

SJR

12



25th ALASKA STATE LEGISLATURE
SENATE REPUBLICAN CAUCUS
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SENATOR GENE THERRIAULT, MINORITY LEADER
STATE CAPITOL, ROOM 427, 465-4797 (FAX 465-3884)

SENATOR CON BUNDE
SENATOR FRED DYSON
SENATOR TOM WAGONER
SENATOR GARY WILKEN

Fact Sheet for : Senate Joint Resolution 12
Sponsor: Senator Gene Therrault

Contact: Heather Brakes, 465-4797

Short Title: Cruise Ship Port Times: Jones Act

Summary:

- Asserts the Alaska Legislature's opposition to the U.S. Department of Homeland Security's proposed new interpretation of the Passenger Vessel Services Act of June 19, 1886, which would require all foreign-flagged cruise ships to stop at least 48 hours in foreign ports and that the amount of time spent in foreign ports amount to more than 50 percent of the total time spent in U.S. ports of call.
- Requests an exemption from the rule if it is adopted.
- Explains that the new rule could reduce the number of cruise ship stops in Alaska and the length of time cruise ships would stay and it could reduce or eliminate visits to some Alaskan ports.
- Clarifies that this rule change would diminish the attractiveness of Alaska as a cruise ship destination.
- Highlights the rule change's potential impact on Alaska's economy; including dramatic reduction of shore side employment and business opportunities in Alaskan communities.

Benefits:

- Preventing this new interpretation by Homeland Security from becoming law will protect one of the state's leading industries so crucial to our economy. The tourism industry provides approximately 40,000 jobs and significant revenue to many Alaskan-owned and operated businesses.
- Puts the Alaska State Legislature formally on record as opposing an interpretation that, if adopted, would be detrimental to our state's economy by eliminating and reducing employment and businesses in Alaska.

Background:

The U.S. Department of Homeland Security recently released proposed interpretations to the Passenger Vessel Services Act of June 19, 1886. Under the new interpretation, the U.S. Department of Homeland Security would require foreign flagged vessels to spend at least 48 hours in foreign ports and that amount of time spent in foreign ports would have to be more than 50 percent of the total time spent at U.S. ports of call.

The cruise ship and tourism industries are integral components of Alaska's economy. In 2007 alone, about 1 million passengers visited the state by cruise ship, typically calling at three or four ports of call. Should the new interpretation become codified in regulation, the impact on our state's economy will be significant, and particularly devastating to some coastal communities in this state. SJR 12 outlines the potential adverse impacts of the proposed interpretation and asserts the state's objection to such a change.



MEMORANDUM

DATE: February 26, 2008
TO: Joe Austerman, Director
Office of Economic Development
FROM: Caryl McConkie, Development Specialist
Office of Economic Development
RE: Impacts on Alaska and its communities if U.S. Customs and Border Protection (CBP) reinterprets Passenger Vessel Act.

U.S. Customs and Border Protection Proposal

The new interpretive rule would require foreign flag ships that embark and disembark passengers from U.S. ports to (1) stop at least 48 hours in a foreign port, (2) spend an amount of time at the foreign port that is more than 50 percent of total time spent at U.S. ports of call, and (3) permit passengers to disembark at the foreign port.

Information from Alaska Cruiseship Association and Cruiseline Agencies of Alaska

- All large cruise ships that come to Alaska are foreign flag ships.
- The voyages that would be impacted by new interpretive rule are the cruises beginning and ending in Seattle or San Francisco. It will not affect the ships originating or concluding their voyage in a foreign port such as Vancouver, BC.
- This new interpretation could be in affect for the 2008 season.
- Approximately 158 voyages and 349,000 passengers (or one third of the cruise ship passengers coming to Alaska) would be affected by the proposed change in regulations.
- Considering the distances between Southeast Alaska ports from Seattle, on a 7 day itinerary, it would only be possible to have one port call in SE Alaska and still meet the proposed criteria.
- It is speculation as to what the alternatives for the cruise lines will be; but it would be difficult to build the infrastructure in a short period of time that would be necessary to turn ships in Victoria or another Canadian port.

Alaska Cruise Visitor Spending Statistics

- Cruise ship passengers spend an average of \$636 per person per trip in the State of Alaska (excludes price of cruise, cost of getting to and from Alaska).
- In addition to the cruise portion of the trip, 22% of all cruise visitors extend their visit to in-state land tours before and after the cruise (making arrangements through a cruise company or on their own).
- Twelve percent of all cruise visitors book extend their visit to in-state land tours before and after the cruise (making arrangements on their own). These visitors stay an average of 10.8 nights as opposed to the 8.1 night average of all cruise passengers.

Source: Alaska Office Of Economic Development, *Alaska Visitor Statistics Program, Visitor Volume and Profile, Summer 2006*, conducted by the McDowell Group.



Alaska Office of Economic Development Assumptions and Potential Impacts

- If there is not sufficient time to build the infrastructure that would be necessary to turn ships in an alternative port for the 2008 visitor season (and possibly beyond),
- And/or visitors choose not to take an Alaska cruise that reduces time spent in Alaska by half and only stops in one Alaska port,
- Alaska would lose 349,000 cruise visitors and an estimated \$222 million in direct spending and \$17.5 million in cruise ship passenger taxes. Table 1 shows how reduced visitor spending would impact various segments of the visitor industry.
- Approximately 77,000 cruise visitors (22%) of these visitors will not extend their cruise and visit the destinations beyond the Inside Passage (assuming that there is no statistical difference in the general characteristics of visitors who begin their cruise in foreign versus non-foreign ports).
- We don't know the amount of corporate or gambling taxes lost. The first returns are due April 15th and then we could approximate them.

