

Calendar No. 107

107TH CONGRESS }
1st Session

SENATE

{ REPORT
107-48

**MARITIME POLICY IMPROVEMENT ACT
OF 2001**

R E P O R T

OF THE

**COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

ON

H.R. 1098



JULY 27, 2001.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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MARITIME POLICY IMPROVEMENT ACT OF 2001

JULY 27, 2001.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany H.R. 1098]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 1098) to improve the recording and discharging of maritime liens and expand the American Merchant Marine Memorial Wall of Honor, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to: expand the American Merchant Marine Memorial Wall of Honor; clarify the regulation of agriculture residue from hold washings; improve the recording and discharging of maritime liens; clarify the measurement of the research vessel DAVIDSON; grant waivers to a number of vessels with regards to operations in the coastwise trade; and, allow the owner of the vessel ASPHALT COMMANDER to place the vessel under foreign registry.

BACKGROUND AND NEEDS

The bill is comprised of several smaller pieces of legislation that were not acted upon during the last Congress along with a number of new provisions that were developed during the conference negotiations on the Coast Guard Authorization Act of 2000, but were not enacted. Further explanation of the background and needs of each provision is contained in the summary of major provisions below.

SUMMARY OF MAJOR PROVISIONS

The bill is comprised of several smaller pieces of legislation that were not acted upon during the last Congress along with several new provisions. The following provides a brief background and analysis of the major sections of the bill:

Section 3 of the bill amends section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104-324) to add the vessel COASTAL VENTURE to a list of vessels deemed to have been constructed in the United States for the limited purpose of the Merchant Marine Act of 1936. The company which owns the COASTAL VENTURE obtained this foreign-built vessel and its coastwise trading privileges through a government forfeiture sale. The Department of Commerce later determined that even though this foreign-built vessel is considered a U.S. vessel under U.S. coastwise trading laws, it cannot participate in its company's Capital Construction Fund Agreement with the U.S. Government. This section would allow funds generated by the COASTAL VENTURE to be deposited in its owner's Capital Construction Fund account. These funds must subsequently be spent in a U.S. shipyard.

Section 4 adopts the American Merchant Marine Memorial Wall of Honor Expansion Act which was introduced during the last Congress in the House, but not acted upon. It would authorize the Secretary of Transportation to make grants to the American Merchant Marine Veterans Memorial Committee to construct an addition to the American Merchant Marine Memorial Wall of Honor in San Pedro, California.

Section 5 reaffirms Congressional intent to govern the discharge of any agricultural cargo residue material from a vessel in the form of hold washings exclusively under the provisions of MARPOL Annex V (MARPOL V) as implemented by the Act to Prevent Pollution from Ships (APFS) (33 U.S.C. § 1901, et seq.). Agricultural cargo residue material refers to materials such as corn, wheat, rice, soybeans, grams, and other agricultural material and their residues routinely carried on vessels. Last year, the Coast Guard announced a plan to change its enforcement policy to apply other laws to regulate the discharge of agriculture cargo residue material that has traditionally been governed by MARPOL V. This proposed policy change would place an unwarranted burden on U.S.-flag bulk grain vessels which are required by agricultural inspection rules to wash their cargo holds at sea while underway en route to the next loading port. This discharge of agricultural cargo residue material is consistent with MARPOL V which specifically contemplates the discharge of such cargo residue.

Section 6 of the bill provides equal treatment for all vessels documented under the laws of the United States in matters regarding the recording and discharging of liens. Under the current section 31343 of title 46, United States Code, any person with a valid lien against the title of a vessel with a preferred mortgage may file the notice of claim of lien with the Secretary of Transportation. The Secretary is then required to record the lien filing providing notice to any subsequent creditor of the existence of the claim of lien. This process provides the necessary transparency to all potential creditors, buyers, and owners of the vessel to make informed commercial decisions regarding a particular vessel.

However, under current law, if a vessel is not covered by a preferred mortgage, the Secretary has no authority to record the notice of claim of lien. This legislation would extend the provisions of current law for preferred mortgages to a person with a valid lien against a vessel not covered by a preferred mortgage.

This provision is not intended to change any provision of current law related to preferences given to any type of lien. All aspects of admiralty law, including any relevant case law applicable to chapter 313 of title 46, apply to this provision. This provision is not intended to affect the rights of any party in a bankruptcy proceeding.

The provision is designed to make maritime liens as transparent as possible and to provide as much notice as possible to existing and potential creditors. If not renewed, notice of maritime liens recorded under this section will expire after three years. The expiration provision reduces the administrative burden on the Coast Guard in determining which liens remain in effect at any given time.

The effective date of this section is delayed until July 1, 2002, in order to give all of the parties adequate time to become familiar with these changes and to allow the Coast Guard to change their regulations to reflect these changes. The Coast Guard may immediately prescribe regulations to reflect the change in law concerning the new authority to record notice of claim of lien on documented vessels that do not have a preferred mortgage.

Section 7 of the bill deems the research vessel DAVIDSON to be less than 100 gross tons, as measured under chapter 145 of title 46, United States Code, for purposes of applying the optional regulatory measurement under section 14305 of title 46. The optional measurement provision allows the vessel owner to select any method to tonnage measurement prescribed under chapter 145 of title 46. Currently, chapter 145 allows tonnage to be measured pursuant to the International Convention of Tonnage Measurement of Ships, 1969, and alternate tonnage, if prescribed by section 14104(b) of title 46. While the United States Coast Guard has implemented some regulations detailing alternate tonnage measurement for certain classes of vessels, they have not completed full regulations on all classes of vessels.

