

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

STATE OF FLORIDA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
XAVIER BECERRA, Secretary of	)	
Health and Human Services, in his	)	
official capacity; HEALTH AND	)	Case No.: 8:21-CV-839-SDM-AAS
HUMAN SERVICES; ROCHELLE	)	
WALENSKY, Director of Centers for	)	
Disease Control and Prevention, in	)	
her official capacity; CENTERS FOR	)	
DISEASE CONTROL AND	)	
PREVENTION; UNITED STATES	)	
OF AMERICA,	)	
	)	
Defendants.	)	

**STATE OF ALASKA’S MOTION TO INTERVENE**

The State of Alaska moves to intervene in support of plaintiff, the State of Florida, as of right pursuant to Federal Rule of Civil Procedure 24(a)(2) or, alternatively, in permissive intervention pursuant to Federal Rule of Civil Procedure 24(b). This litigation concerns the legality of an order issued by the Center for Disease Control and Prevention (“CDC”) that prohibits cruise ships from operating in waters of the United States until November 1, 2021, or until the vessel’s operator can satisfy both overly burdensome and yet to be determined requirements set by the CDC. The order directly affects the

economic health of Alaska, its small port communities, and its citizens. Moreover, Alaska has a substantial interest in the subject matter of this action because the CDC has exceeded its statutory authority by asserting a general police power over Alaska and its local communities. *See Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 536 (2012) (“The independent power of the State also serves as a check on the power of the Federal Government: ‘By denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power.’” (quoting *Bond v. United States*, 564 U.S. 211, 222, (2011)); *Skyworks, Ltd. v. Ctr. For Disease Control and Prevention*, ---F. Supp. 3d---, 2021 WL 911720, at \*10 (N.D. Ohio March 10, 2021) (concluding that the CDC’s current interpretation of its statutory authority is “tantamount to creating a general federal police power”).

## BACKGROUND

### **I. The CDC issued a No Sail Order at the start of the pandemic.**

In March 2020, the CDC issued the first of a series of No Sail Orders shutting down the cruise industry in the United States. 60 Fed. Reg. 16628. The order applied to passenger vessels with a capacity of 250 or more individuals operating in waters subject to the jurisdiction of the United States with an itinerary anticipating an overnight stay for passengers or crew. *Id.* The CDC renewed the No Sail Order in separate orders issued on

April 9, July 16, and September 30, 2020. *See* 85 Fed. Reg. 21004, 85 Fed. Reg. 44085, 85 Fed. Reg. 62732.

The No Sail Orders prohibited cruise ship operators from disembarking or reembarkeing crew members except as directed by the United States Coast Guard; prevented operators from embarking any new passengers or crew except as approved; directed cruise ship operators to observe health precautions as directed by the CDC; and directed operators to comply with all CDC recommendations and guidance relating to the passengers, crew, ship, or any article or thing on board the ship. 85 Fed. Reg. at 62737. As a condition of returning to sailing, the No Sail Orders required cruise ship operators to develop and implement a “robust plan to prevent, mitigate, and respond to the spread of COVID-19 among crew onboard cruise ships.” *Id.* The orders further required operators to make this plan available to the CDC and address elements to adequately prevent, mitigate, and respond to the spread of COVID-19 among crew and minimize, to the greatest extent possible, any impact on government operations or the U.S. healthcare system. *Id.*

As a result of the pandemic, Alaska’s 2020 cruise season was canceled.<sup>1</sup>

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<sup>1</sup> *See Alaska’s Last Remaining Big-Ship Cruises of 2020 Have Been Canceled*, July 6, 2020, available at <https://www.adn.com/business-economy/2020/07/06/alaskas-last-remaining-big-ship-cruises-of-2020-have-been-canceled/>.

## **II. The CDC’s Conditional Sail Order threatens Alaska’s 2021 cruise season.**

As of April 29, 2020, seven cruise ship operators—approximately 95% of cruise ships subject to the No Sail Orders—had submitted the necessary response plan. 85 Fed. Reg. at 62734. As of September 6, all five cruise ship operators with ships remaining in U.S. waters had submitted response plans that were “complete, accurate, and acknowledged.” *Id.*

On October 31, 2020, the CDC issued a “Conditional Sail Order” that promised a “phased resumption of cruise ship passenger operations.” 85 Fed. Reg. 70153. The initial phase consisted of testing and additional safeguards for crew members while the CDC ensures operators build the laboratory capacity needed to test future passengers. *Id.* Subsequent phases would include simulated voyages, certification for ships that meet specific requirements, and a phased return to passenger voyages. *Id.*

On April 2, 2021, the CDC issued technical guidance for phase 2a of its phased approach.<sup>2</sup> Among other requirements, this phase requires operators to create “planning materials for agreements that port authorities and local health authorities must approve to ensure cruise lines have the necessary infrastructure in place to manage an outbreak of COVID-19 on their ships to include healthcare capacity and housing to isolate infected people and

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<sup>2</sup> <https://www.cdc.gov/media/releases/2021/s0402-conditional-sail-orders.html>

quarantine those who are exposed.”<sup>3</sup> This plan, in addition to a host of other requirements, requires operators to obtain “medical care agreements” that include contractual arrangements to provide for emergency medical transport of critically ill persons and contractual arrangements with shoreside medical facilities to ensure that travelers receive appropriate clinical evaluation.<sup>4</sup> In these agreements, the cruise ship operator “must document that its contractual shoreside medical facilities or healthcare systems either singularly or collectively have enough medical capacity in the judgment of the local health authorities to care for travelers if an unanticipated outbreak of COVID-19 occurs on board its ships.”<sup>5</sup>

Along with the medical care agreements and other related requirements, cruise ship operators must enter housing agreements with shoreside facilities to allow for isolation of and quarantine of persons with suspected or confirmed COVID-19. The housing agreement provision includes another host of requirements, including an obligation by the cruise ship operator to “document that it has made contractual arrangements . . . in sufficient quantities as determined by the local health authorities to meet the housing needs of travelers until they meet CDC criteria to discontinue

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<sup>3</sup> *Id.*

<sup>4</sup> <https://www.cdc.gov/quarantine/cruise/instructions-local-agreements.html>

<sup>5</sup> *Id.*

isolation.”<sup>6</sup> In addition to the housing requirements, the CDC also directs the parties to the agreement—which includes the cruise ship operator, the U.S. port authority, and all health departments exercising jurisdiction over the port—to jointly consider the potential needs of travelers under quarantine and isolation. These needs include the availability and frequency of testing; availability of mental health services; pharmacy delivery and other essential services; availability of security; a check-in process, including delivery of luggage; procedures to ensure daily monitoring of travelers in quarantine; procedures to minimize contact between travelers in quarantine and support staff; and post-isolation and post-quarantine procedures to allow travelers to safely return home.<sup>7</sup>

The CDC has yet to issue technical guidance for Phase 2b—simulated voyages—or any of the other remaining phases.<sup>8</sup> Based on the Conditional Sailing Order, it will be at least a 90-day process for a cruise ship operator to complete a simulated voyage and possibly obtain a conditional sailing certificate. Alaska’s cruise season is limited, extending from mid-May to early October each year. Unless the CDC’s overly burdensome and opaque requirements are altered or lifted soon, it will be impossible for large-scale

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> <https://www.cdc.gov/media/releases/2021/s0402-conditional-sail-orders.html>

cruising to resume in the United States in time for any part of Alaska's season. And, given the CDC's current pace for issuing its technical guidance and the lead times necessary to arrange and market cruises, the CDC's action may jeopardize the 2022 cruise season as well.

**III. The loss of another cruise season will have a catastrophic impact to Alaska and its economy.**

The No Sail Orders have had an unsustainable impact on Alaska's economy. As stated in an Interim Report issued by the Federal Maritime Commission in October 2020:

In the case of Alaska, there exists an outsized economic impact from the cessation of cruise activity. While the symptoms are the same as in other parts of the United States, the impact is much greater because of Alaska's distance and economic reliance on the tourism industry and, at the micro level, the almost total reliance of some small towns (and native Alaskans) on the income generated by cruise tourism.

[Ex. 1, at 4]

The State of Alaska directly lost an estimated \$90.3 million in tourism revenues in 2020 and stands to lose even more if the cruise industry remains shut down for the 2021 cruise season. [Ex. 2, at 5] This revenue stems directly from the cruise industry and comes in the form of state taxes, fishing and hunting licenses, state park fees, passenger related revenues, and environmental compliance fees. [*Id.*]

Alaska's port and cruise line related communities lost 22,297 jobs in 2020 equating to over \$305.7 million in lost wages. These lost wages and lost jobs impact Alaska by depleting the state's Unemployment Reserve Trust. In February 2020, the balance of this trust was \$492.9 million; in March 2021, the balance of the trust was \$265.8 million. [Ex. 2, at 7] Of this \$227 million loss, \$29.8 million is directly attributed to the cruise industry. [*Id.*]

The total amount of direct loss to the State of Alaska resulting from the cancellation of the 2020 season was well in excess of one billion dollars, but the impact to Alaska's communities was even greater. [*Id.* at 2] The cruise industry and the visitors it serves account for \$3.0 billion of the state's economy. [*Id.*] The loss of the 2020 season had a particularly negative impact in Southeast Alaska, where the economies of many communities are entirely dependent upon tourism. [*Id.* at 1] For example, it is estimated that the city of Skagway lost over \$13 million in revenue generated from the cruise industry last year alone; this is more than 100% of Skagway's operating budget. [*Id.* at 3–4] According to Skagway's mayor, the cancellation of the 2021 cruise season

will mean 2 ½ years with no economy. Somewhere around \$330 million in lost revenue for local businesses. People are already moving away. Population is down to around 800 from 1,100 last summer. Businesses will fail. A lot of them. We lost professionals in all sectors. The municipality will run out of reserves by next August, even with the stimulus funding.



[*Id.* at 4]<sup>9</sup>

These impacts, although they may not appear as dramatic as Florida's lost revenues, are uniquely significant to Alaska's small communities and they are not limited to Skagway. For example, it is estimated that only 26% of businesses in Ketchikan, another small community in Southeast Alaska, will survive a delayed restart to the tourism industry. [*Id.*]

While it is more dramatically felt in Alaska's port and cruise line communities, the effects of the CDC's orders extend throughout Alaska. Based on a report released in September 2020, it is estimated that over 160,000 cruise passengers would have visited interior Alaska last summer—an area that includes places like Denali National Park and Fairbanks. [*Id.*] These visitors would have stayed, on average, approximately two nights in either Denali or Fairbanks, providing demand for seasonal hotels that often cater to cruise passengers. As a result of the shutdown of the cruise industry, many of these seasonal hotels did not open at all in 2020, and many will suffer the same fate in 2021 if the CDC's Conditional Sail Order remains in place.

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<sup>9</sup> According to the 2016 Alaska Visitor Statistics Report, 96% of visitors to Skagway traveled by cruise ship. [Ex. 1, at 22]

## ARGUMENT

“It would be a colossal understatement to say that the COVID-19 pandemic has had far-reaching effects. It has changed everything from the way that friends and families interact to the way that businesses and schools operate to the way that courts hear and decide cases.” *Swain v. Junior*, 961 F.3d 1276, 1280 (11th Cir. 2020). But to some industries—and the communities dependent on those industries—the impacts have been far more catastrophic.<sup>10</sup> Rather than building on the progress health officials have made since the start of this pandemic to allow the cruise industry to operate under reasonable restrictions within its statutory authority, the CDC’s order leaves this industry ground to a halt. The federal agency’s promise of a “phased approach to resuming passenger operations” is meaningless to Alaska because the CDC’s current phases are arbitrary and overly burdensome and the CDC has not even fully defined what each of the phases will require, leaving the cruise industry unable to determine whether it is even possible to meet these guidelines during Alaska’s 2021 cruise season. *See* 85 Fed. Reg. 70153. Because Alaska has a significant stake in the

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<sup>10</sup> Ceylan Yeginsu, *Why U.S. Cruises Are Still Stuck in Port*, N.Y. Times (March 19, 2021) (available at <http://www.nytimes.com/2021/03/19/travel/coronavirus-cruises.html> (reporting that the cruise industry has been “ravaged,” with “companies reporting billions of dollars in losses, causing some of them to downsize their fleets and sell ships for scrap”)).

outcome of this litigation, and because the CDC order impacts Alaska differently than Florida, Alaska should be allowed to intervene under Federal Rule of Civil Procedure 24.

**I. Alaska should be permitted to intervene as of right under Rule 24(a)(2).**

Alaska satisfies the requirements for intervention as of right under Rule 24(a)(2). A party is entitled to intervene as a matter of right if the motion to intervene is timely, the movant shows an interest in the subject matter of the suit, the movant's "ability to protect that interest may be impaired by the disposition of the suit," and "existing parties in the suit cannot adequately protect that interest." *Georgia v. U.S. Army Corps of Engr's*, 302 F.3d 1242, 1250 (11th Cir. 2002) (discussing Fed. R. Civ. P. 24(a)(2)). Courts are to construe Rule 24 liberally, with any doubts resolved in favor of the proposed intervenor. *Fed. Sav. & Loan Ins. Corp. v. Falls Chase Special Taxing Dist.*, 983 F.2d 211, 216 (11th Cir. 1993).

**A. Alaska's motion to intervene is timely and will not unduly disrupt the litigation or prejudice the existing parties.**

Alaska's request to join this litigation is timely. In determining whether a motion to intervene is timely, courts consider:

(1) The length of time during which the proposed intervenor knew or reasonably should have known of the interest in the case before moving to intervene; (2) the extent of prejudice to the existing parties as a result of the proposed intervenor's failure to move for intervention as soon as it knew or reasonably should

have known of its interest; (3) the extent of prejudice to the proposed intervenor if the motion is denied; and (4) the existence of unusual circumstances militating either for or against a determination that their motion was timely.

*Georgia*, 302 F.3d at 1259 (citing *Chiles v. Thornbrugh*, 865 F.2d 1197, 1213 (11th Cir. 1989)).

All four of these factors weigh in favor of the State of Alaska's request. Alaska files this motion to intervene just over a week after Florida filed its complaint. None of the existing parties will suffer any prejudice if Alaska is allowed to intervene as the federal defendants will be able to respond to Alaska's complaint at the same time it responds to Florida's, and Alaska will be able to participate in any preliminary motions, scheduling proceedings, discovery (if needed), or dispositive motions practice.

On the other hand, if the court denies intervention, Alaska will surely suffer prejudice. In considering prejudice to the proposed intervenor, the court must consider the "extent to which a final judgment in the case may bind the movant even though he is not adequately represented by an existing party." *United States v. Jefferson County*, 720 F.2d 1511, 1517 (11th Cir. 1983). Here, Florida seeks review of a nationwide order that imposes restrictions on Alaska's cruise industry just as it does Florida's cruise industry. Although the restrictions are the same, the two states are affected differently. Florida's cruise industry runs year round; Alaska's season is

limited due to weather. Florida may have the infrastructure to satisfy some, if not all, of the CDC's various requirements. Alaska's small port communities may not be able to comply with the CDC's requirements for medical care and housing agreements, among other things. In short, this litigation will directly impact Alaska's interests, and Alaska's interests sufficiently differ from Florida's such that it would be prejudiced if not allowed to intervene. *See id.* (stating that a party is prejudiced even if he has an identical interest with a party, if he has a "sufficiently greater stake than the party that the party's representation may be inadequate to protect the movant's interest").

Lastly, no unusual circumstances counsel against intervention. Because Alaska has interests unique to only it, and because Alaska's motion is timely, all of the four factors under the timeliness inquiry weigh in favor of its request to intervene.

**B. Alaska has important, legally protected interests in this action.**

Intervening parties must show that their "interest in the subject matter of the litigation is direct, substantial and legally protectable." *Georgia*, 302 F.3d at 1249; Fed. R. Civ. P. 24(a)(2). "In deciding whether a party has a protectable interest, . . . courts must be 'flexible' and must 'focus[]

on the particular facts and circumstances’ of the case.” *Huff v. Comm’r of IRS*, 743 F.3d 790, 796 (11th Cir. 2014) (quoting *Chiles*, 865 F.2d at 1214)).

Although the Eleventh Circuit has held that an economic interest alone is insufficient to warrant intervention, those cases are inapposite here because Alaska has a sufficient legal interest to establish Article III standing to pursue its own claim under the Administrative Procedures Act. *See United States v. South Fla. Water Mgmt Dist.*, 922 F.2d 704, 710 (11th Cir. 1991) (“By requiring that the applicant’s interest be . . . ‘legally protectable,’ it is plain that something more than an economic interest is necessary.” (quoting *New Orleans Pub. Serv., Inc. v. United Gas Pipe Line Co.*, 732 F.2d 452, 464 (5th Cir. 1984) (en banc)); *see also Fund For Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003) (stating that a court’s conclusion that proposed intervenor has constitutional standing is alone sufficient to establish the movant has “an interest relating to the property or transaction which is the subject of the action.” (quoting Fed. R. Civ. P. 24(a)(2))).

Article III standing consists of three elements: “the plaintiff must have suffered an injury in fact, the defendant must have caused that injury, and a favorable decision must be likely to redress it.” *Trichell v. Midland Credit Mgmt, Inc.*, 964 F.3d 990, 967 (11th Cir. 2020). In addition to showing a sufficient injury, “a plaintiff’s grievance must arguably fall within the zone of interests protected or regulated by the statutory provision or constitutional

guarantee invoked in the suit.” *Bennett v. Spear*, 520 U.S. 154, 162 (1997).

“Whether a plaintiff’s interest is ‘arguably . . . protected . . . by the statute’ within the meaning of the zone-of-interest test is to be determined not by reference to the overall purpose of the Act in question, but by reference to the particular provision upon which the plaintiff relies.” *Id.* at 175–76. In *Bennett v. Spear*, the plaintiffs sought to challenge, under the APA, § 7 of the Endangered Species Act, 16 U.S.C. § 1536, which requires that each agency “use its best scientific and commercial data available.” *Id.* at 176. Although the most obvious reason to require federal agencies to use the “best scientific and commercial data available” is to ensure that federal agencies rely on more than pure speculation when implementing the Endangered Species Act, the Supreme Court also recognized another objective—“to avoid needless economic dislocation produced by agency officials zealously but unintelligently pursuing their environmental objectives.” *Id.* at 176–77. The same holds true in this case.

In their respective complaints, Alaska and Florida both seek to enforce 42 U.S.C. § 264, which grants the Secretary of Health and Human Services the power to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases, but limits that discretion to measures related to the inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be

so infected or contaminated as to be sources of dangerous infection to human beings. The most obvious reason to require the Secretary to focus his measures on the inspection, fumigation, and disinfection of articles and animals found to be infected or contaminated is to focus on those items that may facilitate the introduction, transmission or spread of communicable diseases. *See Skyworks, Ltd. v. Center for Disease Control and Prevention*, --- F. Supp. 3d---, 2021 WL 911720, at \*9 (N.D. Ohio March 10, 2021) (“Tying these actions to “animals or articles” links the agency’s power to specific, tangible things on which the agency may act.”); *see also Tiger Lily, LLC v. U.S. Dep’t of Housing & Urban Dev.*, --- F.3d ---, 2021 WL 1165170 (6th Cir. 2021) (“Plainly, government intrusion on property to sanitize and dispose of infected matter is different in nature from a moratorium on evictions.”). But just as the statute at issue in *Bennett* had multiple objectives, so does this statute. It directs the agency’s actions to those animals or articles actually “found” to be sources of infection, 42 U.S.C. § 264(a), and necessarily limits the agency’s ability to target “amorphous disease spread” that would result in needless economic dislocation produced by agency officials zealously but unintelligently pursuing the equivalent of a federal police power. *See Skyworks, Ltd.*, 2021 WL 911720, at \*10.

In *Skyworks Ltd. v. Center for Disease Control and Prevention*, the district court held that the CDC’s eviction moratorium exceeded its statutory



authority under 42 U.S.C. § 264(a). 2021 WL 911720, at \*10. In doing so, the court noted that the CDC's broad reading of its statutory authority had "few, if any, limits" and was "tantamount to creating a general federal police power." *Id.* The CDC's action with regard to the cruise ship industry is similarly broad and expansive. Rather than focusing its efforts on specific articles or animals found to be infected and that present an actual risk of transmission to other people, the CDC has set out to regulate every aspect of the cruise ship industry—from directing how and where passengers on cruise ships will get medical care or seek housing to requiring cruise ship operators to develop a program to educate port personnel and travelers about the importance of getting COVID-19 vaccines. *See* 85 Fed. Reg. 85. By exercising such broad authority over an entire industry, the CDC has exceeded its statutory authority and infringed on the states' police power, which "also serves as a check on the power of the Federal Government." *See Nat'l Fed'n of Indep. Bus.*, 567 U.S. at 536.

Further, these orders indirectly regulate Alaskan municipalities and the State, and regulate which Alaskan municipalities may accept cruise ships into port. By requiring cruise operators to obtain approval of certain contractual agreements from local port authorities and health authorities according to specific criteria, the CDC equally requires those port authorities and public health authorities to review those agreements according to its

criteria in order for municipalities to accept the ships into port. And the required terms of those agreements may bar certain Alaskan municipalities from accepting cruise ship traffic, infringing on the sovereignty of Alaska its political subdivisions. Alaska and its political subdivisions have a legally protected interest in regulating commerce within their own ports without ultra vires interference by the CDC. *See Tiger Lily, LLC*, --- F.3d ----, 2021 WL 1165170 (6th Cir. 2021) (“[W]e cannot read the Public Health Service Act to grant the CDC the power to insert itself into the landlord-tenant relationship without some clear, unequivocal textual evidence of Congress's intent to do so. Regulation of the landlord-tenant relationship is historically the province of the states.”).

Alaska’s economic interests also justify its standing. In *Texas v. United States*, the Fifth Circuit found Texas had standing to challenge the Deferred Action for Parents of Americans and Lawful Permanent Residents program as unlawful under the Administrative Procedures Act. 809 F.3d 134, 146, 149, 150–55 (2015). In doing so, the court recognized that states are entitled to a “special solicitude” in the standing inquiry, *id.* at 151 (citing *Massachusetts v. EPA*, 549 U.S. 497, 526)), and concluded that Texas met the injury in fact requirement “by demonstrating that it would incur significant costs in issuing drivers’ licenses to DAPA beneficiaries.” Like Texas, Alaska is entitled to “special solicitude” when it comes to standing. As a sovereign

state, Alaska is not a normal litigant for purposes of invoking federal jurisdiction. *Id.* at 151. Moreover, as in *Texas v. United States* and *Massachusetts v. EPA*, this dispute turns on the proper construction of a congressional statute, and, as discussed above, Alaska's interests are within the zone of interests of the statute at issue. *See Texas*, 809 F.3d at 151–52.<sup>11</sup> And, also like Texas, Alaska has shown that continuation of the CDC's Conditional Sail Order would have a major effect on Alaska's fisc. *See id.* at 157.

Alaska also satisfies the other two elements of standing because it can show that the CDC's orders have caused its injuries and a favorable decision from this Court would likely redress those injuries. Because Alaska has

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<sup>11</sup> The zone of interest test “is not meant to be especially demanding and is applied in keeping with Congress’s evident intent when enacting the APA to make agency action presumptively reviewable. *Texas*, 809 F.3d at 162 (internal quotation marks omitted). In enacting 42 U.S.C. § 264(a), Congress meant to preserve the states’ authority to prevent the introduction, transmission, or spread of communicable diseases. 42 U.S.C. § 264(e); *see also* 42 C.F.R. § 70.2 (providing that, if the Director of the CDC determines that measures taken by health authorities of any State or possession “are insufficient to prevent the spread of any of the communicable diseases. . . , he/she may take such measures to prevent such spread of the diseases as he/she deems reasonable necessary, including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection”). Although the CDC has not considered Alaska’s action in relation to the Conditional Sail Order, Alaska continues to have one of the best vaccination rates in the nation. As of April 2, 2021, nearly one-in-three Alaskans (253,240 people) had received their first shot while more than one-in-five (177,827) people were fully vaccinated. *See* <https://gov.alaska.gov/newsroom/2021/04/02/alaska-continues-to-lead-nation-in-vaccination-rates/>.

Article III standing to pursue its own claims under the Administrative Procedures Act, Alaska has a legally protectable interest under Rule 24(a)(2) to intervene in this litigation.