Table 1: Estimated Spending & Revenue Losses to Alaska

	Per Person Amount	Passengers	Total Amount
In State Spending (total)	\$ 636	349,000	\$221,964,000
Tours/Activities Only	\$ 237	349,000	\$ 82,713,000
Gifts/Souvenirs Only	\$ 217	349,000	\$ 75,733,000
Lodging Only	\$ 16	349,000	\$ 5,584,000
Food/Beverage	\$ 40	349,000	\$ 13,960,000
Cars/Fuel/Transportation	\$ 8	349,000	\$ 2,792,000
Cruise Passenger Taxes	\$ 50	349,000	\$ 17,450,000.00

Sources:

Visitor Spending: Alaska Office Of Economic Development, *Alaska Visitor Statistics Program, Visitor Volume and Profile, Summer 2006*, conducted by the McDowell Group

Passenger Numbers: Alaska Cruise Association, Cruise Line Agencies of Alaska

Estimated Losses by Various Port Communities

Table 2: 2007 Passenger Numbers and Estimated 2008 Losses (if CBP adopts new rule)

Port of Call	2007 Cruise Ship Passengers	Loss of Port Calls in 2008	Loss of Passengers in 2008	Loss of Direct Spending in 2008	Loss of Sales Tax in 2008
Haines	27,659	All	27,659	NA	NA
Juneau	1,015,384	175	368,370	\$68 m.	\$3.4 m.
Ketchikan	899,638	158	334,370	\$53 m.	NA
Point Sophia (Hoonah)	159,963	NA	NA	NA	NA
Seward	156,014	NA	NA	NA	NA
Sitka	233,236	64	110,000	\$9.24	\$554,000



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Sarah Palin, Governor
Emil Notti, Commissioner
Joe Austerman, Director

Port of Call	2007 Cruise Ship Passengers	Loss of Port Calls in 2008	Loss of Passengers in 2008	Loss of Direct Spending in 2008	Loss of Sales Tax in 2008
Skagway	820,629	100	230,000	NA	NA
Whittier	225,071	NA	NA	NA	NA
Wrangell	5,192	NA	NA	NA	NA

Note: Limited information. Does not include potential impacts to communities beyond Southeast Alaska.

Sources:

Cruise Line Agencies of Alaska (2007 Cruise Ship Passengers)

Other information on losses (passenger, direct spending and sales tax estimates) provided by individual communities (see below) in their comments to US Customs and Border Protection posted at <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=USCBP-2007-0098>

- Haines Chamber of Commerce (Also estimates that 140 businesses impacted directly or indirectly. States that if there is any change in itineraries for the ships, Haines is the first one to lose ship calls.)
- City & Borough of Juneau
- Juneau Economic Development Council (Also estimates that 1,000 direct jobs and 3,000 indirect jobs affected in Southeast Alaska.)
- Ketchikan Visitors Bureau and the Ketchikan Gateway Borough
- The City & Borough of Sitka
- Municipality of Skagway

SPECULATIVE POSITION LIMITS¹—Continued

[In contract units]

Contract	Spot month	Single month	All months
Soybeans and Mini Soybeans ²	600	8,600	13,300
Wheat and Mini-Wheat ²	600	11,100	14,500
Soybean Oil	540	6,600	8,600
Soybean Meal	720	5,500	7,100
Minneapolis Grain Exchange			
Hard Red Spring Wheat	600	11,100	14,500
New York Board of Trade			
Cotton No. 2	300	5,300	7,300
Kansas City Board of Trade			
Hard Winter Wheat	600	11,100	14,500

¹ For purposes of compliance with these limits, positions in a futures contract that shares substantially identical terms with a contract market enumerated herein, including a futures contract that is cash-settled based on the settlement price of an enumerated contract market, shall be aggregated with positions in the enumerated contract market.

² For purposes of compliance with these limits, positions in the regular-sized and mini-sized contracts shall be aggregated.

Issued by the Commission this November 15, 2007, in Washington, DC.
David Stawick,
Secretary of the Commission.
IFR Doc. E7-22681 Filed 11-20-07; 8:45 am
BILLING CODE 6351-01-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 4

[USCBP-2007-0098]

Hawaiian Coastwise Cruises

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed interpretation; solicitation of comments.

SUMMARY: This document proposes new criteria to be used by Customs and Border Protection ("CBP") to determine whether non-coastwise-qualified vessels are in violation of the Passenger Vessel Services Act (PVSA) when engaging in cruise itineraries in which passengers board at a U.S. port, the vessel calls at several Hawaiian ports, and then the vessel proceeds to a foreign port or ports for a brief period, before ultimately returning to the original U.S. port of embarkation where the passengers disembark to complete their cruise. CBP believes these itineraries are contrary to the PVSA because it appears that the primary objective of the foreign stop is evasion of the PVSA.

DATES: Comments must be received on or before December 21, 2007.

FOR FURTHER INFORMATION CONTACT: Glen E. Vereb, Cargo Security, Carriers & Immigration Branch, Office of International Trade, (202) 572-8730

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal*, <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail*, Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, DC 20229

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this proposed interpretation by submitting written data, views, or arguments on all aspects of the proposed interpretation. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed interpretation. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed interpretation, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and docket number for this proposed

interpretation. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW, 5th Floor, Washington, DC. Arrangements to inspect submitted documents should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

II. Background

The maritime cabotage law governing the transportation of passengers was first established by section 8 of the Passenger Vessel Services Act of June 19, 1886 (the "PVSA"), 24 Stat. 81, as amended by section 2 of the Act of February 17, 1898, 30 Stat. 248, formerly codified at 46 U.S.C. App. 289 (now codified at 46 U.S.C. 55103). That statute provided that no foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of \$200 (now \$300, as promulgated in T.D. 93-11 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note) for each passenger so transported and landed.