The DAVIDSON is a former National Oceanographic and Atmospheric Administration research vessel. This section will allow the vessel to be used as part of an advanced marine sciences technical training program developed by the vessel's owners in conjunction with higher education and training institutions in the Pacific Northwest and Alaska.

Sections 8, 10, and 11 of the bill grants coastwise waivers for the operation (and in some cases, the restricted operation) of otherwise not qualified vessels in the coastwise trade. Subject to certain limited exceptions, the provisions of law known as the Jones Act (Section 27 of the Merchant Marine Act, 1920) and sections 12106–12108 of title 46, U.S. Code, provide that only those vessels built in the United States and continuously owned by U.S. citizens and documented in the U.S. may transport merchandise or passengers in the coastwise trade or engage in the domestic fisheries of the United States. The Jones Act was amended during the 104th Congress to waive the requirement that a vessel be continuously owned by U.S. citizens and documented in the U.S. for small passenger

vessels or uninspected passenger vessels authorized to carry no more than 12 passengers for hire. Where the facts applicable to a particular vessel suggest that the U.S.-built, U.S.-documented, or U.S.-owned requirements have not been satisfied, the Coast Guard may not issue a document permitting coastwise trading or domestic fishing privileges for such vessel unless the requirements of the law are statutorily waived.

Section 9 of the bill adds the vessels SS RED OAK VICTORY and SS AMERICAN VICTORY to a list of three other vessels subject to section 3302(l) of title 46, United States Code. The Secretary of Transportation may issue a permit exempting any of these vessels from the inspection requirements for passenger vessels so long as the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners. Most of these vessels do not meet the physical requirements for vessel safety, because they were built during World War II when inspection requirements were different. The Coast Guard will still be authorized to regulate safety.

Section 12 of the bill allows vessels participating in the New World Challenge to carry passengers in domestic waters as part of the promotional activities associated with the race. The race is being organized by Challenge Business International and will start and conclude in San Francisco. Organizers hope to allow press, corporate sponsors and their guests the opportunity to sail on the vessels. However, the Passenger Services Vessel Act prohibits foreign-built vessels from transporting passengers in the domestic trade. This provision would permit the vessels involved in the race to transport passengers for up to 60 days after the end of the race.

Section 13 of the bill allows the owner of the vessel ASPHALT COMMANDER to place this U.S.-flag vessel under a foreign registry. The ASPHALT COMMANDER is an older single hull tanker designed and built for the Military Sealift Command (MSC). After the vessel was no longer needed by the MSC, the U.S. Maritime Administration (MARAD) foreclosed and took possession of the vessel. The current U.S. owner purchased the vessel from MARAD and converted it into an asphalt carrier. Due to the vessel's design and small cargo capacity, the owner is no longer able to economically operate the vessel as a U.S.-flag vessel.

LEGISLATIVE HISTORY

The bill was introduced in the House of Representatives by Mr. Young of Alaska on March 20, 2001, and referred to the House Committee on Transportation and Infrastructure. The bill was not considered by the Committee but was passed by the House under suspension of the rules by a vote of 415–3 (Roll Call no. 55) on March 21, 2001. On March 22, 2001, the bill was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation. The Committee reported H.R. 1098 without amendment favorably on May 3, 2001.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget

Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 11, 2001.

Hon. JOHN MCCAIN,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1098, the Maritime Policy Improvement Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for this estimate are Deborah Reis (for federal spending), and Carolyn Lynch (for revenues).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1098—Maritime Policy Improvement Act of 2001

H.R. 1098 would authorize appropriations for a merchant marine memorial and would modify the regulatory status of certain vessels. Assuming appropriation of the specified amounts, CBO estimates that implementing this bill would cost \$500,000 in fiscal year 2002. Provisions regarding the designation of the vessel COASTAL VENTURE could result in a reduction in federal tax revenues, but we estimate that any such reduction would be negligible. Because the bill would affect receipts, pay-as-you-go procedures would apply.

H.R. 1098 would authorize the appropriation of \$500,000 for 2002 to the Secretary of Transportation to make matching grants to the American Merchant Marine Veterans Memorial Committee, Inc. The committee would use the grants to construct an addition to the American Merchant Marine Memorial Wall of Honor in San Pedro, California. Assuming appropriation of the authorized amount, CBO estimates that the Department of Transportation's Maritime Administration would spend \$500,000 in fiscal year 2002 to provide the matching grant to the committee.

Section 3 would deem the vessel COASTAL VENTURE to be a U.S. flagship qualified for employment in coastal trade, enabling its owner to establish a capital construction account for the purposes of constructing, acquiring, leasing, or paying off the indebtedness of the ship. Because such deposits and their earnings are tax-deferred and withdrawals of these funds are tax-exempt if used for qualifying purposes, corporate income tax revenues could be affected. As a result, pay-as-you go procedures would apply. Given the historical use of these accounts and the addition of only one vessel, CBO estimates that this provision would have a negligible effect on revenues.

Other provisions of H.R. 1098 would have no effect on the federal budget. Most of these provisions would allow certain ships to receive certificates of documentation or waivers from various federal regulations.

H.R. 1098 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The act would authorize the appropriation of \$500,000 in fiscal year 2002 for a grant to construct an addition to the American Merchant Marine Wall of Honor. The federal share of the project would be 50 percent; any cost incurred by state or local governments for the project would be voluntary.

