

CHAPTER 12
ELECTRONIC BYPASS MANAGEMENT SYSTEMS

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CHAPTER 12

ELECTRONIC BYPASS MANAGEMENT SYSTEMS

1. GENERAL.

- a. Purpose. The purpose of this chapter is to provide departmental policy for electronic bypass management systems (EBMS) utilized by the Department's Commercial Enforcement Program (CEP).
- b. Scope. This chapter applies to all employees assigned to the CEP working at locations utilizing EBMS.
- c. Background.
 - (1) The Department supports the use of the latest technologies relating to commercial vehicle operations. The Department's EBMS should be utilized in conjunction with electronic screening technologies to assist CEP personnel with sorting commercial motor vehicles (CMV) and reducing traffic congestion.
 - (2) An increased number of EBMS are being utilized by the CEP. These electronic systems utilize information from governmental and third-party databases. Due to the number of potential vendors, it is necessary to establish policy to maximize the efficiency and operation of the systems.

2. ELECTRONIC BYPASS MANAGEMENT SYSTEMS.

- a. Policy. The Department should maintain EBMS for the CEP. The purpose of EBMS is to allow precleared CMV to bypass open Commercial Vehicle Enforcement Facilities (CVEF). Additionally, EBMS assist CEP personnel with sorting CMV, allowing them to focus on vehicles in need of inspection. These systems support the Department's goals and mission statement by streamlining the safe and efficient movement of CMV on the state highway system.
- b. Scope. The scope of the EBMS program is limited to enrolled motor carriers that meet the safety and credential criteria, set forth by the Department, to bypass an open CVEF. Enrolled motor carriers not given authorization to bypass CVEF are in violation of Section 2813 of the California Vehicle Code (CVC).
- c. Carrier Enrollment and Bypass Criteria. Carrier enrollment and bypass criteria shall be determined by the EBMS Operational Guidelines and EBMS contract.
- d. Commercial Vehicle Section. Commercial Vehicle Section (CVS) is the departmental liaison between the EBMS contractors, the California Department of Transportation (Caltrans), the California Department of Motor Vehicles, the California Department of Tax and Fee Administration, and any personnel assigned

to the CEP for matters pertaining to EBMS. Commercial Vehicle Section is responsible for updating and amending the Standard Agreements and EBMS Operational Guidelines, as needed. Additionally, CVS shall maintain a current copy of the Standard Agreement and EBMS Operational Guidelines.

e. Commercial Vehicle Enforcement Facilities. Commanders of CVEF shall ensure that all CEP personnel are familiar with the operation of the facility's EBMS. During normal operations, CVEF personnel should ensure the random pull-in rate is set at 5 percent. During periods when the weigh-in-motion scales are inoperable, the random pull-in rate shall be set at 30 percent. If a failure is experienced with the EBMS computer, the pull-in rate shall be 100 percent. Pull-in rates may be altered as needed, with supervisor approval, if an immediate operational need exists or during special enforcement details.

NOTE: Personnel discovering any system failure which disrupts the operation of the EBMS shall notify a supervisor from the command where the EBMS is located. The supervisor shall ensure contact is made with CVS.

f. Carrier Disqualification. The CVS commander may submit requests to EBMS contractors for written warnings, suspensions, or terminations of any motor carrier from participation in an approved preclearance system. Requests for action submitted by CVS to EBMS contractors shall be in conformance with the requirements contained within the terms of the Standard Agreement. Appeals submitted by motor carriers shall be reviewed by the Enforcement and Planning Division Chief or designee. During the review process, the Chief or designee may request additional information from the motor carrier, EBMS contractor, or CVS. Based on the Standard Agreement and the facts submitted, the Chief or designee shall determine whether to uphold or overturn the suspension or termination. Motor carriers and the associated EBMS contractor shall be informed of the decision in writing within 30 days.

g. Incident Documentation. With supporting documentation, CVS shall be notified when CEP personnel identify a carrier that:

- (1) Appears to consistently operate with substandard equipment.
- (2) Has multiple critical violations on the vehicle or driver.
- (3) Commits any overt act or omission that CEP personnel believe should be brought to the attention of CVS and the EBMS contractor.

h. Additional Follow-Up. Commercial Vehicle Section shall initiate a follow-up terminal audit when information is received that an EBMS carrier may be operating an unsafe CMV.

3. ELECTRONIC BYPASS MANAGEMENT SYSTEMS COMMUNICATION DEVICES.

a. Bypass Communication Device.

(1) Electronic bypass management systems communication devices are automatic devices that transmit predetermined messages in response to predefined qualification signals. These devices may consist of a transponder, cellular telephone, tablet, or other electronic device.

(2) Usually mounted to the vehicle, the device's signal or display must be clearly visible to the driver and in compliance with state law.

(3) The device used shall be approved by the EBMS contractor as an authorized bypass device and shall conform to Federal Motor Carrier Safety Administration (FMCSA) and EBMS standards.

(4) Bestpass, Oregon Green Light, and NORPASS transponders may be used under the interoperability agreement with an authorized EMBS contractor.

b. Bypass Management Contractor.

(1) Electronic bypass management systems contractors are responsible for the administration and management of the EBMS communication device or application, with the collaboration of CVS.

