

**RHODE ISLAND GOVERNMENT REGISTER  
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**AGENCY:** RHODE ISLAND DEPARTMENT OF TRANSPORTATION

**DIVISION:** N/A

**RULE IDENTIFIER:** 290-RICR-60-00-1

**REGULATION TITLE:** Rules and Regulations Governing Procedures Involving the Nonpayment of Tolls, Toll Evasion and Public Involvement

**RULEMAKING ACTION:** Proposed Rulemaking

**TYPE OF FILING:** ADOPTION

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

**PUBLIC NOTICE DATE:** SEPTEMBER 19, 2017

**END OF COMMENT PERIOD:** OCTOBER 19, 2017;

**PUBLIC HEARING:** OCTOBER 6, 2017 at 2 PM in conference room 2B of the Rhode Island Department of Administration, One Capitol Hill, Providence RI 02903

**SUMMARY OF PROPOSED RULE:** The proposed rule establishes policies and procedures necessary to carry out the purposes of the R.I. Gen. Law Chapter 42-13.1.

**COMMENTS INVITED:**

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **OCTOBER 19, 2017** to the addresses listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

**Mailing Address:**

Daniel Waugh, P.E.  
Project Manager  
RIDOT  
2 Capitol Hill  
Providence, RI 02903

**Email Address:**

[Dot.BridgeRepairTolls@dot.ri.gov](mailto:Dot.BridgeRepairTolls@dot.ri.gov)

**WHERE COMMENTS MAY BE INSPECTED:**

Rhode Island Department of Transportation  
2 Capitol Hill  
Providence, RI 02903

**PUBLIC HEARING INFORMATION:**

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

**FOR FUTHER INFORMATION CONTACT:**

Daniel Waugh, P.E., Project Manager  
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Providence, R.I. 02903  
(401) 222-2694 Ex. 4331  
[Dot.BridgeRepairTolls@dot.ri.gov](mailto:Dot.BridgeRepairTolls@dot.ri.gov)

**SUPPLEMENTARY INFORMATION:**

**Regulatory Analysis Summary and Supporting Documentation:**  
SEE ATTACHED

For full regulatory analysis or supporting documentation see agency contact person above.

**Authority for This Rulemaking:**

R.I. Gen. Laws § 42-13.1-13

**Regulatory Findings:**

In the development of the proposed **adoption** consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

**The Proposed Adoption:**

Rhode Island Department of Transportation proposes to adopt 290 RICR-60-00-1 as follows:

290-RICR-60-00-1

TITLE 290 - RHODE ISLAND DEPARTMENT OF  
TRANSPORTATION

CHAPTER 60 - BRIDGES AND TOLLS

SUBCHAPTER 00 – N/A

PART 1 - Rules and Regulations Governing Procedures Involving the  
Nonpayment of Tolls, Toll Evasion and Public Involvement

1.1 Authority

This regulation is promulgated pursuant to the authority granted by R.I.  
Gen. Laws § 42-13.1-13.

1.2 Purpose

The purpose of this regulation is to establish policies and procedures  
necessary to carry out the purposes of the R.I. Gen. Law Chapter 42-13.1.

1.3 Definitions

- A. For the purposes of this Part, the following terms shall have the following  
meanings:
1. "Administrative fee" means the fee added to an unpaid Toll invoice.
  2. "Department" means the Department of Transportation, or, if the  
Department shall be abolished, the board, body, or commission  
succeeding to the principal functions thereof or upon whom the  
powers given by R.I. Gen Laws Chapter 37-5 to the Department  
shall be given by law.
  3. "Invoice date" means the date the invoice is printed.
  4. "Large commercial truck" shall be defined pursuant to the Federal  
Highway Administration (FHWA) vehicle classification schedule as  
any vehicle within Class 8 - single trailer, three (3) or four (4) axles  
up to and including Class 13 - seven (7) or more axle multi-trailer  
trucks, as such classifications may be revised from time to time by  
the FHWA.
  5. "Toll evader" means any registered owner of any large commercial  
truck that passes through any electronic tolling location as  
authorized pursuant to R.I. Gen. Laws § 42-13.1-4 and who does  
not pay the required toll and/or fees, fines, or penalties within the

maximum allowable period specified under R.I. Gen. Laws § 42-13.1-11.

6. "Toll invoice" means the invoice sent to the registered owner of the Large commercial truck to collect payment on Tolls set by the Department.
7. "Radio frequency identification transponder" or "RFID" means a toll collection system approved by the department that may consist of a toll tag placed inside the vehicle and overhead antenna which reads the toll tag and collects the toll.

