

(b) (7)(E)

AUG 17 2010



**U.S. Customs and
Border Protection**

MEMORANDUM FOR: All Chief Patrol
All Division C (b) (6)

FROM: Michael J. Fish (b) (6)
Chief
U.S. Border Patrol

SUBJECT: Transportation Check Operations

Transportation check (TC) is a critical component of our National Border Patrol Strategy. It directly supports our mission to prevent the entry of terrorists, terrorist weapons, smugglers, illegal aliens, and other contraband into the United States, as well as to deny further egress away from immediate border areas. It is an integral part of a layered enforcement approach that helps establish a substantial probability of apprehension, thus further deterring transnational criminal organizations who might otherwise attempt to circumvent linewatch and traffic check operations.

TC is the inspection of common carriers, such as buses, passenger and freight trains, aircraft, and watercraft to apprehend smugglers and illegal aliens who utilize these modes of transportation to further their illegal entry into the interior of the United States. This key enforcement tool is part of a defense-in-depth posture that effectively employs a minimum number of agents to accomplish substantial operational results, including a percentage of the arrests of illegal aliens from special interest countries.

Statutory authority for conducting inspections of common carriers is contained in 8 U.S.C. Sections 1225 and 1357 of the Immigration and Nationality Act. In broad form, the authority granted by these sections permits boarding and searching conveyances, including common carriers, for aliens. This authority has evolved from a series of court decisions interpreting these sections. If persons believed to be aliens are encountered during such inspections, they may be questioned regarding their right to be or to remain in the United States. Agents should be familiar with relevant sections of law and court decisions, as well as with *The Law of Arrest, Search & Seizure Manual, M-69*, when performing TC operations.

Initial egress transportation hubs are not always located within the immediate border area or a Border Patrol Sector Primary Operational Domain (POD).

(b) (7)(E)

(b) (7)(E)

(b) (7) (E)

(b) (7) (E)

Other

potential benefits and liabilities associated with planned TC efforts should also be considered.

Pursuant to memorandum from U.S. Border Patrol Chief David V. Aguilar entitled, *Creation of Operations Orders in BPETS, January 29, 2008*, operations that are outside the POD of the initiating sector, operations that may be construed as interior enforcement, and/or operations for which media interest is likely shall be classified as Category 2 and require sector approval with Headquarters concurrence. In addition, any interior enforcement activities must be coordinated with the respective U.S. Immigration and Customs Enforcement (ICE) Special Agent in Charge. Participation from ICE will also require the creation of an Operations Order in BPETS.

Nothing in this guidance is intended to restrict the ability to conduct TC. Conducting these operations effectively requires proper planning and procedural compliance in order to ensure that we are operating within our legal authority and that the chain of command is well informed of any enforcement efforts that may have a national impact.

Chief Patrol Agents will ensure that all supervisors and agents under their command are aware of and in compliance with these requirements. Staff may direct questions to Associate Chief ^{(b)(6);(b)(7)(C)} at ^{(b)(6);(b)(7)(C)} (b) (6), (b) (7)(C) or Assistant Chief ^{(b) (6), (b) (7)(C)} at ^{(b) (6), (b) (7)(C)} (b) (6), (b) (7)(C) of the Strategic Planning, Policy and Analysis Division - Policy Branch.

(b) (7)(E)



**U.S. Customs and
Border Protection**

MAR 21 2016

MEMORANDUM FOR: All Chief Patrol Agents
All Directorate Chiefs

FROM: Ronald D. Vitiec **(b) (6)**
Acting Chief
U.S. Border Patrol

SUBJECT: Northern Border Enhanced Deployment Posture Guidance

In support of the 2016 Customs and Border Protection Commissioner's priorities of countering terrorism and transnational crime and advancing comprehensive border security and management, the U.S. Border Patrol is expanding intelligence gathering and enforcement measures to mitigate identified Northern Border security threats and public safety risks.

The United States-Canada border presents unique security challenges due to geography, weather, and volume of trade and travel. Encompassing more than 5,500 miles, the Northern Border spans diverse terrain and climates, metropolitan areas, and open spaces between two friendly nations. The long history of social, cultural, and economic ties between the two countries has contributed to a significant volume of cross-border trade and travel, amounting to more than a billion in U.S. dollars per day. The Northern Border does not experience the significant volume of illegal entries that the Southwest Border experiences; however, there is a legitimate terrorism threat, and enforcement efforts of the more than 2,000 Border Patrol Agents stationed on the Northern Border often result in the apprehensions, detentions, and arrests of criminal aliens, specifically those with possible links to terrorism.

(b) (7)(E)

(b) (7)(E) This notification serves as the catalyst for stations within the refusal area of operations to direct an enhanced deployment posture (EDP).

Stations that employ an EDP will conduct operations in agreement with an Operations Order that specifically addresses actions to be taken as the result of **(b) (7)(E)** **(b) (7)(E)** or other significant information that would require an EDP. By utilizing the Operations Order as the standardized process for enhancing deployment postures and

implementing After-Action Report requirement for such events, the U.S. Border Patrol can institutionalize and memorialize the actions taken and the result of the EDPs.