**C. Alaska’s ability to protect its interest may be impaired absent intervention.**

Alaska must also show that resolution of this action “may as a practical matter impair or impede [its] ability to protect its interest.” Fed. R. Civ. P. 24(a)(2). The nature of Alaska’s interest and the effect that the disposition of the lawsuit will have on its ability to protect that interest are “closely related” issues. *Chiles*, 865 F.2d at 1214. “Where a party seeking to intervene in an action claims an interest in the very property and very transaction that is the subject of the main action, the potential stare decisis effect may supply that practical disadvantage which warrants intervention as of right.” *Id.*; see also *Huff*, 743 F.3d at 800 (“If an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene.” (quoting *Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129, 134 n.3 (1967))). Here, Alaska and Florida’s interests are so situated that the disposition of this lawsuit will, as a practical matter, have a potentially persuasive *stare decisis* effect in any separate litigation that Alaska may be compelled to pursue if intervention is

not allowed. This reason alone is sufficient to show that Alaska's ability to protect its interest may be impaired absent intervention.

**D. Florida will not fully represent Alaska's interests.**

The last prong of Rule 24(a)(2) requires a movant to show that its interest will not be adequately protecting by the existing parties. The burden for making such a showing is "minimal" as the moving party need only show that current representation "may be inadequate." *Stone v. First Union Corp.*, 371 F.3d 1305, 1311 (11th Cir. 2004) (internal quotation marks omitted).

Although courts may presume adequacy of representation "when an existing party seeks the same objectives as would-be interveners," this presumption is "weak" and "merely imposes upon the proposed interveners the burden of coming forward with some evidence to the contrary." *Clark*, 168 F.3d at 461.

Although the interests of Alaska and Florida are closely aligned, they are not identical. Alaska is "charged by law with representing the public interests of its citizens," *see Dimond v. District of Columbia*, 792 F.2d 179, at 193 (D.C. Cir. 1986), and its interests differ from that of Florida's citizens. For example, many of the communities in Southeast Alaska are entirely dependent on tourism, and although Florida's cruise season extends year round, Alaska's cruise season is limited due to weather. Additionally, the ability of Alaska's port communities to implement the CDC's orders may differ from Florida's, and these different experiences could contribute to the

court's "informed resolution of these questions." See *NRDC v. Costle*, 561 F.2d 904, 912–13 (D.C. Cir. 1977). For example, the CDC's Conditional Sail Order requires cruise operators to enter medical planning and housing agreements with local authorities. The ability of many of Alaska's small and isolated local ports to meet the demands of the CDC will likely be significantly different than that of Florida's local ports.

Further, Alaska's vaccination rates significantly outpace Florida's, particularly in some of the small coastal communities directly affected by the CDC's order. For example, in the community of Skagway referenced above, more than 70% of residents over 16 have received their first dose of COVID-19 vaccine, one of the leading rates in the nation.<sup>12</sup> Alaska's vaccination policies and practices may also differ from Florida's in ways that directly impact the arguments that the CDC's order is arbitrary and capricious.<sup>13</sup>

Therefore, because representation of Alaska's interest by any other party to this litigation would be inadequate, and because Alaska meets the

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<sup>12</sup> Data current as of April 19, 2021 (source Alaska Department of Health and Social Services, Vaccine Monitoring Dashboard, <https://alaska-coronavirus-vaccine-outreach-alaska-dhss.hub.arcgis.com/>); Melinda Munson, Skagway ranks first in U.S. for COVID-19 vaccinations, *The Skagway News* (April 9, 2021) (available online at <https://skagwaynews.com/2021/04/09/skagway-ranks-first-in-u-s-for-covid-19-vaccinations/>).

<sup>13</sup> James Brooks, Alaska will offer COVID-19 vaccines to tourists starting June 1, *The Anchorage Daily News* (April 17, 2021) (available online at [adn.com/alaska-news/2021/04/16/alaska-will-offer-free-covid-19-vaccines-to-tourists-starting-june-1/](https://adn.com/alaska-news/2021/04/16/alaska-will-offer-free-covid-19-vaccines-to-tourists-starting-june-1/)).

other requirements for intervention as of right, intervention should be granted.

## **II. Alternatively, Alaska should be granted permissive intervention.**

In the event the Court denies its request for intervention as of right, Alaska alternatively requests that the Court grant it permission to intervene under Rule 24(b). The Court may grant permissive intervention to a party who, on timely motion, asserts “a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(B). This is wholly discretionary, but in exercising its discretion, the Court will consider “whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” *Id.*

Here, Alaska’s intervention would neither prejudice the existing parties nor unduly delay the proceedings. It has been just over a week since Florida filed its complaint, and the federal defendants have not yet responded. Moreover, as discussed above, although Alaska’s and Florida’s interests are closely aligned, and raise common questions of fact and law, the two states’ interests are not identical. Implementation of the CDC’s nationwide order raises issues that are unique to Alaska, and consideration of these issues would contribute to, rather than impede, a reasoned determination of this

action. *See League of Women Voters of Fla. v. Detzner*, 283 F.R.D. 687, 688 (N.D. Fla. 2012).

In sum, because Alaska has timely sought to intervene, because its participation will not delay this litigation, and because the claims it will assert raise common questions of fact and law, this Court, at a minimum, should grant its request for permissive intervention.

### CONCLUSION

For the foregoing reasons, the State of Alaska respectfully requests that the Court grant its motion to intervene and accept the accompanying Complaint [Ex. 3].

Dated April 20, 2021.

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### **Local Rule 3.01(g) certification**

Pursuant to Local Rule 3.01(g), counsel for the State of Alaska conferred with counsel for the State of Florida, who indicated that Florida will not object to Alaska's motion to intervene. Counsel for the State of Alaska also certifies that counsel tried to identify and contact counsel for the defendants but was unable to do so. The State will continue to make diligent attempts to identify and contact defendants' counsel and will supplement this motion after three days.

/s/ Edward M. Wenger

Attorney

## CERTIFICATE OF SERVICE

I certify that on April 20, 2021, I electronically filed the State of Alaska's Motion to Intervene and Proposed Complaint with the Clerk of Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the currently unrepresented defendants as follows:

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/s/ Edward M. Wenger  
Attorney

# **Exhibit 1**

**FEDERAL MARITIME COMMISSION**

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**FACT FINDING INVESTIGATION NO. 30**

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**COVID-19 IMPACT ON CRUISE INDUSTRY**

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**INTERIM REPORT: ECONOMIC IMPACT OF COVID-19 ON THE CRUISE  
INDUSTRY IN ALASKA, WASHINGTON, AND OREGON**

**October 20, 2020**

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## I. Executive Summary

In April 2020, the Federal Maritime Commission (Commission) initiated a fact-finding investigation (Fact Finding 30 or FF30). The Order of Investigation<sup>1</sup> directed Commissioner Louis E. Sola to investigate and respond to the current challenges impacting the cruise industry and the U.S. ports that rely on it. Commissioner Sola, as the Fact Finding Officer, has been engaging cruise industry stakeholders, including passenger vessel operators (PVOs), cruise passengers, and marine terminal operators, in public and non-public discussions to identify possible solutions to COVID-19-related issues that interfere with the operation of the cruise industry. Commissioner Sola also established consultative panels comprised of representatives from various port authorities, marine terminal operators, cruise lines, trade associations, consumer advocates and the financial industry. The culmination of this process will be a series of reports with each report dedicated to either a particular concern or to the ports of a designated region. This report will focus on Alaska, Washington, and Oregon and will examine the economic impact of the COVID-19 pandemic and the Centers for Disease Control and Prevention's (CDC) No Sail Order on that region of the United States. As per the Commission's Fact Finding 30 Order, this report will focus on the economic impact of the inability of the cruise lines to sail. This report will not address such items as crew member repatriation or the environmental impact of the cessation of passenger vessel sailings; nor will it address the various health related issues which must be attended to prior to the resumption of travel.

On March 13, 2020, members of the Cruise Lines International Association (CLIA) announced a pause in the operations of its members to assess and address the risks posed by the COVID-19 pandemic. On March 14, 2020, the CDC issued a No Sail Order and Suspension of Further Embarkation instructing PVOs whose vessels carry 250 or more individuals (passengers and crew) with an itinerary anticipating an overnight stay onboard or a 24 hour stay onboard for either passengers or crew.<sup>2</sup> On April 9, 2020, the CDC extended the termination date of the order to July 24, 2020. On June 19, 2020, CLIA announced that the major cruise lines have agreed to voluntarily extend a suspension of operations out of U.S. ports until September 15, 2020. On July 16, 2020, the CDC extended the termination date of its order to September 30, 2020. On August 5, 2020, CLIA voluntarily extended no sailings until October 31, 2020.<sup>3</sup> On September 30, the CDC extended again the order until October 31, 2020. As of this writing, the CDC has not extended the no sail order beyond October 31<sup>st</sup>, however, Canada has yet to open their ports to cruise traffic and there is uncertainty as to when this will change.

<sup>1</sup> Order of Investigation, Fact Finding Investigation No. 30, COVID-19 Impact on Cruise Industry (FMC April 30, 2020), [https://www2.fmc.gov/readingroom/docs/FFno30/ffno30\\_ord.pdf/](https://www2.fmc.gov/readingroom/docs/FFno30/ffno30_ord.pdf/).

<sup>2</sup> The CDC's No Sail Order applies to vessels with a capacity to carry 250 passengers and crew anticipating to stay overnight or for over 24 hours. The Commission's requirements apply to vessels with berth/stateroom capacity to carry 50 or more passengers. So, there could be small PVOs the Commission regulates that are not subject to the CDC's No Sail Order (with vessels carrying more than 50 passengers but less than 250 passengers and crew).

<sup>3</sup> Press Release, Cruise Lines International Association, CLIA and Its Ocean-Going Cruise Line Members Announce Third Voluntary Suspension of U.S. Operations (Aug. 5, 2020), <https://cruising.org/en/news-and-research/press-room/2020/august/clia-announces-third-voluntary-suspension-of-us-cruise-operations> (last visited Sep. 14, 2020).

To understand the effect of COVID-19 on the economy, Commissioner Sola has examined the fiscal impact of the cruise industry on local and state economies and included those figures in this report.

The cruise industry supports a wide range of other industries in the U.S. There exists a close nexus between the cruise industry and the hospitality industry, transportation industry (including airlines, rail roads, rental cars, and taxis), agriculture, commodity exports (including goods dedicated to cruise operations which are exported from the U.S. Pacific Northwest to British Columbia and Alaska), tour providers, the healthcare industry, and retail. It supports business of all sizes; some in the local community and some in a greater geographic area beyond the port communities. In the case of Alaska, there exists an outsized economic impact from the cessation of cruise activity. While the symptoms are the same as in other parts of the United States, the impact is much greater because of Alaska's distance and economic reliance on the tourism industry and, at the micro level, the almost total reliance of some small towns (and native Alaskans) on the income generated by cruise tourism.

## II. Fact Finding Method

### **Meetings with Government, Port, and Industry Leaders**

Commissioner Sola communicated with port directors, cruise industry leaders, business executives, and labor leaders across Alaska, Washington, and Oregon. The Commissioner appreciates all those who contributed their valuable insight to this report.

### **Open Source Information**

A variety of open source information is used in this report. These include annual reports by ports and reports by various research firms.<sup>4</sup> Port websites, industry association websites, industry-related magazines and news sources were also considered.

### **Individual Port Analysis**

This report presents brief observations related to individual cruise ports in Alaska, Washington, and Oregon. Due to the unique nature of each port and the variety of source material available from one port to another, each segment will vary to some degree. This report attempts to provide a consistent format for each individual port review. Given the disparities mentioned, however, no two port reviews are exactly the same.

### **Terminology**

This report discusses direct, indirect, and induced impact as found in various reports, especially in job and wage numbers. In general, these terms can be defined as follows:

<sup>4</sup> More information on methodology used for the studies can be found in the studies, provided in footnotes or text.

**Direct jobs** are those that would not exist if activity at the Port’s cargo and cruise facilities were to cease... Direct employees created by the cruise operations include the jobs with the firms providing the direct vessel services – chandlers, pilots, longshoremen, line handlers, local advertising firms, caterers, liquor wholesalers, linen companies, security firms, waste disposal firms, parking, local transportation -- as well as the firms providing services to the passengers on the vessels.<sup>5</sup>

**Indirect jobs** are created throughout the state as the result of purchases for goods and services by the firms directly impacted by the port activity, including the tenants, terminal operators and the firms providing services to cargo – which includes...cruise passenger operations.<sup>6</sup>

**Induced jobs** are jobs created in the state by the purchases of goods and services by those individuals directly employed by each of the lines of business at each port...The induced jobs are jobs with grocery stores, restaurants, health care providers, retail stores, local housing/construction industry, and transportation services, as well as with wholesalers providing the goods to the retailers.<sup>7</sup>

### III. Observations

#### A. Cruise Industry in Alaska

Both overall summer tourism<sup>8</sup> and the number of cruise passengers to Alaska have grown over the past ten years. According to the Alaska Travel Industry Association’s Alaska Visitor Volume Report (Alaska Visitor Volume Report),<sup>9</sup> the number of visitors to Alaska grew from 1.5 million in 2010 to 2.2. million in 2019. The Alaska Visitor Volume Report explains that of the 2.2 million visitors in



<sup>5</sup> Florida Seaport Transportation and Economic Development Council, The Statewide Economic Impacts of Florida Seaports (Dec. 2016) at 2, <http://scdn.flaports.org/wp-content/uploads/EconomicImpactsofFloridaSeaports.pdf> (last visited Aug. 17, 2020).

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.* at 3.

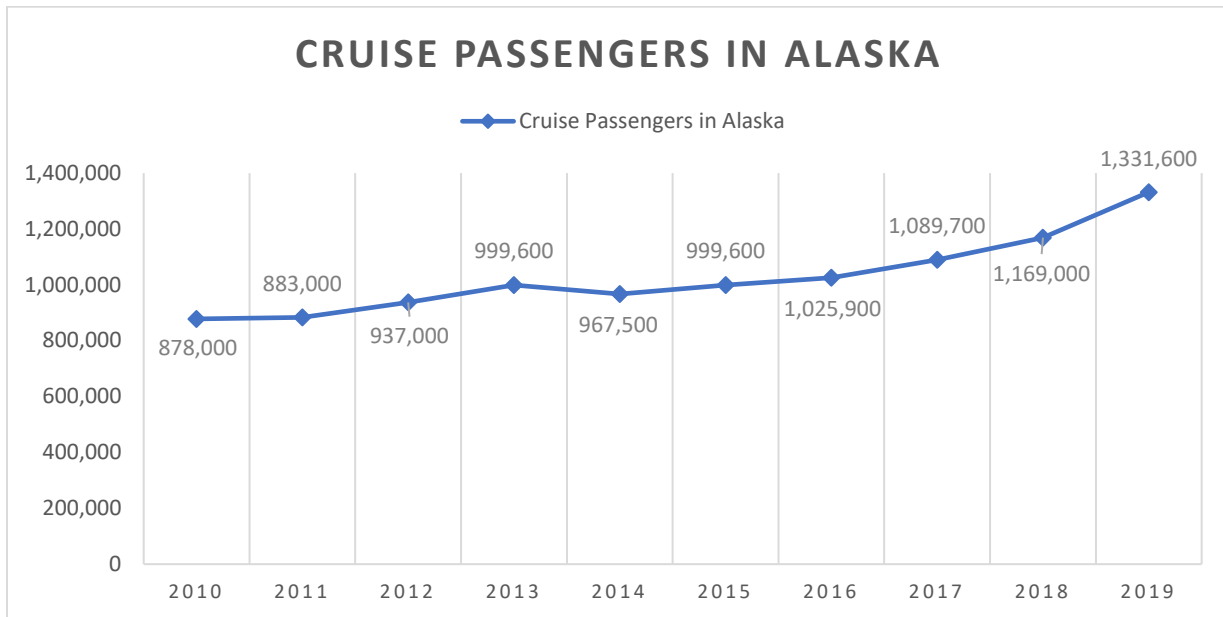
<sup>8</sup> May to September.

<sup>9</sup> Alaska Travel Industry Association, Alaska Visitor Volume Report Winter 2018-19 and Summer 19 (June 2020), [http://www.alaskatourism.org/wp-content/uploads/Alaska-Visitor-Volume-2018-19-FINAL-7\\_1\\_20.pdf](http://www.alaskatourism.org/wp-content/uploads/Alaska-Visitor-Volume-2018-19-FINAL-7_1_20.pdf) (last visited Sep. 30, 2020).



2019, over 1.33 million traveled by cruise ship in Alaska. This constitutes approximately 60% of the visitors to Alaska during that time. The 1.33 million cruise visitors to Alaska represent a 14% increase in visitors cruising compared to the summer of 2018.

The two most popular types of Alaska cruises are round-trip (out and back from the same port outside of Alaska, e.g., Seattle) and cross-gulf cruises, which are a one-way transit between Seward or Whittier and a port outside Alaska. Per the Alaska Visitor Volume Report, between 2018 and 2019, round-trip cruises increased more (18% growth) than cross-gulf cruises (11% growth). Small ship passengers grew 11%. The number of cruise passengers since 2018 can be seen on the charts below.



Alaska has more port of call, as opposed to homeport, passenger visits than any other U.S. state. In 2018, the state received approximately 61% of all port of call passenger visits at U.S. ports.<sup>10</sup> That year, passenger port-of-calls visits in Alaska totaled around 3.8 million.<sup>11</sup> As of spring 2019, 20 cruise lines of various sizes operated in Alaska.<sup>12</sup>

Alaska attracts international visitors as well as domestic visitors. The Alaska Visitor Statistics Program 7, Summer 2016, from the Alaska Department of Commerce, Community & Economic Development, and the Alaska Travel Industry Association (Alaska Visitor Statistics Report)<sup>13</sup>

<sup>10</sup> Cruise Lines International Association Alaska, Cruising in Alaska, <https://akcruise.org/cruising-in-alaska/overview/> (last visited Oct. 9, 2020).

<sup>11</sup> As passengers generally make several port-of-calls during each sailing, the number of passenger visits are around three times the amount of total passengers cruising. Cruise Lines Industry Association Alaska, Cruising in Alaska, <https://akcruise.org/cruising-in-alaska/overview/> (last visited Sep. 30, 2020).

<sup>12</sup> Tracy Barbour, Alaska Business, Alaska's Shipshape(d) Economy (Apr. 8, 2019), <https://www.akbizmag.com/industry/tourism/alaskas-shipshaped-economy/> (last visited Oct. 9, 2020).

<sup>13</sup> Alaska Department of Commerce, Community, & Economic Development, and Alaska Travel Industry Association, Alaska Visitor Statistics Program 7 Summer 2016 (May 2017), <https://www.alaskatourism.org/wp-content/uploads/Full-AVSP-VII-Report.pdf> (last visited Oct. 4, 2020).

includes international visitor statistics from 2016. According to the Alaska Visitor Statistics Report, 167,000 international visitors traveled to Alaska in 2016, and 68% took a cruise.

According to the Alaska Visitor Volume Report, over two thirds of the cruises going through Alaska do not begin or end in Alaska. The ones that do, around 32%<sup>14</sup> of the cruises during summer 2019, are considered cross-gulf cruises. The other 68% are round-trip cruises, generally sailing from ports outside Alaska (e.g., Seattle).

No one type of government/business structure is used for managing all cruise ports. Some terminals that cruise ships use for docking in Alaska are owned by the local port, others by a public-private partnership, and others are privately owned.<sup>15</sup> For example, privately owned ports include Skagway, Whittier, Sitka, and Icy Straight Point.<sup>16</sup> Owners of those ports include the White Pass and Yukon Route Railroad (Skagway)<sup>17</sup> and Halibut Point Marine Services LLC (Sitka).<sup>18</sup> Juneau's docks include private and public docks. "Each community has its own system of charging cruise lines for using port facilities. Dock charges are generally assessed on a per foot/per day basis. Additional charges may include tonnage fees, passenger fees, lightering fees, and water supply fees, depending on the community."<sup>19</sup>

The size of cruise ships visiting Alaska vary greatly. Some ports cater to large ships, some medium and small, and others cater to all. Most cruise visitors to Alaska travel on large ships. The Alaska Visitor Statistics Report explains that in 2016, 99% of cruise visitors traveled on ships with a capacity larger than for 250 people.

"Although small cruise ships (those with capacities of less than 250 passengers) make up only 1 percent of Alaska's overall cruise volume, these ships can significantly impact the communities they visit. Small ships are more likely to visit ports not frequented by larger ships (such as Petersburg). In addition, passengers can have a greater per-person economic impact because they often overnight in their Alaskan embarkation and/or disembarkation port."<sup>20</sup>

<sup>14</sup> Based on number of passengers who sailed in or out of Seward and Whittier, per the Alaska Visitor Volume Report.

<sup>15</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>16</sup> State of Alaska, Alaska Department of Commerce, Community, and Economic Development, Economic Impact of Alaska's Visitor Industry 2017 (Nov. 2018), [https://www.alaskatia.org/wp-content/uploads/VisitorImpacts2016-17Report11\\_2\\_18.pdf](https://www.alaskatia.org/wp-content/uploads/VisitorImpacts2016-17Report11_2_18.pdf) (last visited Oct. 1, 2020).

<sup>17</sup> Skagway Development Corporation, Port of Skagway, <https://skagwaydevelopment.org/economic-development/port-of-skagway/> (last visited Oct. 17, 2020).

<sup>18</sup> Halibut Point Marine Services, Company History, <http://www.halibutpointmarine.com/about.html> (last visited Oct. 17, 2020).

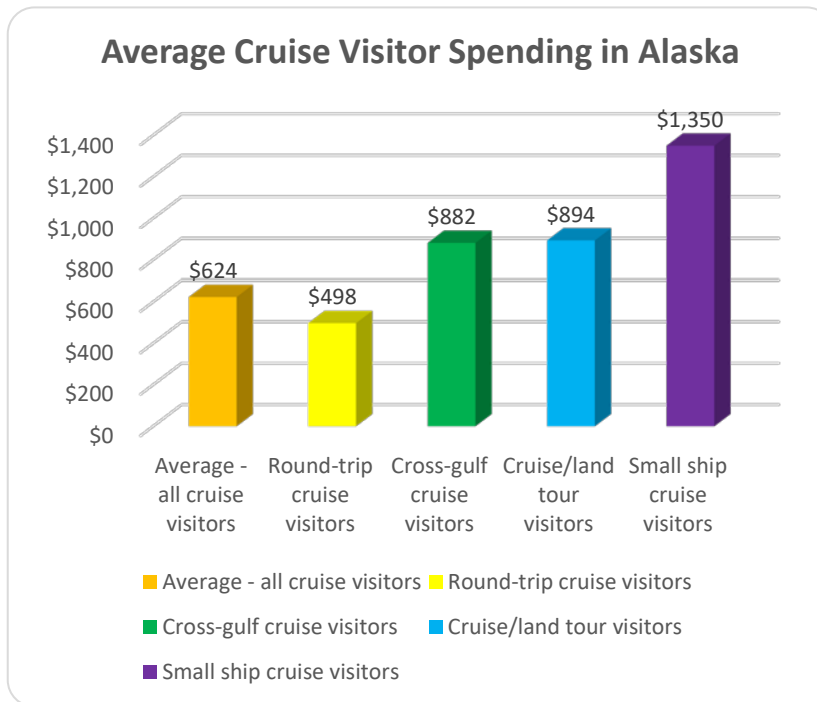
<sup>19</sup> State of Alaska, Alaska Department of Commerce, Community, and Economic Development, Economic Impact of Alaska's Visitor Industry 2017 at 18 (Nov. 2018), [https://www.alaskatia.org/wp-content/uploads/VisitorImpacts2016-17Report11\\_2\\_18.pdf](https://www.alaskatia.org/wp-content/uploads/VisitorImpacts2016-17Report11_2_18.pdf) (last visited Oct. 1, 2020).

<sup>20</sup> Alaska Department of Commerce, Community, & Economic Development, and Alaska Travel Industry Association, Alaska Visitor Statistics Program 7 Summer 2016 at 3-10 (May 2017), <https://www.alaskatia.org/wp-content/uploads/Full-AVSP-VII-Report.pdf> (last visited Oct. 4, 2020).

Small cruise ships, though not bringing in thousands of passengers on each ship, still bring in a sizeable number of cruise visitors to Alaska. The Alaska Visitor Statistics Report estimates that in 2016, 14,400 visitors traveled in Alaska on small ships of 250 people or less. Further, it is not uncommon for small ships to have their homeport in Alaska.