The CBO staff contacts for this estimate are Deborah Reis (for federal spending), and Carolyn Lynch (for revenues). The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The number of persons covered should be consistent with current levels.

ECONOMIC IMPACT

The bill does not create any new programs, the legislation should have no additional economic impact.

PRIVACY

The bill as reported would have no adverse impact on the personal privacy of individuals.

PAPERWORK

There should be minimal change to paperwork requirements as a result of the bill. Under Section 6, the Coast Guard Vessel Documentation Center would be responsible for receiving, recording, and discharging an increased number of vessels liens. It is impossible to accurately forecast the full impact on the center, as no data is available on the number of recordable liens. However, it is believed that the increase in paperwork will be negligible.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that the Act may be cited as the Maritime Policy Improvement Act of 2001.

Section 2. Table of contents

Defines the contents of the bill.

Section 3. Vessel COASTAL VENTURE

Section 3 of the bill amends section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104-324) to add the vessel COASTAL VENTURE to a list of vessels, deemed to have been constructed in the United States for the limited purpose of the Merchant Marine Act of 1936.

Section 4. Expansion of American Merchant Marine Memorial Wall of Honor

Section 4 of the bill authorizes the Secretary of Transportation to make grants to the American Merchant Marine Veterans Memorial Committee to construct an addition to the American Merchant Marine Memorial Wall of Honor in San Pedro, California.

Section 5. Discharge of agricultural cargo residue

Section 5 of the bill requires the discharge from a vessel of any agricultural cargo residue material in the form of hold washings to be governed exclusively under the provisions of MARPOL Annex V (MARPOL V) as implemented by the Act to Prevent Pollution from Ships (APPS). Agricultural cargo residue material refers to materials such as corn, wheat, rice, soybeans, grains, and other agricultural material and their residues routinely carried on vessels.

Section 6. Recording and discharging maritime liens

Under current law, if a vessel is not covered by a preferred mortgage, the Secretary has no authority to record the notice of claim of lien. Section 6 of this bill would extend the provisions of current law for preferred mortgages to a valid lien against a vessel not covered by a preferred mortgage.

This provision is not intended to change any provision of current law related to preferences given to any type of lien. All aspects of admiralty law, including any relevant case law applicable to chapter 313 of title 46, United States Code, apply to this provision. This provision is not intended to affect the rights of any party in a bankruptcy proceeding.

The effective date of this section is delayed until July 1, 2002, in order to give the public adequate time to become familiar with these changes and to allow the Coast Guard to change their regulations to reflect these changes.

Section 7. Tonnage of R/V DAVIDSON

Section 7 of the bill deems the research vessel DAVIDSON to be less than 100 gross tons, as measured under chapter 145 of title 46, United States Code, for purposes of applying the optional regulatory measurement under section 14305 of title 46. The DAVIDSON is a former National Oceanographic and Atmospheric Administration research vessel. This section will allow the vessel to be used as part of an advanced marine sciences technical training program developed by the vessel's owners in conjunction with higher education and training institutions in the Pacific Northwest and Alaska.

Section 8. Miscellaneous certificates of documentation

Section 8 of the bill waives certain coastwise trade laws for 20 individually listed vessels.

Section 9. Exemption for victory ships

Section 9 of the bill adds the vessels SS RED OAK VICTORY and SS AMERICAN VICTORY to a list of three vessels subject to section 3302(l) of title 46, United States Code. The Secretary of Transportation may issue a permit exempting any of these vessels from the inspection requirements for passenger vessels so long as

the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners.

Section 10. Certificates of documentation for 3 barges

Section 10 of the bill waives the coastwise trade laws of the United States for three barges as long as these barges are only used in firework displays.

Section 11. Certificate of documentation for the EAGLE

Section 11 of the bill waives certain U.S. coastwise trade laws for the vessel EAGLE for specific purposes.

Section 12. Waiver for vessels in New World Challenge Race

Section 12 of the bill allows ten sailboats participating in the New World Challenge Race to transport non-paying guests, from and around the ports of San Francisco and San Diego, California, before and during stops of that race. The section expires on either December 31, 2003, or 60 days after the last competing sailboat reaches the end of that race in San Francisco, whichever is earliest. For the purpose of this section, the term “guests” is defined to include corporate sponsors, their employees and guests, members of the media and press, and any other supporter of the race.

Section 13. Vessel ASPHALT COMMANDER

Section 13 of the bill allows the owner of the vessel ASPHALT COMMANDER to place this U.S.-flag vessel under a foreign registry. The ASPHALT COMMANDER is an older single hull tanker designed and built for the Military Sealift Command (MSC). After the vessel was no longer needed by the MSC, the U.S. Maritime Administration (MARAD) foreclosed and took possession of the vessel. The current U.S. owner purchased the vessel from MARAD and converted it into an asphalt carrier. Due to the vessel’s design and small cargo capacity, the owner is no longer able to economically operate the vessel as a U.S.-flag vessel.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COAST GUARD AUTHORIZATION ACT OF 1996

SEC. 1120. DOCUMENTATION OF CERTAIN VESSELS.

(a) GENERAL CERTIFICATES.—Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (24 Stat. 81; chapter 421; 46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

- (1) ABORIGINAL (United States official number 942118).
- (2) ALPHA TANGO (United States official number 945782).