The intent of the maritime cabotage laws, including the PVSA, was to provide a "legal structure that guarantees a coastwise monopoly to

American shipping and thereby promotes development of the American merchant marine." *Autolog Corp. v. Hegan*, 731 F.2d 25, 28 (DC Cir. 1984); see also *The Granada*, 35 F.Supp. 892, 893, 1940 AMC 1601 (DC Pa. 1940) (stating that the legislative aim of section 289 (now 55102) was the creation of a practical monopoly of coastwise and domestic shipping business for United States ships). In other words, the PVSA was enacted to advance the United States merchant marine and fleet by restricting the use of foreign-owned/flagged passenger vessels in United States territorial waters.

Passenger vessel transportation between United States ports has historically been viewed to be part of the coastwise trade after the enactment of the PVSA. This view is premised on the concepts of continuity of the voyage and whether its *intended purpose or objective* was coastwise transportation. In other words, the PVSA was held to be violated if the coastwise movement was continuous or if the purpose of the trip was a coastwise voyage. (See 18 O.A.G. 445, September 4, 1886; 28 O.A.G. 204, February 16, 1910; 29 O.A.G. 318, February 12, 1912; 30 O.A.G. 44, February 1, 1913; 34 O.A.G. 310, December 24, 1924; and 36 O.A.G. 352, August 13, 1930.)

The CBP regulations promulgated pursuant to the PVSA are found at section 4.80a of title 19 of the Code of Federal Regulations (19 CFR 4.80a) and are reflective of the above cited Office of the Attorney General decisions. These regulations provide, among other things, that a non-coastwise-qualified vessel which "embarks" a passenger at a port in the United States embraced within the coastwise laws (a "coastwise port") will be deemed to have landed that passenger in violation of the PVSA if the passenger "disembarks" at a different coastwise port on a voyage to one or more coastwise ports and a "nearby foreign port or ports" (as defined in 19 CFR 4.80a(a)(2); see also 19 CFR 4.80a(b)(2)). The terms "embark" and "disembark" are words of art which are defined as going on board a vessel for the duration of a specific voyage, and leaving a vessel at the conclusion of a specific voyage, respectively. (See 19 CFR 4.80a(a)(4).)

The references in section 4.80a to "nearby foreign ports" (defined in 19 CFR 4.80a(a)(2)) are the results of attempts by CBP to apply an Office of the Attorney General's opinion dated February 26, 1910 (28 O.A.G. 204). In that case, a foreign-flag vessel transported 615 passengers on a voyage around the world, beginning in New

York and concluding in San Francisco. The Attorney General opined that since the primary object of the voyage was to visit various parts of the world on a pleasure tour returning home via California, and not to be transported in domestic commerce, the transportation was not in violation of the PVSA.

The 1910 Attorney General's opinion was extended to voyages that included foreign ports other than nearby foreign ports. (See Treasury Decision (T.D.) 68-285 (33 FR 16558), November 14, 1968.) However, voyages solely to one or more coastwise ports have always been considered predominantly coastwise. Therefore non-coastwise-qualified vessels engaging in such a voyage where passengers temporarily go ashore at a coastwise port have been deemed to have violated the PVSA.

III. Current Law and Policy

Pursuant to Public Law 109-304, 120 Stat. 1632, enacted on October 6, 2006, Title 46, United States Code, was substantially reorganized and recodified. Consequently, the PVSA is now codified at 46 U.S.C. 55103 and provides that no vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of \$300 for each person so transported and landed, except one that: (1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and (2) has been issued a certificate of documentation with a coastwise endorsement or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

In 2003, Congress enacted Public Law 108-7, Division B, Title II, Section 211, for the purpose of revitalizing the oceangoing U.S.-flag cruise industry in Hawaii (the "2003 Act"). Three oceangoing U.S.-flag cruise ships, PRIDE OF ALOHA, PRIDE OF AMERICA and PRIDE OF HAWAII, were documented with coastwise privileges pursuant to the 2003 Act. These vessels entered regular service in Hawaii in 2004, 2005 and 2006, respectively, and pursuant to the express language of the 2003 Act, are limited in their operation to providing " . . . regular service transporting passengers between or among the islands of Hawaii . . ."

The CBP regulations promulgated pursuant to the PVSA are set forth in 19 CFR 4.80a and have remained unchanged throughout both the recodification of Title 46 of the United States Code and the enactment of the 2003 Act. They provide that a violation of the PVSA occurs when passengers "embark" (board a vessel for the

duration of a voyage) a non-coastwise-qualified vessel at one U.S. port, and "disembark" (leave the vessel at the conclusion of a voyage) at a different U.S. port, unless they proceed with the vessel to a "distant foreign port" (i.e., any port not considered a "nearby foreign port" which is defined as any port located in North America, Central America, Bermuda, or the West Indies including the Bahamas). Currently, these regulations do not contain specific criteria for non-coastwise-qualified vessels on itineraries including U.S. ports and either "nearby" or "distant" foreign ports in order for such foreign port calls to be compliant with the PVSA.