When examining the various ways the cruise industry benefits Alaska economically, one must acknowledge the revenue generated by the overnight landside accommodations for cruise passengers. The option for a landside overnight stay is generally only available to visitors traveling on a small cruise ship homeported in Alaska and the 32% of cruise passengers who take a cross-gulf cruise. Per the Alaska Visitor Statistics Report, over 61% of cross-gulf passengers, and over 87% of small cruise ship visitors stayed in a hotel or motel during their visit to Alaska. An estimated 110,000 visitors spent nights in Alaska independently before or after their cruise or cruise/tour.

Cross-gulf cruise passengers had the opportunity to spend more time in Alaska with an embarkation or disembarkation in the state. Thirty one percent of cross-gulf cruise visitors traveled on their own (not on a cruise/land tour) in addition to their cruise.<sup>21</sup>



Cruise passenger spending helps local economies. According to the Alaska Visitor Statistics Report, in 2016, cruise passengers spent an average of \$624 per person in Alaska (not including airfare). Cross-gulf passengers spent an average of \$882 per person and round-trip passengers spent an average of \$498 per person in Alaska. Visitors who took a cruise/land tour spent an average of \$894 in Alaska. The average small cruise ship visitor spent \$1,350 in Alaska.

Cruise passengers spend on a variety of activities such as dining, lodging, transportation, and shopping that support the local economy and infrastructure. The Alaska Visitor Statistics Report estimates that 85% of cruise passengers to Alaska take part in some sort of shopping in Alaska. In 2016, 48% of cruise visitors took a train in Alaska.

<sup>21</sup> Alaska Department of Commerce, Community, & Economic Development, and Alaska Travel Industry Association, Alaska Visitor Statistics Program 7 Summer 2016 (May 2017), <https://www.alaskatdia.org/wp-content/uploads/Full-AVSP-VII-Report.pdf> (last visited Oct. 4, 2020).

Thousands of vessel crew members are in Alaska for Alaska's cruise season. According to the Alaska Department of Commerce, Community, and Economic Development's Economic Impact of Alaska's Visitor Industry 2017 report (Alaska Economic Impact Report),<sup>22</sup> in 2017, around 27,000 crew members visited Alaska. Their spending was estimated to be \$22 million. In addition to spending at restaurants and bars as passengers do, crew members also purchase phone cards, internet, postage, and visit retail outlets.

Cruise lines also work with businesses in Alaska. During 2017, the Alaska Economic Impact Report estimates \$297 million was spent by cruise lines and their subsidiaries on goods and services from Alaska businesses as well as employee payroll and taxes.

State and local governments also benefit from the cruise industry. According to the Alaska Department of Revenue's Revenue Sources Book Fall 2019 (Revenue Sources Book),<sup>23</sup> the Commercial Vessel Passenger (CVP) Tax brought in \$4.3 million in state revenue and \$18.7 million for municipalities. Revenue in 2020 was projected to increase to \$4.8 million and \$20 million, respectively. These funds are restricted. Per the Revenue Sources Book, "All funds received from the CVP tax must be spent on port facilities, harbor infrastructure, and other services provided to commercial passenger vessels and the passengers on board those vessels."<sup>24</sup> Though this may not be able to directly fund other local government programs such as schools, the port operations that benefit from this tax provide an indirect economic impact as those activities likely involve the purchasing of items from the local community. Jobs are also created, along with an even wider induced impact of the cruise industry, as employees spend in the local community.

The CVP tax is not the only source of revenue for the state and local governments. According to the Revenue Sources Book, in 2019, the state received \$1.3 million from the Environmental Compliance Fees, \$4.2 million from Ocean Ranger Fees, and \$10.1 million from the large Passenger Vessel Gambling Tax. The Alaska Economic Impact Report shows that in 2017, \$17.8 million was collected as dockage/moorage revenue. Most of this was in Juneau and Ketchikan.

One estimate concludes that in 2018, the cruise industry was responsible for over \$1.24 billion in direct expenditures in Alaska, with a total employment impact of 22,447 jobs and over \$1.15 billion in wages in the state.<sup>25</sup>

<sup>22</sup> State of Alaska, Alaska Department of Commerce, Community, and Economic Development, Economic Impact of Alaska's Visitor Industry 2017 (Nov. 2018), [https://www.alaskatla.org/wp-content/uploads/VisitorImpacts2016-17Report11\\_2\\_18.pdf](https://www.alaskatla.org/wp-content/uploads/VisitorImpacts2016-17Report11_2_18.pdf) (last visited Oct. 1, 2020).

<sup>23</sup> Alaska Department of Revenue, Revenue Sources Book Fall 2019 (Dec. 6, 2019), [https://www.alaskajournal.com/sites/alaskajournal.com/files/files/Fall19%20Revenue\(1\).pdf](https://www.alaskajournal.com/sites/alaskajournal.com/files/files/Fall19%20Revenue(1).pdf) (last visited Oct. 18, 2020).

<sup>24</sup> *Id.* at 39.

<sup>25</sup> Cruise Lines International Association Alaska, Cruising in Alaska, <https://akcruise.org/cruising-in-alaska/overview/> (last visited Oct. 9, 2020).

The cruise industry was anticipating another record-setting year before the COVID-19 pandemic began. In 2020, cruise visitors to Alaska had been expected to increase by 6%, totaling over 1.4 million visitors.<sup>26</sup> Losing an entire season worth over \$1.24 billion and supporting over 22,000 jobs has significant adverse effects to the tourism industry in Alaska.

One of the many affected groups of employees are longshoremen. The International Longshore and Warehouse Union's (ILWU) Alaska Longshore Division represents over 500 longshoremen, over 60% of those working in the cruise industry.<sup>27</sup> According to the ILWU, approximately 140,000 man hours of work in Alaska have been lost due to the COVID-19 pandemic. In 2019, ILWU wages in Alaska associated with the cruise industry were \$5.5 million and benefits (health and welfare, pension, and holiday and vacation) were \$3 million. During Commissioner Sola's September 2020 Fact Finding review in Alaska, he met with union members who stated that their shops were currently experiencing a 100% unemployment rate. It was explained that union workers get most of their annual hours during the high cruise season months.

As with organized labor, hoteliers, food service providers, and motorcoach operators depend upon traffic generated by the cruise lines. Many cruise passengers take tours while in port. According to the Alaska Tourism Industry Association,<sup>28</sup> one motorcoach operator operates in several ports in southeast Alaska and provides tours to passengers of large, medium, and small cruise ships. The company has 150 employees and generates approximately \$4 million annually in additional revenue for other Alaska businesses. We believe that without a demand for tours from cruise visitors, the amount of money that coach companies infuse into local economies is reduced.

Southeast Alaska is hit especially hard without cruises. According to the Southeast Conference, a not-for-profit regional corporation in Alaska,<sup>29</sup> two-thirds of visitors to Alaska visit that area, and an estimated 90% of the tourists visiting that area are from cruise ships. It is estimated the visitor industry in southeast Alaska is responsible for 8,350 annualized jobs and \$272 million in wages. Visitors were predicted to spend around \$800 million in 2020 in southeast Alaska. The southeast Alaska employment statistics for April-August 2020 show that 50% of the jobs in the

<sup>26</sup> Cruise Lines International Association Alaska, Cruising in Alaska, <https://akcruise.org/cruising-in-alaska/overview/> (last visited Oct. 9, 2020).

<sup>27</sup> Report from President, International Longshore and Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>28</sup> Alaska Tourism Industry Association, Alaska Motorcoach Operators Quick Facts, email attachment to FF30 (Sep. 30, 2020).

<sup>29</sup> Southeast Conference, Southeast Alaska By the Numbers 2020 (Sep. 2020), <http://www.seconference.org/sites/default/files/Southeast%20Alaska%20by%20the%20Numbers%202020.pdf> (last visited Oct. 2, 2020).

transportation industry have been lost and 39% of jobs in the leisure and hospitality industry have been lost, as compared to the prior year.<sup>30</sup>

In June 2020, the Southeast Conference conducted a survey (Southeast Alaska Business Survey)<sup>31</sup> of leaders of all types of businesses, not just those in the tourism industry. Forty-three percent of those surveyed indicated that the loss of cruise ships has had an enormous impact. The survey also requested an elaboration of COVID-19 impacts. Survey responses are presented in this report beginning page 16.

## B. Anchorage

Anchorage is in the southcentral part of the state, along with Seward, Whittier, Homer, and Valdez. The Port of Alaska,<sup>32</sup> in Anchorage, is primarily a cargo port but also has a cruise port. It was reported that 13,700 cruise passengers traveled through the port in Anchorage during the summer of 2019.<sup>33</sup> According to the Alaska Visitor Statistics Report, in 2016, just over a third, or 35%, of visitors to Anchorage traveled via cruise ship.

In 2020, the Port of Alaska was projected to have 14 cruise ship visits.<sup>34</sup>

### **Direct economic impact**

According to the Alaska Visitor Statistics Report, in 2016, 21% of cruise visitors to Anchorage spent an average of 1.5 nights in the area.

Anchorage is unique in that it does not just benefit from cruise visitors to its port. Whittier and Seward are in the Anchorage area, with many passengers traveling through those ports visiting or staying in Anchorage. Alaska Visitor Volume Report estimates that, in 2019, over 237,000 cruise visitors came through Seward and over 193,000 came through Whittier. These cross-gulf cruises began or ended their cruise in the Anchorage area.

<sup>30</sup> Meilani Schijvens, Rain Coast Data, Southeast Conference, Southeast Alaska By the Numbers 2020 (presentation at Southeast Conference Sep. 22, 2020), [http://www.seconference.org/sites/default/files/Southeast\\_Alaska\\_by\\_the\\_Numbers\\_PPT.pdf](http://www.seconference.org/sites/default/files/Southeast_Alaska_by_the_Numbers_PPT.pdf) (last visited Oct. 9, 2020).

<sup>31</sup> Southeast Conference, Southeast Alaska Business Climate and COVID-19 Impacts Survey 2020 (June 2020), <http://www.seconference.org/sites/default/files/Southeast%20Alaska%20Business%20Climate%202020%20final.pdf> (last visited Oct. 2, 2020).

<sup>32</sup> Called Port of Anchorage until 2017. Alaska News Source, Anchorage Assembly gives the Port of Anchorage a new name (Oct. 25, 2017), <https://www.alaskasnewsresource.com/content/news/Anchorage-Assembly-give-the-Port-of-Anchorage-a-new-name-452942803.html> (last visited Oct. 19, 2020).

<sup>33</sup> Alaska Travel Industry Association, Alaska Visitor Volume Report Winter 2018-19 and Summer 19 (June 2020), [http://www.alaskatia.org/wp-content/uploads/Alaska-Visitor-Volume-2018-19-FINAL-7\\_1\\_20.pdf](http://www.alaskatia.org/wp-content/uploads/Alaska-Visitor-Volume-2018-19-FINAL-7_1_20.pdf) (last visited Sep. 30, 2020).

<sup>34</sup> Port of Alaska in Anchorage, What's New at the Port, <https://www.portofalaska.com/whats-new-at-the-port/> (last visited Oct. 9, 2020).

Getting to Seward and Whittier from the Anchorage airport requires additional transportation. Passengers can reach the ports by road, through cruise ship transfers, or rail using the Alaska Railroad.<sup>35</sup>

The Ted Stevens Anchorage International Airport (ANC) is the closest major airport to Seward and Whittier. The airport had a record-setting number of passengers in 2019.<sup>36</sup> “ANC attributes this growth to Alaska’s bullish tourism sector – specifically, increases in cruise passengers flying to or from ANC in conjunction with their one-way, cross-gulf itineraries.”<sup>37</sup>

### **Indirect economic impact**

Though not the top cruise destination in Alaska, the southcentral part of the state still benefits from the cruise industry. The cruise industry supports about 20,000 jobs in that area, and 1,100 businesses in that part of the state work with cruise lines.<sup>38</sup>

The cargo industry in Anchorage benefits from the cruise industry in other parts of the state. About half of the cargo moving into Alaska comes through Anchorage, including cargo heading towards the cruise-tourism-heavy area of southeast Alaska.<sup>39</sup>

### **Current status**

Commissioner Sola visited Anchorage in September 2020 to appreciate first-hand how COVID-19 pandemic has affected the industry and economy in Anchorage. As Fact Finding Officer, he received information that Anchorage now has between a 5-7% unemployment rate due to the cruise industry being shut down, and two hotels are currently closed that usually host cruise visitors.

Even though cruise ships have not been sailing in 2020, as cruising is not the port’s primary function, the port is still operational and has maintained normal cargo operations.<sup>40</sup>

<sup>35</sup> Visit Anchorage Alaska, How Do I Get Between Anchorage and my Cruise Ship?, <https://www.anchorage.net/plan-your-trip/ask-a-local/how-do-i-get-between-anchorage-and-my-cruise-ship/> (last visited Oct. 9, 2020).

<sup>36</sup> Press Release 20-004. ANC News, Alaska Department of Transportation and Public Facilities, ANC Reports Record Passenger Numbers in 2019 (Feb. 13, 2020), <http://dot.alaska.gov/anc/business/communityRelations/pressReleases/2020/20-004.shtml> (last visited Oct. 9, 2020).

<sup>37</sup> *Id.*

<sup>38</sup> Cruise Lines International Association Alaska, Economic Impact by Region, <https://akcruise.org/economy/economic-impact-by-region/> (last visited Oct. 9, 2020).

<sup>39</sup> Port of Alaska in Anchorage, <https://www.portofalaska.com/> (last visited Oct. 9, 2020).

<sup>40</sup> Port of Alaska in Anchorage, What’s New at the Port, <https://www.portofalaska.com/whats-new-at-the-port/> (last visited Oct. 9, 2020).

### C. Seward

Seward is an embarkation/disembarkation port in the Anchorage area with a population of around 2,600 people.<sup>41</sup> Many week-long, one-way, cross-gulf cruises<sup>42</sup> depart or end at Seward. According to the Alaska Visitor Volume Report, in 2019, Seward had 237,900 visitors traveling via cruise ship. This makes up about 18% of total cruise visitors to Alaska.

The number of ship calls in Seward has increased by almost 50% over the past few years. In 2015, the city had 64 cruise ship calls, and in 2019, it had 95 cruise ship calls.<sup>43</sup> In 2020, Seward was scheduled to have 90 ship calls.<sup>44</sup>

The Port of Seward is owned by the Alaska Railroad Corporation (Alaska Railroad).<sup>45</sup> During fall 2019, the Alaska Railroad was looking for partners to expand Seward's cruise ship facilities, to include a new cruise passenger terminal building.<sup>46</sup>

In addition to being a cruise port, Seward has several attractions. These include the Alaska SeaLife Center, the Kenai Fjords National Park, and the Alaska Native Heritage Center.<sup>47</sup>

### Direct economic impact

In 2016, the Alaska Visitor Statistics Report estimates that 45% of visitors to Seward traveled by cruise ship.

In addition to owning the port, the Alaska Railroad has benefitted from cruise visitor traffic between Anchorage and Seward. In 2018 and 2019, their *Coastal Classic* train, which runs

<sup>41</sup> City of Seward, City Profile, <https://www.cityofseward.us/business/economic-development/city-profile> (last visited Oct. 9, 2020).

<sup>42</sup> One-way cruises compared to round-trip cruises that depart from Seattle or Vancouver.

<sup>43</sup> Elwood Brehmer, Alaska Journal of Commerce, Anchorage Daily News, Alaska Railroad seeks to overhaul and expand Seward cruise ship terminal (Sep. 27, 2019), <https://www.adn.com/business-economy/2019/09/27/alaska-railroad-seeks-to-overhaul-and-expand-seward-cruise-ship-terminal/> (last visited Oct. 9, 2020).

<sup>44</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>45</sup> State of Alaska, Alaska Department of Commerce, Community, and Economic Development, Division of Economic Development, Economic Impact of Alaska's Visitor Industry 2017 (Nov. 2018), [https://www.alaskatdia.org/wp-content/uploads/VisitorImpacts2016-17Report11\\_2\\_18.pdf](https://www.alaskatdia.org/wp-content/uploads/VisitorImpacts2016-17Report11_2_18.pdf) (last visited Oct. 1, 2020).

<sup>46</sup> Elwood Brehmer, Alaska Journal of Commerce, Anchorage Daily News, Alaska Railroad seeks to overhaul and expand Seward cruise ship terminal (Sep. 27, 2019), <https://www.adn.com/business-economy/2019/09/27/alaska-railroad-seeks-to-overhaul-and-expand-seward-cruise-ship-terminal/> (last visited Oct. 9, 2020).

<sup>47</sup> Seward Alaska, Attractions, <https://www.seward.com/attractions/> (last visited Oct. 9, 2020).



between Anchorage and Seward, carried more passengers than any of their other trains.<sup>48</sup> Some railcars are owned by the cruise companies, which are contracted to the railroad to pull.<sup>49</sup>

### **Indirect economic impact**

As mentioned in the Anchorage section, about 1,100 businesses work with cruise lines in the southcentral region of Alaska.<sup>50</sup> The cruise industry supports 20,700 jobs in that region of the state.<sup>51</sup>

### **Current status**

Commissioner Sola visited Seward in September 2020 to ascertain the effects of the COVID-19 pandemic on the industry and economy in Seward. Local union leaders and members shared with Commissioner Sola that 100% of local longshoremen union members are currently unemployed. A car rental company has had to sell their vehicles to stay afloat. The Alaska SeaLife Center, which has great educational and environmental value to the area, is down 85% in attendance. The center has a budget gap spanning several million dollars and it is unlikely to survive if there is no 2021 tourist season.

#### **D. Whittier**

Whittier is a town of around 280 people which has tourism and fishing as its main industries.<sup>52</sup> Like Seward, it is an embarkation/disembarkation port in the Anchorage area. According to the Visitor Volume Report, in 2019, Whittier had 193,800 passengers come through the port. This was around 15% of all visitors cruising in Alaska. The Alaska Visitor Statistics Report estimates 46% of visitors to Whittier in 2016 traveled by cruise ship. In 2020, Whittier was expected to have 35 ship calls.<sup>53</sup>

Several tourism-related businesses operate out of Whittier. They include tour companies for activities such as kayaking and jet ski tours, overnight accommodations, restaurants, and shops.<sup>54</sup>

<sup>48</sup> Alaska Railroad, Annual Report 2019,

[https://www.alaskarailroad.com/sites/default/files/Communications/2019\\_ARRC\\_AnnualReport\\_withFinancials\\_SE\\_CURED.pdf](https://www.alaskarailroad.com/sites/default/files/Communications/2019_ARRC_AnnualReport_withFinancials_SE_CURED.pdf) (last visited Oct. 9, 2020).

<sup>49</sup> Elwood Brehmer, Alaska Journal of Commerce, Anchorage Daily News, Alaska Railroad seeks to overhaul and expand Seward cruise ship terminal (Sep. 27, 2019), <https://www.adn.com/business-economy/2019/09/27/alaska-railroad-seeks-to-overhaul-and-expand-seward-cruise-ship-terminal/> (last visited Oct. 9, 2020).

<sup>50</sup> Cruise Lines International Association Alaska, Economic Impact by Region, <https://akcruise.org/economy/economic-impact-by-region/> (last visited Oct. 9, 2020).

<sup>51</sup> *Id.*

<sup>52</sup> Haven Orecchi-Egresitz, Insider, How Whittier, Alaska, the ‘town under one roof,’ is preparing for the coronavirus pandemic (Apr. 4, 2020), <https://www.insider.com/whittier-alaska-covid-19-unique-threat-2020-4> (last visited Oct. 9, 2020)

<sup>53</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>54</sup> Greater Whittier Chamber of Commerce, <https://www.whittieralaskachamber.org/about-whittier-alaska/> (last visited Oct. 9, 2020).

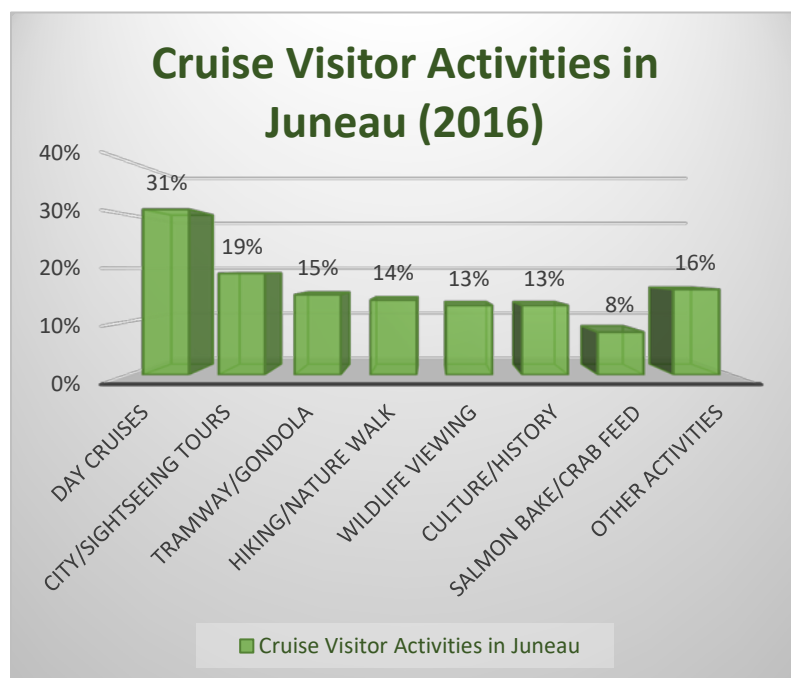
**Direct economic impact**

The city relies on funds brought in by the cruise industry. Tourism provides for 38% of the city’s budget.<sup>55</sup> They are experiencing two main losses of revenue associated with the loss of cruise visitors in 2020. The first is the over \$900,000 the city would receive in cruise ship passenger fees, and the second is an expected decline in sales tax, due to the lack of visitors.<sup>56</sup>

**Indirect economic impact**

As explained in the Anchorage section, about 1,100 businesses work with cruise lines in the southcentral region.<sup>57</sup> The cruise industry supports 20,700 jobs in that region of Alaska.<sup>58</sup>

E. Juneau



The Alaska Visitor Volume Report states that in 2019, Juneau had over 1.3 million visitors from cruise ships. Around 98% of all cruise visitors to Alaska stopped in Juneau. Though large cruise ships generally have Juneau as a port-of-call and not a homeport, some smaller cruise ships start and end their journeys in Juneau. According to Travel Juneau’s Juneau Visitor Profile and Economic Impact Study 2016 (Juneau Economic Study)<sup>59</sup>, in 2017, only 1% of cruise visitors stayed overnight in Juneau.

Most visitors to Juneau travel by cruise ship. Per the Juneau

Economic Study, 93% of visitors to Juneau visited by cruise ship, 6% by air, and 2% by ferry or highway.

<sup>55</sup> Haven Orecchi-Egresitz, Insider, How Whittier, Alaska, the ‘town under one roof,’ is preparing for the coronavirus pandemic (Apr. 4, 2020), <https://www.insider.com/whittier-alaska-covid-19-unique-threat-2020-4> (last visited Oct. 9, 2020)

<sup>56</sup> The City of Whittier, Whittier City Council Regular Meeting Packet (Sep. 15, 2020), <https://www.whittieralaska.gov/wp-content/uploads/9.15.20-City-Council-Regular-Meeting-Packet.pdf> (last visited Oct. 9, 2020).

<sup>57</sup> CLIA Alaska, Economic Impact by Region, <https://akcruise.org/economy/economic-impact-by-region/> (last visited Oct. 9, 2020).

<sup>58</sup> CLIA Alaska, Economic Impact by Region, <https://akcruise.org/economy/economic-impact-by-region/> (last visited Oct. 9, 2020).

<sup>59</sup> Travel Juneau, Juneau Visitor Profile and Economic Impact Study 2016 (Oct. 2017), <http://www.alaskatia.org/wp-content/uploads/juneau-visitor-profile-and-economic-impact-report-october-2017.pdf> (last visited Oct. 4, 2020).

Most cruise visitors to Juneau are from the U.S., but the city does get international visitors as well. The Juneau Economic Study explains that according to a group of passengers surveyed in 2016, cruise visitors to Juneau come from the US (80%), Canada (10%), Australia/New Zealand (5%), Europe (3%), Asia (1%), and Latin America (1%).

In 2020, Juneau was scheduled to have 623 ship calls.<sup>60</sup> The effects of the ship calls cancelled can be seen below in the economic impact not realized in 2020.

### **Direct economic impact**

Per the Juneau Economic Study, cruise visitors participate in a variety of activities in Juneau, as seen on the chart above. This translates to each cruise visitors spending an average of \$162 each in Juneau. Each cruise visitor spends an average of \$95 on tours/activities/entertainment, \$53 on gifts/souvenirs/clothing, \$12 food/beverage, and \$2 other.