- (3) ANNAPOLIS (United States official number 999008).
- (4) ARK (United States official number 912726).
- (5) AURA (United States official number 1027807).
- (6) BABS (United States official number 1030028).
- (7) BAGGER (State of Hawaii registration number HA1809E).
- (8) BAREFOOT'N (United States official number 619766).
- (9) BARGE 76 (United States official number 1030612).
- (10) BARGE 77 (United States official number 1030613).
- (11) BARGE 78 (United States official number 1030614).
- (12) BARGE 100 (United States official number 1030615).
- (13) BEACON (United States official number 501539).
- (14) BEAR (United States official number 695002).
- (15) BEULA LEE (United States official number 928211).
- (16) BEWILDERED (United States official number 902354).
- (17) BIG DAD (United States official number 565022).
- (18) BILLY BUCK (United States official number 939064).
- (19) BROKEN PROMISE (United States official number 904435).
- (20) CAPTAIN DARYL (United States official number 580125).
- (21) CAROLYN (State of Tennessee registration number TN1765C).
- (22) CHARLOTTE (State of Maryland certification number MD1397AM).
- (23) CHESAPEAKE (United States official number 999010).
- (24) CRISSY (State of Maine registration certification number ME4778B).
- (25) COLT INTERNATIONAL (United States official number 913637).
- (26) CONSORT (United States official number 999005).
- (27) CONSORTIUM (British registration number 303328).
- (28) COURIER SERVICE (Vanuatu registration number 688).
- (29) CURTIS BAY (United States official number 999007).
- (30) DAMN YANKEE (United States official number 263611).
- (31) DANTE (United States official number 556188).
- (32) DELTA KING (United States official number 225874).
- (33) DORDY III (United States official number 286553).
- (34) DRAGONESSA (United States official number 646512).
- (35) EAGLE MAR (United States official number 575349).
- (36) EMERALD AYES (United States official number 986099).
- (37) EMMA (United States official number 946449).
- (38) EMPRESS (United States official number 975018).
- (39) ENDEAVOUR (United States official number 947869).
- (40) EVENING STAR (State of Hawaii registration number HA8337D).
- (41) EXPLORER (United States official number 918080).
- (42) EXTREME (United States official number 1022278).
- (43) EXUBERANCE (United States official number 698516).
- (44) FIFTY ONE (United States official number 1020419).
- (45) FINESSE (State of Florida registration number 7148).
- (46) FOCUS (United States official number 909293).

- (47) FREJA VIKING (Danish registration number A395).
- (48) 3 barges owned by the Harbor Maine Corporation (a corporation organized under the laws of the State of Rhode Island) and referred to by that company as Harbor 221, Harbor 223, and Gene Elizabeth.
- (49) GIBRALTAR (United States official number 668634).
- (50) GLEAM (United States official number 921594).
- (51) GOD'S GRACE II (State of Alaska registration number AK5916B).
- (52) HALCYON (United States official number 690219).
- (53) HAMPTON ROADS (United States official number 999009).
- (54) HERCO TYME (United States official number 911599).
- (55) HER WEIGH (United States official number 919074).
- (56) HIGH HOPES (United States official number 935174).
- (57) HIGH HOPES II (United States official number 959439).
- (58) HOPTOAD (Hull Identification number 528162 NET 12).
- (59) HOT WATER (United States official number 965985).
- (60) IDUN VIKING (Danish registration number A433).
- (61) INTREPID (United States official number 508185).
- (62) ISABELLE (United States official number 600655).
- (63) ISLAND STAR (United States official number 673537).
- (64) JAJO (Hull ID number R1Z200207H280).
- (65) JAMESTOWN (United States official number 999006).
- (66) JIVE DEVIL (United States official number 685348).
- (67) JOAN MARIE (State of North Carolina registration number NC2319AV).
- (68) KALYPSO (United States official number 566349).
- (69) KARMA (United States official number 661709).
- (70) LADY HAWK (United States official number 961095).
- (71) LIBERTY (United States official number 375248).
- (72) LIV VIKING (Danish registration number A394).
- (73) M/V MARION C II (United States official number 570892).
- (74) MAGIC CARPET (United States official number 278971).
- (75) MAGIC MOMENTS (United States official number 653689).
- (76) MADRINE (United States official number 663842).
- (77) MARALINDA (State of Florida registration number C023203-97).
- (78) MARANTHA (United States official number 638787).
- (79) MARSH GRASS II (Hull ID number AUKEV51139K690).
- (80) MEMORY MAKER (Hull No. 3151059, State of Maryland registration number MD8867AW).
- (81) MOONRAKER (United States official number 645981).
- (82) MORGAN (State of Ohio registration number OH-0358-EA).
- (83) MOVIN ON (United States official number 585100).
- (84) MY LITTLE SHIP (State of Washington registration number WN9979MF5).
- (85) NAMASTE (United States official number 594472).