To reiterate, the applicable CBP regulations provide that the PVSA is violated when a non-coastwise-qualified vessel transports a passenger on a voyage solely to one or more coastwise ports and the passenger disembarks or goes ashore temporarily at a coastwise port. (19 CFR 4.80a(b)(1).) Furthermore, a violation of the PVSA also occurs when a non-coastwise-qualified vessel transports a passenger on a voyage to one or more coastwise ports and a nearby foreign port or ports (but no other foreign port) and the passenger disembarks at a coastwise port other than the port of embarkation. (19 CFR 4.80a(b)(2).) However, there is no violation of the PVSA when a passenger is on a voyage to one or more coastwise ports and a distant foreign port or ports (whether or not the voyage includes a nearby foreign port or ports) and the passenger disembarks at a coastwise port, provided the passenger has proceeded with the vessel to a distant foreign port. (19 CFR 4.80a(b)(3).)

IV. Request From MARAD To Provide Guidance

The U.S. Department of Transportation Maritime Administration (MARAD) has requested that CBP take action to ensure enforcement of the PVSA. MARAD has asked CBP to address the recent activities of foreign-flag passenger vessels in the Hawaiian Islands that are imposing economic hardship on the operations of coastwise-qualified cruise ship operators.

In April of 2007, the operator of the three U.S.-flag cruise vessels operating solely in Hawaii pursuant to the 2003 Act announced their intent to withdraw the PRIDE OF HAWAII from the Hawaii market and redeploy her to Europe. The operator intends to re-flag the vessel to foreign registry, directly resulting in the loss of over 1,100 crewmember jobs. The primary reason cited for this decision is the rapid increase in foreign-flag competition entering the Hawaii market

from the West Coast. This competition is evidenced in published cruise itineraries of foreign-flag carriers offering a variety of round trip cruises that depart from a U.S. port, call at several Hawaiian ports, then proceed to Ensenada, Mexico for a brief period, usually in the early morning, and ultimately return to the original U.S. port of embarkation where the passengers disembark to complete their cruise. These cruises are often marketed as "Hawaii cruises" and except for the brief stop in the nearby foreign port of Ensenada, are purely coastwise in nature. It is these cruise itineraries that pose an imminent threat to the two remaining U.S.-flagged, coastwise endorsed passenger vessels that, pursuant to the 2003 Act, are currently engaging in cruise itineraries that include only ports of call within the Hawaiian Islands.

V. Preliminary Notice

In response to MARAD's concerns, CBP sent letters to two carriers known to operate the itineraries in question, as well as to the Cruise Lines International Association, Inc., stating that CBP believes that these itineraries are contrary to the PVSA because it appears that the primary objective of the Ensenada stop is evasion of the PVSA. The letters further indicated that CBP is taking steps to publish this position.

VI. CBP's Proposed Interpretive Rule

Accordingly, in this document, CBP is proposing to provide that cruise itineraries for non-qualified coastwise vessels which allow passengers to board at a U.S. port, call at several Hawaiian ports, proceed to a foreign port or ports for a brief period, and then ultimately return to the original U.S. port of embarkation for disembarkation are not consistent with the PVSA and the regulations promulgated pursuant thereto. Specifically, CBP interprets a voyage to be "solely to one or more coastwise ports" even where it stops at a foreign port, unless the stop at the foreign port is a legitimate object of the cruise. CBP will presume that a stop at a foreign port is not a legitimate object of the cruise unless:

- (1) The stop lasts at least 48 hours at the foreign port;
- (2) The amount of time at the foreign port is more than 50 percent of the total amount of time at the U.S. ports of call, and
- (3) The passengers are permitted to go ashore temporarily at the foreign port.

Accordingly, CBP proposes to adopt an interpretive rule under which it will presume that any cruise itinerary that does not include a foreign port call that

satisfies each of these three criteria constitutes coastwise transportation of passengers in violation of 19 CFR 4.80a(b)(1).

Date: November 16, 2007.

W. Ralph Basham,

Commissioner, Customs and Border Protection

(E-mail: W.R.Basham@cbp.dhs.gov)

BILLING CODE 9111-14-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

(Notice No. 76)

RIN 1513-AB49

Proposed Establishment of the Leona Valley Viticultural Area (2007R-281P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 13.4 square mile "Leona Valley" viticultural area in the northeast part of Los Angeles County, California. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

DATES: We must receive written comments on or before January 22, 2008.

ADDRESSES: You may send comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (Federal e-rulemaking portal; follow the instructions for submitting comments); or
- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments we receive about this proposal at <http://www.regulations.gov> under Docket No. 2007-0066. You also may view copies of this notice, all related petitions, maps, or other supporting materials, and any comments we receive about this

proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; phone 415-271-1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party

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December 20, 2007

Mr. Glen E. Vereb
Border Security Regulations Branch
Office of International Trade
Customs and Border Protection
1300 Pennsylvania Avenue, NW (Mint Annex)
Washington, DC 20229

Re: Proposed Rule Interpretation
Docket No. USCBI - 2007 - 0098

Dear Mr. Vereb:

Please clarify immediately whether the Bureau of Customs and Border Protection's (Bureau) proposed Hawaiian Coastwise Cruises rule interpretation will apply to Alaska cruises. The State of Alaska, its residents, and its businesses are particularly worried about the provisions that would require cruise vessels to spend at least 48 hours in a foreign port and that the amount of time spent in a foreign port has to be more than 50 percent of the total amount of time spent at U.S. ports of call. These two requirements would significantly damage Alaska's tourism industry.

