

tice of a claim of an undischarged lien on the vessel.

(iii) The mortgagee of each mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

(2) A declaration under this subsection filed by a person that is not an individual must be signed by the president, member, partner, trustee, or other individual authorized to execute the declaration on behalf of the person.

(c)(1) On full and final discharge of the indebtedness that is the basis for a notice of claim of lien recorded under subsection (b) of this section, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

(2) The district courts of the United States shall have jurisdiction over a civil action in Admiralty to declare that a vessel is not subject to a lien claimed under subsection (b) of this section, or that the vessel is not subject to the notice of claim of lien, or both, regardless of the amount in controversy or the citizenship of the parties. Venue in such an action shall be in the district where the vessel is found or where the claimant resides or where the notice of claim of lien is recorded. The court may award costs and attorneys fees to the prevailing party, unless the court finds that the position of the other party was substantially justified or other circumstances make an award of costs and attorneys fees unjust. The Secretary shall record any such declaratory order.

(d) A person claiming a lien on a vessel covered by a preferred mortgage under section 31322(d) of this title must record and discharge the lien as provided by the law of the State in which the vessel is titled.

(e) A notice of claim of lien recorded under subsection (b) of this section shall expire 3 years after the date the lien was established, as such date is stated in the notice under subsection (a) of this section.

(f) This section does not alter in any respect the law pertaining to the establishment of a maritime lien, the remedy provided by such a lien, or the defenses thereto, including any defense under the doctrine of laches.

(Pub. L. 100-710, title I, §102(c), Nov. 23, 1988, 102 Stat. 4748; Pub. L. 107-295, title II, §205(a)(1), Nov. 25, 2002, 116 Stat. 2095; Pub. L. 111-281, title IX, §913(a)(1), Oct. 15, 2010, 124 Stat. 3017.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 31343, 46:925

Section 31343 provides that any person claiming a lien on a vessel covered by a preferred mortgage may record a notice of lien. This notice must state the nature of the lien, date it was established; the amount; and the name and address of the person claiming a lien, and it must be acknowledged. The Secretary must record a notice of lien if it complies with these requirements. When any part of the indebtedness is discharged, the claimant shall provide the Secretary with a written, acknowledged certificate of discharge of the indebtedness, and the Secretary shall record the certificate. This section makes no substantive change to law.

Section 31343(c) provides that, on the full and final discharge of an indebtedness that is the basis for a claim, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge on the request of the Secretary or owner of the vessel. This subsection makes a substantive change to law by not requiring partial discharges to be filed, as well as making the filing of discharge certificates only at the request of the Secretary or owner of the vessel.

HOUSE FLOOR STATEMENT

Subsection (d) of this section requires a person claiming a lien on a vessel covered by a preferred mortgage under section 31322(d) to record and discharge the lien as provided by the law of the State in which the vessel is titled.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-281 struck out “of Transportation” after “Secretary” in introductory provisions.

2002—Pub. L. 107-295, §205(a)(1)(A), substituted “notices of claim of maritime lien” for “liens on preferred mortgage vessels” in section catchline.

Subsec. (a). Pub. L. 107-295, §205(a)(1)(B), substituted “documented, or for which an application for documentation has been filed, under chapter 121” for “covered by a preferred mortgage filed or recorded under this chapter” in introductory provisions.

Subsec. (b). Pub. L. 107-295, §205(a)(1)(C), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary shall record a notice complying with subsection (a) of this section.”

Subsec. (c). Pub. L. 107-295, §205(a)(1)(D), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “On full and final discharge of the indebtedness that is the basis for a claim recorded under subsection (b) of this section, on request of the Secretary or owner, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.”

Subsecs. (e), (f). Pub. L. 107-295, §205(a)(1)(E), added subsecs. (e) and (f).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-295 effective Jan. 1, 2003, see section 205(e) of Pub. L. 107-295, set out as a note under section 31325 of this title.