- (86) OLD HAT (United States official number 508299).
- (87) ONRUST (United States official number 515058).
- (88) PAUL JOHANSEN (United States official number 1033607).
- (89) PHOENIX (United States official number 940997).
- (90) PLAY HARD (State of North Carolina registration number NC1083CE).
- (91) POLICY MAKER III (United States official number 569223).
- (92) PRIME TIME (United States official number 660944).
- (93) QUIET SQUAW (United States official number 998717).
- (94) QUIETLY (United States official number 658315).
- (95) QUINTESSENCE (United States official number 934393).
- (96) RAFFLES LIGHT (United States official number 501584).
- (97) RAINBOW'S END (United States official number 1026899; Hull ID number MY13708C787).
- (98) RATTLESNAKE (Canadian registration number 802702).
- (99) REEL TOY (United States official number 698383).
- (100) RELENTLESS (United States official number 287008).
- (101) 2 barges owned by Roen Salvage (a corporation organized under the laws of the State of Wisconsin) and numbered by that company as barge 103 and barge 203.
- (102) ROYAL AFFAIRE (United States official number 649292).
- (103) SALLIE D (State of Maryland registration number MD2655A).
- (104) SARAH-CHRISTEN (United States official number 342195).
- (105) SEA MISTRESS (United States official number 696806).
- (106) SEA SISTER (United States official number 951817).
- (107) SERENITY (United States official number 1021393).
- (108) SHAKA MARU (United States official number 983176).
- (109) SHAMROCK V (United States official number 900936).
- (110) SHOGUN (United States official number 577839).
- (111) SISU (United States official number 293648).
- (112) SMALLEY (6808 Amphibious Dredge: State of Florida registration number FL1855FF).
- (113) SNOW HAWK (United States official number 955-637).
- (114) SOUTHERN CRUZ (United States official number 556797).
- (115) SUNDOWN (United States official number 293434).
- (116) SUNRISE (United States official number 950381).
- (117) TECUMSEH (United States official number 668633).
- (118) THE SUMMER WIND (United States official number 905819).
- (119) TIVOLI (United States official number 582516).
- (120) TOO MUCH FUN (United States official number 936565).
- (121) TOP GUN (United States official number 623642).
- (122) TRIAD (United States official number 988602).

- (123) TWO CAN (United States official number 932361).
- (124) VICTORIA CLIPPER II (United States official number 725338).
- (125) WATERFRONT PROPERTY (United States official number 987686).
- (126) WESTFJORD (Hull ID number X-53-109).
- (127) WESTERN ATLANTIC (Panamanian registration number 10484-80-CEO).
- (128) WHITE WING (United States official number 283818).
- (129) WHY KNOT (United States official number 688570).
- (130) WOLF GANG II (United States official number 984934).
- (131) YES DEAR (United States official number 578550).
- (132) Former United States military vessels, as follows:
 - (A) LACV-30 hovercraft hulls numbered 1 through 26.
 - (B) AP-188 hovercraft hulls numbered 8701 and 8901.

For the purposes of chapter 121 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the engine twin paks, the thrust and lift engines, and all spare parts, appurtenances, and accessories transferred by the United States with the vessels referred to in this paragraph are deemed to have been built in the United States.

(b) M/V TWIN DRILL.—Section 601(d) of the Coast Guard Authorization Act of 1993 (Public Law 103-206) is amended—

- (1) in paragraph (3) by striking “June 30, 1995” and inserting “June 30, 1998”; and
- (2) in paragraph (4)—
 - (A) by striking “12 months” and inserting “36 months”; and
 - (B) by inserting “or convert under the same terms and conditions as provided in paragraphs (1) and (2)” after “construct”; and
- (3) in paragraph (5) by striking “constructed” and inserting “delivered”.

(c) CERTIFICATES OF DOCUMENTATION FOR GALLANT LADY.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with an appropriate endorsement for employment in coastwise trade for each of the following vessels:

- (A) GALLANT LADY (Leadship hull number 645, approximately 130 feet in length).
- (B) GALLANT LADY (Leadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to the carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue a certificate of documentation for a vessel under paragraph (1) unless, not

later than 90 days after the date of enactment of this Act, the owner of the vessel referred to in paragraph (1)(B) submits to the Secretary a letter expressing the intent of the owner to, before April 1, 1998, enter into a contract for the construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1) shall take effect—

(A) for the vessel referred to in paragraph (1)(A), on the date of the issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), on the date of delivery of the vessel to the owner.

(5) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under paragraph (1) shall expire—

(A) on the date of the sale of the vessel by the owner;

(B) on April 1, 1998, if the owner of the vessel referred to in paragraph (1)(B) has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under paragraph (3); or

(C) on such date as a contract referred to in paragraph (2) is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner of the vessel referred to in paragraph (1)(B).

(d) CERTIFICATES OF DOCUMENTATION FOR ENCHANTED ISLE AND ENCHANTED SEAS.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the vessels ENCHANTED ISLE (Panamanian official number 14087–84B) and ENCHANTED SEAS (Panamanian official number 14064–84D), except that the vessels may not operate between or among islands in the State of Hawaii.

(e) EXCEPTION TO CHAIN OF TITLE RESTRICTION.—Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended in the first proviso after “no vessel” by inserting “of more than 200 gross tons (as measured under chapter 143 of title 46, United States Code)”.

(f) CERTIFICATE OF DOCUMENTATION FOR A LIQUIFIED GAS TANKER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156) and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquefied natural gas or liquefied petroleum gas to the Commonwealth of Puerto Rico from other ports in the United States, if the vessel—

(1) is a foreign-built vessel that was built prior to the date of enactment of this Act; or

(2) is documented under chapter 121 of title 46, United States Code, before the date of enactment of this Act, even if the vessel is placed under a foreign registry and subsequently

redocumented under that chapter for operation under this section.

(g) **VESSELS DEEMED CONSTRUCTED IN UNITED STATES.**—Notwithstanding any other provision of law, the coastwise qualified vessels *COASTAL VENTURE* (United States official number 971086), *COASTAL SEA* (United States official number 666754), *COASTAL NOMAD* (United States official number 686157), and *COASTAL MERCHANT* (United States official number 1038382) are deemed to have been constructed in the United States as of the date of their original delivery.

