

AUDIT REPORT

**OKLAHOMA
CORPORATION COMMISSION
TRANSPORTATION DIVISION – MOTOR
CARRIER ENFORCEMENT DEPARTMENT**

July 1, 2009 through June 30, 2013



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

**Audit Report of the
Oklahoma Corporation Commission
Transportation Division – Motor Carrier
Enforcement Department**

July 1, 2009 through June 30, 2013



Report Highlights

This audit was performed in response to the Oklahoma Corporation Commission's request in accordance with 74 O.S. § 213.2.B.

Oklahoma Corporation Commission *Transportation Division– Motor Carrier Enforcement Department*

May 18, 2015

Background

The Transportation Division's Motor Carrier Enforcement Department (Enforcement Department) employees check private and for-hire motor carriers and commercial motor vehicles for compliance with state statutes, Commission rules, and federal regulations governing interstate and intrastate motor carriers and commercial motor vehicles. The Enforcement Department also performs overweight audits of motor carriers and shippers, oversees the building of truck yard wash pits used to temporarily store deleterious substances, and conducts compliance investigations. [Oversight of truck wash pits was transferred to the Commission's Oil & Gas Division, effective September 12, 2014.]

Objective and Scope

The objective for this audit is to determine if the Oklahoma Corporation Commission (Commission) has sufficient resources and legislative authority to properly enforce motor carrier license and permit requirements.

The scope of this audit includes the period July 1, 2009 through June 30, 2013.

What We Found

The Commission shares legislative authority for motor carrier license and permit enforcement in Oklahoma with the Department of Public Safety (DPS) and the Oklahoma Department of Transportation (ODOT), and as of July 2012, is only authorized to perform roadside enforcement duties within a seven-mile radius of a fixed facility such as a port of entry (POE). This limits Commission enforcement officers' ability to enforce motor carrier license and permit requirements, and increases the importance of communication between the agencies sharing enforcement responsibilities.

It appears the Commission does not have sufficient resources to perform its prescribed enforcement duties, as the currently operating POE are not fully staffed to the level envisioned by 47 O.S. § 1202, and the present funding structure may not support staff required for POE scheduled to open in the future.

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

BACKGROUND

The powers, duties and responsibilities of the Motor Vehicle Enforcement Department of the Oklahoma Tax Commission were fully transferred to the Commission on July 1, 2004 pursuant to Senate Bill 141, known as the Trucking One-Stop Shop Act¹, decreasing the number of state agencies involved in the enforcement program from four to three: the Commission, the Department of Public Safety (DPS)- Enforcement department and the Oklahoma Department of Transportation (ODOT) -Construction and maintenance of weigh stations/ ports of entry department.

The Enforcement Department is responsible for staffing and day-to-day operations of weigh stations and ports of entry (POE) to help protect the investment in highway infrastructure and public safety.

Although this audit only covers the Enforcement Department of the Transportation Division, several other departments in the division assist in the day- to- day operations of motor carrier enforcement. The Enforcement Department includes approximately 76 field-based enforcement officers, 6 field supervisors, and a chief motor carrier enforcement officer to help ensure interstate and intrastate motor carriers and commercial vehicles are compliant with state statutes, Commission rules, and federal regulations governing interstate and intrastate motor carriers and commercial vehicles. Enforcement officers are responsible for oversight, inspection and investigation, resulting in citations and warnings issued to private and for-hire motor carriers and commercial motor vehicles, pursuant to the jurisdiction of the Commission.

Investigations may also result in enforcement actions filed and heard at the Commission. Field units operate throughout the state from fixed facilities in some areas and mobile weigh stations in others, and are divided into five regional enforcement areas: Davis, East, Colbert/Hugo, Beckham County/El Reno, and Kay County/Boise City.