Subtitle IV—Regulation of Ocean Shipping

PART A—OCEAN SHIPPING

Table with 2 columns: Chapter, Sec. Rows include 401. General (40101), 403. Agreements (40301), 405. Tariffs, Service Contracts, Refunds, and Waivers (40501), 407. Controlled Carriers (40701), 409. Ocean Transportation Intermediaries (40901), 411. Prohibitions and Penalties (41101), 413. Enforcement (41301)

PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

Table with 2 columns: Chapter, Sec. Rows include 421. Regulations Affecting Shipping in Foreign Trade (42101), 423. Foreign Shipping Practices (42301)

PART C—MISCELLANEOUS

Table with 2 columns: Chapter, Sec. Row 441. Evidence of Financial Responsibility for Passenger Transportation (44101)

PART A—OCEAN SHIPPING

CHAPTER 401—GENERAL

Table with 2 columns: Sec., Purposes. Row 40101. Purposes.

Sec.	
40102.	Definitions.
40103.	Administrative exemptions.
40104.	Reports filed with the Commission.

§ 40101. Purposes

The purposes of this part are to—

(1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

(2) provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices;

(3) encourage the development of an economically sound and efficient liner fleet of vessels of the United States capable of meeting national security needs; and

(4) promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

(Pub. L. 109-304, § 7, Oct. 6, 2006, 120 Stat. 1523.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40101	46 App.:1701.	Pub. L. 98-237, § 2, Mar. 20, 1984, 98 Stat. 67; Pub. L. 105-258, title I, § 101, Oct. 14, 1998, 112 Stat. 1902.

EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS

Pub. L. 98-237, § 20(d), Mar. 20, 1984, 98 Stat. 90; Pub. L. 105-258, title I, § 117(1), Oct. 14, 1998, 112 Stat. 1914, provided that: "All agreements, contracts, modifications, licenses, and exemptions previously issued, approved, or effective under the Shipping Act, 1916 [former 46 U.S.C. App. 801 et seq., see Disposition Table preceding section 101 of this title], or the Shipping Act of 1984 [former 46 U.S.C. App. 1701 et seq., see Disposition Table preceding section 101 of this title], shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1998 [Pub. L. 105-258, Oct. 14, 1998, 112 Stat. 1902], and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1998."

§ 40102. Definitions

In this part:

(1) AGREEMENT.—The term "agreement"—

(A) means a written or oral understanding, arrangement, or association, and any modification or cancellation thereof; but

(B) does not include a maritime labor agreement.

(2) ANTITRUST LAWS.—The term "antitrust laws" means—

(A) the Sherman Act (15 U.S.C. 1 et seq.);

(B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9);

(C) the Clayton Act (15 U.S.C. 12 et seq.);

(D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);

(E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and

(G) Acts supplementary to those Acts.

(3) ASSESSMENT AGREEMENT.—The term "assessment agreement" means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent the agreement provides for the funding of collectively bargained fringe-benefit obligations on other than a uniform worker-hour basis, regardless of the cargo handled or type of vessel or equipment used.

(4) BULK CARGO.—The term "bulk cargo" means cargo that is loaded and carried in bulk without mark or count.

(5) CHEMICAL PARCEL-TANKER.—The term "chemical parcel-tanker" means a vessel that has—

(A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that—

(i) are a permanent part of the vessel; and

(ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and

(B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

(6) COMMON CARRIER.—The term "common carrier"—

(A) means a person that—

(i) holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation;

(ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

(iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country; but

(B) does not include a carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker, or by vessel when primarily engaged in the carriage of perishable agricultural commodities—

(i) if the carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities; and

(ii) only with respect to the carriage of those commodities.

(7) CONFERENCE.—The term "conference"—

(A) means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to use a common tariff; but

(B) does not include a joint service, consortium, pooling, sailing, or transshipment agreement.

(8) CONTROLLED CARRIER.—The term "controlled carrier" means an ocean common car-