(h) **LIMITED WAIVER FOR THE TUG MV JANIS GUZZLE.**—Notwithstanding any other law or any agreement with the United States Government, the tug *MV JANIS GUZZLE* (ex-G.R. MOIR; United States official number 608018) may be permanently operated in the domestic trade of the United States upon the repayment of \$1,140,619 to the Secretary of Transportation.

(i) **REGENT RAINBOW.**—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *REGENT RAINBOW* (Bahamas official number 715557), after the completion of the sale of the *REGENT RAINBOW* to an operator of another passenger vessel measuring more than 20,000 gross tons that on the day before the date of the enactment of this Act is in operation with a coastwise endorsement.

(j) **MILITARY HOVERCRAFT.**—Notwithstanding any other provision of law, the Administrator of General Services shall waive all conditions and restrictions relating to transfer or use of the property described in subsection (a)(132) (including the engine twin packs, the thrust and lift engines, and all spare parts, appurtenances, and accessories referred to in that subsection) and shall transfer unconditional and unrestricted title to all such property to the recipient eligible donee.

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART B. INSPECTION AND REGULATION OF VESSELS

CHAPTER 33. INSPECTION GENERALLY

§ 3302. Exemptions

(a) A vessel is not excluded from one category only because the vessel is—

(1) included in another category of section 3301 of this title;

or

(2) excluded by this section from another category of section 3301 of this title.

(b) Except as provided in subsection (c)(3) of this section, a fishing vessel, including a vessel chartered part-time as a fish tender vessel, is exempt from section 3301(1), (7), (11), and (12) of this title.

(c)(1) Except as provided in paragraph (3) of this subsection, a fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title is exempt from section 3301(1), (6), (7), (11), and (12) of this title.

(2) Except as provided in paragraphs (3) and (4) of this subsection, a fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title is exempt from section 3301(1), (6), (7), (11), and (12) of this title.

(3)(A) A fishing vessel or fish processing vessel is exempt from section 3301 (1), (6), and (7) of this title when transporting cargo (including fisheries-related cargo) to or from a place in Alaska if—

(i) that place does not receive weekly common carrier service by water from a place in the United States;

(ii) that place receives such common carrier service and the cargo is of a type not accepted by that common carrier service; or

(iii) the cargo is proprietary cargo owned by the owner of the vessel or any affiliated entity or subsidiary.

(B) A fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, which is qualified to engage in the Aleutian trade is exempt from section 3301 (1), (6), and (7) of this title when transporting cargo (including fisheries-related cargo) to or from a place in Alaska outside the Aleutian trade geographic area if—

(i) that place does not receive weekly common carrier service by water from a place in the United States;

(ii) that place receives such common carrier service and the cargo is of a type not accepted by that common carrier service; or

(iii) the cargo is proprietary cargo owned by the owner of the vessel or any affiliated entity or subsidiary.

(C) In this paragraph, the term “proprietary cargo” means cargo that—

(i) is used by the owner of the vessel or any affiliated entity or subsidiary in activities directly related to fishing or the processing of fish;

(ii) is consumed by employees of the owner of the vessel or any affiliated entity or subsidiary who are engaged in fishing or in the processing of fish; or

(iii) consists of fish or fish products harvested or processed by the owner of the vessel or any affiliated entity or subsidiary.

(D) Notwithstanding the restrictions in subparagraph (B) of this paragraph, vessels qualifying under subparagraph (B) may transport cargo (including fishery-related products) from a place in Alaska receiving weekly common carrier service by water to a final destination in Alaska not receiving weekly service by water from common carriers.

(4) A fish tender vessel is exempt from section 3301 (1), (6), and (7) of this title when engaged in the Aleutian trade if the vessel—

(A) is not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

(B) has an incline test performed by a marine surveyor; and

(C) has written stability instructions posted on board the vessel.

(d)(1) A motor vessel of less than 150 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, constructed before August 23, 1958, is not subject to inspection under section 3301(1) of this title if the vessel is owned or demise chartered to a cooperative or association that only transports cargo owned by at least one of its members on a nonprofit basis between places within the waters of—

(A) southeastern Alaska shoreward of the Boundary Line; or

(B) southeastern Alaska shoreward of the Boundary Line and—

(i) Prince Rupert, British Columbia; or

(ii) waters of Washington shoreward of the Boundary Line, via sheltered waters, as defined in article I of the treaty dated December 9, 1933, between the United States and Canada defining certain waters as sheltered waters.

(2) The transportation authorized under this subsection is limited to and from places not receiving annual weekly transportation service from any part of the United States by an established water common carrier. However, the limitation does not apply to transporting cargo of a character not accepted for transportation by that carrier.

(e) A vessel laid up, dismantled, or out of commission is exempt from inspection.

(f) Section 3301 (4) and (8) of this title does not apply to an oceanographic research vessel because it is carrying scientific personnel.

(g)(1) Except when compliance with major structural or major equipment requirements is necessary to remove an especially hazardous condition, an offshore supply vessel is not subject to regulations or standards for those requirements if the vessel—

(A) was operating as an offshore supply vessel before January 2, 1979; or

(B) was contracted for before January 2, 1979, and entered into service as an offshore supply vessel before October 6, 1980.