I believe the Customs and Border Protection's proposed rule interpretation should not apply to Alaska cruises, for reasons I will explain later in this letter. However, if the proposed rule interpretation is intended to apply to Alaska, I ask the agency to withdraw its proposal and conduct a thorough regulatory impact review. As part of such a review, the Bureau should allow the state and the public a reasonable time to submit comments. The 30-day comment period allotted for the abbreviated process now under way is woefully inadequate.

A full regulatory impact review should go beyond the minimum requirements in federal law that agencies study, consider, and interpret statutes in a way that minimizes the impact on small businesses of changes to regulations (Regulatory Flexibility Act of 1980 and Small Business Regulatory Enforcement Act of 1996). It should include a

Mr. Glen E. Vereb
December 20, 2007
Page 2

detailed and thorough analysis of all impacts on the State of Alaska, its municipalities, particularly those serving as ports of call, and Alaska businesses.

Unfortunately, it's impossible to determine from the notice in the Federal Register whether the Bureau even intends for its new interpretation to apply to Alaska cruises. That uncertainty, which leads to the fear that the rule could apply to Alaska, has caused a lot of anguish in coastal communities dependent on cruise travelers for their economic health. I hope it turns out that the worries were unnecessary.

This proposal would create costly problems in Alaska. Business owners and communities have invested heavily in tourism ventures to serve the million-plus cruise ship passengers and crew who visit our state each year. The cruise industry is a huge part of the economy.

The industry bases its ships in Seattle and Vancouver, British Columbia, during the summer months, mostly operating seven-day cruises with stops at several Alaska ports of call. This has worked well for Alaska, for domestic and international travelers, for the cruise companies, and especially for Seattle, which now serves as homeport for almost half of the traffic. Cruise lines have already booked not only 2008 summer cruises to Alaska, but also have started with 2009 scheduling. Such a severe and short-notice change in itineraries as would be required under this proposal could create havoc for communities, travelers, and the industry.

The proposed rule interpretation, aimed at Hawaiian Coastwise Cruises, would be a dramatic and abrupt shift in policy for the Bureau of Customs and Border Protection if it were applied to Alaska cruises. Taking something that is working well and changing it -- much less on 30-days notice -- is not reasonable public policy.

The confusion over the proposal's applicability to Alaska is obvious in the public notice. The first paragraph talks only about vessels calling at Hawaiian ports, and much of Section III (Current Law and Policy) addresses the history of law and regulation as they relate specifically to Hawaii. Section IV (Request from MARAD to Provide Guidance) also talks only about Hawaiian Coastwise Cruises, and Section VI (CBP's Proposed Interpretive Rule) also refers to Hawaii. Yet what worries Alaska is that Section VI could also be read to cover Alaska cruises, and the last paragraph of Section III makes no distinction at all when it says what is and isn't a violation of the Passenger Vessel Services Act. A clarification is in order and, hopefully, could eliminate Alaska's worries.

Mr. Glen E. Vereb
December 20, 2007
Page 3

The situation in Hawaii is different than in the Alaska cruise trade, and I believe it is reasonable to allow the continuation of Alaska cruises from Seattle with a legitimate stop at a British Columbia port -- a real port of call, where passengers stay for much of the day and disembark the ship. Further, the 2003 congressional action cited in the notice of rule interpretation (Public Law 108-7, Division B, Title II, Section 211) specifically excludes Alaska and Caribbean cruises. It applies only to Hawaiian Coastwise Cruises and the vessels engaged in those cruises. All of which makes me wonder why the Bureau would even be looking at Alaska cruises? In its request that the Bureau confront the issue of Hawaiian Coastwise Cruises, the U.S. Department of Transportation Maritime Administration said recent activities of foreign-flag vessels were imposing economic hardship on coastwise-qualified, U.S.-flag vessels providing Hawaiian cruises. No such problem exists in Alaska, reinforcing the argument that there is nothing to fix in regard to Alaska cruises.

In addition, the Bureau's notice in mid-August to two Hawaiian cruise operators that it was looking at the issue of coastwise vessels falls far short of adequate notice to Alaska -- if in fact it is the Bureau's intention to impose its Hawaii "fix" on Alaska. The official notice in the Federal Register on November 21 was the first public word of the proposed rule interpretation.

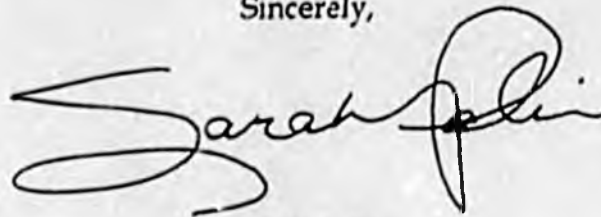
I mention it above, but will repeat it again for emphasis. If the Bureau insists on applying its Hawaii interpretation to Alaska, then it should at the least withdraw its proposal and undertake a much more thorough review of the issues. Such as:

- Is it reasonable to apply the same rule interpretation to Alaska as Hawaii? Are there different circumstances in the two operations?
- How could cruise lines meet the proposed requirements (a 48-hour port call in Canada and spending at least half of each cruise's port time in Canadian ports) without canceling out hundreds of stops in Alaska ports and damaging communities statewide? After sailing time to Alaska and at least 48 hours in port in Canada, there would not be much of Alaska left in a seven-day Alaska cruise.
- What would be the economic damage to Alaska communities and businesses from the proposed interpretation?
- Would a negotiated rule-making process produce a better result than an edict under a 30-day notice?