#### **1.4 Toll Collection and Penalties for Late Payments and Toll Evasion**

- A. The Department, or its Designee, will collect tolls by RFID or invoicing the registered owner of the Large commercial truck. The Toll Invoice will be sent by hard copy and the registered owner is required to pay the Toll invoice plus postage in full within thirty (30) calendar days from the Toll Invoice date.
- B. Failure to pay the Toll Invoice in accordance with § 1.4(A) of this Part (above) will result in the following penalty schedule:
  1. The Department, or its Designee, will issue a Past Due Toll Invoice requiring the registered owner to pay: \$1.00 per toll transaction late fee, a \$0.75 Administrative fee, and the full amount of the Toll invoice. This payment is due in full within thirty (30) calendar days from the Past Due Toll Invoice date.
  2. If the Past Due Toll Invoice is not paid in full within the permissible timeframe, the Department or its Designee, will issue a Second Past Due Toll Invoice requiring the registered owner to pay: \$1.00 per toll transaction late fee, a \$0.75 Administrative fee, and the full amount of the Past Due Toll invoice. This payment is due in full within thirty (30) calendar days from the Second Past Due Toll Invoice date.
  3. If the Second Past Due Toll Invoice is not paid in full within the permissible timeframe, the Department, or its Designee, will issue a Third and final Past Due toll Invoice requiring the registered owner to pay: \$1.00 per toll transaction late fee, \$0.75 Administrative fee, a \$20.00 penalty, and the full amount of the Second Past Due Toll Invoice. This payment is due in full within thirty (30) calendar days from the Third Past Due Toll Invoice date.
- C. Toll Evasion

1. Any registered owner who fails to submit payment within the permissible timeframe set forth above will be considered a Toll evader pursuant to R.I. Gen. Laws § 42-13.1-12 and will be subject to the penalties and violations established in that section.

## **1.5 Disputes of Tolls, Fees, Penalties and Toll Evasion**

- A. The Department, or its Designee, intends to seek to resolve all disputes regarding the Nonpayment of Tolls in an efficient and fair manner.
- B. If a Customer disputes their status as such or otherwise disputes the accuracy of the Department's records regarding any Nonpayment of Toll, the Toll Evader shall submit a completed Toll Violation Dispute Form to the Department, or its Designee, within thirty (30) days of the date of issuance of the disputed Notice of Violation.
- C. If the Department, or its Designee, determines that the disputed Notice of Violation shall be voided or adjusted in favor of the Toll Evader, then the Department, or its Designee, will make such adjustment and will advise the Toll Evader of the adjustment made. Thereafter, the Toll Evader shall pay the newly adjusted amount within ten (10) days of the date of issuance of the Department's determination. However, if the Toll Evader fails to timely pay the adjusted amount, then any adjustment made by the Authority is null and void and the original amount of the Notice(s) of Violation (and any applicable Administrative Fees and Fines) shall be immediately due and payable.
- D. If the Department, or its Designee, determines that the disputed Notice of Violation is valid and should not be voided or adjusted, then the Toll Evader may request a telephonic conference with a duly authorized Department, or its Designee, representative for the purpose of attempting to resolve the dispute. Such telephonic conference shall be conducted within thirty (30) days of the Toll Evader's request, which request shall be made no later than thirty (30) days of the date of issuance of the Department's determination. If such conference is not requested or does not resolve the dispute, then the Department, or its Designee, shall issue a written final determination to the Toll Evader confirming that all amounts owed for the disputed Notice of Violation shall remain due and payable. Thereafter, any such Toll Evader shall remain subject to all consequences set forth in R.I. Gen. Laws § 42-13.1-12.

## **1.6 Procedural Transparency**

- A. Prior to fixing and/or revising the Tolls, the Department will notify the Governor, Speaker of the House, and Senate President seven (7) calendar days before the public comment or hearing period commences.

1. The notice will include:
  - a. The amounts of the tolls for each toll location that the Department intends to collect;
  - b. The intended date that the Department intends to begin the collection of the fixed and/or revised tolls;
  - c. A copy of the cost benefit analysis required by R.I. Gen. Laws § 42-13.1-4;
  - d. Where, when and how a person may comment on the proposed toll amounts during the public comment period;
  - e. When the public comment period will begin and end.
- B. The public comment period establishing or modifying the amount of the tolls to be collected shall remain open for at least thirty (30) days.
  1. Notice shall include the information listed above in § 1.6(A)(1) of this Part.
- C. The Department will consider all public comments submitted during the public comment period.
- D. The tolls will be effective three (3) calendar days after the public comment period has ended.

