

Browse
  Search
  Recent Changes
  Corrections
  Reader Aids
  My eCFR

Titles
  Agencies
  Incorporation by Reference
  Recent Updates

Reader Aids Home Sign In / Sign Up / Sign Up

Using the eCFR Point-in-Time System

Understanding the eCFR

Government Policy and OFR Procedures

Developer Resources

**Federal eCFR system**



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Go to CFR Reference  Go

Title 33 / Chapter I / Subchapter S / Part 187 / Subpart D [Previous](#) / [Next](#) / [Top](#)

- ECFR CONTENT**
- Table of Contents
- Details
- Print/PDF
- Display Options
- Subscribe
- Timeline
- Go to Date
- Compare Dates
- Published Edition
- Developer Tools

**ENHANCED CONTENT**  
 View [table of contents](#) for this page

### Subpart D - State Vessel Titling Systems [Docket No. USCG-2018-0160, 87 FR 34192, June 6, 2022]

#### § 187.301 Certification for preferred mortgage status - Eligibility requirements.

The Commandant, under 46 U.S.C. 31322(d)(1)(A) and § 187.13, will certify a State whose vessel titling system meets the requirements of this subpart as eligible to have security interests that are perfected under its law deemed preferred mortgages under 46 U.S.C. 31322. The State must also comply with the VIS participation requirements of § 187.11 and [subpart C of this part](#) and make vessel information it collects available to the VIS.

#### § 187.302 Terms States must define.

- (a) A State must define the terms “certificate of origin”, “dealer”, “documented vessel”, “authority”, “manufacturer”, “owner”, “person”, “secured party”, “security interest”, “authority”, and “vessel” substantially as defined in [33 CFR 187.7](#).
- (b) In addition to the definitions in [§ 187.7](#), a State must also define the following terms as prescribed by State law related to security interests in goods:
  - (1) *Agreement*;
  - (2) *Buyer in ordinary course of business*;
  - (3) *Conspicuous*;
  - (4) *Consumer goods*;
  - (5) *Debtor*;
  - (6) *Knowledge*;

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- (7) *Lease;*
- (8) *Lessor;*
- (9) *Notice;*
- (10) *Representative;*
- (11) *Sale;*
- (12) *Security agreement;*
- (13) *Seller;*
- (14) *Send;* and
- (15) *Value.*

- (c) The definitions in [§ 187.7](#) and the terms in [paragraph \(b\)](#) of this section do not apply to any State or Federal law governing licensing, numbering, or registration if the same term is used in that law.

### **§ 187.303 Applicability.**

Subject to a savings clause provided under state law, this subpart applies to any transaction, certificate of title, or record relating to a vessel, even if the transaction, certificate of title, or record was entered into or created before the effective date of the State law.

### **§ 187.304 Titling exclusively in one State.**

A State must require that all vessels required to be numbered in the State under 46 U.S.C. Chapter 123 be titled only in that State, if that State issues titles to that class of vessels.

### **§ 187.305 Law governing vessels covered by certificate of title.**

- (a) The local law of the State under whose certificate of title a vessel is covered governs all issues relating to the certificate from the time the vessel becomes covered by the certificate until the vessel becomes covered by another certificate or becomes a documented vessel, even if no other relationship exists between the State and the vessel or its owner.
- (b) A vessel becomes covered by a certificate of title when an application for the certificate and the applicable fee are delivered to the office in accordance with this subpart or to the governmental agency that creates a certificate in another jurisdiction in accordance with the law of that jurisdiction.

### **§ 187.306 Certificate of title required.**

- (a) Except as otherwise provided in [paragraphs \(b\)](#) and [\(c\)](#) of this section, the owner of a vessel must deliver to the office of the State in which the vessel is principally used an application for a certificate of title for the vessel, with the applicable fee, not later than 20 days after the later of -
  - (1) The date of a transfer of ownership; or
  - (2) The date the State becomes the State of principal use.
- (b) An application for a certificate of title is not required for -
  - (1) A documented vessel;
  - (2) A foreign-documented vessel;
  - (3) A barge;
  - (4) A vessel before delivery if the vessel is under construction or completed pursuant to contract; or
  - (5) A vessel held by a dealer for sale or lease.

