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American Association of Port Authorities

Serving the Ports of Canada, the Caribbean, Latin America and the United States

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cc 020/030
 ORIGINAL
 KURT J. NAGLE
 President

RECEIVED
 APR-4 PM 4:30

March 28, 2003

Mr. Bryant L. VanBrakle
 Secretary
 Federal Maritime Commission
 800 North Capitol Street, N.W., Room 1046
 Washington, DC 20573-0001

Re: FMC Docket 02-1 5, Passenger Vessel Financial Responsibility.

Dear Mr. Secretary:

The American Association of Port Authorities (AAPA) views with grave concern the Federal Maritime Commission's (FMC) proposed rule changes regarding passenger vessel financial responsibility. Based upon our analysis of the proposal and our knowledge of the industry, it is our considered stance that the proposed changes would exact an undue, unwise and potentially devastating hardship upon an industry that annually generates some \$20 billion for the U.S. economy while playing a significant role at many of our major seaports.

At a time when other segments of the travel industry are struggling, and with world conflict offering further threats, the cruise industry of today retains fiscal soundness. As with other industries, a few weaker players have fallen by the wayside in recent years, but currently 98 percent of North American cruise departures are attributable to four companies -- Carnival/P&O Princess (Carnival, Holland America, Cunard, Costa, Windstar, Seabourn, P&O and Princess), Royal Caribbean (Royal Caribbean and Celebrity), Star Shipping/Norwegian Cruise Line (NCL and Orient Line) and Disney Cruise Line -- each being publicly held and traded on major world stock exchanges and regularly making public disclosures of financial information.

Part of our concern is that the FMC has stated that it is these large, strong companies at which the proposed changes are aimed as smaller carriers already have at least 110 percent coverage of unearned passenger revenue. Since the inception of the modern cruise industry, the FMC has maintained a ceiling on the amount of the unearned passenger revenues required to be covered. That ceiling initially was set by the FMC at \$5 million in 1967, raised to \$10 million in 1981 and to the current \$15 million in 1991.

Whereas AAPA and its Cruise Committee could understand a measured increase in the ceiling, perhaps over a phased-in period, the total elimination of the ceiling would effectively potentially require the cruise industry to set aside as much as \$2.347 billion,

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placing a burden upon the cruise industry that is not borne by any other element of the travel industry. Not only would this have severe adverse impact upon ability to continue to make investments in new ships and terminals, but, moreover, such costs ultimately would have to be passed along to consumers whom the proposed rule changes purportedly are intended to help.

As you are aware, the American Association of Port Authorities, founded in 1912, today represents some 150 public port authorities in the United States, Canada, Latin America and the Caribbean. An increasing number of these ports are deriving a significant portion of their income from the cruise industry, particularly as cruise lines have, after September 2001, accelerated efforts to bring cruising closer to the marketplace, expanding their deployments to new ports on all coasts. The negative repercussions of the proposed rule changes would thus be widespread.

On another point, the AAPA Cruise Committee also has reviewed the proposal to require cruise operators to consent to participation in an alternative dispute resolution program. Our concerns here include that appropriate avenues already exist for such resolutions, that FMC jurisdiction in such matters is questionable and that limited FMC staff would be diverted to such a program from their traditional dedication to maritime regulations and related issues.

Our Cruise Committee makes itself available, as always, to provide any additional information that the FMC might find helpful in making a decision that is most prudent and that does not saddle a vital U.S. industry with an unjust burden.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt J. Nagle", with a long horizontal flourish extending to the right.

Kurt J. Nagle

KJN/lb