# Regulatory Analysis for the Rules and Regulations Governing Procedures Involving Privacy, the Nonpayment of Tolls, Toll Evasion, and Public Involvement

## Reason for Regulatory Action

The United States Congress authorizes states who have an applicable public law to implement reconstruction or replacement of a toll-free bridge and conversion of the bridge to a toll facility under conditions outlined in 23 U.S.C. § 129. The “Rhode Island Bridge Replacement, Reconstruction, and Maintenance Fund Act of 2016” (Act), R.I. Gen. Laws Chapter 42-13.1, authorizes the Department of Transportation (Department) to take measures necessary to collect tolls.

The “Rules and Regulations Governing Procedures Involving Privacy, the Nonpayment of Tolls, Toll Evasion, and Public Involvement” (regulation) is necessary to set forth provisions required by the Act. The regulation establishes:

- a maximum allowable period for the payment of tolls and any subsequent fees, fines, and penalties assessed;
- policies and procedures that promote procedural transparency regarding fixing and/or revising the toll rates; and
- a policy for resolution of disputes regarding tolls, fees, penalties, and toll evasion.

The below regulatory analysis evaluates the potential impact of the regulation, as required by the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.9.

## Regulatory Development

While constructing the invoicing and penalty schedule, the Department considered a range of alternatives, including industry best practices across the New England region, existing Rhode Island statutes and regulations of similar subject matter, and departmental experience.

This regulation considered other means of incentivizing toll payment, but the Department, in an effort to remain consistent across state tolling and violations systems, consulted the Rhode Island Turnpike and Bridge Authority’s penalty schedule. The schedule instituted by the Department reflects a standard invoicing process. The penalties, fees, and fines associated with the nonpayment of tolls reflect the Department’s best assessment of the amount necessary to sufficiently cover the cost of administering and collecting these penalties, fees, and fines.

The Department also evaluated several alternatives regarding the process for fixing or revising toll rates, including different time periods of advanced notification and implementation. The Department determined the instituted process will provide sufficient notice and transparency to required persons and the public.



## Regulatory Analysis

### Non-Quantifiable Benefits and Costs

The first benefit of the toll setting process is increased transparency to the public. The procedural transparency section dictates how the Department must set and/or revise the tolls and clearly delineates the public's opportunities for involvement during the toll-setting process. Though non-quantifiable, the agency believes that this category of benefit has the greatest utility to the public by ensuring meaningful and timely public involvement.

Instituting a payment schedule with associated penalties, fees, and fines generates a second benefit to the public by increasing the likelihood of toll compliance. The value of this benefit will be unknown until the tolls are set, but the Department anticipates that some percentage of tolls would go unpaid in its absence. Thus, the indirect benefit of penalties can reasonably be assumed to be the percentage of tolls that would not have been paid in its absence. The literature is unclear regarding the percentage of tolls that would have gone unpaid without a penalty matrix, but the Department estimates this is around 5.7% of all toll transactions.

This regulation does not set the toll rates; however, this regulation generates an indirect benefit of the program for all users by ensuring the timely payment of the tolls.

As discussed above, the penalties set by this regulation will increase compliance. While this is a benefit to the State, the penalties, and associated uncollected tolls, are a cost to registered owners. The Department estimates that this regulation will incentivize payment of 5.7% of toll transactions that would have otherwise gone unpaid in the absence of a penalty matrix.

As the regulation does not set the tolls, the costs associated with increased direct compliance or larger societal costs of the tolling program are outside the scope of this analysis. Therefore, this analysis estimates only the direct cost of the penalties set by the regulation.

### Quantifiable Impacts of Noncompliance

For the purposes of transparency, the Department estimates the transaction costs associated with fees and penalties. Voluntary noncompliance of tolling does not constitute either a cost or benefit in the standard sense. While any penalties, fees, and fines assessed and then paid by the registered owner is a cost, those individuals who choose not to pay theoretically receive benefits from their nonpayment that are commensurate with or greater than the anticipated penalty.

The penalty, fee, and fine amounts established by the Department must be no less than the amount sufficient to cover the cost of the administration and collection of the penalties, fees,

and fines, as required by R.I. Gen. Laws § 42-13.1-11(b). As the Department has not yet collected penalties associated with the nonpayment of tolls, they are subject to change through regulatory action.

The following quantifications contain the Department's estimates of the number of transactions and associated penalties that would occur given the requirements outlined by § 1.4 of the regulation. The analysis uses the assumptions and calculations attached in Appendix A. The Department estimates a 5-year net present value for 2018-2022 ranging from \$6.94 million to \$8.57 million.

