**65-407 PUBLIC UTILITIES COMMISSION**

**Chapter 520: TOUR, CHARTER AND WATER TAXI SERVICES, AND UNSCHEDULED FREIGHT SERVICES IN CASCO BAY**

**SUMMARY**: This Chapter establishes provisions governing Unscheduled Freight Service in accordance with 35-A M.R.S. §5101-D and Tour, Charter, and Water Taxi Services in accordance with 35-A M.R.S. §5101-E.

**1. Purpose and Scope**

This Chapter establishes requirements and limitations for the provision of Tour, Charter, Water Taxi and Unscheduled Freight Services between the mainland of Cumberland County and Peaks Island, Great Diamond Island, Little Diamond Island, Long Island, Chebeague Island, or Cliff Island or between the islands mentioned above, which comprise the franchise of the Casco Bay Island Transit District (CBITD) and others as defined in 35-A M.R.S. §5101.

**2. Definitions**

**A.** **Charter Provider.** "Charter Provider" means a person or entity that provides a Charter Service.

**B.** **Charter Service.** "Charter Service" means Passenger Service that is provided to a single person, entity, or group in Casco Bay that:

i. is an unscheduled round trip that is provided pursuant to contract that originates on the mainland and stops at one or more point(s) on any of the Regulated Islands, or

ii. is an unscheduled round trip that is provided pursuant to contract that originates on one of the Regulated Islands and stops at one or more point(s) on the mainland or any of the other Regulated Island; or

iii. is a scheduled or unscheduled round trip that is provided and operated by an employer to its employees for the sole purpose of transporting those employees to and/or from work.

**C.** **Ferry Provider.** "Ferry Provider" means a person or entity that provides a Ferry Service.

**D.** **Ferry Service.** "Ferry Service" means any waterborne transportation of passengers and/or freight in Casco Bay stopping at one or more of the Regulated Islands that is not a Charter Service, a Tour Service, or a Water Taxi Service, or Unscheduled Freight Service.

**E.** **Freight Service.** “Freight Service” means any commercial waterborne transportation of goods.

**F. Operator.** "Operator" means a person or entity that provides a Charter Service, Ferry Service, Tour Service, Water Taxi Service, or Freight Service.

**G. Passenger Service.** "Passenger Service" means waterborne transportation that is provided to passengers and their accompanying hand luggage.

**H. Regulated Islands.** "Regulated Islands" means the islands in Casco Bay of Chebeague, Cliff, Great Diamond, Little Diamond, Long, and Peaks.

**I. Roll-On and Roll-Off Vehicle.** “Roll-On and Roll-Off Vehicle” means a wheeled or tracked vehicle capable of operating under its own power that has a cargo weight that exceeds five gross tons. It does not include a vehicle with four wheels that has a gross weight of ten tons or less (unless such vehicle is transported in conjunction with a Roll‑On and Roll-Off vehicle with a cargo weight that exceeds five gross tones).

**J. Tour Provider.** "Tour Provider" means a person or entity that provides a Tour Service.

**K. Tour Service.** "Tour Service" means a trip in Casco Bay which originates on the mainland or one of the Regulated Islands but does not stop at any of the Regulated Islands or the mainland other than at the point of origination.

**L. Unscheduled.** "Unscheduled" means service that is provided on-demand, not pursuant to any published or announced schedule, and not as a part of a pattern of an Operator or Operators in providing transportation at a regular or preset frequency.

**M. Water Taxi Provider.** "Water Taxi Provider" means any person or entity that provides a Water Taxi Service.

**N. Water Taxi Service.** "Water Taxi Service" means an on-demand, unscheduled, one-way Passenger Service in Casco Bay that stops at one or more of the Regulated Islands and that is provided for six or fewer passengers.

**3. Authorization Required**

**A. Tour Service.** Tour Service as defined by this Chapter is not subject to regulation by the Commission under 35-A M.R.S., Ch. 51 and, therefore, no authorization from the Commission is required to provide a Tour Service.