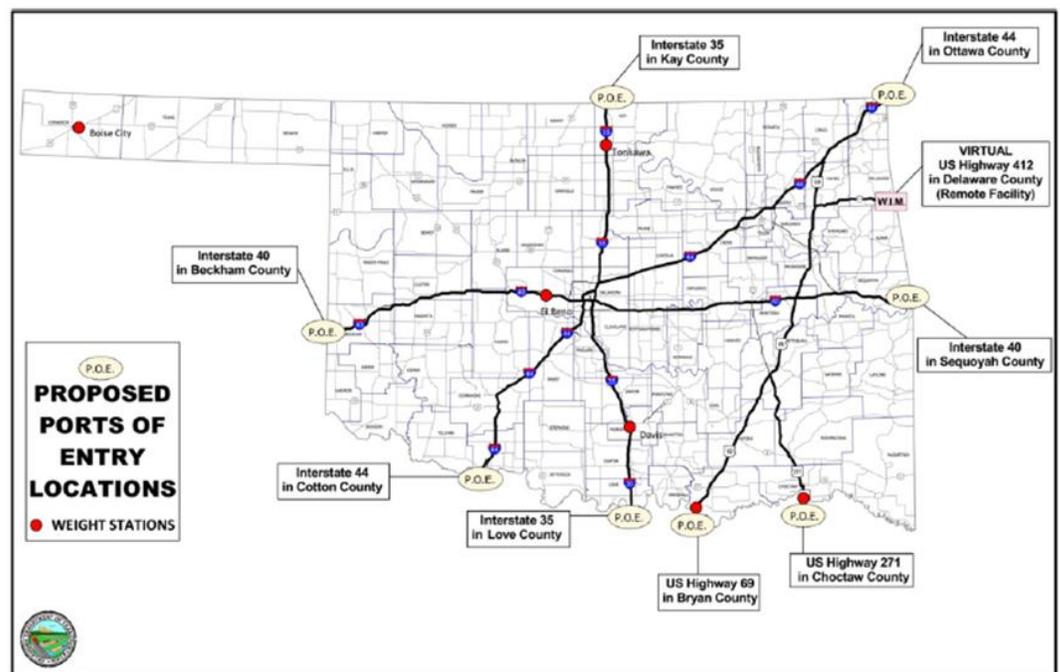
Per 47 O.S. § 1202.A-B² and an interagency agreement (Memorandum of Understanding) between the Commission and ODOT, it appears ODOT's responsibilities include construction and maintenance of the existing weigh stations and the development of nine new POE facilities at Oklahoma borders. ODOT equips and maintains each facility.

¹ Senate Bill 141 creates the Trucking One-Stop Shop Act. The measure transfers the Motor Vehicle Enforcement Section of the OTC and the responsibilities for commercial motor vehicle registration to the Commission effective July 1, 2004.

² 47 O.S. § 1202(A): The Department of Transportation, the Oklahoma Turnpike Authority and the Corporation Commission may enter into interagency agreements concerning the equipment, maintenance and operation of fixed facilities. 1202(B): The Department of Transportation, the Authority and the Commission shall endeavor to electronically upgrade weigh stations as practical to minimize the duplication of inspections for compliant commercial motor vehicle and motor carriers.

Per 47 O.S. § 230.2(B)³, DPS is designated as the state agency responsible for enforcement of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act relating to motor carrier safety and the transportation of property and hazardous materials in intrastate and interstate commerce. In addition, DPS conducts safety inspections at the POEs and issues overweight citations for oversized trucks traveling on Oklahoma roads.

In January 2008, ODOT issued a news release⁴ announcing a joint solution to add nine state-of-the-art state-line weigh stations commonly referred to as POE, with the Commission funding \$54 million of the project from the Petroleum Storage Tank Indemnity Fund and \$6 million from the Oklahoma Turnpike Authority (OTA). However, HB 2391 increased the funding amount from the assessment to \$81 million.



Source: Oklahoma Department of Transportation

The Oklahoma Weigh Station Act of 2012 (47 O.S. § 1200-1203) went into effect July 1, 2012 and requires the Commission to operate all current and future POEs twenty-four hours a day and seven days a week upon the availability of funds. Additionally, when a fixed facility is located in the general area, “Commission motor carrier and commercial motor vehicle enforcement shall be limited to the fixed facility and a seven-mile radius of the facility.” 47 O.S. § 1202(E).

³ 47 O.S. § 230.24(C) states in part: “The Commission shall cooperate and coordinate with the Oklahoma Department of Public Safety in regulating carrier safety, size and weight regulations of motor vehicles and the transportation of hazardous materials.”

⁴ “ODOT, Corporation Commission to Build State-of-the-Art Inspection Stations” Oklahoma Department of Transportation – Information Release, January 23, 2008.

The Kay County POE opened April 30, 2012 and the Beckham County POE opened November 14, 2012, both with limited technology. As of November 2013, the Commission has staffed 22 positions at the Kay County POE and is operating 19 hours a day (5 a.m. to midnight), 7 days a week. Beckham County is operating approximately 11 hours a day, 7 days a week with 12 staff and 11 vacancies.

In fiscal year 2013 (FY13) motor carrier and vehicle enforcement officers and supervisors performed 215,140 vehicle checks resulting in the issuance of 25,542 citations and 4,359 warnings⁵.

The Sequoyah County POE will be the next location to open, with the remaining five to follow within an undetermined timeframe.