Mr. Glen E. Vereb
December 20, 2007
Page 4

Thank you for your consideration of my comments. Again, I ask that you either clarify that Alaska cruises are excluded from the Hawaiian coastwise vessels interpretation, or withdraw the proposed rule interpretation, perform a thorough review of the impacts, and then follow the normal federal rule-making process, including the opportunity to comment. This process is necessary to ensure adequate consideration of all the economic issues at stake.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin". The signature is fluid and cursive, with a large loop at the end of the last name.

Sarah Palin
Governor

cc: The Honorable Ted Stevens, United States Senate
The Honorable Lisa Murkowski, United State Senate
The Honorable Don Young, United States House of Representatives
W. Ralph Basham, Commissioner, Customs and Border Protection
John Katz, Director, State of Alaska Office of the Governor, Washington, D.C.

December 21, 2007

Border Security Regulations Branch,
Office of International Trade,
Customs and Border Protection,
1300 Pennsylvania Avenue, NW., (Mint Annex),
Washington, DC 20229

The Board of Directors of the Alaska State Chamber of Commerce wishes to go on record opposing the proposed US Customs and Border Protection (CBP) new criteria to determine if foreign-flagged passenger vessels are in violation of the Passenger Vessel Services Act (PVSA). While intended to solve a problem in Hawaii, the proposed "Interpretation" of Regulations does not specifically limit the requirements to Hawaii cruises from U. S. Ports. The requirements for cruise ships to stop at Foreign Ports appear to cover any voyages and could be interpreted to impact round-trip voyages to Alaska from Seattle, Washington.

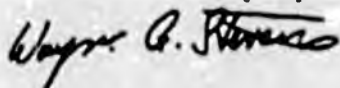
Approximately 158 voyages and 349,000 passengers would be affected by the new CBP proposed change in regulations. This is roughly one third of the cruise passengers coming to Alaska. The voyages impacted are those cruises beginning and ending in Seattle or San Francisco. On a seven day itinerary considering the distances to ports in Southeast Alaska from Seattle it is only possible to have one port call in Southeast Alaska and still meet the three proposed criteria. This will not affect the ships originating or concluding their voyage in a foreign port such as Vancouver, BC. The loss of business in Alaskan ports would be devastating to our communities and delicate economy. This interpretation could be in affect for the 2008 season. The loss of jobs, businesses, revenue and taxes would be crippling to our region.

If cruise ships were required to make foreign port calls of 48 hour and to spend 50% of port time in foreign ports on round-trip voyages from Seattle to Alaska, it would make the existing seven-day itineraries impossible to operate. The only alternative would be for ships to spend less time in Alaska ports and more time in Canadian ports. This would harm Alaska.

Any final rule interpreting the regulations should require Foreign Port calls to last at least 8 hours and that only one such stop be required in any single itinerary. The proposed changes to regulations appear to be a significant departure from industry practice, not an interpretation of existing regulations. No ships call in Alaska or Canadian ports for 48 hours.

The Board of Directors of the Alaska State Chamber urges you to proceed with great caution. The solution to a problem in Hawaii will have significant detrimental impact to Alaska and its cruise industry. Thank you for your careful consideration and thoughtful deliberations on this complex issue.

Yours in economic prosperity,



Wayne A. Stevens
President/CEO





**Resolution in opposition to proposed changes in PVSA interpretation by the
Department of Homeland Security**

WHEREAS, the visitor industry is an important economic engine of Alaska's private sector; and,

WHEREAS, the cruise industry delivers over 1,000,000 visitors annually to Alaska; and,

WHEREAS, the United States Department of Homeland Security, Bureau of Customs and Border Protection, is proposing to adopt a new interpretive rule that would require stops at an intervening foreign port to last at least 48 hours, to spend an amount of time at the foreign port that is more than 50 percent of the total amount of time at the United States ports of call, and to permit cruise ship passengers to disembark at the foreign port; and,

WHEREAS, it is not clear from the notice and publicity relating to the proposed rule change that the rule, if adopted, would be confined in its application to foreign-flagged vessels engaged in the Hawaiian cruise ship market; and

WHEREAS, application of the rule to the Alaska market would have devastating economic effects in the coastal communities of this state because the proposed revision of the interpretive rule would typically allow not more than one or perhaps two brief stops in ports of call in Alaska, thereby reducing or limiting port calls in some places and eliminating them in others; and,

WHEREAS, application of the proposed rule change to Alaska would diminish the attractiveness of Alaska as a cruise visitor destination; and

WHEREAS, there has been no attempt to quantify the economic impacts to Alaska's visitor industry; and

WHEREAS, this will harm Alaskan owned and operated businesses who provide services to cruise ship visitors and the cruise lines; and,

WHEREAS, application of the proposed rule change to the Alaska market would also significantly and dramatically reduce the shoreside employment and business opportunities in the communities in this state in which cruise ships currently call.

THEREFORE, BE IT RESOLVED, that the ALASKA TRAVEL INDUSTRY ASSOCIATION BOARD OF DIRECTORS is opposed to the proposed Department of Homeland Security's proposed rule because it would negatively impact Alaska businesses and communities.

Ron Pack, President & COO, Alaska Travel Industry Association



**CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY**

OFFICE OF THE MAYOR

Telephone: (907) 586-3246, Facsimile: (907) 586-3385
Mayor@Juneau.ak.us

December 19, 2007

**SUBMITTED ELECTRONICALLY VIA
Federal e-Rulemaking Portal at <http://www.regulations.gov>**

Border Security Regulations Branch
Office of International Trade
Customs and Border Protection
1300 Pennsylvania Avenue, NW (Mini Annex)
Washington, DC 20229

Re: Proposed Interpretation
Docket Number USCBP-2007-0098 – Hawaiian Coastwise Cruises
Customs and Border Protection, Department of Homeland Security

To Whom It May Concern:

The City and Borough of Juneau, Alaska, submits the following comments on the proposed interpretation of the Passenger Vessel Services Act described in the Federal Register Notice, Docket Number USCBP-2007-0098, entitled "Hawaiian Coastwise Cruises." The City and Borough of Juneau has significant concerns regarding the proposed interpretative rule.

