



**STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH**

**IN THE MATTER OF:
Interstate Navigation, as Operator of the Block Island Ferry
Violations of Executive Orders and
RI Department of Health Regulations**

**IMMEDIATE COMPLIANCE ORDER AND
NOTICE OF VIOLATION AND COMPLIANCE ORDER**

Now comes the Director of the Rhode Island Department of Health (“RIDOH”), as informed by the Chair (“Chair”) of the Rhode Island COVID-19 Enforcement Task Force (“Task Force”), and pursuant to R.I. Gen. Laws §§ 23-1-20 and 23-1-21, Executive Orders 20-32 and 20-58 (“Executive Orders”), and the RIDOH rules and regulations pertaining to Safe Activities By Covered Entities During the COVID-19 Emergency (216-RICR-50-15-7) (“Safe Regulations”), determines that there are reasonable grounds to believe that Interstate Navigation, as the operator of the Block Island Ferry (“Respondent”), is in violation of applicable Executive Orders and/or the Safe Regulations, and that, with respect to food and beverage service areas, Respondent is in violation of applicable Executive Orders and/or the Safe Regulations, which violation requires immediate action to protect the health, welfare, and safety of the public.

NEED FOR IMMEDIATE ACTION

On March 9, 2020, Governor Gina M. Raimondo declared a state of emergency for the State of Rhode Island due to the dangers to health and life posed by COVID-19. The Safe Regulations were promulgated as an emergency rule, pursuant to R.I. Gen. Laws § 42-35-2.10, based on a finding that an imminent peril to the public health, safety, or welfare required immediate promulgation of the rule,

specifically that “[i]n order to prevent further spread of COVID-19 as individuals begin to leave their homes more frequently and establishments begin to reopen, protective measures must be followed and implemented for individuals and establishments to resume operations so that the public’s health and welfare is protected.”

Incidences of COVID cases are spiking, primarily due to large social gatherings and overcrowding. The complaints about the Block Island Ferry fall squarely in the category of large social gatherings and overcrowding that is causing the spike in COVID cases.

GROUND FOR DETERMINATION OF VIOLATIONS

- I. Respondent operates the Block Island Ferry, which is located at 304 Great Island Road in Narragansett.
- II. Respondent is a covered entity, as defined in the Safe Regulations. As such, Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. Over the course of summer 2020, the COVID-19 Enforcement Task Force has received dozens of complaints regarding the operation of the Block Island Ferry and its failure to comply with COVID-19 safety regulations. Task Force inspectors have conducted numerous inspections of Respondent’s ferries and have identified a systematic pattern of noncompliance as it pertains to overcrowding on the vessels, failure to maintain physical distancing, both on the ship and on shore in line, lack of face coverings, and no enforcement of safe operations plan to ensure mask wearing or physical distancing. Numerous conversations have been had between the State and Respondent to resolve these issues. However, as the summer has gone on, the issues have not abated.
- IV. On August 14, 2020, a letter (See “Exhibit A”) was sent to Respondent expressing the State’s ongoing concerns and cautioning Respondent that its failure to adhere to applicable Executive Orders and the Safe Regulations would result in sanctions being imposed against it. Respondent

was also advised that additional inspectors would be on the ferries during the weekend of August 15-16 conducting inspections.

- V. The inspections of August 15 and 16 revealed that Respondent continued to lack full compliance with Applicable Executive Orders and the Safe Regulations.
- VI. Therefore, based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH has determined that there are reasonable grounds to believe that Respondent is in present violation of multiple provisions of applicable Executive Orders and/or the Safe Regulations and that, with respect to the food and beverage service areas, Respondent is in present violation of applicable provisions and immediate action is necessary to protect the health, welfare, or safety of the public.