⁵ OCC FY2013 Annual Report.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objective	The objective of this audit is to determine if the Commission has sufficient resources and legislative authority to properly enforce motor carrier license and permit requirements.
Scope	The scope of this audit included reviewing data obtained from motor carrier enforcement staff, Oklahoma weigh stations and POE, citation data, and motor carrier accident data for the period July 1, 2009 through June 30, 2013.
Methodology	<p>We obtained an understanding of the Transportation Division, specifically the Enforcement Department, through discussion with Division management and staff, and review of relevant state laws, Oklahoma Administrative Code provisions, Commission administrative procedures, other states' practices associated with weigh station and POE operations, and data received from the Department of Public Safety relating to commercial motor carrier accidents.</p> <p>We tested a representative, random sample of 60 commercial motor carriers who had accidents within the state during the audit period. Our procedures were to determine if the carriers had the required intrastate permits and insurance at the time of the accident.</p> <p>We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objective.</p>

AUDIT RESULTS

Conclusion

The Commission shares legislative authority for motor carrier license and permit enforcement in Oklahoma with DPS and ODOT, and as of July 2012, is only authorized to perform roadside enforcement duties within a seven-mile radius of a fixed facility such as a POE. This limits Commission enforcement officers' ability to enforce motor carrier license and permit requirements, and increases the importance of communication between the agencies sharing enforcement responsibilities.

It appears the Commission does not have sufficient resources to perform its prescribed enforcement duties, as the currently operating POE are not fully staffed to the level envisioned by 47 O.S. § 1202, and the present funding structure may not support staff required for POE scheduled to open in the future. Based on our procedures, we identified several related areas for possible improvement at the Commission, as detailed in the following observations and recommendations.

FINDINGS AND RECOMMENDATIONS

Three State Agencies Share Responsibility to Regulate Motor Carriers

In order to evaluate the Enforcement Department's processes and POE/weigh station structure, we evaluated and compared other states' configurations. It appears all surrounding states⁶ weigh stations/POE are constructed and operated by each state's respective law enforcement agency (*e.g.* state police, state patrol, public safety, or highway patrol). For example, the UDOT – Motor Carrier Division in Utah is responsible for constructing, staffing, and operating their weigh stations, in conjunction with the Utah Highway Patrol, which conducts safety inspections.

Due to requirements mandated by state statutes⁷, the State of Oklahoma is unique in having three separate state agencies performing duties for the POEs. ODOT is responsible for construction and providing all electronic screening system (ESS) hardware and software for the facility; the Commission is responsible for staffing the POE with enforcement officers who enforce motor carrier compliance with state statutes, Commission rules, and federal regulations, including size and weight restrictions; and DPS is responsible for staffing two employees on-site at POEs to conduct safety inspections.

⁶ The surrounding states bordering Oklahoma, which include Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, were judgmentally selected to perform a comparison of each state's POE structure. The state of Utah POE logistic design was used as a model for Oklahoma.

⁷ 47 O.S. § 230.24(C); 47 O.S. § 1202(A)&(B); 47 O.S. §1202.(C) and (E)

The Commission and ODOT continuously communicate with one another to ensure weigh station and POE operations are running as efficiently as possible. However, communication between the Commission and DPS has not been as strong until recently. It appears a disagreement occurred several years ago relating to the Interagency Cooperative Agreement between the agencies regarding safety inspections conducted by Commission officers. The non-renewal of this Agreement caused Commission enforcement officers to lose their ability to conduct safety inspections of motor carriers, and now the safety inspections are solely the responsibility of DPS. See further discussion of safety inspections on page 8.

Inefficiencies or duplications of effort could occur without regular communication between these three agencies.

Recommendation

We recommend the Commission communicate with ODOT and DPS on a regular basis to help ensure motor carrier enforcement processes operate efficiently and no duplication of efforts occurs.

Views of Responsible Officials

The duties of the agencies at the POEs are fairly clear cut. ODOT is tasked with constructing and maintaining the physical facility and the installing and maintaining the ESS hardware and software. DPS civilian employees on duty at the POEs are responsible for conducting safety inspections in the attached inspection bay. OCC enforcement officers are responsible for checking vehicle size and weight and checking for compliance with state and federal motor carrier statutes and regulations.

As noted above, the Commission has entered into a MOU with ODOT concerning the role of each agency in relation to the POEs. The Commission has designated key contact personnel for the purpose of reporting any facility or technology problems encountered at the POEs to the responsible personnel at ODOT.

In addition, OCC and DPS have entered into an MOU outlining the roles of the OCC as the operator of each POE and DPS as the provider of staff to conduct safety inspections. The OCC-DPS MOU also provides a process for the resolution of any questions arising from the joint staffing of the POEs.

The Commission has created and posted a new position, Manager of Field Enforcement. The person occupying this position will be the main point of contact between the Enforcement Division and both ODOT and DPS as it pertains to motor carrier and commercial motor vehicle enforcement and will be responsible for further developing and

maintaining regular dialog and cooperative collaboration with other agencies, including ODOT, DPS and the OTA.

The United States Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government*⁸ provides that information systems used by entities should be "designed to help ensure completeness, accuracy, authorization, and validity of all transactions during application processing. . . ."