(2) Electronic bypass management systems contractors have the responsibility to provide, maintain, and upgrade the EBMS equipment or the technology used throughout the state, as needed.

c. Enforcement Procedures.

(1) When a CMV is given a bypass signal, it is authorized to bypass a CVEF. Any CMV which has not received authorization to bypass shall enter any open CVEF. The EBMS computer terminal will notify enforcement personnel inside the CVEF, with either an audible and/or visual alert, if a vehicle with a bypass communication device is bypassing the scales without receiving proper authorization.

(2) Enforcement personnel, depending on circumstances (i.e., personnel on duty, traffic conditions, availability of vehicles), should attempt to identify and conduct an enforcement stop on the violating vehicle.

(3) Electronic bypass management systems communication devices will only retain the last signal received for a finite amount of time. Enforcement

personnel should make every attempt to check the device as soon as possible, verifying that the device is functioning and is not displaying an image concealing the actual last signal received.

(4) Upon confirmation of an unauthorized bypass, enforcement action may be taken, as deemed appropriate, pursuant to Section 2813 CVC. Nothing precludes an officer from ordering the driver back to the CVEF if within five road miles of a scale facility, as prescribed in Section 2802(a) CVC, with regards to size, weight, or loading violations. Nothing prohibits an officer from taking appropriate enforcement action for other observed violations.

(5) A driver with an unauthorized EBMS communication device is in violation of the user agreement between the carrier and the EBMS contractor. A vehicle not adhering to the user agreement is not authorized to bypass the scales. Commercial Vehicle Section may be contacted for assistance when issues related to the interpretation of the user agreement arise.

(6) Vehicles must operate within statutory size and weight limits (not requiring a transportation permit issued by Caltrans for operation), and at or under registered weight. Oversize and overweight vehicles are not eligible for preclearance (including any permitted loads).

d. Bypass Communication Device Disposition.

(1) Since the EBMS devices are private property, the devices should not be seized unless there is evidentiary value. Highway Patrol Manual (HPM) 70.1, Evidence Manual; General Order 100.91, Search and Seizure Policy; and case law shall be followed.

NOTE: Any EBMS device taken in accordance with HPM 70.1 shall not be forwarded to CVS.

(2) Nonevidentiary EBMS devices voluntarily given to personnel for safekeeping should be handled in accordance with HPM 70.1.

(3) All carriers participating in the EBMS program have been instructed by their chosen EBMS contractor on procedures for a malfunctioning EBMS device. This includes:

(a) Contact the appropriate EBMS contractor to resolve the issue.

(b) Treat a malfunctioning EBMS device situation as if there is no EBMS device in the CMV, removing the authority to bypass an open CVEF. Therefore, the requirement would be to enter any open CVEF.

4. ELECTRONIC BYPASS MANAGEMENT SYSTEMS REVIEW.

a. Scope. To validate the safety and effectiveness of the Department's EBMS, CVS will conduct a preclearance system review. The review, based on information provided by CVEF equipped with a preclearance system, will allow CVS to collect statistical data regarding all vehicles utilizing the EBMS against similar vehicles not enrolled.

b. Commercial Vehicle Enforcement Facility Procedures. Commercial Vehicle Enforcement Facility commanders shall assign a supervisor to coordinate the review. The supervisor shall note the review start time, finish time, and truck count during this period in the CVEF activity log.

(1) The designated review supervisor shall schedule a minimum of one random four-hour period each month for this review. During this period, the pull-in rate for any EBMS in use at the CVEF shall be increased to 100 percent. The four-hour period shall be selected based on the CVEF's peak activity periods to maximize the effectiveness of the review period. Both the pull-in rate and the length of time of the review shall be configured in the settings tab of any EBMS in use at the CVEF. The inspection selection criteria are as follows:

(a) Any CMV with an observed safety violation.

(b) Any CMV with a visible preclearance system transponder on the windshield.

(c) Any CMV without a valid Commercial Vehicle Safety Alliance (CVSA) decal.

(d) Any CMV with a nonsafety-related violation.

(2) Personnel should focus on CVSA North American Standard Level 1 inspections during the review period. Inspections completed during the review period shall contain special code "518" in special study field #1 on the "finish" tab in Iteris inSPECT. The supervisor shall confirm that the special study fields are completed during this period. If the 518 special code has not been entered on an inspection, the supervisor shall correct the inspection prior to uploading to the FMCSA.

(3) In addition to Iteris inSPECT entries, special code 518 shall be entered on all enforcement documents issued and Activity Tracking System CHP 415, Daily Field Record, entries made during the review period.

(4) The review is not intended to take precedence over or disrupt normal CVEF operations.

c. Commercial Vehicle Section Responsibilities. Commercial Vehicle Section shall request the SafetyNet Unit to collect the inspection information with the 518 special code in special study field #1 from the FMCSA database.

(1) Commercial Vehicle Section should compare compliance rates of vehicles that are enrolled in the electronic preclearance system on a quarterly basis:
This should include:

(a) Vehicles that would have been cleared to bypass the CVEF.

(b) Vehicles that would have not been cleared to bypass but are enrolled in the preclearance program.

(2) Commercial Vehicle Section should maintain the statistics, analyze the data obtained, and compare the results.

(3) Upon request from CVEF commanders, CVS will provide survey results for their respective CVEF.