(2) After December 31, 1988, this subsection does not apply to an offshore supply vessel that is at least 20 years of age.

(h) An offshore supply vessel operating on January 1, 1979, under a certificate of inspection issued by the Secretary, is subject to an inspection standard or requirement only if the standard or requirement could have been prescribed for the vessel under authority existing under law on October 5, 1980.

(i)(1) The Secretary may issue a permit exempting a vessel from any part of the requirements of this part for vessels transporting cargo, including bulk fuel, from one place in Alaska to another place in Alaska only if the vessel—

(A) is not more than 300 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

(B) is in a condition that does not present an immediate threat to the safety of life or the environment; and

(C) was operating in the waters off Alaska as of June 1, 1976, or the vessel is a replacement for a vessel that was operating in the waters off Alaska as of June 1, 1976, if the vessel being replaced is no longer in service.

(2) Except in a situation declared to be an emergency by the Secretary, a vessel operating under a permit may not transport cargo to or from a place if the cargo could be transported by another commercial vessel that is reasonably available and that does not require exemptions to operate legally or if the cargo could be readily transported by overland routes.

(3) A permit may be issued for a specific voyage or for not more than one year. The permit may impose specific requirements about the amount or type of cargo to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters. The duration of the permit and restrictions contained in the permit shall be at the sole discretion of the Secretary.

(4) A designated Coast Guard official who has reason to believe that a vessel issued a permit is in a condition or is operated in a manner that creates an immediate threat to the safety of life or the environment or is operated in a manner that is inconsistent with the terms of the permit, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

(5) If a vessel issued a permit creates an immediate threat to the safety of life or the environment, or is operated in a manner inconsistent with the terms of the permit or the requirements of paragraph (2) of this subsection, the permit may be revoked. The owner, charterer, managing operator, agent, master, or individual in charge of a vessel issued a permit, that willfully permits the vessel to be operated, or operates, the vessel in a manner inconsistent with the terms of the permit, is liable to the United States Government for a civil penalty of not more than \$1,000.

(j) Notwithstanding another provision of this chapter, the Secretary is not required to inspect or prescribe regulations for a nautical school vessel of not more than 15 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(1) when used in connection with a course of instruction dealing with any aspect of maritime education or study; and

(2) operated by—

(A) the United States Merchant Marine Academy; or

(B) a State maritime academy assisted under section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c).

(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet

overall in length are subject to inspection under section 3301(9) of this title.

(1)(1) The Secretary may issue a permit exempting the following vessels from the requirements of this part for passenger vessels so long as the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners:

(A) The steamship John W. Brown (United States official number 242209), owned by Project Liberty Ship Baltimore, Incorporated, located in Baltimore, Maryland.

(B) The steamship Lane Victory (United States official number 248094), owned by the United States Merchant Marine Veterans of World War II, located in San Pedro, California.

(C) The steamship Jeremiah O'Brien (United States official number 243622), owned by the National Liberty Ship Memorial, Inc.

(D) *The steamship SS Red Oak Victory (United states official number 249410), owned by the Richmond Museum Association, located in Richmond, California.*

(E) *The SS American Victory (United states official number 248005), owned by Victory Ship, Inc., of Tampa, Florida.*

(2) The Secretary may issue a permit for a specific voyage or for not more than one year. The Secretary may impose specific requirements about the number of passengers to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters.

(3) A designated Coast Guard official who has reason to believe that a vessel operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with this section, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

(m) A seagoing barge is not subject to inspection under section 3301(6) of this title if the vessel is unmanned and does not carry—

- (1) a hazardous material as cargo; or
- (2) a flammable or combustible liquid, including oil, in bulk.

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART H. IDENTIFICATION OF VESSELS

CHAPTER 121. DOCUMENTATION OF VESSELS

§ 12111. Surrender and invalidation of certificates of documentation

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to that certificate of documentation; or

(2) is placed under the command of a person not a citizen of the United States in violation of section 12110(d) of this title.

(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

(B) sections 9 and 37(b) of the Shipping Act, 1916 (46 App. U.S.C. 808, 835(b));

(C) section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

(d)(1) The Secretary shall not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

(2) The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

TITLE 46. SHIPPING

SUBTITLE III. MARITIME LIABILITY

CHAPTER 313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS

SUBCHAPTER II. COMMERCIAL INSTRUMENTS

§ 31325. Preferred mortgage liens and enforcement

(a) A preferred mortgage is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

(b) On default of any term of the preferred mortgage, the mortgagee may—

(1) enforce the preferred mortgage lien in a civil action in rem for a documented vessel, a vessel to be documented under chapter 121 of this title, a vessel titled in a State, or a foreign vessel;

(2) enforce a claim for the outstanding indebtedness secured by the mortgaged vessel in—

(A) a civil action in personam in admiralty against the mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness; and

(B) a civil action against the mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness; and

(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or

both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a vessel titled in a State, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—

(A) the remedy is allowed under applicable law; and

(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).

(c) The district courts have original jurisdiction of a civil action brought under subsection (b)(1) or (2) of this section. However, for a documented vessel, a vessel to be documented under chapter 121 of this title, a vessel titled in a State, or a foreign vessel, this jurisdiction is exclusive of the courts of the States for a civil action brought under subsection (b)(1) of this section.