The Commission's Transportation Division management indicated the purchase of intrastate for-hire and private carrier licenses dropped an average of 16.5% in FY 2013, the first fiscal year following the passage of the Oklahoma Weigh Station Act of 2012 (the Act)⁹.

Because the Commission's transportation data does not include indicators to differentiate between interstate carriers and intrastate carriers, we were unable to examine the reasons for increases or decreases in intrastate license activity since the Act became effective. The following factors further complicate analysis of intrastate licenses:

1. An intrastate carrier that also operates in interstate commerce is not required to renew their annual license or to obtain identification devices annually, due to a federal preemption.
2. An intrastate carrier is allowed to renew their license for one, two, or three year increments.
3. The computer system (Transportation Database) that issues and tracks those licenses cannot do a one-to-one analysis to determine how many licenses simply expired versus how many carriers allowed their licenses to lapse and then reapplied.

Motor carriers who travel intrastate only may never pass through a weigh station or POE. Therefore, some carriers could be out of compliance with intrastate licensing regulations without risk of being detected. In addition, if Commission management does not have the capability to determine increases or decreases in intrastate licenses, they cannot determine the effect on revenues related to licenses in order to make relevant management decisions.

Recommendation

We recommend the Commission consider adding additional data fields to differentiate between interstate and intrastate carriers during the upgrade

⁸ Even though this publication addresses controls in the federal government, this criterion can be treated as best practices. The theory of controls applies uniformly to federal or state government.

⁹ The Act limits the motor carrier and commercial motor vehicle enforcement activities of Commission enforcement officers to fixed facilities (weigh stations and POE) and the surrounding seven-mile radius as of the opening of a fixed facility or July 1, 2016, whichever is earlier.

of the Transportation Database with Iron Data. Additional information could enable the Commission to conduct a one-to-one analysis of motor carriers from one year to the next to determine whether the number of licenses purchased has increased or decreased. This will also allow the Commission to help ensure completeness and accuracy of information when making management decisions, and determine whether they have sufficient resources available and allocated for enforcement duties.

Views of Responsible Officials

The Transportation Division management has requested the addition of the suggested data elements in the Transportation Database for purposes of improved and meaningful analysis of data going forward.

Current Funding May Be Inadequate to Staff Required Safety Inspection Positions

According to federal regulation 49 CFR 396.17, Periodic Inspection, every commercial motor vehicle must be inspected annually. Oklahoma statute 47 O.S. § 230.2(B) grants regulatory and enforcement authority to DPS.

As authorized by 47 O.S. § 230.11¹⁰ and 47 O.S. § 230.24.C¹¹, for multiple years DPS received assistance from Commission enforcement officers to help regulate motor carrier safety by conducting safety reviews. In 1998, the Commission and DPS entered into an Interagency Cooperative Agreement (Agreement) and according to DPS the Agreement continued through fiscal year 2007. However, we reviewed an Agreement that indicated that it continued through fiscal year 2011. No agreement was signed for fiscal year 2012, resulting in the loss of proper certification of Commission enforcement officers to conduct motor carrier compliance reviews, as officers are required to perform a certain number of reviews and inspections annually to remain certified.

Effective July 1, 2012, HB 2186¹² provides the first \$300,000 in revenue derived from all fines and penalties received each fiscal year by the Commission pursuant to the Trucking One-Stop Shop Act be remitted to DPS for the purpose of staffing POE weigh stations to conduct safety inspections.

According to DPS management, staffing two individuals at each POE would be adequate for conducting safety inspections. In the fall of 2013, DPS hired four civilians to conduct safety inspections on eight-hour days,

¹⁰ 47 O.S. § 230.11(A): Other state agencies, departments and bureaus shall cooperate with the Oklahoma Department of Public Safety in regulating motor carrier safety and the transportation of hazardous materials.

¹¹ 47 O.S. § 230.24(C): The Commission shall cooperate and coordinate with the Oklahoma Department of Public Safety in regulating carrier safety, size and weight regulations of motor vehicles and the transportation of hazardous materials. The Commission may enter into interagency agreements with the Department of Public Safety for the purpose of implementing, administering and enforcing any provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act and the rules and regulations of the Department of Public Safety issued pursuant thereto.

¹² 47 O.S. § 1167(C)(1).

five days a week at POEs. Two of the four are located at the Kay County POE and two at the Beckham County POE.

As future POEs are opened, DPS will need to hire additional staff to ensure compliance with HB 2186. If DPS continues to hire two individuals for each POE, a total of twelve additional staff will need to be hired. It appears as though the \$300,000 earmarked for these positions will not cover the payroll costs for the additional positions.

It is possible that current Commission enforcement officers could fulfill some of those positions without earmarking additional revenue from fines and penalties if the Commission and DPS were to enter into an Interagency Agreement for Safety Inspections.