- (c) The office may not issue, transfer, or renew a certificate of number for a vessel issued pursuant to [46 U.S.C. 12301](#) unless it has created a certificate of title for the vessel or an application for a certificate for the vessel and the applicable fee have been delivered to the office.

### § 187.307 Application for certificate of title.

- (a) Except as otherwise provided in §§ [187.310](#), [187.315](#), [187.319](#), [187.320](#), [187.321](#), and [187.322](#), only an owner may apply for a certificate of title.
- (b) An application for a certificate of title must be signed by the applicant and contain -
  - (1) The applicant's name, the street address of the applicant's principal residence, and, if different, the applicant's mailing address;
  - (2) The name and mailing address of each other owner of the vessel;
  - (3) The social security number or taxpayer identification number of each owner;
  - (4) The hull identification number (HIN) for the vessel or, if none, an application for the issuance of a HIN for the vessel;
  - (5) The vessel number for the vessel or, if none issued by the office, an application for a vessel number;
  - (6) A description of the vessel as required by the office, which must include -
    - (i) The official number for the vessel, if any, assigned by the Coast Guard;
    - (ii) The name of the manufacturer, builder, or maker;
    - (iii) The model year or the year in which the manufacture or build of the vessel was completed;
    - (iv) The overall length of the vessel;
    - (v) The vessel type, as described in [33 CFR 174.19](#);
    - (vi) The hull material, as described in [33 CFR 174.19](#);
    - (vii) The propulsion type, as described in [33 CFR 174.19](#);
    - (viii) The engine drive type, as described in [33 CFR 174.19](#), if any; and
    - (ix) The fuel type, as described in [33 CFR 174.19](#), if any;
  - (7) An indication of all security interests in the vessel known to the applicant and the name and mailing address of each secured party;
  - (8) A statement that the vessel is not a documented vessel or a foreign-documented vessel;
  - (9) Any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was created;
  - (10) If the applicant knows that the vessel is hull damaged, a statement that the vessel is hull damaged;
  - (11) If the application is made in connection with a transfer of ownership, the transferor's name, street address, and, if different, mailing address, the sales price, if any, and the date of the transfer; and
  - (12) If the vessel was previously registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the vessel was registered or titled.
- (c) In addition to the information required by [paragraph \(b\)](#) of this section, an application for a certificate of title may contain an electronic communication address of the owner, transferor, or secured party.
- (d) Except as otherwise provided in §§ [187.319](#), [187.320](#), [187.321](#), and [187.322](#), an application for a certificate of title must be accompanied by a certificate of title signed by the owner shown on the

certificate which identifies the applicant as the owner of the vessel, or is accompanied by a record that identifies the applicant as the owner.

- (e) If there is no certificate of title as discussed in [paragraph \(d\)](#) of this section, an application for a certificate of title must be accompanied by -
  - (1) If the vessel was a documented vessel, a record issued by the Coast Guard that shows the vessel is no longer a documented vessel and identifies the applicant as the owner;
  - (2) If the vessel was a foreign-documented vessel, a record issued by the foreign country which shows the vessel is no longer a foreign-documented vessel and identifies the applicant as the owner; or
  - (3) In all other cases, a certificate of origin, bill of sale, or other record that to the satisfaction of the office identifies the applicant as the owner.
- (f) A record submitted in connection with an application is part of the application and the office must maintain it in its files.
- (g) The office may require an application for a certificate of title to be accompanied by payment or evidence of payment of all fees and taxes payable by the applicant under State law if in connection with the application or the acquisition or use of the vessel.