(d)(1) Actual notice of a civil action brought under subsection (b)(1) of this section, or to enforce a maritime lien, must be given in the manner directed by the court to—

(A) the master or individual in charge of the vessel;

(B) any person that recorded under section 31343(a) or (d) of this title **[a notice of a claim]** *an unexpired notice of a claim* of an undischarged lien on the vessel; and

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

(2) Notice under paragraph (1) of this subsection is not required if, after search satisfactory to the court, the person entitled to the notice has not been found in the United States.

(3) Failure to give notice required by this subsection does not affect the jurisdiction of the court in which the civil action is brought. However, unless notice is not required under paragraph (2) of this subsection, the party required to give notice is liable to the person not notified for damages in the amount of that person's interest in the vessel terminated by the action brought under subsection (b)(1) of this section. A civil action may be brought to recover the amount of the terminated interest. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court may award costs and attorney fees to the plaintiff.

(e) In a civil action brought under subsection (b)(1) of this section—

(1) the court may appoint a receiver and authorize the receiver to operate the mortgaged vessel and shall retain in rem jurisdiction over the vessel even if the receiver operates the vessel outside the district in which the court is located; and

(2) when directed by the court, a United States marshal may take possession of a mortgaged vessel even if the vessel is in the possession or under the control of a person claiming a possessory common law lien.

(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the

mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded **[a notice of a claim]** *an unexpired notice of a claim* of an undischarged lien on the vessel under section 31343(a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.

TITLE 46. SHIPPING

SUBTITLE III. MARITIME LIABILITY

CHAPTER 313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS

SUBCHAPTER III. MARITIME LIENS

[§ 31343. Recording and discharging liens on preferred mortgage vessels]

§ 33143. Recording and discharging liens

(a) Except as provided under subsection (d) of this section, a person claiming a lien on a vessel **[covered by a preferred mortgage filed or recorded under this chapter]** *documented, or for which an application for documentation has been filed, under chapter 121* may record with the Secretary of Transportation a notice of that person's lien claim on the vessel. To be recordable, the notice must—

- (1) state the nature of the lien;
- (2) state the date the lien was established;
- (3) state the amount of the lien;
- (4) state the name and address of the person; and
- (5) be signed and acknowledged.

[(b) The Secretary shall record a notice complying with subsection (a) of this section.]

(b)(1) The Secretary shall record a notice complying with subsection (a) of this section if, when the notice is presented to the Secretary for recording, the person having the claim files with the notice a declaration stating the following:

(A) The information in the notice is true and correct to the best of the knowledge, information, and belief of the individual who signed it.

(B) A copy of the notice, as presented for recordation, has been sent to each of the following:

- (i) The owner of the vessel.*
- (ii) Each person that recorded under section 31343(a) of this title an unexpired notice 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 official authorized to execute the declaration on behalf of the person.

[(c) 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.]

(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 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.

(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 specified in the notice under subsection (b) 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.

SHIPPING ACT, 1916

[46 U.S.C. APP. 808]

§ 9. Registration, enrollment, and licensing of vessels purchased, chartered, or leased; regulations; coastwise trade

(a) [Repealed].

(b) Every vessel purchased, chartered, or leased from the Secretary of Transportation shall, unless otherwise authorized by the Secretary of Transportation, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein.

(c) [Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181), and sections 12106(e),

31322(a)(1)(D) of title 46, **§** *Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181) and in sections 12106(e) and 31322(a)(1)(D) of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—*

(1) sell, lease, charter, deliver, or in any manner transfer, or agree to sell, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel that has been operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of title 46, United States Code) or in a vessel that has been operated only for pleasure) owned by a citizen of the United States or the last documentation of which was under the laws of the United States; or

(2) place a documented vessel, or a vessel the last documentation of which was under the laws of the United States, under foreign registry or operate that vessel under the authority of a foreign country.

(d)(1) Any charter, sale, or transfer of a vessel, or interest in or control of that vessel, contrary to this section is void.

(2) A person that knowingly charters, sells, or transfers a vessel, or interest in or control of that vessel, contrary to this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(3) A documented vessel may be seized by, and forfeited to, the United States Government if—

(A) the vessel is placed under foreign registry or operated under the authority of a foreign country contrary to this section; or

(B) a person knowingly charters, sells, or transfers a vessel, or interest or control in that vessel, contrary to this section.

(4) A person that charters, sells, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than \$ 10,000 for each violation.

(e) Notwithstanding subsection (c)(2), the Merchant Marine Act, 1936, or any contract entered into with the Secretary of Transportation under that Act, a vessel may be placed under a foreign registry, without approval of the Secretary, if—

(1)(A) the Secretary determines that at least one replacement vessel of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of title 46, United States Code, by the owner of the vessel placed under the foreign registry; and

(B) the replacement vessel is not more than 10 years of age on the date of that documentation;

(2)(A) an application for an operating agreement under subtitle B of title VI of the Merchant Marine Act, 1936 has been filed with respect to a vessel which is eligible to be included in the Maritime Security Fleet under section 651(b)(1) of that Act; and

(B) the Secretary has not awarded an operating agreement with respect to that vessel within 90 days after the date of that application;

(3) a contract covering the vessel under subtitle A of title VI of the Merchant Marine Act, 1936 has expired, and that vessel is more than 15 years of age on the date the contract expires; or

(4) an operating agreement covering the vessel under subtitle B of title VI of the Merchant Marine Act, 1936 has expired.

(e) To promote financing with respect to a vessel to be documented under chapter 121 of title 46, United States Code, the Secretary may grant approval under subsection (c) before the date the vessel is documented.

