaint form or other means of transmittal.
3. All investigations and related actions will be performed in compliance with relevant Kentucky Revised Statutes and Department policies.
4. The Traffic Unit supervisor will be responsible for coordinating the receipt, referral, and/or investigation of complaints received pursuant to this policy, including a complaint log identifying the following information:
 - a. Complainant's name;
 - b. Identification of demography (ie. race, color, national origin, etc.);
 - c. Allegation(s);
 - d. Complaint date;
 - e. Date of report of investigation;
 - f. Disposition made and date;
 - g. Other relevant information as deemed appropriate.
5. The Sheriff maintains the final responsibility the investigation and disposition of any complaint received pursuant to this policy.

F. Title VI Compliance Plan Checklist

1. Description of Federal Aid-Programs:
 - a. The Boone County Sheriff's Department is a sub-grantee of the Kentucky State Police (KSP), the lead MCSAP agency within the Commonwealth. The Boone County Sheriff's Department assists the Kentucky State Police by providing a presence and increased

enforcement of Commercial Vehicle laws and regulations.

2. Sub-Recipient Compliance Reports:

- a. The Department does not sub-award portions of any FMCSA funding to any other agency.

3. Status of Corrective Actions:

- a. The Department will post the current status of any corrections made to this policy on its website (www.boonecountkysheriff.com).

Approved: _____
Date

Michael A. Helmig, Sheriff