Recommendation

The Commission and DPS should consider entering into an Interagency Agreement for Safety Inspections to allow the Commission's current staff to fulfill the duties of conducting safety inspections, which could eliminate the need for additional state revenue or appropriations to fund new positions.

Views of Responsible Officials

Prior to the expiration of the Interagency Cooperative Agreement concerning safety inspections the Commission requested an extension, but the Agreement was allowed to lapse prior to renewal for FY 2012.

If the Commission were to resume conducting Level I safety inspections--detailed inspections requiring examination of the undercarriage of the truck--additional OCC officers would be required. OCC officers perform their current duties in the tower and public counter areas. Level I safety inspections are performed in the adjoining inspection bay and are time intensive, taking an hour or more to complete. Whether Level I safety inspections are performed by DPS personnel or by OCC officers, resources over and above the \$300,000 currently earmarked for that purpose will be required as more POEs open. (The number of inspectors per facility in addition to the two inspectors currently assigned to each POE will depend upon whether inspections are conducted on a 24/7 basis.)

OCC officers could, however, perform Level III inspections without leaving the counter area. Level III inspections are a review of documentation, including the driver's license; medical examiner's certificate; driver's record of duty status; and hours of service.

*Challenges in Recruiting
and Retaining
Enforcement Officers*

Since the opening of the Kay County and Beckham County POEs, additional enforcement staff has been hired. However, additional open positions need to be filled in order to comply with state statute 47 O.S. § 1202(C).

The Commission struggles to staff the Beckham County POE in a timely manner because of the competing job market and higher compensation in other industries in that market, including oil field operations and a private prison located in the same area of the state (western Oklahoma).

The application period for enforcement officers is open for multiple weeks and applicants cannot be interviewed until the application period closes. This could allow potential candidates to find other positions in the interim period. Commission management indicated other difficulties in the hiring process include that applicants appear to misunderstand the duties and responsibilities of the enforcement officer position or are not aware the available position is stationed at a fixed facility in another region of the state.

According to best practices published by the California Commission on Peace Officer Standards and Training, a recruitment strategic plan is one, if not the most important, step an agency can take in developing a successful recruitment program. The plan should help the agency meet the challenges it will face in the coming years. The purpose of a recruitment strategic plan is to develop a plan that capitalizes on the strengths of an agency, identifies potential opportunities, and identifies and mitigates weaknesses and threats, where possible, in order to position the agency to accomplish its recruitment goals.¹³

Bob Lavigna of the International Public Management Association for Human Resources states, "Timely hiring is a key issue in public sector human resource management. As the supply of available workers continues to decline, the battle for talent will become even more intense. Therefore, public agencies must develop approaches to quickly hire well-qualified people. Old approaches that rely on time-consuming, paper-based bureaucratic methods will no longer allow government to compete for talent."¹⁴

The current POEs are already understaffed. If the Commission does not improve its recruiting and retention practices, it risks noncompliance with state statutes and insufficient resources to perform the required enforcement duties.

¹³ "Recruitment and Retention Best Practices Update: Developing A Recruitment Strategic Plan", California Commission on Peace Officer Standards and Training, 2006.

¹⁴ "Timely Hiring In Public Sector Organizations", By Bob Lavigna, International Public Management Association for Human Resources Benchmarking Committee Chairperson.

Recommendation

The Commission may consider a more aggressive recruiting process to attract qualified applicants, which could include:

- Developing a Recruitment Strategic Plan.
- Communicating with colleges and universities, local career technology centers, and visiting career fairs at local community colleges.
- Reducing the application period so eligible candidates can be interviewed in a timely manner.

Views of Responsible Officials

As of the end of 2014, competition for personnel with the high pay in the oil and gas industry continued, making staffing of the POEs, especially the Beckham County facility, a challenge.

In addition, when attempting to recruit Motor Carrier Enforcement Officers, who must be CLEET certified, a significant number of applicants have stated a preference for a position with a vehicle assignment, working the road, rather than working in an “office environment.” This desire to work in a more traditional law enforcement role is a common reason given by MCEOs who have resigned from the Commission.

The Transportation Division was able to move to a continuous Register recruitment system for enforcement officers, which has shortened the hiring process by approximately one week. However, other timing challenges remain, including time to complete background checks and to obtain required approvals before a position can be initially posted or be offered to an applicant after the interview process.

Despite these challenges, between December 1, 2013 and December 31, 2014, hiring was completed for seven (7) officer positions at the Kay County POE. As of December 31, 2014 there are twenty (20) officers stationed at that facility. Interviews will be conducted for additional officers at the Kay County POE in January 2015.

For the Beckham County POE seven (7) officers were hired, bringing the total number of officers stationed there to fifteen (15) as of December 31, 2014. This has allowed the hours of operation for the Beckham County POE to be increased to nineteen (19) hours (5:00 a.m. to midnight) four (4) days a week and eleven (11) hours a day (6:00 a.m. to 5:00 p.m.) three (3) days a week.

