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PORT AUTHORITY

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May 30, 2003

Via Fax

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

Re: FMC Docket No. 02-15, Proposed Rulemaking on Passenger Vessel Financial Responsibility

Dear Mr. VanBrakle:

The Canaveral Port Authority ("Port Canaveral" or "Port") hereby submits these comments in reply to the Federal Maritime Commission's ("FMC") Notice of Proposed Rulemaking on passenger vessel operator financial responsibility issued on October 31, 2002.

Port Canaveral is the busiest cruise port in the Western Hemisphere. We presently have six state-of-the-art cruise terminals in operation and two more in the development phase. The Port is home to five modern, financially stable and commercially recognized cruise lines, with other lines making year-around port calls.[1] Overall, in recent years the Canaveral Port Authority has invested over $100 million in development of our cruise terminals. Because of our commitment to the cruise industry, Port Canaveral has experienced dynamic growth with our cruise line partners. For example, in 1994, the Port had just under 900,000 revenue cruise passengers. During fiscal year 2002, 3.9 million revenue cruise passengers passed through the Port's modern cruise terminals—more than 300 percent growth in less than ten years. As such, we are perfectly situated to provide meaningful input on how the FMC's proposed rule will affect the cruise lines and port community, and ask, that after careful consideration of our concerns, you not adopt the proposed rule.

The FMC's proposed rule would fundamentally alter the long-standing financial responsibility requirements that cruise companies must satisfy when operating in the U.S. market. By adopting the proposed rule, which would eliminate the current ceiling on

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[1] Canaveral Port Authority's current cruise line partners include: Carnival Cruise Lines, Disney Cruise Line, Holland America, Norwegian Cruise Line, Royal Caribbean International, Ocean Club Cruises, Sterling Casino Lines, and SunCruz Casinos.

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required performance coverage and drastically increase the coverage amounts for cruise lines (covering 110 percent of their highest unearned passenger revenue during the prior two fiscal years), the cruise industry would be forced to alter all aspects of its business operations—including scaling back new vessel builds, and foregoing expanded cruise services and new deployments. All of this translates into reduced business opportunities for our Port, the thousands of individuals who are directly and indirectly employed by the cruise industry serving Port Canaveral, and will adversely affect our future business plan tailored to this important industry segment. We believe that, prior to implementation, the FMC must carefully consider all aspects of the proposed rule—including the rule's very real unintended economic consequences to Port communities. Simply put, too much is at risk to our Port for anything less.

Although the FMC states the rule is directed at consumer protection, we maintain that the rule would adversely affect the larger, more financial secure and stable cruise lines, possibly impairing their ability to remain competitive in the U.S. cruise market, with little, if any, benefit to the consumer. Our cruise line partners include the largest and most financially sound cruise companies, Carnival Cruise Lines, Royal Caribbean International, Disney Cruise Line, and Norwegian Cruise Line. In fact, earlier this month Norwegian Cruise Line began year-around calls with the company's newest vessel, the *NCL Dawn*. This new deployment has had an immediate and positive impact on our local economy, and reflects the Port's long-standing commitment to attracting and developing the best overall level of cruise line services. The FMC's proposed rule jeopardizes the cruise lines' ability to provide this type of increased service, since the capital outlays that typically are dedicated to fleet development and deployment would have to instead be allocated to meet the proposed increased financial responsibility standards.

The FMC mentions recent failures by several cruise companies as the basis for the proposed rule. However, the FMC must recognize that these recent failures do not necessarily correlate to the operations of the large, financially secure, and publicly-held cruise lines, such as those calling at our port—all important partners to our local and state economies. Furthermore, the Canaveral Port Authority has first-hand experience in dealing with cruise line failures, since two of these cruise line failures operated out of our Port (Cape Canaveral Cruise Line and Premier Cruise Line). We believe that these recent failures were not a result of the overall economic environment. Nor do they reflect the current state of the U.S. cruise industry as a whole. In fact, we believe that the Cape Canaveral Cruise Line and Premier Cruise Line failures have no reflection on other more modern and stable lines, such as those cited above. Having worked with Cape Canaveral Cruise Lines and Premier, the Canaveral Port Authority believes that their approach to the cruise industry represented a poor business model that ultimately cost the companies their existence. Each of these companies deployed aging vessels that simply were unable to compete with the modern ships introduced into our Port over the past five years, and at the same time meet the added safety modifications of the U.S. Coast Guard and the IMO. In the end, their failures indicate that the consumer prefers cruising on newer ships with diverse services—things that Cape Canaveral and Premier Cruise Lines could not provide.

It is important to note that these cruise line failures occurred in 2000—a record year at our Port and in the cruise industry as a whole—and long before the tragic events of September 11, 2001. Moreover, the Port and our cruise line partners bounced back from the economic downturn following the terrorist attacks, posting very impressive numbers for 2002. In 2001, the Port had a total of 3.5 million revenue passengers. In 2002, the numbers increased to more than 3.9 million revenue passengers.

The cruise industry and the Port have enjoyed robust passenger traffic recently, and we look forward to 2003 and beyond. Adoption of the economically costly FMC proposed rule would force the cruise companies—and port communities—to reevaluate business development matters, and force lines to reallocate substantial resources to cover the increased performance coverage. We do not believe the proposed rule represents sound policy, and it is not necessary.

We ask that the FMC move cautiously and slowly in this area. The Canaveral Port Authority is concerned that radical changes to the cruise industry, such as those that would follow implementation of the proposed rule, may undermine continued growth for our Port, as well as our local and state economies.

The Canaveral Port Authority thanks the Commission for considering our comments, and given the concerns raised above, respectfully asks that the proposed rule not be adopted.

Sincerely,

CANAVERAL PORT AUTHORITY

Malcolm E. McLouth, P.E.
Executive Director

Cc: Members of the Florida Congressional Delegation