The proposed interpretation is obviously intended to address an issue with the Hawaiian coastwise cruise industry. However, as drafted it is not limited to the Hawaiian cruise itineraries and instead would apply to all cruise itineraries subject to the Passenger Vessels Services Act. If adopted as now proposed, the interpretative rule would have drastic implications for not only the City and Borough of Juneau, but also all of the ports-of-call in Southeast Alaska.

Juneau, the Capital of Alaska, is a city of approximately 32,000 people, nestled between mountains and the waters of the Inside Passage. Tourism is a key element of our local economy. Juneau is one of the major ports-of-call for cruise ships traveling through Southeast Alaska. The economic impact of the cruise ship industry on our community is enormous – spending by thousands of visiting passengers and vessel crew; sales tax, passenger fee, and port fee revenues; employment in

cruise-related jobs; and property tax revenue associated with the industry – to name just a few of the economic impacts. In addition to Juneau, the ships make port calls in Ketchikan, Sitka, and Skagway, Alaska.

As drafted, the proposed interpretation would affect approximately one-third of the cruises to Southeast Alaska. The itineraries affected would be those cruises starting and ending in Seattle or San Francisco. The potential impact to Juneau of just the Seattle-Seattle cruise itineraries is approximately 175 port calls and 368,370 passengers.

Because of the distances involved, under the proposed interpretation it appears that it would only be possible for a cruise ship to make *one port call* in Southeast Alaska and still meet the three proposed criteria for what constitutes a "legitimate" foreign port call. The average cruise would have only four days for ships to choose between Ketchikan, Juneau, Sitka, or Skagway. The economic implications of such a change on Juneau and these other port cities would be very substantial. The economy of Southeast Alaska is still reeling from the downturn in the timber industry, and the fishing industry is struggling. Tourism, and importantly, the cruise ship industry, is vital to our local economy.

The most recent economic impact study on cruise tourism in Juneau showed that each passenger spends about \$186 in Juneau. The potential loss of 368,370 passenger visits translates into a *loss of direct spending in Juneau alone of over \$68 million*. The impact would reverberate through the economy. At our five percent sales tax rate, Juneau could experience a loss of \$3.4 million in sales tax revenue, jobs would be lost, and virtually every business would be affected.

Further, as proposed, the new interpretation would be in effect for the 2008 tourism season, which starts in May 2008 – a mere five months from now – which can hardly be considered sufficient time for the impacted local governments, businesses, employers, employees, and citizens throughout Southeast Alaska to prepare for such momentous change. In the long term, it is true that some of the cruises to Alaska now scheduled to depart or return to Seattle could be re-routed to start or end in Vancouver. This absolutely cannot happen by summer 2008 and, indeed, it is unlikely that Vancouver could accommodate all of the traffic now scheduled out of Seattle. Any reduction in cruise traffic to Alaska will have significant impacts to the Juneau economy.

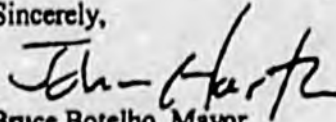
At a minimum, we urge that the proposed interpretation be modified to narrow its application to the situation intended to be addressed by the Bureau of Customs and Border Protection, *i.e.*, Hawaiian non-coastwise-qualified vessels. This can be accomplished by simply including a provision that the new interpretation applies only to non-coastwise-qualified vessels that embark and disembark at a U.S. port, and call on another U.S. port that is located West of 150 degrees longitude and South of 45 degrees North latitude.

In summary, the City and Borough of Juneau strongly urges the Bureau to reconsider the proposed interpretative rule. Given the significance of the proposal, we urge that the Bureau begin a process of collaboration with the affected parties to develop a reasonable approach, one that would not result in unnecessary and unintended impacts on other U.S. ports-of-call.

Border Security Regulations Branch
December 19, 2007
Page 3 of 3

Thank you for your attention to this important matter.

Sincerely,


For Bruce Botelho, Mayor
City and Borough of Juneau

cc: U.S. Senator Ted Stevens
U.S. Senator Lisa Murkowski
U.S. Representative Don Young
Governor Sarah Palin, State of Alaska
Mayor Bob Weinstein, City of Ketchikan
Mayor Joe Williams, Ketchikan Gateway Borough
Mayor Marko Dapceovich, City and Borough of Sitka
Mayor Thomas D. Cochran, Municipality of Skagway
Cathie Roemmich, CEO, Juneau Chamber of Commerce
Rod Swope, City Manager, City and Borough of Juneau
John Stone, Port Director, City and Borough of Juneau



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET • KETCHIKAN, ALASKA 99901

OFFICE OF THE BOROUGH MAYOR

December 17, 2007

Mr. Glen Vereb
Border Security Regulations Branch
Office of International Trade
Customs and Border Protection
1300 Pennsylvania Avenue, NW (Mint Annex)
Washington, DC 20229

Dear Mr. Vereb,

This is to express deep concern over the proposal by the U.S. Customs and Border Protection (CBP) to use new criteria to determine whether non-coastwise qualified vessels are in violation of the Passenger Vessel Services Act. The proposed new criteria were outlined in the Federal Register, Volume 72, No. 224, published November 21, 2007. Although only the Hawaiian cruise market was cited as the subject of the USCBP's action, the criteria would apply to other cruise itineraries including those in Alaska. As published in the Federal Register, the proposed rules state as follows:

CBP will presume that a stop at a foreign port is not a legitimate object of the cruise unless:

- (1) The stop lasts at least 48 hours at the foreign port;
- (2) The amount of time at the foreign port is more than 50 percent of the total amount of time at the U.S. ports of call; and
- (3) The passengers are permitted to go ashore temporarily at the foreign port.