#### **§ 187.308 Creation and cancellation of certificate of title.**

- (a) Unless an application for a certificate of title is rejected under [paragraph \(c\)](#) or [\(d\)](#) of this section, the office must create a certificate for the vessel in accordance with [paragraph \(b\)](#) of this section not later than 20 days after delivery to it of an application that complies with [§ 187.307](#).
- (b) If the office creates electronic certificates of title, it must create an electronic certificate unless in the application the secured party of record or, if none, the owner of record, requests that the office create a written certificate.
- (c) Except as otherwise provided in [paragraph \(d\)](#) of this section, the office may reject an application for a certificate of title only if -
  - (1) The application does not comply with [§ 187.307](#);
  - (2) The application does not contain documentation sufficient for the office to determine whether the applicant is entitled to a certificate;
  - (3) There is a reasonable basis for concluding that the application is fraudulent or issuance of a certificate would facilitate a fraudulent or illegal act; or
  - (4) The application does not comply with State law.
- (d) The office must reject an application for a certificate of title for a vessel that is a documented vessel or a foreign-documented vessel.
- (e) The office may cancel a certificate of title created by it only if the office -
  - (1) Could have rejected the application for the certificate under [paragraph \(c\)](#) of this section;
  - (2) Is required to cancel the certificate under another provision of this subpart; or
  - (3) Receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel.

#### **§ 187.309 Content of certificate of title.**

- (a) A certificate of title must contain -
  - (1) The date the certificate was created;
  - (2) The name of the owner of record and, if not all owners are listed, an indication that there are additional owners indicated in the files of the office;
  - (3) The mailing address of the owner of record;

- (4) The hull identification number (HIN);
  - (5) The information listed in [§ 187.307\(b\)\(6\)](#);
  - (6) Except as otherwise provided in [§ 187.315\(b\)](#), the name and mailing address of the secured party of record, if any, and if not all secured parties are listed, an indication that there are other security interests indicated in the files of the office; and
  - (7) All title brands indicated in the files of the office covering the vessel, including brands indicated on a certificate created by a governmental agency of another jurisdiction and delivered to the office.
- (b) This subpart does not preclude the office from noting on a certificate of title the name and mailing address of a secured party that is not a secured party of record.
  - (c) For each title brand indicated on a certificate of title, the certificate must identify the jurisdiction under whose law the title brand was created or the jurisdiction that created the certificate on which the title brand was indicated. If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate, the certificate may state: "Previously branded in (insert the jurisdiction under whose law the title brand was created or whose certificate of title previously indicated the title brand)."
  - (d) If the files of the office indicate that a vessel was previously registered or titled in a foreign country, the office must indicate on the certificate of title that the vessel was registered or titled in that country.
  - (e) A written certificate of title must contain a form that all owners indicated on the certificate may sign to evidence consent to a transfer of an ownership interest to another person. The form must include a certification, signed under penalty of perjury, that the statements made are true and correct to the best of each owner's knowledge, information, and belief.
  - (f) A written certificate of title must contain a form for the owner of record to indicate, in connection with a transfer of an ownership interest, that the vessel is hull damaged.

#### **§ 187.310 Title brand.**

- (a) Unless [paragraph \(c\)](#) of this section applies, at or before the time the owner of record transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the office, if the damage occurred while that person was an owner of the vessel and the person has notice of the damage at the time of the transfer, the owner must -
  - (1) Deliver to the office an application for a new certificate that complies with [§ 187.307 of this part](#) and includes the title brand designation "Hull Damaged"; or
  - (2) Indicate on the certificate in the place designated for that purpose that the vessel is hull damaged and deliver the certificate to the transferee.
- (b) Not later than 20 days after delivery to the office of the application under [paragraph \(a\)\(1\)](#) of this section or the certificate of title under [paragraph \(a\)\(2\)](#) of this section, the office must create a new certificate that indicates that the vessel is branded "Hull Damaged".
- (c) Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the office, the insurer must deliver to the office an application for a new certificate that complies with [§ 187.306](#) and includes the title brand designation "Hull Damaged". Not later than 20 days after delivery of the application to the office, the office must create a new certificate that indicates that the vessel is branded "Hull Damaged".
- (d) An owner of record who fails to comply with [paragraph \(a\)](#) of this section, a person who solicits or colludes in a failure by an owner of record to comply with [paragraph \(a\)](#) of this section, or an insurer that fails to comply with [paragraph \(c\)](#) of this section is subject to penalty as prescribed by state law.