As explained in the Juneau Economic Study, cruise line expenditures included purchasing food and equipment from local businesses, marine passenger fees, port development fees, and port dockage fees. In 2017, Juneau collected \$9.1 million in dockage/moorage fees.<sup>61</sup>

Cruise visitors, crew, and cruise lines all contribute to the total economic impact in the area. According to the Juneau Economic Study, in 2016, visitors, including non-cruise visitors (7% of visitors) to Juneau, spent \$183.6 million. In 2016, cruise lines spent \$26.4 million, and crew members spent \$8.2 million. Direct economic impact of the visitor industry to the Juneau area in 2016 was \$238 million. That year, the visitor industry was responsible for 2,150 jobs (full and part-time), and \$77 million in wages.

### **Indirect economic impact**

The Juneau Economic Study explains how a gift shop bringing in \$1 million annually could result in over \$100,000 in various

#### **IN THEIR OWN WORDS** RESPONSES FROM THE SOUTHEAST ALASKA BUSINESS SURVEY QUESTION "PLEASE ELABORATE ON HOW COVID-19 HAS IMPACTED YOUR ORGANIZATION."

"Complete loss of tourism devastated business."

"I am an owner/operator, my tour businesses is shut and the 2 ships I contract with as a guest lecturer will not happen. I have no business this summer."

"I have three retail spaces that I lease to seasonal shops. No cruise ships equals no visitors equals seasonal shops do not open equals no funds to pay rent to me equals I can just barely pay the interest only on my commercial loan which means that I will now have a balloon payment at the end of my loan."

<sup>60</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>61</sup> State of Alaska, Alaska Department of Commerce, Community, and Economic Development, Division of Economic Development, Economic Impact of Alaska's Visitor Industry 2017 (Nov. 2018), [https://www.alaskatourism.org/wp-content/uploads/VisitorImpacts2016-17Report11\\_2\\_18.pdf](https://www.alaskatourism.org/wp-content/uploads/VisitorImpacts2016-17Report11_2_18.pdf) (last visited Oct. 1, 2020).

taxes, tens of thousands of dollars in owner/employee spending on housing, clothing, transportation, medical services, recreation, and food, as well as the business perhaps spending tens of thousands of dollars a year on rent, utilities, construction, marketing, and miscellaneous supplies. Sales from cruise passenger spending result in a wide range of other spending by the business and employees/owner throughout the community.

Per the Juneau Economic Study, total direct, indirect, and induced economic impact of the cruise industry on Juneau in 2016 was \$319 million. This was around 10% of Juneau's economic output that year. In addition to 2,150 direct jobs related to the tourism industry, it is estimated that there are an additional 650 indirect jobs, totaling 2800 jobs. Previously mentioned direct wages of \$77 million, along with the \$32 million of indirect labor income, resulted in \$109 million total labor income to the area.

### Current status

One small cruise ship (60-person vessel sailing at 60% capacity) left Juneau on August 1. According to the company's website,<sup>62</sup> a passenger who had tested negative for COVID-19 prior to departing their home city, was tested again at the Juneau airport on August 1 before embarkation with a positive test result three days later which required the ship's return to Juneau on August 5. The company also cancelled its four additional planned sailings in Alaska, and passengers returned home.

### F. Ketchikan

Ketchikan is in southeast Alaska. With a population of 14,000 in the Ketchikan Gateway Borough, it is the sixth largest community in Alaska, and its major industries are commercial fishing and tourism.<sup>63</sup>

### IN THEIR OWN WORDS

RESPONSES FROM THE SOUTHEAST  
ALASKA BUSINESS SURVEY  
QUESTION "PLEASE ELABORATE ON  
HOW COVID-19 HAS IMPACTED  
YOUR ORGANIZATION."

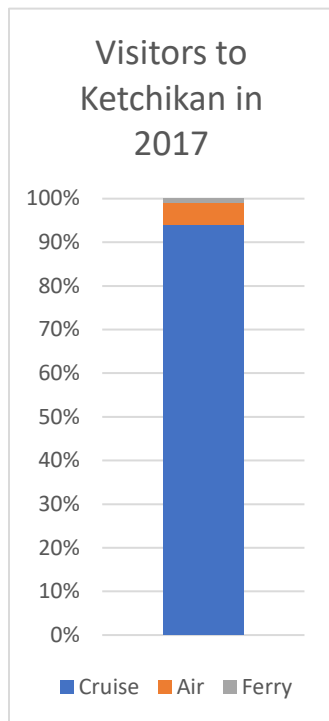
"No cruise ships means nobody wants to finance construction projects. The little scraps of projects that are offered don't appeal, but it looks like it will be the only way to survive, if that's even possible."

"The biggest impact is the lack of ships. We still have loyal locals, but summer visitors are a huge source of income."

"The cruise industry collapse has shut us out of any business income for 2020. I chose to complete the building of a new vessel and will be unable to meet any debt service with business income and will be using personal funds to cover the expenses until business income resumes in a year."

<sup>62</sup> Press Release, UnCruise Adventures, COVID Cruise? Not on UnCruise Adventures. Small Boat Company Bursts the Bubble of Presumption about Transmission on Board Cruises (Aug. 19, 2020), <https://www.uncruise.com/about-us/media/press-releases/covid-cruise-not-uncruise-adventures> (last visited Oct. 4, 2020).

<sup>63</sup> Ketchikan Visitors Bureau, Ketchikan 101, 101 Facts About Our Community, <https://www.ktn-ak.us/media/Port%20&%20Harbors/Port/Tourism%20Myth-Busters/Ketchikan%20Visitors%20Bureau%20101%20Facts%20About%20Our%20Community.pdf> (last visited Oct. 3, 2020).



Ketchikan has several cruise ship berths. It is a port of call as opposed to an embarkation/ disembarkation port. No large cruise ships begin or end the voyage there.

According to the Alaska Visitor Volume Report, Ketchikan had over 1.1 million visitors arrive via cruise ship in 2019. This includes 89% of all cruise passengers to Alaska during summer 2019. Almost all of Ketchikan’s visitors arrive by cruise ship. Per the Ketchikan Visitor’s Bureau Summer Visitor Profile and Economic Analysis, from 2018 (Ketchikan Economic Analysis),<sup>64</sup> in 2017, 95% arrive by cruise ship, 4% arrive by air, and 1% arrived by

ferry.

Cruises to Ketchikan attract visitors from not only the U.S., but also Canada and other parts of the world. According to the Ketchikan Economic Analysis, of passengers surveyed in 2017, 75% were from the U.S., 12.5% from Canada, and 12.5% from Australia and/or New Zealand, Europe, Asia, and Latin America.

In 2020, Ketchikan was scheduled to have 562 ships call in port.<sup>65</sup>

**Direct economic impact**

Cruise visitors take part in a variety of activities while in Ketchikan. Other than shopping, which in 2016, 84% of visitors took part in,<sup>66</sup> no one type of activity dominates the market. The Ketchikan Economic Analysis explains that the top activity, city/sightseeing tours, were only taken by 23% of

**IN THEIR OWN WORDS**  
 RESPONSES FROM THE SOUTHEAST ALASKA BUSINESS SURVEY  
 QUESTION “PLEASE ELABORATE ON HOW COVID-19 HAS IMPACTED YOUR ORGANIZATION.”

“I own a small seafood restaurant. We usually serve many cruise ship passengers and tourists. There are not very many people traveling to Sitka right now, so our revenue is down. Also, I have only been doing takeout. My space is very small, and social distancing for dine in is not a possibility.”

“We had to issue over \$50,000 in pre-booking refunds over the last three months. We generally work with approximately 15,000 cruise passengers in a summer, and all that business appears to be lost, based on the cruise projections and our sales over the last few years, I expect approximately \$1M loss in gross sales.”

<sup>64</sup> Ketchikan Visitors Bureau, Ketchikan Summer Visitor Profile and Economic Impact Analysis (April 2018), [https://www.alaskatlia.org/wp-content/uploads/kvb-visitor-profile-and-impacts-6\\_10\\_18-1.pdf](https://www.alaskatlia.org/wp-content/uploads/kvb-visitor-profile-and-impacts-6_10_18-1.pdf) (last visited Oct. 2, 2020).

<sup>65</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>66</sup> Alaska Department of Commerce, Community, & Economic Development, Division of Economic Development, and Alaska Travel Industry Association, Alaska Visitor Statistics Program 7 Summer 2016 (May 2017), <https://www.alaskatlia.org/wp-content/uploads/Full-AVSP-VII-Report.pdf> (last visited Oct. 5, 2020).

cruise passengers. The other activities had no more than 12% of visitors participating, and include shows/entertainment, native cultural tours/activities, day cruises, hiking/nature walk, historical/cultural attractions, museums, and flightseeing.

As Ketchikan is a port of call, passengers do not spend money on lodging in the area. They do heavily support the tours and retail industries. Per the Ketchikan Economic Analysis, average spending per passenger is \$87 on gifts/souvenirs/clothing, \$60 on tours/activities/entertainment \$10 on food/beverage, and \$1 on rental cars/fuel/transportation.

Crew members have a different spending in port. According to the Ketchikan Economic Analysis, crew members primarily spend at large retail stores, grocery stores, and pharmacies. Crew members spent an average of \$430 in Ketchikan during the entire season.

The cruise lines contribute to the local economy in various ways. The Ketchikan Economic Analysis explains that expenditures include dockage/moorage fees (\$9 million in 2017), purchases from food/beverage vendors, transportation services, medical providers, and business supply companies.

The city brings in revenue through cruise visitors in the form of taxes. According to the Ketchikan Economic Analysis, sales taxes from summer visitors, cruise lines, and crew members were estimated to be \$5.1 million in 2017. The area also brought in \$4.3 million from the statewide Commercial Passenger Vessel tax.

Per the Ketchikan Economic Analysis, the direct economic impact of the tourism industry<sup>67</sup> on Ketchikan in 2017 was \$223 million: \$187 in spending by visitors, \$29 million from the cruise lines, and \$7 million in crew spending, as seen on

**IN THEIR OWN WORDS**  
RESPONSES FROM THE SOUTHEAST  
ALASKA BUSINESS SURVEY  
QUESTION "PLEASE ELABORATE ON  
HOW COVID-19 HAS IMPACTED  
YOUR ORGANIZATION."

"I lost all my charter bookings when the cruise ships cancelled."

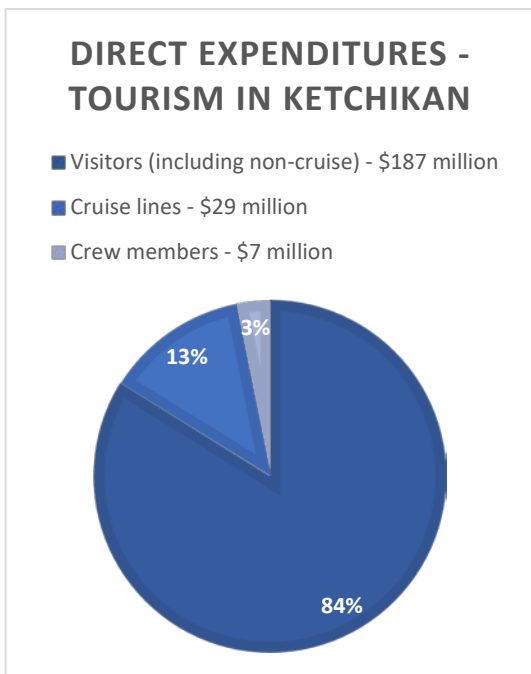
"Loss in cruise travel results in 20 months of no revenue. Funding the gap will affect our future revenue projections for years."

"Loss income and don't know how long we can get renters; businesses closes because of tourism industry. No cruises, no workers to come and look for place to rent."

"Shut it down, since we are a tourism related business and with no cruise ships means no business."

"We are completely shut down until tourism (cruise ship) returns to southeast. Unfortunately, we are not eligible for any other loans and grant at this time."

<sup>67</sup> Includes both cruise- and non-cruise visitors; however, cruise visitors made up 95% of the visitors in 2017.



the chart. This resulted in 1,350 jobs with associated income of \$57 million. Of this, 31% was in the tour sector, 21% in the gifts/souvenir/clothing sector, 20% food/beverage, 12% transportation, 11% lodging,<sup>68</sup> and 4% local government/health care/finance.

**Indirect economic impact**

According to the Ketchikan Economic Analysis, in addition to direct jobs and income, 400 indirect jobs and \$19 million in labor income are a result of the tourism industry in Ketchikan.

**Current status**

Cruise and tourism-related businesses are struggling. In a May 2020 report that surveyed tourism-related businesses in Ketchikan, only 26%

of businesses said they would be able to endure a delayed restart of the tourism industry in Ketchikan if business do not resume until spring 2021.<sup>69</sup>

Unemployment in Ketchikan Gateway Borough has been higher than usual since the COVID-19 pandemic began. According to the Alaska Department of Labor and Workforce Development,<sup>70</sup> Ketchikan’s highest unemployment rate since March 2020 has been 17.4%. The annual unemployment in the Borough was 6.2% in 2019 and 6% in 2018.

**Preparing for reopening**

A Business Economy Recovery Group (BERG) has been formed in the Ketchikan area and their website provides that “the primary focus of the BERG has been to connect individuals and businesses with the available resources during the state of the COVID-19 emergency.”<sup>71</sup>

<sup>68</sup> Generally no lodging and only a little transportation can be attributed to the cruise industry. The average air and ferry visitor spends \$207 and \$187 on lodging, respectively, and \$62 and \$58 on transportation, respectively. The average cruise visitor spends \$0 on lodging, \$10 on food/beverage, and \$1 on transportation.

<sup>69</sup> Patti Mackey, CEO & President of Ketchikan Visitors Bureau, City of Ketchikan, Ketchikan Tourism Survey – Impacts of COVID-19 and related information (May 4, 2020), <https://ketchikan.primegov.com/Portal/viewer?id=1116&type=2> (last visited Oct. 4, 2020).

<sup>70</sup> Alaska Department of Labor and Workforce Development, Annual Unemployment Rates for Ketchikan Gateway Borough and Alaska 2010 to 2019, <https://live.laborstats.alaska.gov/labforce/labdata.cfm?s=15&a=0> (last visited Oct. 18, 2020).

<sup>71</sup> Ketchikan Gateway Bureau, COVID-19 Response, Business & Economic Recovery, <https://www.kgbak.us/913/COVID-19-Response> (last visited Oct. 4, 2020)

Ketchikan already has “Code Red” procedures in place for businesses that run shore excursions in case of a norovirus outbreak, including increased cleaning, employee exposure prevention, and post incident clean-up procedures.<sup>72</sup> As of May 2020, the city was considering using these as a base for COVID-19 plans.<sup>73</sup>

Despite the current situation, business regarding the port continues. Steps are being taken to expand Ketchikan’s cruise capacity through turning an old lumber mill into a port.<sup>74</sup> Last October, before the COVID-19 pandemic began, some thought it could have been open for the 2020 cruise season.<sup>75</sup>

According to a recent article, the City Council has also received a proposal to have the port be privately managed over the next few decades, something the council will be considering.<sup>76</sup> The article also notes that the city would no longer receive the head tax; the company would collect the head tax and increase it over the next several years. Instead the city would be paid by the company \$40-45 million over 7 years.

### G. Skagway

Skagway is in southeast Alaska and has a population of just over 1,000 people.<sup>77</sup> Skagway’s main industry is cruise ship tourism.<sup>78</sup>

**IN THEIR OWN WORDS**  
RESPONSES FROM THE SOUTHEAST  
ALASKA BUSINESS SURVEY  
QUESTION “PLEASE ELABORATE ON  
HOW COVID-19 HAS IMPACTED  
YOUR ORGANIZATION.”

“Closed my business for 2020 and may not ever reopen thereafter. Rent is too high in Skagway as it is, and if the cruise industry returns, it won’t be at 100%. My future in Skagway is very uncertain.”

“We have lost cruise ships for the summer and that is 2/3 of our revenue. It helps us to survive in the winter months. We will survive the summer scaled down dramatically, but we aren’t sure we will survive past December.”

<sup>72</sup> Patti Mackey, CEO & President of Ketchikan Visitors Bureau, City of Ketchikan, Ketchikan Tourism Survey – Impacts of COVID-19 and related information (May 4, 2020), <https://ketchikan.primegov.com/Portal/viewer?id=1116&type=2> (last visited Oct. 4, 2020).

<sup>73</sup> *Id.*

<sup>74</sup> Saul Elbien, Reuters, New port brings tourism hope and pollution fears to Alaskan town (Jul. 30, 2020), <https://www.reuters.com/article/us-usa-cities-tourism-feature-trfn/new-port-brings-tourism-hope-and-pollution-fears-to-alaskan-town-idUSKCN24V2CO> (last visited Oct. 4, 2020).

<sup>75</sup> Eric Stone, KRBD, How developers plan to turn a symbol of Ketchikan’s timber past to a hub for tourism (Oct. 31, 2019), <https://www.krbd.org/2019/10/31/how-developers-plan-to-turn-a-symbol-of-ketchikans-timber-past-to-a-hub-for-tourism/> (last visited Oct. 4, 2020).

<sup>76</sup> Eric Stone, KTOO, Private port operator’s proposal for Ketchikan dock management could mean \$40M+ for city general fund (Sep. 29, 2020), <https://www.ktoo.org/2020/09/29/private-port-operators-proposal-for-ketchikan-dock-management-could-mean-40m-for-city-general-fund/> (last visited Oct. 4, 2020).

<sup>77</sup> Municipality of Skagway, A Review: 2019 Cruise Ship Presence, Skagway, Alaska (Apr. 8, 2019), [https://www.skagway.org/sites/default/files/fileattachments/port\\_of\\_skagway/page/277/final\\_2019\\_skg\\_cpv\\_update\\_2019\\_04\\_08\\_1.pdf](https://www.skagway.org/sites/default/files/fileattachments/port_of_skagway/page/277/final_2019_skg_cpv_update_2019_04_08_1.pdf) (last visited Oct. 6, 2020).

<sup>78</sup> Claire Stremple, KHNS FM, Skagway braces for economic impacts as coronavirus stalls the cruise ship season (Mar. 14, 2020), <https://khns.org/skagway-braces-for-economic-impacts-as-coronavirus-stalls-the-cruise-ship-season> (last visited Oct. 6, 2020).



Per the Alaska Visitor Volume Report, during summer 2019, Skagway welcomed over 1 million visitors via cruise ships. This includes 78% of all cruise passengers to Alaska during that period. According to the Alaska Visitor Statistics Report, in 2016, 96% of visitors to Skagway traveled by cruise ship.

As most of the ships visiting Skagway are large, cruise ship days can bring up to 20 times the local population to port. It was estimated that before the 2019 cruise season, Skagway would have 21 days with over 16,000 visitors in port, one day with over 21,000 visitors, and an average of 9,358 visitors on days when ships were in port.<sup>79</sup> With the significant number of visitors, over the cruise season, a lot of the business revenue for the area is earned during those months.<sup>80</sup>

In 2020, Skagway was scheduled to have 454 ship visits.<sup>81</sup>

### **Direct economic impact**

Almost all visitors to Skagway arrive via cruise ship. The Alaska Visitor Statistics Report estimates that in 2016, 96% visited via cruise.

Skagway, like the other ports, have a variety of shore excursions available to passengers. A big draw to the area is the scenic railway route. The top excursion in the Alaska is to ride the White Pass and Yukon Railroad, and the railroad is Skagway's biggest employer.<sup>82</sup> In addition, according to the Alaska Visitor Statistics Report, 85% of visitors, including non-cruise visitors, shop while in Skagway. Of the other activities visitors participated in during 2016, no more than 16% of visitors took part in any particular activity. Sixteen percent went on city/sightseeing tours, 12% culture/history, 11% wildlife viewing, 8% hiking/nature walks, and 6% dogsledding.

### **IN THEIR OWN WORDS** RESPONSES FROM THE SOUTHEAST ALASKA BUSINESS SURVEY QUESTION "PLEASE ELABORATE ON HOW COVID-19 HAS IMPACTED YOUR ORGANIZATION."

"No cruise ships amounts to an economic disaster for everyone in Skagway. We need help. Our city is listening, thankfully."

"We have no revenue this summer as 100% of our customers come by cruise ship. We have no revenue until May 2021."

"With no visitors paying hotel bed tax and no cruise visitors paying Marine Passenger Fees, our overall funding has been reduced by more than 50% for this year."

"We have lost all revenue for our summer business, due to no cruise ships."

"We have NO income as a tourist seasonal store. We pray for ships in 2021 and hope we can stay afloat until then."

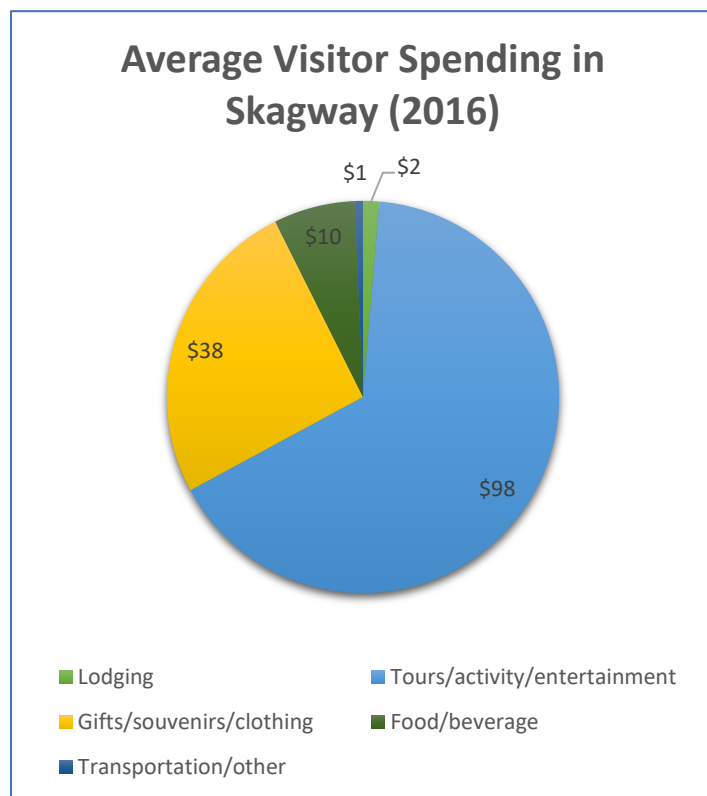
<sup>79</sup> Municipality of Skagway, A Review: 2019 Cruise Ship Presence, Skagway, Alaska (Apr. 8, 2019), [https://www.skagway.org/sites/default/files/fileattachments/port\\_of\\_skagway/page/277/final\\_2019\\_skg\\_cpv\\_update\\_2019\\_04\\_08\\_1.pdf](https://www.skagway.org/sites/default/files/fileattachments/port_of_skagway/page/277/final_2019_skg_cpv_update_2019_04_08_1.pdf) (last visited Oct. 6, 2020).

<sup>80</sup> *Id.*

<sup>81</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>82</sup> Claire Stremple, KHNS FM, Skagway braces for economic impacts as coronavirus stalls the cruise ship season (Mar. 14, 2020), <https://khns.org/skagway-braces-for-economic-impacts-as-coronavirus-stalls-the-cruise-ship-season> (last visited Oct. 6, 2020).

Per the Alaska Visitors Statistic Report, visitors to Skagway, including the 4% of visitors not traveling by cruise, spend an average of \$149 while visiting. A breakdown of the \$149 from the report can be seen on the chart.<sup>83</sup>



### Indirect economic impact

The cruise industry is crucial to Skagway. According to the mayor, the cruise industry generates up to 95% of the town's revenue.<sup>84</sup>

### Current status

Skagway's unemployment is significantly higher than last year. According to the Alaska Department of Labor and Workforce Development,<sup>85</sup> between May and September 2020, the unemployment in Skagway ranged from 12.2% to 20.2%. Unemployment during these months in 2019 ranged from 2.6% to 3.6%.

### Preparing for reopening

Skagway and Ketchikan have started a working group to assess what the cities want the cruise industry to do, what they want to see from the communities, and how to function together in 2021.<sup>86</sup> As of September, a study was underway with a private firm and Ketchikan to determine what protocols should be in place to keep cruise visitors safe, and to be seen as a model port following those protocols.<sup>87</sup> The mayor

<sup>83</sup> Lodging is included, though generally not used by cruise passengers, as this is for all visitors, including the 4% of visitors who visit Skagway not by cruise.