Accordingly, CBP proposes to adopt an interpretive rule under which it will presume that any cruise itinerary that does not include a foreign port call that satisfies each of these three criteria constitutes coastwise transportation of passengers in violation of 19 CFR 4.80a(b)(1).

On a typical seven-day to ten-day cruise from Seattle to southeast Alaska, it is possible to have only one port call in southeast Alaska and still meet the three proposed criteria. According to Cruise Line Agencies of Alaska, the criteria proposed by the CBP could eliminate 158 port calls now scheduled for Ketchikan in 2008. That represents an estimated 334,370 passengers - more than one-third of the number of cruise-ship passengers projected to visit our community next year. With cruise-ship passengers spending an average of \$159 per person in Ketchikan, the loss in terms of direct spending alone is estimated to be \$53,104,830.

Mr. Glen Vereb
December 17, 2007
Page 2

If the new criteria are implemented, serious and far-reaching damage to our economy and the economies of other communities in Alaska will result. The loss of jobs, business revenues, and taxes would be devastating

I respectfully urge you to maintain the existing interpretation of the Passenger Vessel Services Act.

Sincerely,

Joe Williams
Mayor

The Honorable Ted Stevens, U.S. Senator for Alaska
The Honorable Lisa Murkowski, U.S. Senator for Alaska
The Honorable Don Young, Representative for Alaska
Greater Ketchikan Chamber of Commerce
Ketchikan Visitors Bureau



KETCHIKAN

Our lifestyle, your reward

December 18, 2007

W. Ralph Basham
Commissioner, Customs and Border Protection
Border Securities Regulation Branch
Office of International Trade, Customs and Border Protection
1300 Pennsylvania Avenue NW (Mint Annex)
Washington, DC 20229

RE: Proposed Rule Interpretation
Docket Number USCBP-2007-0098
Hawaiian Coastwise Cruises

Dear Mr. Basham,

I am writing on behalf of the Ketchikan Visitors Bureau, located in Ketchikan, Alaska to advise you of our concerns that the Bureau of Customs and Border Protection's proposed interpretation of the Passenger Vessel Services Act poses for the visitor industry in our community.

While I am aware that the focus of this issue is the Hawaii cruise trade, broad interpretation of the proposal could have profoundly damaging effects on a number of United States communities and businesses engaged in trade with international cruise line operators. The Ketchikan Visitors Bureau urges your consideration of these impacts.

Specific to Ketchikan, tourism is the largest private sector industry in our community. Cruise trade is the predominant sector with 36 ships making 496 port calls and bringing 899,538 passengers in 2007. Research conducted for the Ketchikan Visitors Bureau estimates that each passenger spends \$159.00 per day and total cruise industry spending during 2006 (passengers, cruise lines and crew member spending) generated \$145.5 million in economic impact for our community.

Due to Ketchikan's geographic location we were the last port of call for 57% of the cruise ships on Alaskan itineraries in 2007. Ships that home port in Seattle typically make a foreign port stop in British Columbia following their visit to Ketchikan. The majority of itineraries focus on 7 day cruises, which means that a 48 hour required stop could eliminate Ketchikan as well as other Alaskan destinations as a port of call.

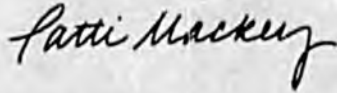
According to the 2008 preliminary cruise ship schedule, the proposed interpretation if enacted for Alaska bound ships could impact 158 port calls and visits by 334,370 passengers.

It is also worth noting, that the increase in the number of foreign flag ships using Seattle, WA as a port of embarkation for Alaska cruise itineraries has a direct effect on the potential impacts Ketchikan could face. And yet, the fact that the ships have made the move from Vancouver, BC to Seattle has actually increased US jobs, and revenues to the visitor industry in that city.

KETCHIKAN VISITORS BUREAU • 131 Front Street Ketchikan, Alaska 99901 • 907-225-6166
E-mail: pmackey@visit-ketchikan.com • www.visit-ketchikan.com

The Ketchikan Visitors Bureau does not presume to comment on the issue specific to the Hawaii cruise trade, but we urge you to exempt Alaska from the proposed interpretation of rules and appreciate your consideration of our concerns.

Sincerely,



Patti Mackey
Executive Director

C: Ketchikan Visitors Bureau Board of Directors
Alaska Congressional Delegation Office: of:
The Honorable Senator Ted Stevens
The Honorable Senator Lisa Murkowski
The Honorable Congressman Don Young
City of Ketchikan
Ketchikan Gateway Borough

AMENDMENT

OFFERED IN THE HOUSE
TO: CSSJR 12(STA)

BY REPRESENTATIVE JOHANSEN

1 Page 2, following line 20:

2 Ins new material to read:

3 "WHEREAS in order to enhance Alaska ports, money has been dedicated to federal,
4 state, and local infrastructure that would be underutilized if the proposed rule change were put
5 into effect; and"