Northern Border sectors and subordinate stations will generate and implement Operations Orders for the current and subsequent fiscal years that can be executed on an iteration basis. In addition to the situation, mission, execution, administration and logistics, and command paragraphs, the Operations Order will clearly delineate the specific roles and responsibilities associated with an EDP for each sector or station and include reporting requirements to U.S. Border Patrol Headquarters. After the initial Operations Order has been approved by U.S. Border Patrol Headquarters, each sector or station will be responsible for enacting an EDP based on the information it receives from the National Targeting Center.

Understanding the operational differences between the Northern Border sectors and subordinate stations, deployments for EDPs will be commensurate to the threat (e.g., a pedestrian refusal would not warrant an EDP at the airport). Any pertinent information collected during an EDP or any intelligence derived from it will be documented in the Intelligence Reporting System utilizing a Field Information Report or a Homeland Security Intelligence Report, as applicable. Once approved, the products will be forwarded to the National Targeting Center and U.S. Border Patrol Headquarters' Law Enforcement Operations Directorate, via the appropriate Operations Corridor.

Nothing in this guidance is intended to restrict the ability to conduct Transportation Check Operations pursuant to the August 17, 2010 memorandum from U.S. Border Patrol Chief Michael J. Fisher, *Transportation Check Operations*. Conducting these operations effectively requires proper planning and procedural compliance to ensure they fall within the U.S. Border Patrol's legal authority, and it is essential that the chain of command is well informed of any enforcement efforts that may have a national impact.

Staff may direct questions about this correspondence to Associate Chief (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)

Northern Border Enhanced Deployment Posture Guidance
Page 3

OBP: (b) (6), (b) (7)(C) [redacted] t:2/23/16:16-31008
edited (b) (6), (b) (7) [redacted] 2/23/16

bcc: OBP 50/12-C
Master CTS Log

(b) (7)(E)



**U.S. Customs and
Border Protection**

APR 20 2017

MEMORANDUM FOR: All Chief Patrol Agents
All Directorate Chiefs

FROM:  Ronald D. Vitiello **(b) (6)**
Chief
U.S. Border Patrol

SUBJECT: Removal of the Requirement to Draft Operation Orders for
Routine Transportation Check Operations

This memorandum formally rescinds the requirement for Chief Patrol Agents to draft operation orders when conducting transportation check operations within the sector's typical area of operations. Transportation check is defined as the inspection of common carriers, such as buses, passenger and freight trains, aircraft, watercraft, and other conveyances to apprehend smugglers and illegal aliens who utilize these modes of transportation to further their illegal entry into the interior of the United States.

The reason for removing this requirement is to stress the vital importance of transportation check (TC) as a method of conducting steady state enforcement operations that is equally comparable to routine line watch operations. Transportation check operations may be conducted anywhere within a sector's area of operations (AOR) dependent on personnel requirements and operational risks. The concept of Primary Operational Domain is no longer a necessary calculation. Transit nodes and transportation hubs evolve over time and require constant monitoring **(b) (7)(E)** **(b) (7)(E)** Transportation check operations should include coordination with Enforcement Removal Operations to maximize DHS efforts. Agent roles and responsibilities should be clearly defined and coordination with other federal, state and/or local agencies should be established prior to commencing TC operations.

This memorandum addresses previous guidance issued under the following policy memoranda:

August 17, 2010 memorandum from U.S. Border Patrol Chief Michael J. Fisher, entitled *Transportation Check Operations*

March 21, 2016 memorandum from U.S. Border Patrol Acting Chief Ronald D. Vitiello, entitled *Northern Border Enhanced Deployment Posture Guidance*

September 30, 2016 memorandum from U.S. Border Patrol Acting Deputy Chief Scott A. Luck, entitled *Operation Order Creation and Approval Guidance*.

Removal of the Requirement to Draft Operation Orders for Routine Transportation Check Operations

Page 2

All other aspects of the above listed memoranda remain in effect. Nothing in this memorandum should be construed to change the manner or methodology of conducting TC operations as outlined in the U.S. Border Patrol Handbook.

This key enforcement tool is part of a layered enforcement approach that effectively employs a minimum number of agents to accomplish substantial operational results, including arrests of special interest and criminal aliens. It provides an effective method of controlling the egress of aliens who crossed the international boundary in sectors (b) (7)(E)

(b) (7)(E) It also allows for liaison opportunities with state and local law enforcement (b) (7)(E)
(b) (7)(E)

Chief Patrol Agents should still draft operation orders in accordance with previous guidance when TC operations are planned to be conducted jointly with other agencies or are outside of the sector's typical area of operation. These operation orders will fall under the Category 1 classification and will be approved by the Chief Patrol Agent and submitted for U.S. Border Patrol Headquarters visibility.

Agents should be familiar with relevant sections of law and court decisions, as well as with the Law of Arrest, Search and Seizure Manual (M-69) while performing these operations. Authorities provided for board and search can be found below:

Section 235, Immigration and Nationality Act, as amended
Section 287, Immigration and Nationality Act, as amended
8 US Code §1225, and §1357.

Staff may direct questions to the Law Enforcement Operations Directorate or the Strategic Planning and Analysis Directorate Policy Branch at (b) (7)(E)