Five (5) additional officers are expected to begin training for work at Beckham County in January 2015. The addition of those officers will bring the number of officers at that facility to twenty (20).

Recruiting techniques that have been implemented include:

- Staffing a booth to provide information about motor carrier enforcement and employment opportunities at the Oklahoma State Fair;
- Holding an open house, with tours, at each POE publicized with advertising in local newspapers;
- Advertising recruitment periods in local newspapers near the facility being staffed;
- Posting job openings on the Council on Law Enforcement Education (CLEET) website; and
- Making contact with colleges and other schools associated with CLEET.

In addition, the requirements for an entry-level Motor Vehicle Enforcement Officer, a non-CLEET certified position, were revised to allow more potential applicants to meet position requirements.

The Manager of Field Enforcement will be responsible for further development of a recruitment strategies and working with the Commission's Human Resources Department to achieve recruiting and hiring goals.

*Staffing Analysis
Needed for
Enforcement Officers*

The United States Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government* provides that management should ensure that skill needs are continually assessed and that the organization is able to obtain a workforce that has the required skills that match those necessary to achieve organizational goals.¹⁵

According to best practices, to be more effective, agencies must view recruitment in a comprehensive manner. Before a department begins to recruit officers, the number of officers and the needs of the department should be identified through a staffing analysis and a review of the average turnover rate.¹⁶

State statute 47 O.S. § 1202.C requires the Commission to operate all current and future ports of entry weigh stations twenty-four hours a day and seven days a week upon availability of funds. The first two POEs required to meet the obligations of this statute are Kay County POE, which opened April 2012, and Beckham County, which opened November 2012. As of July 1, 2014, the Kay County POE is operating with 18 staff members for 19 hours a day, seven days a week, while Beckham County is operating with 16 staff members for 19 hours a day,

¹⁵ See footnote 8 at page 7.

¹⁶ "Best Practices Guide for Recruitment, Retention, and Turnover of Law Enforcement Personnel," by Dawayne Orrick, Director of Public Safety - City of Cordel, Georgia, published by International Association of Chiefs of Police.

seven days a week. This leaves a vacancy of 11 staff members between the two POEs. Sequoyah County is scheduled to open in the summer of 2015, with the remaining sites to open every 18 to 24 months following.

Based on current staffing levels and a projection of 18 officers and one administrative staff member at each POE, we determined the Commission will need to hire a total of 101 employees (98 enforcement officers and 3 administrative) to staff current and future POEs to ensure compliance with 47 O.S. §1202(C). The next POE to be constructed is Sequoyah County, with an anticipated completion date of fall 2015. The completion date of the remaining five future POEs is undetermined at this time.

In addition to new positions, a total of 19 officers were eligible for retirement as of the end 2014, representing 23% of the current officers. For enforcement officers near retirement, the Commission should determine the need for additional staff by reviewing individual departure dates. It should also take into account the average annual turnover rate, which averaged approximately four officers per year for 2010-2013.

The Commission has not performed a staffing analysis to determine the number of enforcement officers required to operate the current and future POE or weigh stations. Without this information, the Commission is at risk of being understaffed, and therefore not complying with state statute and failing to enforce motor carrier license and permit regulations to the best of their ability.

Recommendation

The Enforcement Department should consider performing a detailed staffing analysis including an accurate needs assessment to ensure compliance with state statute 47 O.S. § 1202(C). This analysis should take into account retirement eligibility and annual turnover as discussed earlier.

Views of Responsible Officials

The Division has developed a Model POE including staffing needs for the purpose of budgeting and planning as new POEs are opened. The Model POE includes the results of an analysis of the number (and level) of officers and administrative staff to operate a POE on a 24/7 basis: One (1) administrative position and twenty-five (25) to thirty (30) officers depending upon whether any additional enforcement activities are mandated by the Legislature and the extent to which the seven mile area surrounding a particular fixed facility requires an enforcement presence on any roads used to avoid the facility *i.e.* "go arounds."

The new Manager of Field Enforcement, will be responsible for on-going staffing analysis as more POEs become operational. This analysis will

include personnel assigned to work on location at the POEs as well as additional enforcement support personnel required in the Oklahoma City office to support increased field operations.

*Current Jurisdiction
Limits OCC Motor
Carrier Enforcement
Capabilities*

According to 47 O.S.§1202(E), effective July 1, 2012, when a fixed facility is located in the general area, Commission motor carrier and commercial motor vehicle enforcement shall be limited to the fixed facility and a seven-mile radius of the facility.