**B. Charter Service, Water Taxi or Unscheduled Freight Service.** No person shall provide any Charter Service, Water Taxi or Unscheduled Freight Service without first obtaining authorization from the Commission.

1. **Applications**
2. All applications shall be filed electronically through the Commission’s Case Management System (CMS). All applicants shall request applications be served on CBITD. To assist applicants, an application form and filing instructions may be made available on the Commission’s website.
3. Applicants must file the following applicant information:
   1. Name, address, telephone number, and email address
   2. Whether the applicant is an individual, partnership, limited liability company (LLC), corporation, or other
   3. If a partnership or a member-run LLC, the name and address of each partner
   4. If a manager-run LLC, the name and address of each officer or manager
   5. If a corporation, the name and address of each officer, each board member, and the registered agent, and when and where incorporated
4. Applicants must file the following information about the proposed service(s) to be provided:
   1. Whether the application is for Charter, Water Taxi, and/or Freight Service(s)
   2. If Water Taxi and/or Unscheduled Freight Service, a list of all rates and charges for proposed service(s)
   3. If Charter Service, whether all passengers will be returned to the origination point by the Charter Provider on the round trip and, if not, whether the contract for the return trip of passengers is with CBITD or other identified person
   4. If Water Taxi Service, the hours of operation and the telephone number for the service
   5. If Unscheduled Freight Service, a general description of the type of freight services to be provided
5. Applicants must provide the following information for each vessel to be employed in the proposed service(s).:
   1. Name of vessel
   2. Name and address of the owner of the vessel
   3. A copy of the State of Maine registration
   4. Port of registration and in whose name the vessel is registered
   5. Vessel length, breadth, and gross tonnage
   6. Maximum number of passengers
   7. A copy of the United States Coast Guard Certificate of Inspection, as applicable, including number, and issuance and expiration dates, and any other United States Coast Guard documentation
6. Applicants must certify they have the following:
   1. Sufficient personnel properly licensed to operate the vessel(s) to be used in the proposed service(s)
   2. Sufficient liability insurance covering the proposed service(s), including the name of the insurer
7. Any further information the Commission requires.
8. **Process**

i. Authorization shall not be granted by the Commission unless the Applicant satisfies all the requirements of this Chapter, and the Commission finds that the public convenience and necessity requires such authorization.

ii. In the event applicants puts in service or uses an additional vessel or vessels after having obtained authorization from the Commission to provide the regulated service(s), applicants must file notice electronically through the Commission’s CMS, including the information required in subsections 3(B)(1)(iv) & 3(B)(1)(v).

iii. No hearing shall be held on such application unless an objection is filed within two weeks of the filing of the application which demonstrates a substantial need for a hearing, which requirement may be satisfied by, for example but not necessarily limited to, a prima facie showing that the actual service to be provided will differ from the authorization requested.

**C. Ferry Providers.** If service for which authorization is requested is not Charter Service or Water Taxi Service or Unscheduled Freight Service as defined by this Chapter, the application shall be treated as an application for authorization as a Ferry Provider under Title 35-A, M.R.S. §5101 and this Chapter shall not be applicable.

**4. LIMITATIONS ON AND REQUIREMENTS FOR THE PROVISION OF CHARTER SERVICE**

**A. Tickets and Individual Fares.** A Charter Provider may not sell individual tickets or charge individual fares for any charter trip.

**B. Disembarkment.** If the passengers of a Charter Provider disembark on any of the Regulated Islands, the Charter Provider shall

1. remain with the passengers and provide return service;

2. return to pick up its Charter Service passengers who disembark on any of the Regulated Islands;

3. provide only one way service and contract with CBITD or another Charter Provider to have the CBITD or the other Charter Provider provide passenger return service; or

4. return to pick up its charter service passengers but, if the charter has a contract with CBITD that provides an allowance for a certain number of passengers to return with the CBITD ferry, the charter provider may provide its passengers with the option to return with the ferry.