<sup>84</sup> Aaron Saunders CruiseCritic.com, USA Today, 'This is about survival': Alaska ports issue plea to save 2021 cruise season (Oct. 8, 2020), <https://www.usatoday.com/story/travel/cruises/2020/10/08/alaskan-cruise-ports-we-may-not-survive-without-2021-cruise-season/5922837002/> (last visited Oct. 8, 2020).

<sup>85</sup> State of Alaska, Alaska Department of Labor and Workforce Development, Annual Unemployment Rates for Municipality of Skagway and Alaska, <https://live.laborstats.alaska.gov/labforce/labdata.cfm?s=26&a=0> (last visited Oct. 19, 2020).

<sup>86</sup> Gretchen Wehmhoff, Skagway News, Skagway, Ketchikan Plan for the 2021 cruise season (Aug. 1, 2020), <https://skagwaynews.com/2020/08/01/skagway-ketchikan-plan-for-the-2021-cruise-season/> (last visited Oct. 6, 2020).

<sup>87</sup> Municipality of Skagway, Alaska, Regular Assembly Meeting (Sep. 3, 2020) Meeting Minutes, [https://www.skagway.org/sites/default/files/fileattachments/borough\\_assembly/meeting/43311/09\\_03\\_2020\\_assembly\\_minutes.pdf](https://www.skagway.org/sites/default/files/fileattachments/borough_assembly/meeting/43311/09_03_2020_assembly_minutes.pdf) (last visited Oct. 8, 2020).

also believes it is important to work with cruise lines to come up with a facility that could deal with possible health issues, as there is no major hospital in this small community.<sup>88</sup>

“It is essential for our small businesses that they are able to engage the cruise ship companies and the cruise ship passengers in a normal way. They local businesses are going to go 17 months in a best-case scenario without any revenue.” – Skagway Mayor Andrew Cremata<sup>89</sup>

#### H. Icy Strait Point/Hoonah

Icy Strait Point is the port in Hoonah, a city in southeastern Alaska with 800 residents.<sup>90</sup> The port is owned by the Huna Totem Corporation. Per the Alaska Visitor Statistics Report, in 2019, the port had 267,200 cruise visitors. Around 20% of cruise passengers visiting Alaska during summer 2019 stopped there. Almost all visitors, or 98% in 2016, to Hoonah travel via cruise ship.

In October 2020, Icy Strait Point won the Seatrade Cruise Award of Port of the Year.<sup>91</sup>

“Hoonah is a proud community and the largest Tlingit village in Alaska. The Hoonah Indian Association is a federally recognized tribal government that supports Hoonah’s Native community. Residents hunt, fish, and gather foodstuffs off the land. Children attend public schools where they combine traditional academics with cultural activities and language learning.”<sup>92</sup>

A new cruise ship dock was finished in 2016, allowing passengers to go directly to shore instead of tender transfer.<sup>93</sup>

In 2020, Icy Strait Point was scheduled for 202 ship calls.<sup>94</sup>

<sup>88</sup> Aaron Saunders CruiseCritic.com, USA Today, ‘This is about survival’: Alaska ports issue plea to save 2021 cruise season (Oct. 8, 2020), <https://www.usatoday.com/story/travel/cruises/2020/10/08/alaskan-cruise-ports-we-may-not-survive-without-2021-cruise-season/5922837002/> (last visited Oct. 8, 2020).

<sup>89</sup> *Id.*

<sup>90</sup> City of Hoonah, Hoonah Today, <https://www.cityofhoonah.org/visitors?pgid=jeeyg5p2-8ab2d819-0f6c-470b-a21b-da851aa071d9> (last visited Oct. 10, 2020).

<sup>91</sup> Seatrade Cruise News, Seatrade Cruise Awards winners announced (Oct. 6, 2020), <https://www.seatrade-cruise.com/people-opinions/seatrade-cruise-awards-winners-announced> (last visited Oct. 10, 2020).

<sup>92</sup> City of Hoonah, Hoonah Today, <https://www.cityofhoonah.org/visitors?pgid=jeeyg5p2-8ab2d819-0f6c-470b-a21b-da851aa071d9> (last visited Oct. 10, 2020).

<sup>93</sup> City of Hoonah, 2017-2027 Hoonah Economic Development Plan (Oct. 2016), [https://e233222e-fb39-4482-95d5-54925cd05e40.filesusr.com/ugd/63a996\\_ab316dcc26164c739b98ede5efdd9040.pdf](https://e233222e-fb39-4482-95d5-54925cd05e40.filesusr.com/ugd/63a996_ab316dcc26164c739b98ede5efdd9040.pdf) (last visited Oct. 10, 2020).

<sup>94</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

### **Direct economic impact**

As with other ports, shopping is a popular activity with visitors. According to the Alaska Visitor Statistics Report, 86% of visitors, including non-cruise visitors, shop while in Hoonah. Regarding other activities, 18% of visitors went on day cruises, 13% participated in wildlife viewing, 12% visited culture/history attractions and/or activities, 7% went ziplining, and 7% went on a hiking/nature walk.

Per the Alaska Visitor Statistics Program, visitors in Hoonah in 2016, including non-cruise visitors, spent an average of \$92. This includes \$1 on lodging,<sup>95</sup> \$57 on tours/activity/entertainment, \$26 on gifts/souvenirs/clothing, \$7 on food & beverages, and \$1 on transportation/other.

The 2017-2027 Hoonah Economic Development Plan, adopted in 2016 (Hoonah Economic Development Plan),<sup>96</sup> discusses changes that were occurring in the Hoonah economy. The city had only 158,000 cruise visitors that year, less than 60% of the number of visitors who visited Alaska in 2019. The Hoonah Economic Development Plan explains that goods-producing jobs, such as the fishing and timber industries, have been declining. Tourism is driving more jobs to service-providing industries such as restaurants, tours, and selling items to visitors.

Per the Hoonah Economic Development Plan, many of these tourism-related jobs are seasonal. The Icy Strait Point employed 138 people during the summer of 2015 and had a payroll of \$1.8 million. Almost two-thirds of the employees were local.

According to the Hoonah Economic Development Plan, the city brought in over \$1.1 million in State Commercial Passenger Vessel Excise Tax and Sales Tax by Icy Strait Point.

### **Indirect economic impact**

The port, Icy Strait Point, supports local businesses. The port facilities are only open when cruise ships are in port.<sup>97</sup> According to the Hoonah Economic Development Plan, the port facilities buy local beer and fish. A local restaurant purchases local fish as well. Other industries, such as an oyster farm that had recently opened, a commercial greenhouse that had also recently opened, and sawmill were looking at how to integrate their businesses into the tourism or restaurant industries.

<sup>95</sup> Average visitor spending includes non-cruise visitors (98% visit via cruise per the Alaska Visitor Statistics Program).

<sup>96</sup> City of Hoonah, 2017-2027 Hoonah Economic Development Plan (Oct. 2016), [https://e233222e-fb39-4482-95d5-54925cd05e40.filesusr.com/ugd/63a996\\_ab316dcc26164c739b98ede5efdd9040.pdf](https://e233222e-fb39-4482-95d5-54925cd05e40.filesusr.com/ugd/63a996_ab316dcc26164c739b98ede5efdd9040.pdf) (last visited Oct. 10, 2020).

<sup>97</sup> Icy Strait Point, About Us, <https://icystraitpoint.com/about-us/> (last visited Oct. 19, 2020).

I. Sitka

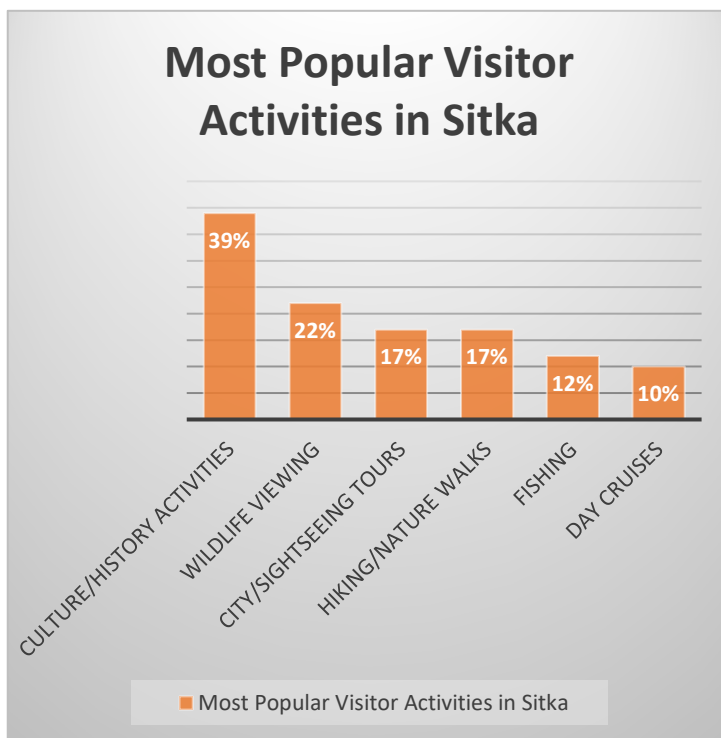
Sitka is a city and borough in southeast Alaska with a population of just over 8,500.<sup>98</sup> According to the Alaska Visitor Statistics Program, in 2019, Sitka welcomed 218,600 visitors on cruise ships. About 16% of all cruise passengers in Alaska stopped there. Most visitors to Sitka, or 82%, travel by cruise ship.

In 2020, Sitka was scheduled to have 190 ship calls.<sup>99</sup>

**Direct economic impact**

Tourism jobs in the area are very seasonal. According to the Sitka Economic Development Association’s 2020 Sitka Economic Profile (Sitka Economic Profile),<sup>100</sup> the tourism, recreation, and accommodations sector account for around 150 jobs in the winter and almost 600 during some of the summer months.

Per the Alaska Visitor Statistics Report, 77% of visitors, including non-cruise visitors, go shopping when visiting Sitka. Beyond shopping, Sitka has several popular activities that a sizeable percentage of visitors take part in. The most popular activities for visitors in Sitka are culture/history (historical/cultural attractions, museums, and native cultural tours/activities), wildlife viewing, city/sightseeing tours, hiking/nature walk, fishing, and day cruises, as seen on the chart.



In 2016, the Alaska Visitor Statistics Program estimated that the average visitor to Sitka, including non-cruise visitors, spent \$353.

<sup>98</sup> Sitka Economic Development Association, Sitka Economic Profile (June 2020), <https://static1.squarespace.com/static/582222e36a49637d2e6e6edb/t/5f2b130551d9077c854c5ad4/1596658440004/McDowell+Group+Sitka+Economic+Profile+2020.pdf> (last visited Oct. 19, 2020).

<sup>99</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>100</sup> Sitka Economic Development Association, Sitka Economic Profile (June 2020), <https://static1.squarespace.com/static/582222e36a49637d2e6e6edb/t/5f2b130551d9077c854c5ad4/1596658440004/McDowell+Group+Sitka+Economic+Profile+2020.pdf> (last visited Oct. 19, 2020).

## Current status

In April 2020, the city was predicting a \$2 million decline in sales tax revenue, primarily over the summer.<sup>101</sup> In the past, the city has also brought in over \$400,000 revenue from the Commercial Vessel Excise Tax Fund.<sup>102</sup>

The city is estimating that \$74 million has been lost to the local economy due to the lack of cruise visitors.<sup>103</sup>

The city has the Sitka Economic Resiliency Task Force in place, “to work on ways to mitigate the effects of COVID-19 on Sitka’s economy.”<sup>104</sup> As of June, one member of the task force knew of three businesses that had already closed.<sup>105</sup> The task force has a website with a variety of resources for businesses and individuals.<sup>106</sup>

## J. Other Alaska Ports and Regions

### Haines

Haines is a city in southeastern Alaska with a population of 2,400 people.<sup>107</sup> According to the Alaska Visitor Statistics Report, in 2019, 63,400 travelers visited Haines via cruise ship. In 2016, 69% of visitors to Haines traveled by cruise ship.

In addition to the visitors traveling on cruise ships to Haines, the community also benefits from some of the cruise visitors to Skagway that visit Haines via the cross-fjord Fast Ferry.<sup>108</sup> In 2017, 43,000 cruise visitors visited Haines this way.<sup>109</sup>

<sup>101</sup> City and Borough of Sitka, Fiscal Year 2021 Consolidated Operating Budget (Apr. 21, 2020), <https://www.cityofsitka.com/government/departments/finance/documents/FY2021AdoptedBudget5-12-2020.pdf> (last visited Oct. 10, 2020).

<sup>102</sup> *Id.*

<sup>103</sup> City and Borough of Sitka, Resolution No. 2020-27, Declaring an Economic Disaster in the City and Borough of Sitka Due to COVID-19 and Poor Regional Returns of All Salmon Species (Sep. 22, 2020), <https://www.akml.org/wp-content/uploads/2020/09/Signed-Res-2020-27.pdf> (last visited Oct. 10, 2020).

<sup>104</sup> Ariadne Will, Daily Sitka Sentinel, Economy Task Force Sees Hope for Sitka (Jun. 5, 2020), <http://sitkasentinel.com/7/2012-05-10-22-08-10/local-news/16692-economy-task-force-sees-hope-for-sitka> (last visited Oct. 10, 2020).

<sup>105</sup> *Id.*

<sup>106</sup> Sitka Economic Resilience Task Force, <https://www.sitka.net/sitka-economic-resilience-task-force> (last visited Oct. 10, 2020).

<sup>107</sup> Haines, Alaska, About Haines, <https://www.visithaines.com/about-haines/> (last visited Oct. 11, 2020).

<sup>108</sup> Claire Stremple, KHNS FM, Unprecedented cruise ship cancellations affect seasonal, year-round cruise businesses (May 12, 2020), <https://khns.org/unprecedented-cruise-ship-cancellations-affect-seasonal-year-round-businesses> (last visited Oct. 6, 2020).

<sup>109</sup> Haines Economic Development Corporation, Economic Baseline Report, Haines Economic Development Plan (June 2018), <https://www.hainesedc.org/wp-content/uploads/2019/11/Revised-Baseline6-12-2018-foundroot-edit.pdf> (last visited Oct. 11, 2020).

According to the Haines Economic Development Corporation's June 2018 Economic Baseline Report, Haines Economic Development Plan (Haines Economic Development Plan),<sup>110</sup> a 2011 survey showed that cruise visitors spent an average of \$85 each in Haines, with an average of \$59 of that on tours. Fast ferry visitors spent an average of \$135 in Haines, with an average of \$119 on tours. Total spending was estimated at \$6.1 million in 2011. At that time, cruise and fast ferry visitors totaled only 55,000, compared to over 100,000 visitors by cruise and fast ferry (cruise to Skagway) in 2019.

Haines has had a much higher unemployment rate than usual. Between May and September 2020, unemployment rates have ranged from 9.6% to 22.6%, compared to May to September 2019 rates ranging from 4.7% to 6.7%.<sup>111</sup>

In 2020, Haines was scheduled to have 59 ship calls.<sup>112</sup>

### **Petersburg**

Petersburg is a city in southeastern Alaska with a population of around 3,100 people.<sup>113</sup> The city has an appeal to certain visitors as being a quieter port than those that have large cruise ships. The Chamber of Commerce website describes Petersburg as "off-the-beaten-path of the large cruise ships, which cannot navigate the Wrangell Narrows."<sup>114</sup>

The city has about 20,000 visitors each year.<sup>115</sup> According to the Alaska Visitor Statistics Report, in 2016, 23% of visitors traveled to Petersburg via cruise ship.

Petersburg is both a port-of-call and embarkation port for cruise lines with smaller ships.<sup>116</sup> It was supposed to have over 50 ship calls during 2020.<sup>117</sup>

<sup>110</sup> Haines Economic Development Corporation, Economic Baseline Report, Haines Economic Development Plan (June 2018), <https://www.hainesedc.org/wp-content/uploads/2019/11/Revised-Baseline6-12-2018-foundroot-edit.pdf> (last visited Oct. 11, 2020).

<sup>111</sup> Alaska Department of Labor and Workforce Development, Annual Unemployment Rates for Haines Borough and Alaska, <https://live.laborstats.alaska.gov/labforce/labdata.cfm?s=11&a=0> (last visited Oct. 19, 2020).

<sup>112</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>113</sup> Petersburg Chamber of Commerce, Our Town, <https://www.petersburg.org/our-town/> (last visited Oct. 11, 2020).

<sup>114</sup> *Id.*

<sup>115</sup> Petersburg, Alaska, Business, [https://www.petersburgak.org/index.asp?SEC=3BD17808-476E-40D9-B59A-E1106B5C6B2D&Type=B\\_BASIC](https://www.petersburgak.org/index.asp?SEC=3BD17808-476E-40D9-B59A-E1106B5C6B2D&Type=B_BASIC) (last visited Oct. 11, 2020).

<sup>116</sup> Petersburg, Alaska, Getting Here, [https://www.petersburgak.org/index.asp?SEC=0E4EB1B4-8CCC-4040-9AB5-AD100E6FFC55&Type=B\\_BASIC](https://www.petersburgak.org/index.asp?SEC=0E4EB1B4-8CCC-4040-9AB5-AD100E6FFC55&Type=B_BASIC) (last visited Oct. 11, 2020).

<sup>117</sup> Cruise Lines International Association Alaska, Port Schedule, [https://akcruise.org/port-schedule/?port=PETERSBURG&ship=0&date\\_from&date\\_to&search\\_schedule=Get%20Port%20Schedules](https://akcruise.org/port-schedule/?port=PETERSBURG&ship=0&date_from&date_to&search_schedule=Get%20Port%20Schedules) (last visited Oct. 11, 2020).

## Wrangell

Wrangell is a city in southeastern Alaska with a population of 2,300.<sup>118</sup> According to the Alaska Visitor Statistics Report, in 2016, 22% of visitors to Wrangell traveled via cruise ship. Only small and medium cruise ships visit Wrangell; the largest ship had around 900 passengers, and most ships have under 200.<sup>119</sup> In 2020, Wrangell was scheduled to have 46 ship calls,<sup>120</sup> none of which arrived.<sup>121</sup>

Per the Alaska Visitor Volume Report, during summer 2019, Wrangell had 17,300 visitors traveling via cruise ship. This is up from around 13,000 in 2017.<sup>122</sup> As of April 2020, Wrangell was expecting up to 17,222 cruise visitors in 2020.<sup>123</sup>

In 2017 each cruise passenger spent an average of \$148, totaling over \$2 million for the area.<sup>124</sup>

## Homer

Homer is in the southcentral part of Alaska – the same region as Anchorage, Seward, and Whittier. The population is just over 5,300, and its main industries are commercial fishing and tourism.<sup>125</sup> It is 227 miles by road from Anchorage.<sup>126</sup>

The Alaska Visitor Volume Report estimates that in 2019, Homer had 14,800 cruise passengers visit over the summer. Most visitors to Homer are not traveling via cruise ship; per the Alaska Visitor Statistics Report, in 2016, 11% of visitors to Homer traveled by cruise ship.

Thirteen ship calls were expected in Homer in 2020.<sup>127</sup>

<sup>118</sup> Wrangell, History of Wrangell, <https://www.wrangellalaska.org/visitorservices/history-wrangell> (last visited Oct. 11, 2020).

<sup>119</sup> Wrangell, Cruise Ship Calendar, <https://www.wrangellalaska.org/visitorservices/cruise-ship-calendar> (last visited Oct. 19, 2020).

<sup>120</sup> Report from President, International Longshore Warehouse Union Alaska Longshore Division, email attachment to FF30 (Sep. 26, 2020).

<sup>121</sup> Wrangell, Cruise Ship Calendar, <https://www.wrangellalaska.org/visitorservices/cruise-ship-calendar> (last visited Oct. 19, 2020).

<sup>122</sup> Wrangell Convention and Visitors Bureau, Wrangell Visitor Economy By the Number 2018 (May 2018), [http://www.wrangell.com/sites/default/files/fileattachments/visitor\\_services/page/3424/wrangell\\_visitor\\_industry\\_2018\\_final.pdf](http://www.wrangell.com/sites/default/files/fileattachments/visitor_services/page/3424/wrangell_visitor_industry_2018_final.pdf) (last visited Oct. 11, 2020).

<sup>123</sup> Wrangell Chamber of Commerce, Draft Wrangell Cruise Ship Schedule (Apr. 15, 2020), [https://www.wrangellchamber.org/uploads/2/6/5/7/26576634/cruiseship\\_schedule\\_draft\\_2020\\_as\\_of\\_4-15-2020\\_pax\\_.pdf](https://www.wrangellchamber.org/uploads/2/6/5/7/26576634/cruiseship_schedule_draft_2020_as_of_4-15-2020_pax_.pdf) (last visited Oct. 18, 2020).

<sup>124</sup> Wrangell Convention and Visitors Bureau, Wrangell Visitor Economy By the Number 2018 (May 2018), [http://www.wrangell.com/sites/default/files/fileattachments/visitor\\_services/page/3424/wrangell\\_visitor\\_industry\\_2018\\_final.pdf](http://www.wrangell.com/sites/default/files/fileattachments/visitor_services/page/3424/wrangell_visitor_industry_2018_final.pdf) (last visited Oct. 11, 2020).

<sup>125</sup> Homer, Alaska, Community Facts and Figures, <https://www.cityofhomer-ak.gov/community/facts-figures> (last visited Oct. 11, 2020).

<sup>126</sup> *Id.*

<sup>127</sup> Cruise Lines International Association Alaska, Port Schedule, [https://akcruise.org/port-schedule/?port=HOMER&ship=0&date\\_from&date\\_to&search\\_schedule=Get%20Port%20Schedules](https://akcruise.org/port-schedule/?port=HOMER&ship=0&date_from&date_to&search_schedule=Get%20Port%20Schedules) (last visited Oct. 11, 2020).



## Valdez

Valdez is a city in the southcentral part of Alaska with a population of 4,353.<sup>128</sup>

According to the Alaska Visitor Volume Report, Valdez had 12,400 cruise passengers visit during summer 2019. This is more than double the 5,000 cruise passengers who visited in 2016, when cruise visitors made up 5% of total visitors to Valdez.<sup>129</sup>

A 2016 economic impact report showed that cruise visitors spend an average of \$74 a day in port of call communities.<sup>130</sup> The city offers three estimates in their economic impact report with cruise visitors spending \$55, \$65, and \$75 in port, with total estimated economic impact between \$737,400 and \$1,102,050 for 2019.<sup>131</sup> Revenue from dockage, security, and other fees in 2019 was \$54,435.<sup>132</sup>

In 2020, 25 ship calls were cancelled.<sup>133</sup>

## Dutch Harbor/Unalaska

Dutch Harbor, as the area is often known as, but officially called Unalaska, is on Unalaska Island, part of the Aleutian Islands in southwestern Alaska, with a population of 4,710.<sup>134</sup> It has the western-most U.S. container port, and its main industries are commercial fishing, seafood processing, fleet services, and marine transportation.<sup>135</sup>

Cruise ships visiting Unalaska are not the large ships like those that do the round-trip cruises to southeast Alaska. Cruises to Unalaska are often more expedition-type cruises, traveling to places off the beaten path, and/or those traveling between North America and Japan.<sup>136</sup>

<sup>128</sup> City of Valdez, History of Valdez, <https://www.valdezak.gov/121/History-of-Valdez> (last visited Oct. 11, 2020).

<sup>129</sup> City of Valdez, Valdez Visitor Market Profile (Feb. 2017), <https://www.alaskatia.org/wp-content/uploads/valdez-visitor-profile-2016-1.pdf> (last visited Oct. 5, 2020).

<sup>130</sup> Port of Valdez, 2019 Passenger & Crew Economic Impact Estimation, <https://www.valdezak.gov/DocumentCenter/View/7364/1-2019-Passenger-Economic-Impact-Estimation> (last visited Oct. 11, 2020).

<sup>131</sup> *Id.*

<sup>132</sup> Port of Valdez, 2019 Port Economic Impact of Cruise Ships & Passenger Vessels, <https://www.valdezak.gov/DocumentCenter/View/7365/2-2019-Port-Economic-Impact> (last visited Oct. 11, 2020).

<sup>133</sup> Port of Valdez, 2020 Cruise Ship Operations: 2020 Port of Call Schedule Cancellations, <https://www.valdezak.gov/DocumentCenter/View/7366/3-2020-Port-of-Call-Schedule> (last visited Oct. 11, 2020).