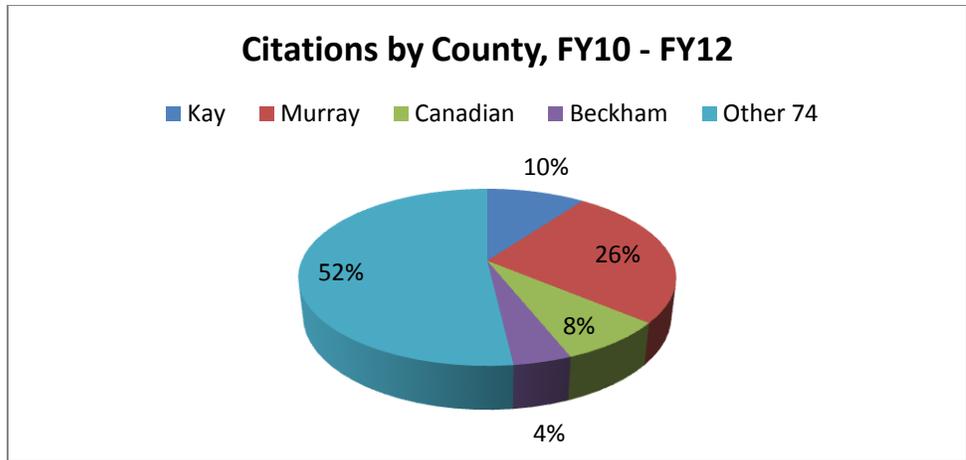
Prior to July 1, 2012, Commission enforcement officers had patrolling roadside enforcement responsibilities in all 77 counties of the state. Although enforcement officers were confined to a seven mile radius of a fixed facility beginning July 2012, the number of citations written increased by 6,614 from FY12 to FY13.

After analyzing the citation data, we determined the increase was primarily due to the number of citations written in four counties: Kay, Murray, Canadian, and Beckham.

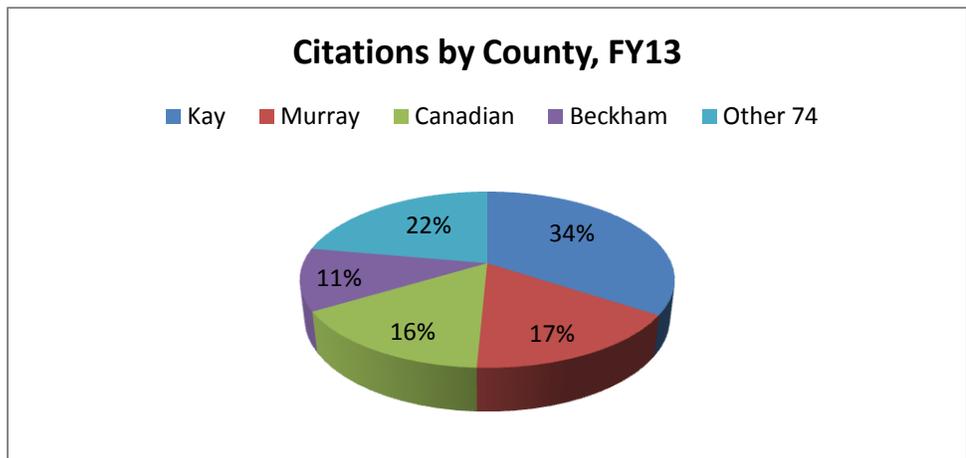
The number of citations written by county during FY 10, FY 11, FY 12, and FY 13 are as follows:

- In FY 10 and in FY 11, 9,567 and 8,778 (or 50% and 43%) of all citations were issued, respectively, in Kay, Murray, Canadian, and Beckham Counties. In those same respective years, 9,533 and 11,824 citations were issued in all other counties.
- During FY 12, 9,890 citations were issued in the four counties named previously, or about 52% of all citations in the state. Also in FY 12, 9,040 citations were issued in all other counties.
- However, in FY 13, 19,874 citations were issued in the four counties, a 108% increase from the prior year, and 5,670 citations were issued in all other counties, a 41% decrease. Moreover, thirty-five counties, with a total of 301 citations issued in FY12, had zero citations issued in FY 13.

While the Commission's increased presence in the counties with ports of entry has more than doubled the number of citations, the limited area in which enforcement officers may issue citations has decreased citations in most other counties. See charts below:



Source: Citation data from the OCC Transportation database (unaudited)