**C. Record keeping.** Charter Providers shall maintain records of inbound and outbound passenger counts for each trip and, for any trip on which the inbound and outbound passenger counts are not identical, records demonstrating compliance with this Chapter, at least until the end of the calendar year following the calendar year in which the trip occurred.

**5. LIMITATIONS ON THE PROVISION OF WATER TAXI SERVICE**

**A. Flat Rate.** Water Taxi Service shall be provided at a flat rate based on the distance between the origination and termination points, regardless of whether the vessel carries fewer than the maximum allowable number of passengers as provided in section 2(N) of this Chapter and regardless of whether the trip is inbound or outbound.

**B. Filing Requirement.** A Water Taxi Provider shall file at the Commission, for informational purposes only, any changes in its rates. These rate schedules are not subject to Commission approval.

**6. LIMITATIONS ON THE PROVISION OF UNSCHEDULED FREIGHT SERVICE**

**A. Type of Vehicles Allowed.** All vehicles transported in Unscheduled Freight Service between mainland Cumberland County and the Regulated Islands or between the Regulated Islands must consist of either (i) Roll-On and Roll-Off Vehicles, or (ii) special purpose equipment such as construction equipment, emergency equipment, or trash compacting equipment. Any Roll-On and Roll-Off Vehicle must be loaded with allowed freight (if such vehicle is transported one a round-trip, it must be loaded with allowed freight on at least on leg of that round-trip).

**B. Type of Freight Allowed.** All freight transported in Unscheduled Freight Service between mainland Cumberland County and the Regulated Islands or between the Regulated Islands must consist of (i) freight transported in a Roll‑On and Roll-Off Vehicle, (ii) material in bulk that requires the use of a deck barge and crane, or (iii) household goods transported in tractor trailers. Transported vehicles may not carry food, beverages, perishables, or wrapped or boxed freight.

**C. Loading and Unloading.** Loading and unloading of transported vehicles may not occur at any dock or wharf used by the CBITD for scheduled service.

**D. Limitation for Peaks Island.** The freight transported on any single trip between Peaks Island and mainland Cumberland County or between Peaks Island and the other Regulated Islands may not consist of property of multiple owners unless:

1. The property was originally sold by a single vendor who is the owner of one of the vehicles transported on the trip; or

2. The property is related to the performance of a single contract to be performed by the owner of one of the vehicles carried on the trip.

**E. Rate Schedule.** All carriers providing Unscheduled Freight Service shall file a rate schedule with the Commission that includes a statement of the hourly fee and the minimum fee, which shall not be less than one hour at the hourly fee.

**7. WAIVER**

Upon the request of any persons subject to this Chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this Chapter that is not required by statute. The waiver may not be inconsistent with the purposes of this Chapter or Title 35-A. The Commission, the Director of Telephone and Water Utility Industries, or the presiding officer assigned to a proceeding related to this Chapter may grant this waiver.

STATUTORY AUTHORITY: 35-A M.R.S. §§ 5101-D, 5101-E.

EFFECTIVE DATE:

This rule was approved as to form and legality by the Attorney General on February 3, 1993. It was filed with the Secretary of State on February 3, 1993 and became effective on February 8, 1993.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

NON-SUBSTANTIVE CHANGES:

March 24, 1999 - converted to MS Word.

EFFECTIVE DATE:

This rule was approved as to form and legality by the Attorney General on September 3, 1999. It was filed with the Secretary of State on September 7, 1999 and became effective on September 12, 1999.

EFFECTIVE DATE:

This rule was approved as to form and legality by the Attorney General on September 22, 2000. It was filed with the Secretary of State on September 26, 2000 and became effective on October 1, 2000.

EFFECTIVE DATE:

This rule was approved as to form and legality by the Attorney General on April 19, 2018. It was filed with the Secretary of State on April 20, 2018 and became effective on April 25, 2018 (filing 2018-063).