

NOTICE OF PROPOSED RULEMAKING
California Code of Regulations
Title 21, Public Works
Department of Transportation

TO ALL INTERESTED PERSONS:

The California Department of Transportation ("Department"), pursuant to authority granted by Streets and Highways Code section 27565, proposes to amend the California Code of Regulations, Title 21, Division 2, Chapter 16, concerning Compatibility Specifications for Automatic Vehicle Identification Equipment used for toll collection after considering all comments, objections, and recommendations regarding the proposed action. Following the public comment period and public hearing, the proposal may be adopted substantially as set forth without further notice.

PUBLIC HEARING

Date and Time: October 17, 2023 – 9:30 a.m. to 11:30 a.m.

Purpose: To receive comments about this action.

Caltrans has scheduled a public hearing on this proposed action. The public hearing will be held remotely to improve access to meetings, allowing a broader access through teleconferencing options. Instructions for remote participation in the public hearing are below:

REMOTE ATTENDANCE

The public hearing may be accessed by clicking the WebEx link below or visiting WebEx at <https://signin.webex.com/join>. And entering the ID and password below. If you experience technical difficulties you may contact WebEx at 1(408) 906-2222.

WebEx Link:

<https://cadot.webex.com/cadot/j.php?MTID=m3f21e04452d8c14942532fc1efc24676>

Meeting Number (Access Code): 2481 881 3857

Meeting Password: ZVcGfShf547

To participate by telephone dial 1 (408) 418-9388. When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the phone, dial *3 to “raise your hand” and *6 to mute/unmute your phone line.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation action to the Department. The written comment period closes on **October 16, 2023**. To be considered by the Department, comments must be submitted to and received by the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814; by fax at (916) 653-6080; or by e-mail with a subject line of “Title 21 Public Comment” at Title.21.Changes@dot.ca.gov before the close of the comment period.

CONTACT PERSONS

Please direct any inquiries regarding this action to: : Joe Rouse at (916) 654-6448 or by e-mail at Title.21.Changes@dot.ca.gov.

The backup contract person for these inquiries is: Grace Tell at (949) 279-8798 or by e-mail at grace.tell@dot.ca.gov.

Questions regarding the substance of the proposed regulatory action should be directed to:

Department of Transportation
Division of Traffic Operations
Attention: Joe Rouse
1120 N Street, MS-36
Sacramento, California 95814

AUTHORITY

Streets and Highways Code section 27565 authorizes the Department to adopt the proposed regulatory action concerning Compatibility Specifications for Automatic Vehicle Identification.

REFERENCE

Streets and Highways Code section 27565 provides that toll facilities shall adopt and promulgate compatible automatic vehicle identification systems.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

There are currently more than 870 lane mile of toll roads, high-occupancy/toll lanes, and bridges operating in California. The number of toll facilities is expected to nearly double in the next 10 to 15 years. These facilities are operated, or will be operated, by 12 different local government entities, hereafter referred to as the “toll facility operators”.

All toll facilities in California utilize electronic toll collection (ETC). An ETC system uses automatic vehicle identification (AVI); a reader is placed at the toll collection point and communicates with a transponder in a vehicle as it passes through that point. The process for exchanging information between the reader and the transponder in an AVI system is known as a protocol.

Senate Bill 1523 (Chapter 1080, Statutes of 1990), mandated that the California Department of Transportation (Caltrans) work with the State's toll facility operators to develop an AVI protocol for ETC systems. The bill required that the protocol would allow for one transponder to be used on any toll facility in California, a concept known as interoperability. The bill also required that the protocol had to be an open standard, meaning that it be made publicly available so that multiple manufacturers and vendors can have an opportunity to develop and supply ETC equipment. The AVI protocol used in California was first adopted in 1992 and amended in 2018 and published in Chapter 16 of Title 21 of the California Code of Regulations. The protocols are known as “Title 21” and “6C”. The 2018 amendment added the 6C protocol and provided a 5 year transition from the Title 21 to 6C protocol, with the Title 21 protocol being retired effective January 1, 2024.