VIOLATIONS

The following violations stem from the inspections of August 15 and 16:

- I. Respondent is in violation of Section 7.4.1(A)(3) of the Safe Regulations, which requires all individuals in an establishment to wear cloth face coverings unless physical distancing or an exception applies and requires establishments to deny entry to any employee, who is not otherwise exempt from the requirement or who refuses to wear a cloth face covering when required. Inspectors observed numerous employees not wearing masks or who were wearing them improperly, (e.g., mask under nose or under chin). One such example is an inspector who observed that an employee was not wearing a mask while interacting with customers and another employee was wearing it incorrectly. (See "Exhibit B")
- II. Respondent is in violation of Section 7.4.1(A)(1)(a) of the Safe Regulations, which requires establishments to ensure compliance with a plan that includes procedures relative to, among other things, physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.

Inspectors observed incidents of employees mingling with passengers without regard for physical distancing protocol. Inspectors also observed crew members shaking/slapping hands with passengers, passengers mingling with an employee (none of whom were wearing a mask), an employee shaking hands with a passenger then serving a hot dog to another customer without washing hands, and a passenger sipping a crew member's drink. Additionally, inspectors observed that there were no measures in place on any ferry to ensure that physical distancing would be maintained. These observations included all back to back benches remaining open, no benches or tables being blocked off, and crew members not enforcing the physical distancing requirements. Finally, due to the inclement weather, inspectors reported that on some trips, most of the passengers chose to travel indoors. This led to a situation where, due the volume of passengers in that area, physical distancing could not be feasibly maintained. (See "Exhibit C")

- III. Respondent is in violation of Section 7.4.1(A)(6) of the Safe Regulations, which requires each covered entity to clean commonly touched surfaces, such as shared workstations, elevator buttons, door handles and railings in accordance with CDC guidance for specific industries. Inspectors observed that high touch surfaces such as railings, tables, and chairs were not routinely cleaned/disinfected in accordance with the CDC guidance for specific industries.¹ Inspectors also observed numerous occasions of passengers moving from one table/bench to another and then other passengers taking those seats without any cleaning being performed in the interim.
- IV. Respondent is in violation of Section 7.4.1(A)(12) of the Safe Regulations, which prohibits congregating and/or mingling in an establishment or areas under the establishment's control. Multiple inspectors observed passengers mingling and congregating at the food and beverage service areas and other areas on the ferries for the majority of the trips.

ORDER

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html>

IMMEDIATE COMPLIANCE

It is hereby **ORDERED**, that Respondent is to immediately close its food and beverage service areas until such time as violations are remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent shall ensure that:
 - a. All employees who are working in the food and beverage service areas shall appropriately wear a cloth face covering at all times.
 - b. All employees shall refrain from any non-essential passenger contact. If contact is made, the employee must wash his or her hands prior to serving the next customer.

NOTICE OF COMPLIANCE

It is further **ORDERED**, that on or before the tenth (10th) day from service of this Notice of Violation and Compliance Order, Respondent shall remedy the above cited violations and come into full compliance with applicable Executive Orders and Regulations, by fulfilling the conditions as set forth below:

- I. Respondent shall require all employees to wear cloth face coverings unless physical distancing or an exception applies and to deny entry to any employee, who is not otherwise exempt from the requirement or who refuses to wear a cloth face covering when required.
- II. Respondent shall clean all high touch surfaces in accordance with CDC guidelines, in accordance with its specific industry and maintain records documenting such cleaning.
- III. Respondent shall ensure compliance with its plan for safe operation, required pursuant to Section 7.4.1(A)(1) of the Safe Regulations, including compliance with, among other things, procedures consistent with the Safe Regulations relative to physical distancing at all times, to the extent feasible, and to include additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible. These measures may include, but are

not limited to, closing tables and benches and restricting access to areas which have reached their capacity limits.

- IV. Respondent shall assign personnel to enforce physical distancing requirements, in furtherance of its plan for safe operations.
- V. Respondent shall assign personnel to monitor mask usage and remind passengers that it is a requirement.
- VI. Respondent shall ensure that no congregating and/or mingling occurs on board the ferries or any area under the Respondent's control.

With respect to the Notice of Compliance, a written request for a hearing may be filed within ten (10) days of this notice.

Entered this 21st day of August 2020.