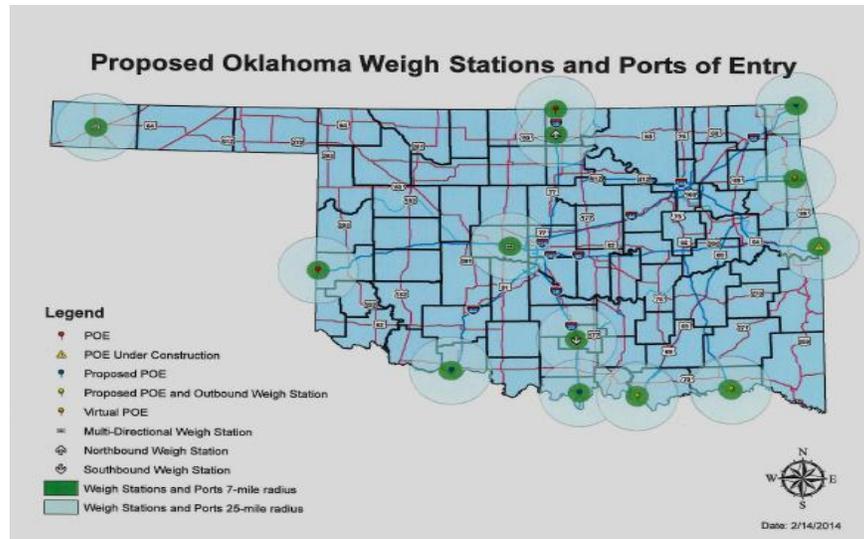
Source: Citation data from the OCC Transportation database (unaudited)

Because the officers do not have the ability to conduct roadside enforcement beyond seven miles of a fixed facility, motor carriers could potentially avoid passing through the weigh stations or POE by traveling side roads, commonly referred to as “go arounds.” Based upon discussions with Commission Transportation management, if an officer had the ability to travel within a 25-mile radius of a fixed facility, motor carriers not traveling through a weigh station or POE would have the opportunity of being reviewed for compliance. Confining officers to a seven-mile radius of a fixed facility hinders their ability to properly enforce motor carrier license and permit requirements.

Recommendation

The Commission should continue its efforts in pursuing a change to the current state statute to allow officers to conduct roadside enforcement beyond seven miles of a fixed facility. This will provide for a greater

presence within the area, including patrol of the possible “go arounds,” to help ensure motor carriers are in compliance with applicable laws and regulations.



Source: OCC Management

Views of Responsible Officials

The expansion of the enforcement radius around fixed facilities from the current seven miles to an area encompassing frequently used “go arounds” is an element of the Commission’s Strategic Plan.

A working relationship between OCC and DPS that allows Commission officers to work cooperatively with DPS to improve intrastate requirements compliance would be beneficial for the state’s road and bridge infrastructure.

*Projected Revenue
Analysis Needed to
Address Future
Staffing Costs*

Per 47 O.S. § 1202(C), the Commission must operate all current and future ports of entry weigh stations twenty-four hours a day and seven days a week upon availability of funds.

The current enforcement officers’ salaries are budgeted and paid from the following funds:

Fund 202 - UCR (Unified Carrier Registration): Funds posted into this account are derived from UCR annual registration fees for all for-hire and motor private carriers transporting property or passengers, and are required to be used 100% to fund motor carrier administration and enforcement of the UCR program. The estimated revenues of \$1.8 million from this fund are budgeted to enforcement payroll first.

Fund 19X – General Fund: Historically \$1.1 million has been budgeted to enforcement payroll from this fund.

Fund 245 – Trucking One-Stop Shop Fund: This fund includes revenues collected from fees, fines, and penalties set forth by 47 O.S. § 1167. The remaining balance of the enforcement payroll is budgeted from this fund.

According to Commission records, the Transportation Department budget has grown over the past several years, from \$4,546,418 in FY 10 to \$5,907,959 in FY 13. Based on discussions with Commission management, the budget increase is due to the increasing need for additional enforcement officers. As discussed throughout this report, the number of enforcement officers will continue to grow over the next few years because of construction and related staffing of the proposed POEs.

Due to the limited funds budgeted from the General Fund and UCR fund, under the current structure, the increasing enforcement payroll expenditures must be paid from the Trucking One-Stop Shop Fund. Although this fund has historically maintained a significant balance, as additional officers are hired the balance will begin to decline.

Theoretically, as a new POE opens, revenue may increase to cover the cost of the additional officers. However, once proposed POEs are fully operating, revenue may gradually decline as motor carriers become more compliant. If revenues decline, the Commission may require additional revenue to fund the required number of enforcement officers.

Recommendation

The Commission should consider preparing a projected revenue analysis to determine whether the Trucking One-Stop Shop Fund will provide the necessary funds to support future POE payroll needs.

Views of Responsible Officials

A projected revenue analysis has been performed for budgeting purposes. That analysis indicates revenue generated at each POE is insufficient to fund motor carrier and commercial motor vehicle enforcement on a 24/7 basis.

The Commission will consider requesting that it be permitted to retain a larger portion of the taxes collected through the IRP program through increasing the motor license agent fees for processing IRP applications and requesting that it retain fine revenues currently forwarded to the Oklahoma Tax Commission for apportionment.

*Prospective Areas for
Further Study*

During the course of the audit, the following issues came to our attention. While further procedures related to these issues were not considered within the scope of this objective, these issues merit future study:

- Review the internal control process related to citation revenue.



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