There are currently approximately 12 million active Title 21 and 6C protocol transponders in California split evenly between protocols. The toll facility operators bear the full costs of purchasing and distributing transponders for use by motorists. These costs are not borne by the users; when establishing an ETC account they are only required to prepay tolls, replenish the account, as needed, and pay any account maintenance fees. Transponder purchases make up a substantial portion of these agencies' operating expenditures.

Toll facility operators have not issued as many transponders as anticipated in recent years due to COVID-19 travel restrictions and its impacts on travel patterns. Therefore, some toll operators took longer to issue their remaining Title 21 transponder inventory and some are still finishing issuing a limited number of these transponders. These recently issued Title 21 transponders have considerable useful life left.

Toll facility operators and customers will be able to realize the useful life of the existing 6 million Title 21 transponders by taking advantage of the investment in the transponders currently being used and saving money by not needing to immediately purchase new replacement 6C transponders.

An extension of the legacy Title 21 sunset date to January 1, 2027 is expected to yield substantial benefits to both toll agencies and their customers. There is an estimated 5.8 million dollar annual savings to the toll agencies and added convenience for customers who will not have to swap out their Title 21 transponder for a new 6C version. The resultant savings could be used by the toll agencies to help pay down any indebtedness they may have incurred to develop their facilities. They could also be reinvested into desired or needed improvements on the facilities or in the transportation corridors where they are located, which would result in safer, more efficient travel for the public.

After conducting an evaluation on any other regulations on this area, Caltrans has determined that these are the only regulations concerning the state's automated vehicle identification equipment and protocol used for electronic toll collection. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other non-discretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impact on private person(s) or businesses: Caltrans is not aware of any cost impacts on private person(s) or businesses that would necessarily incur in reasonable compliance with the proposed regulatory action. The toll facility operators bear the full costs of purchasing and distributing transponders for use by motorists. These costs are not borne by the users; when establishing an ETC account they are only required to prepay tolls, replenish the account, as needed, and pay any account maintenance fees. Those conditions would not change.

Significant effect on housing costs: None

Small Business Determination:

This regulation will not directly affect small businesses. The toll facility operators bear the full costs of purchasing and distributing transponders for use by motorists. These costs are not borne by users; when establishing an ETC account they are only required to prepay tolls, replenish the account, as needed, and pay any account maintenance fees. Those conditions would not change. Positive “secondary” impacts to small businesses may occur if business or

employment gains occur from increased construction activity due to cost savings being reinvested into maintaining and improving toll facilities.

SUMMARY OF ECONOMIC IMPACT ANALYSIS

Caltrans has determined that this change could reduce toll agency expenditures by as much as \$5.8 million annually. Caltrans assumes that the toll agencies would reinvest these savings into maintaining and improving the toll facilities.

Creation/Elimination of Jobs & Expansion of Existing Business: It is expected to result in some expansion of businesses currently doing business in the State through the creation of an additional 49 jobs annually; 22 of those jobs would be in Highway Construction and 27 would be in the Maintenance and Rehabilitation Sector.

Creation/Elimination of new or existing business: None

Anticipated Benefits: The proposed regulation will improve the health and welfare of California residents by improving the reliability of the State Highway System. There are no anticipated benefits to worker safety or the state's environment.

The Economic Impact Analysis is available at <https://dot.ca.gov/programs/traffic-operations/electronic-toll>.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code, Section 11346.5 subdivision (a)(13), Caltrans has determined that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law..

Caltrans invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

Caltrans will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons, which includes the Standardized Regulatory Impact Assessment. Other related documents are also available. Copies may be obtained by contacting the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, Caltrans may adopt the proposed regulations substantially as described in this notice. If Caltrans makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before Caltrans adopts the regulations as revised. Please send requests for copies of any modified regulations to the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, which includes the Standardized Regulatory Impact Assessment, and the text of the proposed regulations can be accessed through <https://dot.ca.gov/programs/traffic-operations/electronic-toll>. Other related documents are also available at that website.