Alaska Catamaran, LLC dba Alaskan Dream Cruises
TO
FEDERAL MARITIME COMMISSION
October 25, 2021

Ladies and Gentlemen:

Alaskan Dream Cruises(ADC) is a small overnight passenger cruise line that operates six overnight passenger vessels and respectfully submits these comments in response to the Notice of Proposed Rulemaking on Passenger Vessel Financial Responsibility, as published in the *Federal Register* of August 25, 2021.

ADC is Alaskan Native owned small business that operates U.S.-flagged "small ship" overnight cruise vessels that are subject to the Commission's financial responsibility regulations and that therefore will be affected by the proposed rule. ADC is an American company in which we register all of our vessels under the American flag, which are U.S. built (as required by U.S. cabotage laws), and crewed by American citizen (also as required by U.S. law), and we pay U.S. income taxes. Many cruise operators subject to the Commission's financial responsibility rules cannot make these statements. The Commission must be especially cognizant of the impact of its proposed regulation on U.S. operators such as Alaskan Dream Cruises. Adoption of the proposed rule will most likely result in major cost increases when purchasing required financial instruments, as well as the companies that have traditionally provided these instruments may choose to cease offering such coverage.

**"Nonperformance of Transportation" definition (proposed section 540.2(m))**

ADC observes that the Commission has moved away from its prior suggestion that a mere 24-hour delay in sailing will constitute nonperformance of transportation. ADC concurs with the update of "a delay in sailing "by three (3) or more calendar days, if the passenger elects not to embark on the delayed voyage or a substitute voyage." The Commission should resist any calls to compress that standard.

**Definition of Unearned Passenger Revenue (UPR) (proposed section 540.2(i))**

The Commission proposes to amend its current definition of UPR to include ancillary fees that may have been collected by the PVO, such as airfare, hotel

reservations, and third-party tours. ADC urges the Commission not to take this step.

Broadening the definition will cause the UPR to go up and thereby increase how much financial responsibility must be demonstrated. This will have no consequence for a PVO that can take advantage of the regulatory "cap" for financial responsibility (now at $32 million). But for smaller PVOs, such as ADC, for which the "cap" does not come into play, it will increase our costs for obtaining instruments attesting to financial responsibility, at a time we are receiving great pressure from our bonding company to reduce our bond exposure through all steps necessary.

Furthermore, travel providers that offer land-based package trips with advance collection of fees for airfare, hotel accommodations, and third-party tours will not be subject to this requirement; these land-based travel companies often compete directly with "small ship" U.S.-flagged PVOs. And in the rare instances of "nonperformance of transportation," the passengers are not without remedies – as demonstrated by ADC during 2020 when we worked with our passengers and either refunded or the passenger volunteered to move their travel to a future year. In addition to the methods above, the company is also under contract with our credit card processor that holds funds received to use in the event the company is unable to refund passengers. During COVID-19, the credit card company increased our cash on deposit from $300,000 to $2,000,000. As this is unregulated, the company had no recourse by which to negotiate on this amount and had the money withheld regardless of the financial position of the company. Adding a rule like this very likely would cause the same thing to happen to us through the FMC which would significantly damage the company's ability to meet it's financial obligations. Additionally, this would be two sets of deposits with different groups to protect the same set of customer fees. In doing this we were able to build better relationships with our passengers that would have been detrimental to our brand if we did not.

**The proposed rule jeopardizes providers of financial responsibility instruments and could very well cause them to withdraw from this line of business**

The Commission itself acknowledges that the current system demonstration of financial responsibility works satisfactorily. Footnote 5 on page ___ of the *Federal Register* document states, "Refund payments under the PVO financial responsibility instruments are rare and usually only occur if the PVO ceases

operations and declares bankruptcy." The existing regulation has demonstrated its adequacy in such infrequent events over many decades.

ADC has worked tirelessly to maintain our relationship with our issuers of our bonds and this proposed rule is making it more difficult for our issuer to want to remain within our industry. Through recent discussions with our security issuers, they are already considering exiting this industry and that is before this rule is issued. If the rule pushes the security issuers out of the maritime industry, ADC will be forced to back our financial responsibility out of operating costs which would add a near catastrophic burden for our company to operate. Estimates for the increase could be as high as 1 – 1.5 million dollars for our small family-owned business. This increase would be catastrophic financially. In addition, the company is already under pressure from the credit card companies who are also forcing multi-million dollar deposit to be held for the exact same reason. This proposed rule would double the amount of cash flow that is locked up by outside agencies and tremendously reduce the cash flow of the business, making the business liquidity decrease significantly at a time it is trying to rebound from the COVID-19 shutdown.

Furthermore, the provision that would allow for passengers to interact directly with the issuer would add extra levels of administrative burden to our company and that of the provider. There are already many legal methods that would allow for passengers to seek their refund, i.e., direct refund from ADC, credit card disputes, etc.