### Toll Process Regulation Analysis Summary

		2018	2019	2020	2021	2022
	Toll Transactions, Annual	4,592,367	8,392,070	9,609,327	9,698,693	9,788,891
<b>Invoiced Toll Transactions Assumptions</b>	E-Z Pass Percentage	85%	85%	85%	85%	85%
	Non E-Z Pass Percentage (Invoiced by DOT)	15%	15%	15%	15%	15%
	Invoiced Toll Transactions, Annual	688,855	1,258,811	1,441,399	1,454,804	1,468,334
	Number of Invoices Estimate					
<b>Percentage Distribution of Invoiced Toll Transactions and Violations Assumptions</b>	No Violation- First Invoice, Percentage Paid	49.00%	49.00%	49.00%	49.00%	49.00%
	First Level Violation- Second Invoice, Percentage Paid	6.12%	6.12%	6.12%	6.12%	6.12%
	Second Level Violation- Third Invoice, Percentage Paid	3.59%	3.59%	3.59%	3.59%	3.59%
	Third Level Violation- Fourth Invoice, Percentage Paid	2.06%	2.06%	2.06%	2.06%	2.06%
	Toll Evasion- Pay Settlement	22.11%	22.11%	22.11%	22.11%	22.11%
	Toll Evasion- Avg fine of \$500	3.90%	3.90%	3.90%	3.90%	3.90%
	Toll Evasion- Not Captured	12.99%	12.99%	12.99%	12.99%	12.99%

<b>Low Estimate of Assessed Violations</b>	\$	<b>879,536</b>	\$	<b>1,607,260</b>	\$	<b>1,840,390</b>	\$	<b>1,857,506</b>	\$	<b>1,874,781</b>
<b>High Estimate of Assessed Violations</b>	\$	<b>1,087,307</b>	\$	<b>1,986,940</b>	\$	<b>2,275,143</b>	\$	<b>2,296,302</b>	\$	<b>2,317,657</b>

Net Present Value (Discounted at 7%)	
<b>Low Estimate</b>	\$ <b>6,935,656</b>
<b>High Estimate</b>	\$ <b>8,574,055</b>

<b>Percentage of Invoiced Toll Transactions Captured By Penalty Matrix</b>	37.8%	Sum of the following percentages of invoiced transactions: First Level Violation; Second Level Violation; Third Level Violation; Toll Evasion - Pay Settlement; Toll Evasion - Pay Fine.
<b>Percentage of Toll Transactions that are Invoiced</b>	15.0%	DOT Estimate
<b>Percentage of Total Toll Transactions Captured by Penalty Matrix</b>	5.7%	37.8% x 15.0%

Assumptions and Methodology	
<b>Invoiced Toll Transactions</b>	Annual Toll Transactions, estimated using gantry phase-in schedule. Assumes 85% of transactions will be handled by E-Z Pass; remaining 15% of transactions subject to DOT invoicing. Invoice Estimate divides the count by the Monthly Invoice Estimate, calculated in the 'Other Assumptions' section, to assume that each invoice involves multiple transactions.
<b>Percentage Distribution of Invoiced Toll Transactions and Violations</b>	Percentage distribution from DOT, based on data from RIBTA, of invoiced categories at each violation level. Toll Evader breakdown: 56.7% Pay Settlement, 10% Pay fine, 33.3% Not Captured
<b>Average per Toll Transaction Fee Collected</b>	The violation fees--i.e. the fee paid for each toll transaction that isn't paid. Fee amounts are cumulative--for example, a third level violation needs to pay the \$1/transaction fees from each previous invoice plus the new \$1/transaction fee.
<b>Average per Invoice Admin Fee and Penalty Collected</b>	The admin fees, i.e. the 0.75 cent postage fee, \$20 third level violation fee, or the toll evasion court-ordered fine. Cumulative for the same reason noted above.
<b>Total Fees Collected, per Toll Transaction, by Category</b>	This section multiplies the number of invoiced toll transactions by the percentage in each category and the fee amount for each category.
<b>Total Admin Fee and Penalty Collected, by Category</b>	This section multiplies the estimated invoices by the percentage in each category and the admin fees/penalties for each category.
<b>Other Assumptions</b>	
<b>Monthly Invoice Estimate of Truck Travel</b>	Monthly truck travel days multiplied by average number of gantry passes (DOT estimates)
<b>Truck Traffic Growth Percentage</b>	Estimate from Rhode Island Department of Transportation Investment-Grade Truck Tolling Study, Draft Final Report, Page 34