<sup>134</sup> City of Unalaska, Alaska, Comprehensive Annual Financial Report, Fiscal Year Ended June 30, 2019 (Dec. 20, 2019), [https://www.ci.unalaska.ak.us/sites/default/files/fileattachments/Finance/page/8191/fy19\\_cafr\\_and\\_single\\_audit.pdf](https://www.ci.unalaska.ak.us/sites/default/files/fileattachments/Finance/page/8191/fy19_cafr_and_single_audit.pdf) (last visited Oct. 11, 2020).

<sup>135</sup> *Id.*

<sup>136</sup> Michelle Theriault Boots, Anchorage Daily News, In an Aleutian fishing port, cruise ships bring possibility and peril (Oct. 7, 2019), <https://www.adn.com/alaska-life/2019/10/07/in-an-aleutian-fishing-port-cruise-ships-bring-possibility-and-peril/> (last visited Oct. 11, 2020).

In 2019, Unalaska had 18 cruise ship calls, bringing in around 10,000 cruise visitors.<sup>137</sup> In 2020, 24 cruise ship calls had been expected.<sup>138</sup>

## **Kodiak**

Kodiak is a port in southwestern Alaska with around 6,000 people.<sup>139</sup>

During summer 2019, Kodiak welcomed 26,300 cruise passengers,<sup>140</sup> and had 28 ship calls.<sup>141</sup> Ships generally come through when they are being repositioned between Alaska and Asia.<sup>142</sup> According to the Visitor Statistics Program, in 2016, 33% of visitors to Kodiak traveled by cruise ship. Kodiak's largest ship in port had just over 2,000 passengers.<sup>143</sup>

Cruise ship visitors support the local economy in the Kodiak area, particularly businesses running shore excursions and museums.<sup>144</sup>

## **Nome**

Nome is a city in Alaska's far north region with a population of around 3,500.<sup>145</sup> Nome's cruise season is usually August and September.<sup>146</sup> In 2019, eight different cruise companies stopped in Nome.<sup>147</sup>

<sup>137</sup> Michelle Theriault Boots, Anchorage Daily News, In an Aleutian fishing port, cruise ships bring possibility and peril (Oct. 7, 2019), <https://www.adn.com/alaska-life/2019/10/07/in-an-aleutian-fishing-port-cruise-ships-bring-possibility-and-peril/> (last visited Oct. 11, 2020).

<sup>138</sup> *Id.*

<sup>139</sup> Associated Press, 9News, Record number of cruise ships expected in Kodiak, Alaska in 2019 (Oct. 8, 2018), <https://www.9news.com/article/news/nation-now/record-number-of-cruise-ships-expected-in-kodiak-alaska-in-2019/465-490ede98-0031-470c-bd6b-47f30c83573c> (last visited Oct. 11, 2020).

<sup>140</sup> Alaska Travel Industry Association, Alaska Visitor Volume Report Winter 2018-19 and Summer 19 (June 2020), [http://www.alaskatia.org/wp-content/uploads/Alaska-Visitor-Volume-2018-19-FINAL-7\\_1\\_20.pdf](http://www.alaskatia.org/wp-content/uploads/Alaska-Visitor-Volume-2018-19-FINAL-7_1_20.pdf) (last visited Sep. 30, 2020).

<sup>141</sup> Maggie Wall, KMXT-Kodiak, Alaska Public Media, Several cruise ships cancel Kodiak visits as companies shuffle ships because of coronavirus in Asia (Feb. 26, 2020), <https://www.alaskapublic.org/2020/02/26/several-cruise-ships-cancel-kodiak-visits-as-companies-shuffle-ships-because-of-coronavirus-in-asia/> (last visited Oct. 11, 2020).

<sup>142</sup> *Id.*

<sup>143</sup> Kodiak Daily Mirror, Largest cruise ship to ever port in Kodiak set to arrive today (May 15, 2019), [http://www.kodiakdailymirror.com/news/article\\_b25fa5ec-773a-11e9-875a-1f996611371c.html](http://www.kodiakdailymirror.com/news/article_b25fa5ec-773a-11e9-875a-1f996611371c.html) (last visited Oct. 11, 2020).

<sup>144</sup> Associated Press, 9News, Record number of cruise ships expected in Kodiak, Alaska in 2019 (Oct. 8, 2018), <https://www.9news.com/article/news/nation-now/record-number-of-cruise-ships-expected-in-kodiak-alaska-in-2019/465-490ede98-0031-470c-bd6b-47f30c83573c> (last visited Oct. 11, 2020).

<sup>145</sup> Nome Convention and Visitors Bureau, History and Culture of Nome, Alaska, <https://www.visitnomealaska.com/history-culture> (last visited Oct. 11, 2020).

<sup>146</sup> Emily Hofstaedter, KNOM Radio Mission, Nome Businesses Hope To Learn From Record Cruise Season (Aug. 9, 2019), <https://www.knom.org/wp/blog/2019/08/09/nome-businesses-hope-to-learn-from-record-cruise-season/> (last visited Oct. 11, 2020).

<sup>147</sup> City of Nome, Commercial Arctic Shipping Assessment and The Port Of Nome (2019), [https://www.nomealaska.org/egov/documents/1571420398\\_8587.pdf](https://www.nomealaska.org/egov/documents/1571420398_8587.pdf) (last visited Oct. 11, 2020).

Nome is both a port-of-call and an embarkation/debarkation port.<sup>148</sup> Passengers who embark on or disembark from their cruise usually pass through Nome on their way to and from a chartered flight, and visitors from cruise ships tend to be from various parts of the world.<sup>149</sup>

In 2016/2017, the city hosted a 1,700-passenger cruise ship, the port's largest.<sup>150</sup> Ships visiting port are usually smaller ships sailing to Greenland, Norway, and/or Russia.<sup>151</sup>

The city has adopted passenger recommendations and, on every Friday during the cruise season, sets up an area for vendors, including those from outside Nome, to sell crafts to cruise visitors.<sup>152</sup> Over the six-week period, some vendors made between \$400 and \$2,000 in 2018.<sup>153</sup>

In a 2019 report, consideration was given to the future markets for cruise visitor increase, naming China, South Korea, and Japan.<sup>154</sup> Nome was anticipating 14 ship calls in 2020.<sup>155</sup>

### **Interior Alaska**

Interior Alaska is often visited by cruise visitors taking cruise/land tours or are exploring the area on their own before or after a cruise. According to the Alaska Visitor Statistics Report, in 2016, 51% of visitors to Denali and 41% of visitors to Fairbanks came from cruise ships. That year, 21% of all cruise visitors to Alaska visited the interior, with 20% going to Denali and 12% visiting Fairbanks. The same percentage stayed overnight in the areas, with average stays of 2 nights at Denali and 1.8 nights in Fairbanks. The Interior Alaska city of Talkeetna also benefits from visitors going to or coming from cruise ships. In 2016, 39% of visitors to Talkeetna also traveled by cruise ship.

In September, Explore Alaska reported on the Status of Interior Alaska Tourism Industry Due to COVID-19 (Interior Alaska Report).<sup>156</sup> That report estimates that over 160,000 cruise passengers would have visited that region in 2020. Further, many seasonal hotels in Denali and Fairbanks, often catering to cruise passengers, did not open at all in 2020.

<sup>148</sup> Emily Hofstaedter, KNOM Radio Mission, Nome Businesses Hope To Learn From Record Cruise Season (Aug. 9, 2019), <https://www.knom.org/wp/blog/2019/08/09/nome-businesses-hope-to-learn-from-record-cruise-season/> (last visited Oct. 11, 2020).

<sup>149</sup> *Id.*

<sup>150</sup> Nome, The Nation's Arctic Port, [https://www.nomealaska.org/egov/documents/1569620587\\_22314.pdf](https://www.nomealaska.org/egov/documents/1569620587_22314.pdf) (last visited Oct. 11, 2020).

<sup>151</sup> *Id.*

<sup>152</sup> Emily Hofstaedter, KNOM Radio Mission, Nome Businesses Hope To Learn From Record Cruise Season (Aug. 9, 2019), <https://www.knom.org/wp/blog/2019/08/09/nome-businesses-hope-to-learn-from-record-cruise-season/> (last visited Oct. 11, 2020).

<sup>153</sup> *Id.*

<sup>154</sup> City of Nome, Commercial Arctic Shipping Assessment and The Port Of Nome (2019), [https://www.nomealaska.org/egov/documents/1571420398\\_8587.pdf](https://www.nomealaska.org/egov/documents/1571420398_8587.pdf) (last visited Oct. 11, 2020).

<sup>155</sup> Emily Hofstaedter, KNOM Radio Mission, Nome Businesses Hope To Learn From Record Cruise Season (Aug. 9, 2019), <https://www.knom.org/wp/blog/2019/08/09/nome-businesses-hope-to-learn-from-record-cruise-season/> (last visited Oct. 11, 2020).

<sup>156</sup> Explore Fairbanks. Status of Interior Alaska Tourism Industry Due to COVID-19 (Sep. 18, 2020), email attachment to FF30 (Sep. 30, 2020).

According to Explore Fairbanks, not everyone is optimistic that the 2021 season will be back to normal.

According to those inside the industry, anecdotally, many cruise ship passengers have moved their reservation from 2020 to 2021. . . . There is some speculation, however, that Cross Gulf of Alaska sailings for summer 2021 will be minimal at best.<sup>157</sup>

#### K. Seattle, Washington

The Port of Seattle is a special-purpose government whose mission is “to promote economic opportunities and quality of life in the region by advancing trade, travel, commerce and job creation in an equitable, accountable and environmentally responsible manner.”<sup>158</sup> It runs both the seaport and the international airport, and partners with road and rail infrastructure, and supports the fishing and tourism industries.<sup>159</sup> “Because the Port is a governmental entity, there is no profit, no shareholders, and no dividends.”<sup>160</sup>

Seattle is the homeport for many cruise ships sailing to Alaska, as well as a port of call for others.<sup>161</sup> In 2019, Seattle had 211 ship calls and served 1.2 million passengers.<sup>162</sup>

#### Direct economic impact

The Port of Seattle has a program to help small local businesses connect to the cruise lines. The aim was to help them link up and supply the cruise lines with local products to increase the economic impact of cruising to small businesses in the community. The program has been very successful, but these small businesses are experiencing the negative effects of a lost cruise season.<sup>163</sup>

Ships that homeport in Seattle have the greatest economic impact on the local economy. Supply, maintenance, passenger and crew transportation, and baggage handling all occur in homeports.<sup>164</sup>

<sup>157</sup> *Id.*

<sup>158</sup> Port of Seattle, About, Our Mission, <https://www.portseattle.org/about/our-mission#> (last visited Oct. 15, 2020).

<sup>159</sup> Port of Seattle, About, The Commission, <https://www.portseattle.org/about/commission> (last visited Oct. 15, 2020).

<sup>160</sup> Port of Seattle, Who Pays for SEA Airport? (Aug. 6, 2020), <https://www.portseattle.org/blog/who-pays-sea-airport> (last visited Oct. 19, 2020).

<sup>161</sup> Port of Seattle, Port of Tacoma, & The NWSA, Economic Impacts (Mar. 2019), email attachment to FF30 (Oct. 7, 2020).

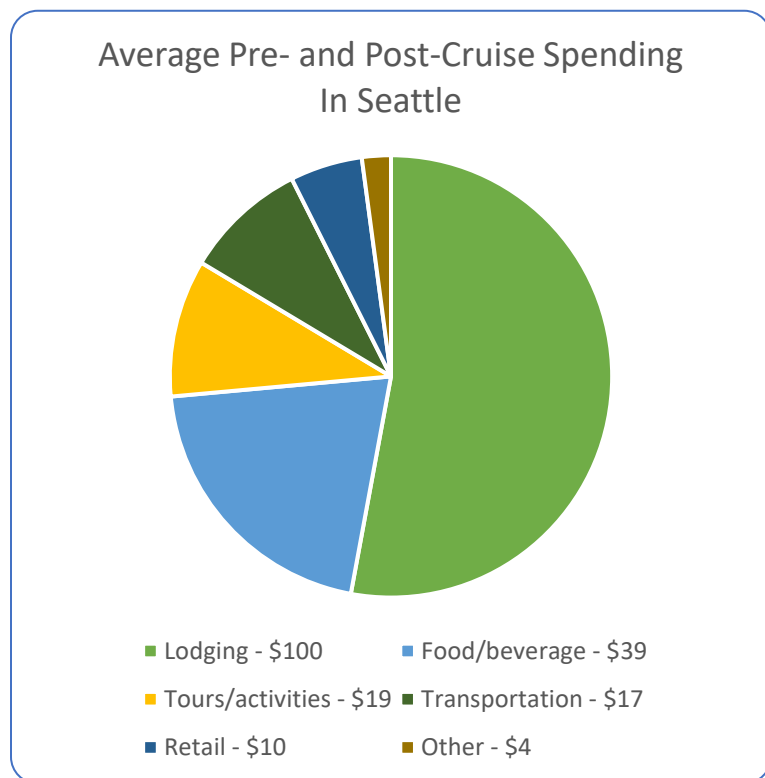
<sup>162</sup> Port of Seattle, Cruise Ship Planning and Infrastructure, Resumption of Passenger Operations, and Additional Questions, Comments to the CDC & HHS Request for Information, Docket No. CDC-2020-0087, <https://www.portseattle.org/sites/default/files/2020-09/Port%20of%20Seattle%20response%20to%20CDC%20RFI%20-%20Docket%20No.%20CDC-2020-0087.pdf> (last visited Oct. 12, 2020).

<sup>163</sup> Notes from meeting between Port of Seattle, Senator Cantwell’s office, MARAD, and FF30 (Oct. 7, 2020).

<sup>164</sup> Port of Seattle, Port of Tacoma, & The NWSA, Economic Impacts (Mar. 2019), email attachment -to FF30 (Oct. 7, 2020).

Passengers need to travel to the port and may drive and pay for parking or use air terminal services. According to the Port of Seattle’s 2019 Alaska Cruise Passenger Survey (Seattle Passenger Survey),<sup>165</sup> in 2019, 85% of cruise visitors flew to Seattle and 9% arrived by car. Having arrived in Seattle by air, cruise passengers and crew require local transportation services. According to the survey, 29% of cruise visitors used Uber or Lyft, 16% used cruise line buses, 15% used hotel shuttles, and 9% used taxis.

Some cruise visitors stay in hotels, supporting the local tourism industry. Per the Seattle Passenger Survey, in 2019, 69% of cruise visitors spent at least one night in Seattle before their cruise and 24% spent at least one night in Seattle after their cruise. The average length of stay was 1.5 nights before and 1.6 night after the cruise.



Participating in local activities and visiting tourist attractions also contributes to the local economy. The Seattle Passenger Survey estimates that 51% of passengers participated in activities in Seattle before or after their cruise. The most popular activities were the Pike Place Market (51%), Space Needle (36%), shopping (31%), Chihuly Garden and Glass (16%), and the Waterfront Ferris Wheel (11%).

Per the Seattle Passenger Survey, the average pre- and post-cruise spending totaled \$189 per person. A breakdown of that spending can be seen on the chart.

Crew spending also contributes to the economy in the area. The Port

of Seattle, Port of Tacoma, & The Northwest Seaport Alliance (NWSA)’s Economic Impacts Report from 2019 (Seattle Economic Impact Report),<sup>166</sup> described that according to a 2016 study, average crew spending in a port is \$47.06. This would generate around \$2.1 million based on the 2019 numbers, supporting 30 jobs with \$900,000 in wages/benefits.

The cruise ships bring in income as well. According to the Seattle Economic Impact Report, in 2019, cruise operation expenditures were estimated to be \$182.7 million.

<sup>165</sup> Port of Seattle, Alaska Cruise Passenger Survey 2019 (Oct. 2019), <https://www.portseattle.org/sites/default/files/2019-10/Alaska%20Cruise%20Passenger%20Survey%202019.pdf> (last visited Oct. 12, 2020).

<sup>166</sup> Port of Seattle, Port of Tacoma, & The NWSA, Economic Impacts (Mar. 2019), email attachment to FF30 (Oct. 7, 2020).

Seattle was expecting around 1.4 million cruise passenger embarkation, debarkation, and ship calls in 2020.<sup>167</sup> Per the Seattle Economic Impact Report, total projected direct economic impact from the cruise industry in Seattle was \$467.8 million in revenue, supporting 2,990 jobs and \$122.7 million in wages.

### **Indirect economic impact**

According to the Seattle Economic Impact Report, in 2019, the port estimated that direct, indirect, and induced economic impacts would total \$893.6 million in revenue/business output, supporting 5,500 jobs and \$260.1 million in wages. This would result in a total of \$14.5 million in state taxes.

Cargo operations may also be affected due to no cruise ships operating. Cruise merchandise comes through the ports of Seattle and Tacoma.<sup>168</sup> A lot of cargo going to Alaska goes through Seattle as well, some likely supporting the cruise tourism.<sup>169</sup>

### **Current status**

The Port of Seattle has had to cut their capital expenditures by 40%. Several projects supported by funds brought in by the cruise industry cannot move forward.<sup>170</sup> And a new terminal has been put on hold.<sup>171</sup> It must be noted that these projects are not exclusively dedicated to the benefit or use of the cruise industry.<sup>172</sup>

### **Preparing for reopening**

The Port of Seattle is considering modifications, such as plexiglass and touchless fixtures, to mitigate COVID-19 risks.<sup>173</sup> However, as with many others with whom Commissioner Sola has communicated, they are awaiting guidance from the CDC as to acceptable protocols.<sup>174</sup> They have some funds available for modifications, but hope that funding for CDC protocols will be a joint effort by the port and cruise companies.<sup>175</sup>

The port administration's thoughts on this matter may be found in their comments submitted to the CDC and Health and Human Services' *Request for Information, Docket No. CDC-2020-0087, Cruise Ship Planning and Infrastructure, Resumption of Passenger Operations, & Additional Questions*. In their commentary, the Port of Seattle provided suggestions for the

<sup>167</sup> Actual number of people closer to 700,000 as each embarkation and debarkation count as separate passenger movements. Notes from meeting between Port of Seattle, Senator Cantwell's office, MARAD, and FF30 (Oct. 7, 2020).

<sup>168</sup> Notes from meeting between Port of Seattle, Senator Cantwell's office, MARAD, and FF30 (Oct. 7, 2020).

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

preparation and handling of the discovery of COVID-19 cases aboard a ship. These suggestions ranged from cruise company responsibilities to ensuring that ports accept a ship with an outbreak.<sup>176</sup>

#### L. Astoria, Oregon

The Port of Astoria is “a governmental Special District . . . operating as a competitive business enterprise as well as a public service agency.”<sup>177</sup> Policy decisions for port management are decided by an elected board of Commissioners.<sup>178</sup> In addition to marine facilities, it also includes the airport and industrial properties.<sup>179</sup>

Astoria has both large cruise ships and small cruise ships visiting its port. The port’s large ships generally stop in Astoria en route to or from their summer homeports in the Pacific Northwest.<sup>180</sup> As such, the season starts earlier and ends later here than in Alaska; most ships visit the port in April, May, September, or October.<sup>181</sup>

Astoria was expecting a record year in 2020 with 36 ships calling on the port,<sup>182</sup> carrying over 71,000 passengers.<sup>183</sup>

Small ships generally continue along the Columbia River, making stops at Oregon’s other cruise ports at Cascade Locks, The Dalles, and Arlington.<sup>184</sup> Some ports such as The Dalles and Cascade Locks anticipated 16,000-17,000 cruise visitors in 2020.<sup>185</sup>

#### Direct economic impact

Port of Astoria explained to Commissioner Sola that the port expected 36 ships in 2020 with 2,000 visitors each (1,000 couples).<sup>186</sup> By using CLIA’s estimate of each couple spending \$150

<sup>176</sup> Port of Seattle, Comments of the Port of Seattle to the CDC & HHS Request for Information, Docket No. CDC-2020-0087 (2020), <https://www.portseattle.org/sites/default/files/2020-09/Port%20of%20Seattle%20response%20to%20CDC%20RFI%20-%20Docket%20No.%20CDC-2020-0087.pdf> (last visited Oct. 12, 2020).

<sup>177</sup> Port of Astoria, Strategic Business Plan Update (Interim Draft) 2019-2024, [https://www.portofastoria.com/Assets/dept\\_1/pm/pdf/poa%20strategic%20plan%20update%202019-2024%20\(september%202019\).pdf](https://www.portofastoria.com/Assets/dept_1/pm/pdf/poa%20strategic%20plan%20update%202019-2024%20(september%202019).pdf) (last visited Oct. 20, 2020).

<sup>178</sup> Port of Astoria, About the Port of Astoria, [https://www.portofastoria.com/About\\_the\\_Port\\_of\\_Astoria.aspx](https://www.portofastoria.com/About_the_Port_of_Astoria.aspx) (last visited Oct. 15, 2020).

<sup>179</sup> Port of Astoria, About the Port of Astoria, [https://www.portofastoria.com/About\\_the\\_Port\\_of\\_Astoria.aspx](https://www.portofastoria.com/About_the_Port_of_Astoria.aspx) (last visited Oct. 15, 2020).

<sup>180</sup> Notes from meeting between Port of Astoria, Business Oregon, and FF30 (Oct. 7, 2020).

<sup>181</sup> Cruise analysis from Director, Cruise Industry Marketing, Port of Astoria, email attachment to FF30 (Oct. 16, 2020).

<sup>182</sup> Notes from meeting between Port of Astoria, Business Oregon, and FF30 (Oct. 7, 2020).

<sup>183</sup> Letter from Port of Astoria, email attachment to FF30 (Oct. 16, 2020).

<sup>184</sup> Notes from meeting between Port of Astoria, Business Oregon, and FF30 (Oct. 7, 2020).

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

per port, the Port of Astoria anticipated over \$5 million in cruise visitor spending.<sup>187</sup> This spending includes visitors traveling outside the immediate area to the coast and other sites such as Mount St. Helens. This also includes \$30,000-\$40,000 in shuttle ticket sales typically sold by a volunteer cruise host club greeting visitors from the ships.<sup>188</sup> The port was expecting to collect over \$1 million in port-related fees from cruise lines in 2020.<sup>189</sup>

### **Current status**

The Port of Astoria is allowing a cruise ship to dock in Astoria for six months beginning October 15, 2020.<sup>190</sup> The ship will only be hosting crew members.<sup>191</sup>

### **Preparing for reopening**

As of July, Astoria had 28 ships with around 70,000 passengers scheduled for 2021.<sup>192</sup>

## **IV. Conclusion**

The states of Alaska, Washington, and Oregon are essentially intertwined when dealing with the cruise industry. Except for tours along the Columbia River most cruise traffic in the region exists between these states and the Canadian Pacific ports. All three states operate a well-defined cruising season due to climate. As this season runs from late spring until late autumn, an entire year's revenue has been lost to these port communities. Indeed, almost the entire positive economic impact derived from the cruise industry as outlined above has been lost for 2020, with no certainty of when cruising will be resumed, when people will be comfortable sailing again, or, once active, when the cruise industry will be back to 2019 levels.

“[W]ith so much uncertainty regarding when the CDC or Canada will allow operations, or what ship capacity [will] be, planning for the 2021 tourism season proceeds cautiously.”<sup>193</sup>

During Commissioner Sola's fact-finding trip to Alaska, an industry person expressed concerns about the Passenger Vessel Services Act (PVSA). Generally, under the PVSA, only coastwise-

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> Cruise analysis from Director, Cruise Industry Marketing, Port of Astoria, email attachment to FF30 (Oct. 16, 2020).

<sup>190</sup> Press Release, Port of Astoria, Non-Passenger Carrying Cruise Ship (Oct. 9, 2020), <https://www.portofastoria.com/News/1090> (last visited Oct. 12, 2020).

<sup>191</sup> *Id.*

<sup>192</sup> Edward Stratton, The Astorian, Port of Astoria doubtful about any cruise ships this year during pandemic (Jul. 23, 2020), [https://www.dailyastorian.com/coronavirus/port-of-astoria-doubtful-about-any-cruise-ships-this-year-during-pandemic/article\\_3d1cc756-ccfc-11ea-9b02-130a2fea6c1b.html](https://www.dailyastorian.com/coronavirus/port-of-astoria-doubtful-about-any-cruise-ships-this-year-during-pandemic/article_3d1cc756-ccfc-11ea-9b02-130a2fea6c1b.html) (last visited Oct. 12, 2020).

<sup>193</sup> Southeast Conference, Southeast Alaska By the Number 2020 at 6 (Sep. 2020), <http://www.seconference.org/sites/default/files/Southeast%20Alaska%20by%20the%20Numbers%202020.pdf> (last visited Oct. 2, 2020).



qualified vessels, i.e., U.S.-built, owned by a U.S. citizen, and documented with a coastwise endorsement, can engage in the transportation of passengers between ports or places in the United States. The industry person stated that if Canadian ports continue to be closed, even after the U.S. allows resumption of cruises, some vessels may encounter issues with the PVSA's requirements.

