

290-RICR-30-00-04

## **TITLE 290 - DEPARTMENT OF TRANSPORTATION**

### **CHAPTER 30 - BUSINESS, PROPERTY OWNERS, AND THE PUBLIC**

SUBCHAPTER 00 - N/A

PART 4 - RULES AND REGULATIONS GOVERNING POTHOLE CLAIMS

#### **4.1 Authority**

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws §§ 42-13-1(b) and 24-8-35, and in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*

#### **4.2 Purpose**

The purpose of these Rules and Regulations is to establish a procedure which allows recovery for damage incurred to motor vehicles by reason of a pothole on any state highway, causeway, or bridge, up to and not exceeding the sum of three hundred dollars (\$300.00).

#### **4.3 Definitions**

A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:

1. "Claim" means written request for compensation for damage incurred to a motor vehicle caused by a pothole, up to and not exceeding the sum of three hundred dollars (\$300.00), as defined in R.I. Gen. Laws § 24-8-35.
2. "Department" means the Department of Transportation through its Highway and Bridge Maintenance Division.
3. "Final Agency Decision" means the decision of the Director of the Rhode Island Department of Transportation, as indicated by the Highway and Bridge Maintenance Division notice of approval or denial of claim.

#### **4.4 Procedure for Filing a Pothole Claim**

A. Claims must be submitted to:

Department of Transportation Highway and Bridge Maintenance Attn: Pothole Claims, 360 Lincoln Avenue, Warwick, RI 02888

- B. Claims must be submitted by the registered owner and post marked or received within seven (7) days from the date on which the damage was incurred.
- C. Claimant must furnish the following documentation:
  - 1. Description of the exact, verifiable location of the pothole encountered (closest pole or street address, direction of travel, lane identification, etc.); and
  - 2. Date and time damages incurred; name, address, and telephone number of all witnesses; and
  - 3. If the motor vehicle is registered in another state, a copy of a statute in the state of registry, comparable to R.I. Gen. Laws § 24-8-35, which affords similar protection to persons owning motor vehicles registered in Rhode Island; and
  - 4. Copy of police report, police complaint, tow report, auto club report, or equivalent documentation; and
  - 5. Copy of the motor vehicle registration, and in the case of a leased vehicle, a copy of the vehicle lease or insurance certificate documenting the contractual relationship between the claimant and registered owner; and
  - 6. Copies of itemized receipts and proof of payment for repairs or replacement with current odometer reading noted.
  - 7. All documentation noted in items 3 – 6 must be submitted within sixty (60) days from the date on which the damage was incurred.

#### **4.5 Evaluation of Claims**

- A. The Department is responsible for evaluating claims according to the following criteria:
  - 1. The claim must be postmarked or received within seven (7) days from the date on which the damage was incurred, and all documentation noted in § 4.4(C) of this Part must be submitted within sixty (60) days from the date on which the damage was incurred; and
  - 2. The existence of a pothole at the location described must be verified by the Department; and

3. Responsibility for the existence of the pothole must be fixed solely and exclusively on the Department and not another agency or private party; and
4. The pothole must be reasonably construed as the sole and proximate cause of the damage; and
5. Damage to a motor vehicle registered in another state will not be considered unless the state of registry has a statute affording similar protection to persons owning motor vehicles registered in Rhode Island.

#### **4.6 Processing Claims**

- A. The Department will deny any claim not meeting the criteria described in § 4.5 of this Part.
- B. The Department will review the merits of the claim and if approved, assess damages based upon actual paid receipts for repair or replacement, adjusted for depreciation.
- C. The Department will issue a Final Agency Decision, approving or denying the claim; if approved, the claimant will receive a General Release, Affidavit and a W-9/IRS for completion.
- D. Throughout the processing of a claim, the claimant has the responsibility to respond in a timely manner to requests for information or documentation. Failure of a claimant to provide such information or documentation within the time frame specified may result in closure of the claim file without further notice to the claimant.

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**PART 4 - Rules and Regulations Governing Pothole Claims (290-RICR-30-00-4)**

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Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.