Nicole Alexander-Scott, MD, MPH
Director
Rhode Island Department of Health
Cannon Building, Rm. 401
Three Capitol Hill
Providence, RI 02908

Failure to comply with this ORDER may result in the imposition of civil penalties and/or any other action authorized by applicable law or regulation.

EXHIBIT A



**State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
1511 Pontiac Avenue, Bldg. 68-69
Cranston, Rhode Island 02920**

Office of the Director

August 14, 2020

Interstate Navigation
304 Great Island Road
Narragansett, RI 02882

Dear Sir or Madam,

I am writing in my capacity as the Chair of the Rhode Island COVID-19 Enforcement Task Force (“Task Force”) to express my deep concern as to the ongoing operations of the Block Island Ferry (“Ferry”). Although we have had numerous conversations about the need to comply with all applicable Executive Orders and Emergency Regulations promulgated by the Rhode Island Department of Health, (RIDOH) the Department of Business Regulation continues to receive a disproportionately high volume of complaints about the Ferry.

These complaints mostly stem from overcrowding on the vessels, failure to maintain physical distancing, both on the ship and on shore in line, lack of face coverings, and no enforcement of mask wearing or physical distancing. Incidences of COVID cases are spiking, primarily due to large social gatherings and overcrowding. The complaints about the Block Island Ferry fall squarely in the category of large social gatherings and overcrowding that is causing the spike in COVID cases.

To that end, I am informing you that the Task Force will be increasing its inspection and enforcement activities against the Ferry in the hopes that the Ferry’s compliance improves and we can avoid the overcrowding we have seen and about which we have received several complaints. More specifically, beginning this weekend, we will be deploying additional inspectors who will focus their efforts on Executive Orders and RIDOH regulations relating to physical distancing, cloth face mask wearing and restrictions on congregating and mingling.

We also offer you the following suggestions that might help ensure the highest level of safety for passengers on the Ferry and compliance with Executive Orders and RIDOH regulations related to COVID-19.

- Limit passenger capacity on the vessels as follows:

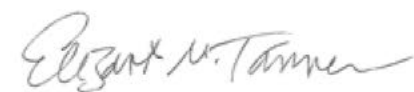
Boat Name	Normal Capacity	Current Reduced Capacity 50%	Proposed Max top deck	Proposed max middle	Proposed Bow Cap	Proposed Catwalk
Block Island	1000	500	329	141	30	N/A
Athena	249	125	50	75	N/A	N/A
Anna C	1276	638	328	220	40	50
Carol Jean	1115	558	280	188	40	50

- Require ticketing reservations for specific times on weekends and other high-volume days.
- Do not allow passengers to board a vessel for which they are not ticketed, unless capacity limits allow for it.
- Deny future ticket sales for passengers who refuse to wear a mask without an exception.
- Assign personnel to monitor mask usage and remind passengers that it is a requirement.
- Assign personnel to monitor capacity limits and enforce physical distancing.

Finally, should improvements not be made, and the failure to comply continues, we will have no choice but to impose sanctions against you. These include, but are not limited to, fines in the amount of up to \$500.00 per each violation, the issuance of a Compliance Order, the issuance of an Immediate Compliance Order, which may result in the shutdown of the Ferry, or any other action authorized by regulation, statute, or other applicable law.

Thank you in advance for your anticipated cooperation.

Sincerely,



Elizabeth M. Tanner Esq.
Director, Department of Business Regulation

cc: William McCombe, Director of Security via email
Michael McElroy, Esq. via email
Linda George, Administrator, DPUC via email

EXHIBIT B



9 p.m. ferry from Block Island to Point Judith



9 p.m. ferry from Block Island to Point Judith



9:00 p.m. ferry Block Island to Point Judith



4:15 p.m. ferry from Point Judith to Block Island

EXHIBIT C



3:15 p.m. ferry from Block Island to Point Judith



3:15 p.m. ferry from Block Island to Point Judith



3:15 p.m. ferry from Block Island to Point Judith

