

(4) For requests based upon the already existing protections available to credit card purchases of passenger vessel transportation, the requesting PVO must supply the following information for the most recent twelve months preceding the request: Total deposits and payments received for passenger vessel transportation; Credit card receipt totals; Copy of the PVO's policy(ies) governing payments by passengers (i.e., deposits and the number of days prior to sailing the passenger must make final payment).

(5) In determining whether and to what level to reduce the required amount, the Commission may consider the extent to which other statutory requirements provide relevant protections, the certificant's financial data, and other specific facts and circumstances.

(6) For PVOs with payment policies that provide for final payment for the passenger vessel transportation no later than 60 days before the vessel's sailing date, requests based upon credit card receipts may be granted by the Commission permitting a reduction in the financial responsibility otherwise required under this Part. The amount of such a reduction will be established by determining the proportion that the PVO's total credit card receipts bears to its total receipts and applying one half of that percentage to the PVO's highest two-year UPR.

(7) The Bureau of Certification and Licensing may request additional information as may assist it in considering the request.

(8) Where a request is granted, the alternative financial responsibility shall remain in effect until the PVO's Certificate (Performance) expires under §540.7(b) or until the Director, Bureau of Certification and Licensing determines otherwise based upon changing information pursuant to this paragraph or paragraph (1)(5) of this section. Additional information may be requested at any time by the Commission or BCL from a PVO whose request under this section has been granted.

[49 FR 36313, Sept. 14, 1984, as amended at 55 FR 34568, Aug. 23, 1990; 78 FR 13278, Feb. 27, 2013]

FORM FMC-132A TO SUBPART A OF PART 540

FORM FMC-132A

FEDERAL MARITIME COMMISSION

Passenger Vessel Surety Bond (Performance)

Surety Co. Bond No. \_\_\_\_\_

FMC Certificate No. \_\_\_\_\_

Know all men by these presents, that we \_\_\_\_\_ (Name of applicant), of \_\_\_\_\_ (City), \_\_\_\_\_ (State and country), as Principal (hereinafter called Principal), and \_\_\_\_\_ (Name of surety), a company created and existing under the laws of \_\_\_\_\_ (State and country) and authorized to do business in the United States as Surety (hereinafter called Surety) are held and firmly bound unto the United States of America in the penal sum of \_\_\_\_\_,

for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. Whereas the Principal intends to become a holder of a Certificate (Performance) pursuant to the provisions of subpart A of part 540 of title 46, Code of Federal Regulations and has elected to file with the Federal Maritime Commission such a bond to insure financial responsibility and the supplying transportation and other services subject to subpart A of part 540 of title 46, Code of Federal Regulations, in accordance with the ticket contract between the Principal and the passenger, and

Whereas this bond is written to assure compliance by the Principal as an authorized holder of a Certificate (Performance) pursuant to subpart A of part 540 of title 46, Code of Federal Regulations, and shall inure to the benefit of any and all passengers to whom the Principal may be held legally liable for any of the damages herein described. Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to passengers any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to provide such transportation and other accommodations and services in accordance

**Federal Maritime Commission**

**Pt. 540, Subpt. A, Form FMC-133A**

with the ticket contract made by the Principal and the passenger while this bond is in effect for the supplying of transportation and other services pursuant to and in accordance with the provisions of subpart A of part 540 of title 46, Code of Federal Regulations, then this obligation shall be void, otherwise, to remain in full force and effect.

The liability of the Surety with respect to any passenger shall not exceed the passage price paid by or on behalf of such passenger. The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond, but in no event shall the Surety's obligation hereunder exceed the amount of said penalty. The Surety agrees to furnish written notice to the Federal Maritime Commission forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

This bond is effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice sent by certified mail, courier service, or other electronic means such as email and fax to the other and to the Federal Maritime Commission at its office in Washington, DC, such termination to become effective thirty (30) days after actual receipt of said notice by the Commission, except that no such termination shall become effective while a voyage is in progress. The Surety shall not be liable hereunder for any refunds due under ticket contracts made by the Principal for the supplying of transportation and other services after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for refunds arising from ticket contracts made by the Principal for the supplying of transportation and other services prior to the date such termination becomes effective.

The underwriting Surety will promptly notify the Director, Bureau

of Certification and Licensing, Federal Maritime Commission, Washington, DC 20573, of any claim(s) or disbursements against this bond.

In witness whereof, the said Principal and Surety have executed this instrument on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PRINCIPAL

Name \_\_\_\_\_

By \_\_\_\_\_  
(Signature and title)

Witness \_\_\_\_\_

SURETY

[SEAL]

Name \_\_\_\_\_

By \_\_\_\_\_  
(Signature and title)

Witness \_\_\_\_\_

Only corporations or associations of individual insurers may qualify to act as surety, and they must establish to the satisfaction of the Federal Maritime Commission legal authority to assume the obligations of surety and financial ability to discharge them.

[78 FR 13279, Feb. 27, 2013]

FORM FMC-133A TO SUBPART A OF PART 540

FORM FMC-133A

FEDERAL MARITIME COMMISSION

*Guaranty in Respect of Liability for Nonperformance, Section 3 of the Act*

Guaranty No. \_\_\_\_\_

FMC Certificate No. \_\_\_\_\_

1. Whereas \_\_\_\_\_ (Name of applicant) (Hereinafter referred to as the "Applicant") is the Owner or Charterer of the passenger Vessel(s) specified in the annexed Schedule ("the Vessels"), which are or may become engaged in voyages to or from United States ports, and the Applicant desires to establish its financial responsibility in accordance with section 3 of Pub. L. 89-777, 89th Congress, approved November 6, 1966 ("the Act") then, provided that the Federal Maritime Commission ("FMC") shall have accepted, as sufficient for that purpose, the Applicant's application, supported by this Guaranty, and provided that FMC shall issue to the Applicant a Certificate