It appears that under certain circumstances, the PVSA qualification requirements can be waived. The PVSA is a law administered and enforced by the U.S. Customs and Border Protection (CBP).<sup>194</sup> We encourage the industry to contact CBP with any questions about the PVSA and its waivers.

## **Alaska**

Of all three of the states examined, Alaska stands out as the most significantly impacted. While actual dollar figures may not match the levels of areas previously studied or about to be studied, the relative per capita impact is perhaps the most significant of any state in the Union. Alaska has three basic industries, energy, fishing, and tourism. It can be stated without equivocation that Alaska's tourist industry is inextricably tied to the cruise industry. Tourists arrive in Alaska either by air or by sea and most who arrive by air find themselves on a cruise at some point in their journey. As the reports of the individual ports presented in this study show, the loss of an entire cruise season has led to the loss of an entire year's revenue for a disproportionate number of Alaskans compared to far more populace and less remote states where alternative forms of income generation may be found.

The Alaska Travel Industry Association conducted a survey of businesses in June 2020. Almost 80% of respondents, most who employ 20 or less people, have experienced more than 50% loss of revenue and bookings from the previous year. Approximately 45% surveyed indicated that they will have to lay off half of their employees, and 65% said they would have to lay off between 5-50% of their employees. Over a third of the businesses, at the time of the survey, are concerned they will have to close in six months without relief.<sup>195</sup>

## **Washington**

Although still somewhat seasonal, the State of Washington is certainly not isolated as is the State of Alaska and benefits from the Pacific cargo trade. Nevertheless, the fiscal impact of the cessation of the cruise line business has resulted in a significant loss of revenue. The cruise industry that calls on or considers the Port of Seattle home is itself seasonal in that it is primarily tied to the Alaskan trade. Consequently, the industry and those that rely upon this economic engine have lost what amounts to an entire year's revenue.

<sup>194</sup> See the U.S. Customs and Border Protection, the Passenger Vessel Services Act at 20-21 (September 2019), <https://www.cbp.gov/sites/default/files/assets/documents/2019-Sep/PVSA-ICP.pdf> (last visited Oct. 13, 2020).

<sup>195</sup> President & CEO of Alaska Travel Industry, Email to FF30 (Sep. 30, 2020).

## **Oregon**

As with Alaska and Washington, the State of Oregon has seen what amounts to an entire season lost. The Port of Astoria with its mix of blue water and river cruises is still seasonal with regard to its cruise trade. Although the season is a bit longer than its northern neighbors the season essentially ended before it began with the similar effect as its neighbors resulting in significant fiscal hardship particularly on small and medium size businesses.

Since the initiation of this Fact Finding, there have been several pieces of proposed legislation by various members of Congress designed to assist the Nation's ports and the cruise industry in adjusting to the negative effects of the current pandemic. Similarly, certain state and local executive and legislative offices have begun to examine the economic losses being experienced due to the inability of the cruise lines to operate and are searching for solutions. This report, being specific to the State of Alaska, Washington, and Oregon, is designed simply to provide an overview as to the financial impact being experienced by the states due to the termination of cruise operations. It is hoped that the data provided will not only draw attention to the importance of this issue, but also encourage and assist other authorities in doing what is necessary to relaunch the cruise industry in a quick and safe manner that builds confidence among consumers. As Fact Finding Officer, Commissioner Sola continues to explore options to achieve this goal.

# **Exhibit 2**

# IMPACTS TO ALASKA FROM 2020/2021 CRUISE SHIP SEASON CANCELLATION



**APRIL 9, 2021**

**PREPARED BY:**

**THE DEPARTMENT OF REVENUE**

**THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT**

**THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**



## Impacts from Cruise Ship Season Cancellation

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### Executive Summary

The port communities in Alaska have been severely impacted by the loss of cruise ships in 2020 and 2021 as a result of the pandemic. Further compounding the impact is the recent announcement from the Centers for Disease Control (CDC) stating that the 2020 “conditional sail order” will remain in effect through November 2021 – ensuring that there will be no ships in 2021 as well.<sup>1</sup> The economies of many communities in Southeast Alaska are entirely dependent upon tourism. Skagway, for instance, saw a 48% reduction in their total wage base year over year and several other communities have realized revenue losses that exceed their annual operating budget. Federal stimulus spending has helped, but the impacts of the “no sail” order are catastrophic to the economy of Southeast Alaska. Even with added state and federal support, many of these communities face an uncertain future.

The Federal Maritime Commission’s report on economic impact of cruising in Alaska concludes there exists an outsized economic impact from the cessation of cruise activity.<sup>2</sup> While the symptoms are the same as in other parts of the United States, the impact is much greater because of Alaska’s distance and economic reliance on the tourism industry.

Alaska has lost revenues, taxes and jobs. Small business revenue statewide is down 12% as compared to pre-COVID and many have shut down.<sup>3</sup> The unemployment insurance trust fund has paid out over \$1.0 billion in the last 14 months with monthly claims rising as high as \$182 million – twenty times the amount paid in January preceding the COVID-19 situation.<sup>4</sup> The balance of the UI trust fund was \$492.9 million in February of 2020 as compared to the latest balance of \$265.8 million.<sup>5</sup>

All of this results in a GDP which bottomed out at \$47.5 billion in Q2 of 2020 – 10.5% less than the prior year.

In summary, Alaska has experienced the following direct cruise and tourism industry losses due to pandemic and now the CDC order:

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<sup>1</sup> As Canada also restricts ships in their ports an additional waiver from the Passenger Vessel Services Act (PVSA) would be required. Under the Passenger Vessel Service Act of 1886, foreign-flagged passenger vessels carrying more than 100 people can operate between American ports, but they must include a stop at a foreign destination. For Alaska-bound cruise ships departing from Washington State, this means a stopover in Canada.

<sup>2</sup> Federal Maritime Commission report COVID-19 Impact on Cruise Industry October 20 2020

<sup>3</sup> [http://www.akleg.gov/basis/get\\_documents.asp?session=32&docid=13581](http://www.akleg.gov/basis/get_documents.asp?session=32&docid=13581)

<sup>4</sup> <https://live.laborstats.alaska.gov/uiprog/index.cfm>

<sup>5</sup> Source: Department of Labor and Workforce Development as of 3/26/2021

## Impacts from Cruise Ship Season Cancellation

Direct Impacts \$millions	Estimated Losses Annually	Two Cruise Season Impact
A. Local Community Revenue Loss	\$98.6	\$197.2
B. State Revenue Loss	\$90.3	\$224.5
C. Wages lost State and Local	\$305.7	\$611.4
D. Lost Revenues For Local Business	\$1,119.0	\$2,238.0
E. Dockage fees lost statewide	\$18.0	\$36.0
F. Reduction in Unemployment Trust Balance (Cruise Related)	\$29.8	Ind.
<b>Total Loss to State of Alaska</b>	<b>\$1,661.4</b>	<b>\$3,336.9</b>

Alaska has experienced significant job losses because of the pandemic and will continue to experience losses because of the CDC ruling on cruise travel. Port and cruise line related communities have seen a collective 22,297 in job losses as compared to the previous year representing over \$305.7 million in wages lost.

<b>Wage and Employment Impacts of Port Communities Served by the Cruise Industry</b>				
	2019	2020	Difference	
Port Community Total Wages	\$9,983,885,594	\$9,678,225,599	(\$305,659,995)	-3.1%
Port Community Employment	237,713	215,416	(22,297)	-9.4%

**Gross State Product Loss to State of Alaska - ~\$3 Billion Annually.** This report documents \$1.7 billion in direct losses to the state, but it is important to recognize that the cruise industry and the visitors they serve account for \$3.0 billion of the state's economy. Together with induced and indirect impacts of reduced economic activity from the industry, the \$3.0 billion gross state product associated with the cruise industry has effectively dropped to zero.

### A. Local Revenue Losses:

Alaskan communities have lost significant revenue, jobs and general economic activity as a result of the loss of cruises and tourism. These communities range from Ketchikan in southeast Alaska, to Seward, Whittier and Anchorage in central Alaska, and Unalaska to the west. Additionally, support industries in rail belt communities where cruise ship passengers often book trips to Denali and Fairbanks amongst others, have been impacted albeit to a lesser degree.

The analysis below provides estimated fiscal impacts to larger Alaska based communities for a single year under a no-sail order amounting to \$98.6 million in revenue losses each year, or \$197.2 million combining 2020 and estimated 2021. It uses assumptions outlined in the 2016 McDowell group

## Impacts from Cruise Ship Season Cancellation

Juneau Visitor study.<sup>6</sup> Commercial Passenger Vessel (CPV) revenue is forecasted to be zero for FY 2021 and FY 2022, per the DOR Spring 2021 forecast, based on an assumption of no large cruise ship visits in summer 2020 and summer 2021.

Community commercial passenger vessel (CPV) “head” tax is based upon prior year traffic multiplied by the applicable tax rate for the two communities that impose such a tax (\$8/passenger in Juneau and \$7/passenger in Ketchikan). Sales tax figures assume an average of \$188 spent in each port of call by tourists, multiplied by ship traffic and the tax rate. Similarly, the bed tax is calculated as traffic, multiplied by the average per capita spending on lodging stated in that study (\$11.00), times the applicable tax rate. Some of the revenue loss may be mitigated by the receipt of new stimulus funds from the American Rescue Plan Act.

### Estimated Community Impacts for a Single Year Under a No-Sail Order:

Community	Sales Tax (est.)	CPV Tax (State Sharing)	CPV Tax (Community)	Bed Tax (est.)	Total
Anchorage		\$66,755		\$1,500,000	\$1,566,755
Fairbanks				\$2,147,246	\$2,147,246
Juneau	\$17,000,000	\$5,970,995	\$9,553,592	\$1,182,257	\$33,706,844
Sitka	\$6,500,000	\$615,545		\$81,252	\$7,196,797
Skagway	\$8,000,000	\$5,083,250		\$150,000	\$13,233,250
Wrangell	\$154,393	\$58,660		\$7,743	\$220,796
Haines	\$591,014	\$285,790		\$25,150	\$901,953
Kenai Peninsula	\$1,382,116	\$612,640			\$1,994,756
Ketchikan (City)	\$8,193,395	\$2,723,868	\$7,626,830	\$838,951	19,383,045
Ketchikan (Borough)	\$5,120,872	\$2,723,868			\$7,844,740
Kodiak (City)	\$285,414	\$54,220		\$11,928	\$351,562
Kodiak (Borough)		\$54,220			\$54,220
Homer	\$119,946	\$35,445			\$155,391
Hoonah	\$3,218,931	\$1,317,075			\$4,536,006
Nome	\$6,172	\$2,345		\$310	\$8,827
Seward	\$1,736,203	\$577,195		\$101,586	\$2,414,984
Unalaska	\$32,283	\$28,620		\$3,148	\$64,052
Valdez		\$61,845		\$1,440	\$63,285
Whittier	\$1,801,764	\$958,385			\$2,760,149
<b>Total</b>	<b>\$54,142,502</b>	<b>\$21,230,721</b>	<b>\$17,180,422</b>	<b>\$6,051,011</b>	<b>\$98,604,657</b>

<sup>6</sup> <http://3.209.152.203/wp-content/uploads/2018/04/McDowell-Group-Juneau-Visitor-Profile-and-Economic-Impact-Report-10-2-2017.pdf>

## Impacts from Cruise Ship Season Cancellation

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Additionally, approximately \$18 million in dockage and moorage fees are earned directly by the communities.

### Community Highlights:

On a national scale, these impacts may not seem so great but consider that the losses to Skagway are estimated to exceed 100% of their annual operating budget. In the Mayor's own words, the continuation of the no sail order "will mean 2 ½ years with no economy. Somewhere around \$330.0 million in lost revenue for local businesses. People are already moving away. Population is down to around 800 from 1,100 last summer. Businesses will fail. A lot of them. We lost professionals in all sectors. The municipality will run out of reserves by next August, even with the stimulus funding."

In a May 2020 report that surveyed tourism-related businesses in Ketchikan, only 26% of businesses said they would be able to endure a delayed restart of the tourism industry in Ketchikan if business do not resume until spring 2021.<sup>7</sup>

Interior Alaska is often visited by cruise visitors taking cruise/land tours or exploring the area on their own before or after a cruise. According to the Alaska Visitor Statistics Report, in 2016, 51% of visitors to Denali and 41% of visitors to Fairbanks came from cruise ships. That year, 21% of all cruise visitors to Alaska visited the interior, with 20% going to Denali and 12% visiting Fairbanks. The same percentage stayed overnight in the areas, with average stays of 2 nights at Denali and 1.8 nights in Fairbanks. The Interior Alaska city of Talkeetna also benefits from visitors going to or coming from cruise ships. In 2016, 39% of visitors to Talkeetna also traveled by cruise ship. In September, Explore Alaska reported on the Status of Interior Alaska Tourism Industry Due to COVID-19 (Interior Alaska Report).<sup>8</sup> That report estimates that over 160,000 cruise passengers would have visited that region in 2020. Further, many seasonal hotels in Denali and Fairbanks, often catering to cruise passengers, did not open at all in 2020.

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<sup>7</sup> Patti Mackey, CEO & President of Ketchikan Visitors Bureau, City of Ketchikan, Ketchikan Tourism Survey – Impacts of COVID-19 and related information (May 4, 2020), <https://ketchikan.primegov.com/Portal/viewer?id=1116&type=2> (last visited Oct. 4, 2020).

<sup>8</sup> Explore Fairbanks. Status of Interior Alaska Tourism Industry Due to COVID-19 (Sep. 18, 2020)



## Impacts from Cruise Ship Season Cancellation

### B. State Level Government Revenue Losses:

Data from a variety of sources illustrates the revenue loss to the State of Alaska of the cruise ship/tourism industry. In total, the loss equates to \$90.3 million in 2020 and \$134.2 million in 2021.

<b><u>Estimated Alaska Tourism Revenues</u></b>			
<b><u>Fiscal Year</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>
<u>Agency - Program</u>	(\$ Millions)	(\$ Millions)	(\$ Millions)
<b><u>Department of Revenue</u></b>	<b><u>\$64.4</u></b>	<b><u>\$39.3</u></b>	<b><u>\$4.4</u></b>
Corporate Income Tax	<u>\$20.0</u>	<u>\$16.5</u>	<u>(\$1.3)</u>
Commercial Passenger Vessel Tax	<u>\$23.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
Vehicle Rental Tax	<u>\$11.4</u>	<u>\$9.7</u>	<u>\$5.7</u>
Large Passenger Vessel Gambling Tax	<u>\$10.1</u>	<u>\$13.1</u>	<u>\$0.0</u>
<b><u>Department of Fish and Game</u></b>	<b><u>\$27.8</u></b>	<b><u>\$25.3</u></b>	<b><u>\$26.6</u></b>
Non-Resident Sport Fishing, Stamps	<u>\$19.2</u>	<u>\$16.6</u>	<u>\$17.9</u>
Non-Resident Hunting, Trapping, Tags	<u>\$8.6</u>	<u>\$8.7</u>	<u>\$8.8</u>
<b><u>Department of Natural Resources</u></b>	<b><u>\$4.6</u></b>	<b><u>\$4.7</u></b>	<b><u>\$4.2</u></b>
Parks & Outdoor Recreation	<u>\$4.6</u>	<u>\$4.7</u>	<u>\$4.2</u>
<b><u>Department of Transportation &amp; Public Facilities</u></b>	<b><u>\$68.5</u></b>	<b><u>\$42.9</u></b>	<b><u>\$30.6</u></b>
AIAS Passenger-related Revenues	<u>\$68.5</u>	<u>\$42.9</u>	<u>\$30.6</u>
<b><u>Department of Environmental Conservation</u></b>	<b><u>\$6.2</u></b>	<b><u>\$0.9</u></b>	<b><u>\$3.4</u></b>
Ocean Ranger Fees	<u>\$4.9</u>	<u>\$0.8</u>	<u>\$2.7</u>
Environmental Compliance Fees	<u>\$1.3</u>	<u>\$0.1</u>	<u>\$0.7</u>
<b><u>Alaska Railroad Corporation</u></b>	<b><u>\$31.9</u></b>	<b><u>\$0.0</u></b>	<b><u>\$0.0</u></b>
Cruise Passenger Fares	<u>\$31.9</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b><u>Statewide Total by Fiscal Year</u></b>	<b><u>\$203.4</u></b>	<b><u>\$113.1</u></b>	<b><u>\$69.2</u></b>
<b><u>Revenue Change from 2019</u></b>	<b><u>\$0.0</u></b>	<b><u>(\$90.3)</u></b>	<b><u>(\$134.2)</u></b>

Department of Revenue "Non-Petroleum Corporate Income Tax Collections by Sector, Fiscal Years 2017 - 2020," Tax Division FY 2019 Annual Report, preliminary Tax Division FY 2020 Annual Report, Fall 2020 revenue forecast, Alaska Department of Fish and Game, Alaska Department of Natural Resources, Alaska Department of Transportation & Public Facilities. Data also from the Southeast Conference Report for Railroad Revenues.

### C. Wage and Employment Losses

Below, is a comparison of employment and wages between the first three quarters of 2019 and the first three quarters of 2020. The reason this analysis only includes the first three quarters is because summer tourism/cruise ship employment occurs within that time frame. This is not specific to the visitor-related industries, but the employment and wage losses in these communities would in large part be the result of the non-existent cruise season in 2020.

## Impacts from Cruise Ship Season Cancellation

	2019		2020		Change in employment 2019 and 2020	Percent change in employment	Change in total wages 2019 and 2020	Percent change in total wage
	Total Wages	Average employment (Q1-3)	Total Wages (Q1-3)	Average employment (Q1-3)				
Anchorage	\$6,684,501,651	150,110	\$6,535,424,908	137,958	-12,152	-8.1	(\$149,076,743)	-2.2
Haines	\$33,544,610	1,090	\$23,168,622	789	-301	-27.6	(\$10,375,988)	-30.9
Homer	\$123,183,443	3,620	\$123,701,435	3,321	-300	-8.3	\$517,992	0.4
Hoonah	\$12,562,507	465	\$10,746,667	335	-129	-27.8	(\$1,815,840)	-14.5
Juneau	\$712,745,410	18,220	\$684,040,321	15,850	-2,370	-13	(\$28,705,089)	-4
Kenai Penn	\$761,479,656	20,351	\$760,190,763	18,823	-1,528	-7.5	(\$1,288,893)	-0.2
Ketchikan (city)	\$269,588,149	7,582	\$245,019,243	6,290	-1,292	-17	(\$24,568,906)	-9.1
Ketchikan Gateway Borough	\$269,724,447	7,585	\$245,151,284	6,294	-1,292	-17	(\$24,573,163)	-9.1
Kodiak (city)	\$200,018,846	5,590	\$196,254,619	5,380	-211	-3.8	(\$3,764,227)	-1.9
Kodiak Borough	\$216,213,697	6,001	\$212,128,393	5,795	-205	-3.4	(\$4,085,304)	-1.9
Nome (city)	\$112,676,458	2,182	\$113,089,729	2,091	-90	-4.1	\$413,271	0.4
Seward	\$83,625,149	2,477	\$75,381,529	2,057	-420	-17	(\$8,243,620)	-9.9
Sitka	\$161,652,068	4,465	\$142,544,432	3,787	-678	-15.2	(\$19,107,636)	-11.8
Skagway	\$38,670,925	1,185	\$20,056,498	570	-614	-51.9	(\$18,614,427)	-48.1
Unalaska	\$144,718,760	3,082	\$145,498,601	3,034	-48	-1.5	\$779,841	0.5
Valdez	\$122,343,376	2,553	\$114,038,196	2,048	-505	-19.8	(\$8,305,180)	-6.8
Whittier	\$10,672,283	320	\$8,405,505	252	-68	-21.2	(\$2,266,778)	-21.2
Wrangell	\$25,964,159	835	\$23,384,854	742	-94	-11.2	(\$2,579,305)	-9.9
<b>Total</b>	<b>\$9,983,885,594</b>	<b>237,713</b>	<b>\$9,678,225,599</b>	<b>215,416</b>	<b>-22,297</b>	<b>-9.3</b>	<b>(\$305,659,995)</b>	<b>-3.1</b>

Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section. Quarterly Census of Employment and Wages

### Job Losses in Southeast: Conference 2020 Tourism Business Leader Survey:

A survey was conducted by the Southeast Conference from March 20th-25th, 2020. 107 business leaders responded to the survey regarding the health of their business at the start of the pandemic. These businesses represent communities that rely heavily on the cruise ship industry like Ketchikan, Juneau, Skagway, and Sitka. 80% of the responding businesses expressed maximum concerns about the impacts of COVID-19 on their business. Out of the 856 tourism workers represented, business owners were forced to lay off 642; which equates to a 75% reduction in staffing. This survey also reported an average revenue decline of 63% at the start of the pandemic as compared to the same time in 2019.

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## Impacts from Cruise Ship Season Cancellation

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### D. Revenue Losses to Local Businesses

The cruise industry is crucial to Alaska tourism and the state's financial well-being. The industry includes approximately 2,180 Alaska businesses that provide tours, activities, and services to the cruise lines and their passengers, according to Cruise Lines International Association (CLIA). The businesses range from retail, restaurants, and car-rental companies to air transportation providers, hotels and lodges, day cruises, and shore excursions.

The financial effect of the cruise industry is evident across multiple sectors, including direct visitor spending, cruise line spending and payroll, crew member spending, air and ferry tickets, employment and labor income, and revenue to municipal and state governments. Losses to local businesses are estimated at \$1.1 billion based on an analysis by McDowell Group. This is comprised of an estimated \$700-800 million in direct spending by cruise passengers in local Alaskan communities, \$297 million in cruise line spending on goods and services, and \$22 million in crew member spending while at port.<sup>9</sup>

### E. Dockage fee loss

Docks and harbors have a variety of ownership mixes throughout the state. While many cruise operators own the docks that they use in the course of their business, Juneau and Ketchikan own the majority of the docking facilities used by cruise ships. These fees, which typically are charged based on length of ship, time in port, and use of amenities such as water and dock power, equate to \$18.0 million annually.

### F. Loss in Unemployment Reserve Trust

The sustainability of the unemployment insurance trust fund is beginning to concern many Alaskans. In combined state and federal funding, more than one billion dollars has been paid out to Alaskans through the unemployment insurance program. The balance of the UI trust fund was \$492.9 million in February of 2020 as compared to the latest balance of \$265.8 million.<sup>10</sup> This results in a loss of \$227 million of which \$29.8 million can be attributed directly to the cruise industry.<sup>11</sup>

### G. Impacts to Gross State Product:

Prior to the COVID-19 pandemic, the Cruise Line Industry Association (CLIA) reported 40 cruise ships visited the region, carrying 1.36 million passengers on 577 voyages in 2019. Granular gross state product data is not available or tracked by industry. However, according to the McDowell group, the total gross economic output of the tourism industry as a whole is \$4.5 billion.<sup>12</sup> Historically, about 1.3 million of the 2 million visitors to the state can be attributed to the cruise industry and the

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<sup>9</sup> <https://www.akbizmag.com/industry/tourism/alaskas-shipshaped-economy/>

<sup>10</sup> Source: Department of Labor and Workforce Development as of 3/26/2021

<sup>11</sup> 43,300 direct, indirect, and induced cruise industry jobs per McDowell group as a proportion of 2019 Average Annual

<sup>12</sup> <https://www.akbizmag.com/industry/tourism/alaskas-shipshaped-economy/>

## Impacts from Cruise Ship Season Cancellation

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passengers that they serve, implying a Gross State Product impact of about a \$3.0 billion loss in each year of the no-sail order.<sup>13 14</sup>

Data from a recent Southeast Conference report (McDowell) illustrates some of the impacts of these visitors including<sup>15</sup>:

- Between \$700 and \$800 million in direct cruise tourist spending in local communities<sup>16</sup>
- \$297 million in cruise line goods, services and Alaska based payroll spending
- \$22 million in crew member spending
- The generation of \$1.5 billion in annual labor income including direct, indirect and induced, representing 43,300 jobs

According to the McDowell group, this visitor spending occurred in various economic sectors, with several categories receiving about one-fifth each: lodging (21 percent), gifts (20 percent), food and beverage (20 percent), tours (18 percent), and “other,” which is largely made up of overnight packages that affect several sectors.

