

FEDERAL MARITIME COMMISSION

COVID-19 IMPACT ON CRUISE
INDUSTRY

Fact Finding No. 30

Served: April 30, 2020

BY THE COMMISSION: Michael A. KHOURI, *Chairman*,
Rebecca F. DYE, Daniel B. MAFFEI, Louis E. SOLA, and Carl
W. BENTZEL, *Commissioners*.

ORDER

Congress tasked the Federal Maritime Commission (Commission) with administering the Shipping Act of 1984 (Shipping Act), 46 U.S.C. § 40101 *et seq.* The Commission also administers Public Law 89-777, 46 U.S.C. § 44101 *et seq.*, to ensure that passenger vessel operators (PVOs) satisfy the financial responsibility requirements related to nonperformance of transportation and death or injury to passengers.

The purposes of the Shipping Act include the provision of “an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices.” 46 U.S.C. § 40101. Pursuant to the Shipping Act, the Commission regulates ocean common carriage of the United States. When they

are engaged in transportation of passengers between the U.S. and a foreign country, PVOs are common carriers under the Shipping Act. *See* 46 U.S.C. § 40102(7)(A).

PVOs are also subject to the requirements of 46 U.S.C. chap. 441 and regulations promulgated thereunder in 46 C.F.R. part 540. The purpose of that statute is, among other things, “to prevent financial loss and hardship to the American traveling public, who, after payment of cruise passage money, are stranded by the abandonment or cancellation of a cruise.” *Terry Marler and James Beasley dba Titanic Steamship Line*, 22 S.R.R. 359, 369 (ALJ 1983), *aff’d*, 22 S.R.R. 798 (FMC 1984).

The Commission understands that the current pandemic caused by the novel coronavirus (COVID-19) has severely impacted the cruise industry. On March 14, 2020, the Centers for Disease Control and Prevention (CDC) issued a No Sail Order and Suspension of Further Embarkation causing PVOs to cease all operations. Due to the unpredictable nature of this disease, the CDC has extended the term of the order demonstrating the uncertainty associated with this pandemic. Consequently, questions concerning future travel and passengers’ ability to obtain refunds of monies remitted for transportation disrupted by COVID-19 are legion.

The cruise industry plays a unique and important role in the U.S. economy. Given the Commission’s mandate to: (1) ensure an efficient and economic transportation system for ocean commerce for both goods and passengers under the Shipping Act; and (2) ensure that PVOs maintain adequate financial responsibility to indemnify passengers for nonperformance and meet any liability which may be incurred for death or injury to passengers or other persons under 46 U.S.C. chap. 441, the Commission has a clear and compelling responsibility to actively investigate and respond to the

current challenges impacting the cruise industry and the U.S. ports that rely on it.¹

THEREFORE IT IS ORDERED, That, pursuant to 46 U.S.C. §§ 40104, 41101-41109, 41301-41309, 44104-44106 and 46 C.F.R. § 502.281 *et seq.*, Commissioner Louis E. Sola engage cruise industry stakeholders, including PVOs, passengers, and marine terminal operators, in public or non-public discussions to identify commercial solutions to COVID-19-related issues that interfere with the operation of the cruise industry;

IT IS FURTHER ORDERED, That, the Commissioner form one or more teams, composed of leaders from the cruise industry and other stakeholders, to develop commercial solutions to the challenges created by the COVID-19 pandemic;

IT IS FURTHER ORDERED, That the Commissioner interact with any or all maritime related COVID-19 task forces of which this Commission is affiliated or monitors for the purpose of collecting data related to COVID-19 and its impact on the cruise industry;

IT IS FURTHER ORDERED, That, the Commissioner provide a preliminary report and periodic updates to the Commission on the results of efforts undertaken by this Order;

IT IS FURTHER ORDERED, That, the Commissioner have full authority under 46 C.F.R. §§ 502.281-291 to perform such duties as may be necessary in accordance with U.S. law and Commission regulations. The Commissioner will be assisted by staff members as may be assigned by the Chairman;

IT IS FURTHER ORDERED, That, this Proceeding be discontinued upon the acceptance of a final report and possible recommendations by the Commissioner, unless otherwise ordered by the Commission;

¹ The provisions of the Shipping Act govern proceedings under 46 U.S.C. chap. 441. *See* 46 U.S.C. § 44106.

and

IT IS FINALLY ORDERED, That, notice of this Order be published in the *Federal Register*.

By the Commission.

Rachel E. Dickon
Secretary