### Conclusion:

The continuation of both the “no-sail” order and the Canadian decision to not allow large cruise ships to enter their waters will continue to have a material impact on the State of the Alaska and the health of its finances. A return to normalcy would be impactful and represent more Alaskans at work, spending money in the local economy and a lower reliance on government programs. It is the goal of the Dunleavy Administration to come out of the COVID-19 crisis with resiliency and to give our citizens the tools they need to support and foster economic recovery.

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<sup>13</sup> <https://akcruise.org/economy/economic-impact-by-region/>

<sup>14</sup> GDP from visitor industry taken pro rata with the number of cruise visitors

<sup>15</sup> <https://www.akbizmag.com/industry/tourism/alaskas-shipshaped-economy/>

<sup>16</sup> Economic Impacts Associated with of the Loss of Tourism in Southeast Alaska in 2020 – Southeast Conference and Rain Coast Data

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

STATE OF FLORIDA,	)	
	)	
Plaintiff,	)	
	)	
and	)	
	)	
STATE OF ALASKA,	)	
	)	
Plaintiff-Intervenor,	)	Case No.: 8:21-CV-839-SDM-AAS
	)	
v.	)	
	)	
XAVIER BECERRA, Secretary of	)	
Health and Human Services, in his	)	
official capacity; HEALTH AND	)	
HUMAN SERVICES; ROCHELLE	)	
WALENSKY, Director of Centers for	)	
Disease Control and Prevention, in	)	
her official capacity; CENTERS FOR	)	
DISEASE CONTROL AND	)	
PREVENTION; UNITED STATES	)	
OF AMERICA,	)	
	)	
Defendants.	)	

**STATE OF ALASKA’S COMPLAINT FOR  
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

**INTRODUCTION**

1. The State of Alaska, through the office of the Attorney General, brings this action to challenge the U.S. Department of Health and Human Services (HHS), Centers for Disease Control and Prevention’s (CDC) October

31, 2020 Conditional Sailing Order and the technical guidance issued pursuant to that order.

2. Alaska brings this action because the Conditional Sailing Order and technical guidance violate Federal law.

3. This action is brought under:

a. section 361(a), 42 U.S.C. § 264(a), of the Public Health Service Act, which grants the Secretary of HHS limited authority to make and enforce necessary regulations to prevent the introduction, transmission, or spread of communicable diseases.

b. the Declaratory Judgment Act, 28 U.S.C. § 2201, which authorizes a federal district court in a case of actual controversy to declare the rights and other legal relations of an interested party seeking such declaration; and

c. the Administrative Procedures Act (APA), 5 U.S.C. §§ 551 et seq., which provides a right of judicial review to persons suffering a legal wrong because of an agency action or adversely affected or aggrieved by agency action within the meaning of a relevant statute.

4. By way of this lawsuit, the State of Alaska requests that the Court declare the parties rights and enjoin the defendants from enforcing the Conditional Sailing Order and technical guidance.

## **PARTIES**

5. Plaintiff-Intervenor, the State of Alaska, is a sovereign state and has the authority and responsibility to protect its sovereignty, the wellbeing of its public fisc and the health, safety, and welfare of its citizens.

6. Plaintiff State of Florida is a sovereign state and has the authority and responsibility to protect its sovereignty, the wellbeing of its public fisc and the health, safety, and welfare of its citizens.

7. Defendants are the United States, appointed officials of the United States government, and United States governmental agencies responsible for the issuance and implementation of the challenged administrative actions.

8. Defendant CDC is a component of the Department of Health and Human Services.

9. Defendant Department of Health and Human Services is an agency of the United States.

10. Defendant Rochelle Walensky is the Director of the CDC and is being sued in her official capacity.

11. Defendant Xavier Becerra is the Secretary of HHS and is being sued in his official capacity.

## **JURISDICTION AND VENUE**

12. This Court has jurisdiction pursuant to 28 U.S.C. § 1331. The judicial review provisions of the APA waive sovereign immunity of the Federal government, and provide the right of judicial review for persons suffering a legal wrong because of agency action or who are adversely affected or aggrieved by agency action within the meaning of a relevant statute. 5 U.S.C. § 702–706.

13. The APA authorizes this Court to decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an agency action, and to hold unlawful and set aside agency action that is not in accordance with law or is in excess of statutory authority. 5 U.S.C. § 706.

14. The Court is authorized to award the requested declaratory and injunctive relief under 5 U.S.C. § 706, 28 U.S.C. § 1361, and 28 U.S.C. §§ 2201–02.

15. Venue is proper in this Court under 28 U.S.C. § 1391(e) because this action is brought against officers of agencies of the United States in their official capacities and the actions and decisions challenged by this lawsuit were made, at least in part, in Florida and have a direct impact on the State of Florida. Venue lies in this district because Tampa Bay is a major cruise



port and a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

### **LEGAL BACKGROUND**

16. Section 361(a) of the Public Health Services Act, 42 U.S.C. § 264(a), authorizes the promulgation and enforcement of regulations to protect the public health against the introduction and interstate spread of communicable diseases:

The [CDC], with approval of the [Secretary], is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the [Secretary] may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

17. Pursuant to that statutory authority, HHS promulgated 42 C.F.R. § 70.2:

Whenever the Director of the Centers for Disease Control and Prevention determines that the measures taken by health authorities of any State or possession (including political subdivisions thereof) are insufficient to prevent the spread of any of the communicable diseases from such State or possession to any other State or possession, he/she may take such measures to prevent such spread of the disease as he/she deems reasonable necessary, including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection.

18. The CDC's regulations also state that it may require detention of a carrier until the carrier completes the necessary measures authorized by 42 U.S.C. § 264(a). 42 C.F.R. § 71.31(b). The regulations also state that the Director may issue a controlled free pratique to the carrier stipulating what authorized measures must be met. *Id.*

19. The regulations further provide that whenever the CDC has “reason to believe that any arriving carrier or article or thing on board the carrier is or may be infected or contaminated with a communicable disease, [it] may require detention, disinfection, disinfestation, fumigation, or other related measures respecting the carrier or article or thing as [it] considers necessary to prevent the introduction, transmission, or spread of communicable diseases.” 42 C.F.R. § 71.32(b).

20. Section 365 of the Public Health Services Act, 42 U.S.C. § 268, requires consular or medical officers of the United States to report on the health conditions at the port or place at which such officer is stationed and requires customs and Coast Guard officers to aid in enforcement of quarantine rules and regulations.

## FACTUAL BACKGROUND

### I. The CDC's Orders

21. On March 13, 2020, members of the Cruise Lines International Association (CLIA) announced a pause in the operations of its members to assess and address the risks posed by the COVID-19 pandemic. CLIA is the world's largest cruise trade association; its members carry 95% of the world's oceangoing cruisers.

22. On March 14, 2020, the CDC issued a No Sail Order and Suspension of Further Embarkation. This order applied to passenger-carrying vessels with a carrying capacity of 250 or more individuals operating in waters subject to the jurisdiction of the United States with an itinerary anticipating an overnight stay for passengers or crew. 60 Fed. Reg. 16628. The CDC renewed the No Sail Order in separate orders issued on April 9, July 16, and September 20, 2020. *See* 85 Fed. Reg. 21004, 85 Fed. Reg. 44085, 85 Fed. Reg. 62732.

23. On June 19, 2020, CLIA announced that the major cruise lines voluntarily extended a suspension of operations out of U.S. ports until September 15, 2020. On August 5, 2020, CLIA again voluntarily extended the suspension, this time until October 31, 2020.

24. The CDC's No Sail Orders prohibited cruise ship operators from disembarking or reembarbarking crew members except as directed by the United

States Coast Guard; prevented operators from embarking any new passengers or crew except as approved; directed cruise ship operators to observe health precautions as directed by the CDC; and directed operators to comply with all CDC recommendations and guidance relating to the passengers, crew, ship, or any article or thing on board the ship. 85 Fed. Reg. at 62737. As a condition of returning to cruise ship operations, the No Sail Orders required cruise ship operators to develop and implement a “robust plan to prevent, mitigate, and respond to the spread of COVID-19 among crew onboard cruise ships.” *Id.* The orders further required operators to make this plan available to the CDC and address elements to adequately prevent, mitigate, and respond to the spread of COVID-19 among crew and minimize, to the greatest extent possible, any impact on government operations or the U.S. healthcare system. *Id.*

25. The CDC cited §§ 361 and 365 of the Public Health Service Act, 42 U.S.C. §§ 264, 268 and 42 C.F.R. §§ 70.2, 71.31(b), and 71.32(b) as authority for the No Sail Orders. 85 Fed. Reg. at 62737.

26. As a result of the pandemic, Alaska’s 2020 cruise season was canceled.

27. As of April 29, 2020, seven cruise ship operators—running approximately 95% of cruise ships subject to the No Sail Orders—had submitted the necessary response plan. 85 Fed. Reg. at 62734. As of

September 6, all five cruise ship operators with ships remaining in U.S. waters had submitted response plans that were “complete, accurate, and acknowledged.” *Id.*

28. On October 31, 2020, the CDC issued a “Conditional Sailing Order” that promised a “phased resumption of cruise ship passenger operations.” 85 Fed. Reg. 70153 The initial phase consisted of testing and additional safeguards for crew members while the CDC ensures operators build the laboratory capacity needed to test future passengers. *Id.* Subsequent phases will include simulated voyages, certification for ships that meet specific requirements, and a phased return to passenger voyages. *Id.*

29. On April 2, 2021, the CDC issued technical guidance for Phase 2a of its phased approach,<sup>1</sup> and imposed additional requirements under Phase 1.<sup>2</sup>

30. For Phase 1, which applies to the ship’s crew, the CDC, among other changes, increased from weekly to daily the reporting frequency of COVID-19 cases and illnesses, implemented routine testing of all crew based on the ship’s color status, and updated the color-coding system used to classify ships’ status with respect to COVID-19.

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<sup>1</sup> <https://www.cdc.gov/media/releases/2021/s0402-conditional-sail-orders.html>.

<sup>2</sup> <https://www.cdc.gov/quarantine/cruise/management/technical-instructions-for-cruise-ships.html>.

31. Among other requirements, Phase 1 provides the testing procedures for all crew members boarding cruise ships. Cruise ship operators must test all crew members on the day of embarkation. Operators must use a nucleic acid amplification test that the Food and Drug Administration (FDA) has authorized for emergency use and that has been evaluated on the FDA reference panel.<sup>3</sup> All embarking land-based crew must then immediately quarantine onboard for 14 days. All crew members must be tested a second time on day 14 of the quarantine using the same type of test used when they boarded. In comparison, any person entering the United States after international travel, must get tested no more than 3 days before he/she travels. For such international air travelers, the CDC will accept a viral test, which is either an antigen test or a nucleic acid amplification test.<sup>4</sup> Antigen tests are less expensive and more readily available than the nucleic acid amplification test.

32. Phase 2a requires cruise operators to create “planning materials for agreements that port authorities and local health authorities must approve to ensure cruise lines have the necessary infrastructure in place to manage an outbreak of COVID-19 on their ships to include healthcare

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<sup>3</sup> Reference panels are an additional step to ensure the quality of the tests, validations of new assays, test calibration, and monitoring assay performance.

<sup>4</sup> <https://www.cdc.gov/coronavirus/2019-ncov/travelers/testing-international-air-travelers.html>.

capacity and housing to isolate infected people and quarantine those who are exposed.”<sup>5</sup> This plan, in addition to a host of other requirements, requires operators to obtain “medical care agreements” that include contractual arrangements to provide for emergency medical transport of critically ill persons and contractual arrangements with shoreside medical facilities to ensure that travelers receive appropriate clinical evaluation.<sup>6</sup> In these agreements, the cruise ship operator “must document that its contractual shoreside medical facilities or healthcare systems either singularly or collectively have enough medical capacity in the judgment of the local health authorities to care for travelers if an unanticipated outbreak of COVID-19 occurs on board its ships.”<sup>7</sup>

33. Along with the medical care agreements and other related requirements, cruise ship operators must enter housing agreements with shoreside facilities to allow for isolation of, and quarantine of, persons with suspected or confirmed COVID-19. The housing agreement provision includes another host of requirements, including an obligation by the cruise ship operator to “document that it has made contractual arrangements . . . in sufficient quantities as determined by the local health authorities to meet the

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<sup>5</sup> <https://www.cdc.gov/media/releases/2021/s0402-conditional-sail-orders.html>.

<sup>6</sup> <https://www.cdc.gov/quarantine/cruise/instructions-local-agreements.html>.

<sup>7</sup> *Id.*

housing needs of travelers until they meet CDC criteria to discontinue isolation.”<sup>8</sup> In addition to the housing requirements, the CDC also directs the parties to the agreement—which includes the cruise ship operator, the U.S. port authority, and all health departments exercising jurisdiction over the port—to jointly consider the potential needs of travelers under quarantine and isolation. These needs include the availability and frequency of testing; availability of mental health services; pharmacy delivery, and other essential services; availability of security; a check-in process, including delivery of luggage; procedures to ensure daily monitoring of travelers in quarantine; procedures to minimize contact between travelers in quarantine and support staff; and post-isolation and post-quarantine procedures to allow travelers to safely return home.<sup>9</sup>

34. The CDC has yet to issue technical guidance for Phase 2b—simulated voyages—or any of the other remaining phases. The Conditional Sailing Order provides that a cruise ship operator must provide written notice and request CDC’s approval to conduct a simulation at least 30 days prior to the date on which the cruise ship operator proposes to conduct the simulation. 85 Fed. Reg. at 70160. The CDC does not explain why a cruise

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*



ship must do a simulated voyage if it has successfully completed a cruise outside of U.S. waters using COVID-19 mitigation measures. After a simulated voyage, the cruise ship operator must submit the materials required for a conditional sailing certificate at least 60 days prior to the date on which the cruise ship operator proposes to commence restricted passenger operations. *Id.* Thus, even assuming the CDC had issued the technical guidance for the remaining phases, the Conditional Sailing Order specifies another 90-day process before a cruise ship operator may obtain a conditional sailing certificate.

35. Alaska's cruise season is limited, extending from mid-May to early October each year. Unless the CDC's overly burdensome and opaque requirements are altered or lifted soon, it will be impossible for large-scale cruising to resume in the United States in time for any part of Alaska's 2021 season. And, given the CDC's current pace for issuing its technical guidance and the lead times necessary to arrange and market cruises, the CDC's action may jeopardize Alaska's 2022 cruise season as well.

## **II. The Impact to Alaska**

36. The CDC's orders have had an unsustainable impact on Alaska's economy.

37. The State of Alaska lost millions in tourism revenues in 2020 and stands to lose even more if the cruise industry remains shut down for the

2021 cruise season. This revenue stems directly from the cruise industry and comes in the form of state taxes, fishing and hunting licenses, state park fees, passenger related revenues, and environmental compliance fees.

38. Alaska's port and cruise line related communities lost thousands of jobs equating to millions in lost wages. These lost wages and lost jobs impact Alaska by depleting the state's Unemployment Reserve Trust.

39. The total amount of direct loss to the State of Alaska resulting from the cancellation of the 2020 season was \$1.7 billion, but the impact to Alaska's communities was even greater. This cancelation of the 2020 cruise season had a particularly negative impact in Southeast Alaska, where the economies of many communities are entirely dependent upon tourism.

40. While it is more dramatically felt in Alaska's port and cruise line communities, the effects of CDC's orders extend throughout Alaska as thousands of cruise passengers visit interior Alaska each cruise season.

### **III. The cruise industry has successfully resumed cruises in other parts of the world.**

41. Royal Caribbean Group and Norwegian Cruise Line Holdings Ltd. convened a panel of experts in public health, infectious disease, biosecurity, epidemiology, hospitality, and maritime operations to examine every aspect of the cruise ecosystem and recommend the most effective,

scientifically sound ways to make the cruise experience healthier and safer.

This panel is known as the Healthy Sail Panel.

42. The Healthy Sail Panel welcomed observers from the CDC, CLIA, and other cruise lines.

43. The Healthy Sail Panel offered 74 different recommendations that, if implemented, “would enable cruise operators to resume operations in ways that would minimize risk and would protect guests, crew, and destination communities.” The Panel’s recommendations were centered around four primary themes: (1) keep COVID-19 off ships; (2) mitigate the risk of infection; (3) protect destinations; and (4) detect and contain COVID-19.

44. The report prepared by the Healthy Sail Panel was issued on September 21, 2020 and submitted to the CDC in response to its request for public comment. The CDC has not addressed the Healthy Sail Panel’s recommendations.

45. CLIA reviewed the Health Sail Panel’s recommendations, and in September 2020, CLIA implemented a mandatory “Member Policy for Mitigation of COVID-19.” CLIA made this policy mandatory for all its members, which includes 95% of the world’s oceangoing cruisers. All ships impacted by the CDC’s Conditional Sailing Order are members of CLIA.

46. The cruise industry has resumed service in other parts of the world, including Europe, the South Pacific, and Asia. Of the nearly 400,000 passengers that have recently sailed on ships, there have been less than 50 confirmed cases of COVID-19.

47. In the United States, over one million people traveled by plane for Thanksgiving in 2020. Nearly three million additional people flew in the days immediately following the holiday.

48. Unlike cruise travel, the CDC has not shut down air travel (either international or domestically) or other transportation-related industries.

#### **IV. The CDC's Conditional Sailing Order fails to consider current conditions.**

49. Before the CDC takes measures to prevent the spread of disease, it must “determine[] that the measures taken by health authorities of any State or possession (including political subdivisions thereof) are insufficient to prevent the spread of any of the communicable diseases from such State or possession to any other State or possession.” 42 C.F.R. § 70.2.

50. In issuing its Conditional Sailing Order or any following technical guidance, the CDC has not taken into consideration the specific actions taken by Alaska or its local health authorities.

51. Alaska has continually had one of the highest vaccination rates in the country and became the first state to extend vaccine eligibility to anyone 16 and older. Vaccination rates have been particularly high in Southeast Alaska.

52. Throughout the pandemic, Alaska's hospitalization rates have remained consistently low.

**FIRST CLAIM FOR RELIEF**  
**(Violation of the APA – Arbitrary and Capricious Agency Action)**

53. Alaska incorporates by reference each of the allegations in paragraphs 1 through 52.

54. The APA provides that courts shall set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or in excess of statutory jurisdiction, authority, or limitations. 5 U.S.C. § 706(2). Accordingly, the APA provides a statutory cause of action through which other statutes such as the Public Health Services Act may be enforced, and also a legal vehicle for judicial review of agency fact findings and agency exercise of discretion.

55. The CDC's Conditional Sailing Order and technical guidance are contrary to law (Public Health Services Act and related regulations), an abuse of discretion, and arbitrary and capricious, and therefore must be set aside. 5 U.S.C. § 706.

56. The CDC's Conditional Sailing Order and technical guidance do not take into consideration the measures taken by Alaska or its local health authorities as required by 42 C.F.R. § 70.2, or explain why those measures are inadequate.

57. The CDC failed to take into consideration the unique circumstances of Alaska, subjecting the cruise industry to arbitrary and overly burdensome requirements with no justification.

58. The CDC failed to explain why the cruise industry is subject to different and much more stringent requirements than other industries. For example, the CDC does not explain why it requires a nucleic acid amplification test for any person disembarking a cruise ship in U.S. waters when its guidance allows for a traveler to participate in a cruise overseas and then fly internationally and enter the United States with a negative antigen test.

59. The CDC also failed to reasonably consider the proposed recommendations of the Healthy Sail Panel or CLIA's mandatory Member Policy for Mitigation of COVID-19 or the successful implementation of those recommendations in cruises occurring in other parts of the world.

60. The CDC's Conditional Sailing Order and technical guidance are not factually supported and not a reasonable application of governing law.

61. Although the CDC’s Conditional Sailing Order concludes the “benefits of [reopening] outweigh the costs of not allowing cruise ships to sail,” the CDC has failed to timely notify the cruise industry—as well as Alaska and its local communities—what requirements it will impose to reopen.

62. For these and other reasons, the CDC’s Conditional Sailing Order is arbitrary and capricious and represents an abuse of discretion.

**SECOND CLAIM FOR RELIEF**  
**(Violation of APA — Agency action not in accordance with law)**

63. Alaska incorporates by reference each of the allegations in paragraphs 1 through 62.

64. The APA provides that courts shall set aside unlawful agency action that is not in accordance with the law. 5 U.S.C. § 706(2).

65. The CDC’s Conditional Sailing Order and technical guidance are not in accordance with the law because they exceed the CDC’s statutory authority under § 361 of the Public Health Services Act, 42 U.S.C. § 264(a). They also exceed the scope of the CDC’s own implementing regulations.

66. Section 361 of the Public Health Services Act does not grant the CDC broad authority to impose any regulatory action simply because the Secretary believes those actions will help prevent the spread of disease. Instead, § 361 grants the CDC limited authority to take measures to regulate

“animals or articles found to be infected or contaminated” by providing for their “inspection, fumigation, disinfection, sanitation, pest extermination, [or] destruction.” 42 U.S.C. § 264(a). CDC’s reading of its statutory authority would be tantamount to creating a general federal police power.

67. The CDC’s Conditional Sailing Order and technical guidance exceed the statutory authority granted by § 361 because the CDC regulates more than animals or articles found to be infected or contaminated and requires more than inspection, fumigation, disinfection, sanitation, pest extermination, or destruction.

68. The CDC’s Conditional Sailing Order and technical guidance further violate the law because the CDC failed to consider the actions taken by Alaska and its local health authorities to prevent the spread of COVID-19 and it failed to make the necessary determination that Alaska’s measures were insufficient. *See* 42 C.F.R. § 70.2.

**THIRD CLAIM FOR RELIEF  
(Violation of APA — Failure to Provide Notice and Comment)**

69. Alaska incorporates by reference each of the allegations in paragraphs 1 through 68.

70. The APA requires federal agencies to provide notice and comment on substantive rules that affect individual rights and obligations.



71. The “good cause” exception to the notice and comment requirement is “narrowly construed and only reluctantly countenanced.” *Mack Trucks, Inc. v. E.P.A.*, 682 F.3d 87, 93 (D.C. Cir. 2012). The exception excuses notice and comment only in emergency situations, or where delay could result in serious harm.

72. With regarding to CDC’s Conditional Sailing Order and technical guidance, notice and comment was not “impracticable, unnecessary, or contrary to public interest.” *See* 5 U.S.C. § 553(b)(B).

73. By October 31, 2020, the cruise industry had been under a No Sail Order for seven months. The CDC did not issue its technical guidance for Phase 2a until April 2, 2021. There was no imminent threat to support an “impracticability” finding; this administrative rule is not “routine” or “insignificant” and therefore does not qualify as “unnecessary”; and there are no facts to support a finding that providing notice and comment, under these circumstances, would be “contrary to the public interest.” *See Mack Trucks, Inc.*, 682 F.3d at 94–95. To the contrary, providing notice and comment in this situation would very much further the public interest by providing the cruise industry, states, and local communities the opportunity to participate in the process and inform the CDC of the actions they have already taken. *See* 42 C.F.R. § 70.2.

**FOURTH CLAIM FOR RELIEF**  
**(U.S. Const. Art. I, § 1 — Unconstitutional Exercise of Legislative Power)**

74. Alaska incorporates by reference each of the allegations in paragraphs 1 through 73.

75. Article I, Section 1 of the U.S. Constitution provides that “[a]ll legislative powers herein granted shall be vested in a Congress of the United States.”

76. A reading of § 361(a), 42 U.S.C. § 264(a), of the Public Health Service Act, that grants the CDC the broad authority to take any measure as long as the Secretary believes those actions will help prevent the spread of disease would amount to an unlawful delegation of legislative power to the executive branch.

**PRAYER FOR RELIEF**

For the foregoing reasons, the State of Alaska respectfully requests that this Court enter judgment providing the following relief:

- A. Vacate the Conditional Sailing Order and technical guidance as being contrary to law, arbitrary and capricious, and an abuse of discretion;
- B. Grant a Declaratory Judgment finding the Conditional Sailing Order and technical guidance are contrary to § 361(a), 42 U.S.C.

§ 264(a), of the Public Health Service Act and its implementing regulations;

- C. Grant a Declaratory Judgment finding the Conditional Sailing Order and technical guidance are arbitrary and capricious and an abuse of discretion;
- D. Issue preliminary and permanent injunctive relief enjoining the federal defendants from enforcing the Conditional Sailing Order or technical guidance;
- E. Award Alaska its costs of litigation and attorneys' fees to the extent recoverable under applicable law; and
- F. Grant Alaska such other and further relief as is just and appropriate.

Dated April 20, 2021.

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