#### **§ 187.311 Maintenance of and access to files.**

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- (a) For each record relating to a certificate of title submitted to the office, the office must -
  - (1) Ascertain or assign the hull identification number (HIN) for the vessel in accordance with [33 CFR part 181](#);
  - (2) Maintain the HIN and all the information submitted with the application pursuant to [§ 187.307\(b\)](#) to which the record relates, including the date and time the record was delivered to the office;
  - (3) Maintain the files for public inspection subject to [paragraph \(e\)](#) of this section; and
  - (4) Index the files of the office as required by [paragraph \(b\)](#) of this section.
- (b) The office must maintain in its files the information contained in all certificates of title created under this subpart. The information in the files of the office must be searchable by the HIN of the vessel, the vessel number, the name of the owner of record, and any other method used by the office.
- (c) The office must maintain in its files, for each vessel for which it has created a certificate of title, all title brands known to the office, the name of each secured party known to the office, the name of each person known to the office to be claiming an ownership interest, and all stolen-property reports the office has received.
- (d) Upon request, for safety, security, or law-enforcement purposes, the office must provide to Federal, State, or local government the information in its files relating to any vessel for which the office has issued a certificate of title.
- (e) Except as otherwise provided by laws of the titling State, the information required under [§ 187.309](#) is a public record, but the information provided under [§ 187.307\(b\)\(3\)](#) is not a public record.

#### **§ 187.312 Action required on creation of certificate of title.**

- (a) On creation of a written certificate of title, the office must promptly send the certificate to the secured party of record or, if none, to the owner of record, at the address indicated for that person in the files of the office. On creation of an electronic certificate of title, the office must promptly send a record evidencing the certificate to the owner of record and, if there is one, to the secured party of record, at the address indicated for that person in the files of the office. The office may send the record to the person's mailing address or, if indicated in the files of the office, an electronic address.
- (b) If the office creates a written certificate of title, any electronic certificate of title for the vessel is canceled and replaced by the written certificate. The office must maintain in the files of the office the date and time of cancellation.
- (c) Before the office creates an electronic certificate of title, any written certificate for the vessel must be surrendered to the office. If the office creates an electronic certificate, the office must destroy or otherwise cancel the written certificate for the vessel that has been surrendered to the office and maintain in the files of the office the date and time of destruction or other cancellation. If a written certificate being canceled is not destroyed, the office must indicate on the face of the certificate that it has been canceled.

#### **§ 187.313 Effect of certificate of title.**

A certificate of title is *prima facie* evidence of the accuracy of the information in the record that constitutes the certificate.

#### **§ 187.314 Effect of possession of certificate of title; judicial process.**

Possession of a certificate of title does not by itself provide a right to obtain possession of a vessel. Garnishment, attachment, levy, replevin, or other judicial process against the certificate is not effective to determine possessory rights to the vessel. This subpart does not prohibit enforcement under State law, other than this subpart ([33 CFR part 187 subpart D](#)), of a security interest in, levy on, or foreclosure of a

statutory or common-law lien on a vessel. Absence of an indication of a statutory or common-law lien on a certificate does not invalidate the lien.

### § 187.315 Perfection of security interest.

- (a) Except as otherwise provided in this section or a savings clause provided under state law, a security interest in a vessel may be perfected only by delivery to the office of an application for a certificate of title that identifies the secured party and otherwise complies with § 187.307. The security interest is perfected on the later of delivery to the office of the application and the applicable fee or attachment of the security interest as prescribed by State law related to security interests in goods.
- (b) If the interest of a person named as owner, lessor, consignee, or bailor in an application for a certificate of title delivered to the office is a security interest, the application sufficiently identifies the person as a secured party. Identification on the application for a certificate of a person as owner, lessor, consignee, or bailor is not by itself a factor in determining whether the person's interest is a security interest.
- (c) If the office has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the office of an application, on a form the office may require, to have the security interest added to the certificate. The application must be signed by an owner of the vessel or by the secured party and must include -
  - (1) The name of the owner of record;
  - (2) The name and mailing address of the secured party;
  - (3) The hull identification number (HIN) for the vessel; and
  - (4) If the office has created a written certificate of title for the vessel, the certificate.
- (d) A security interest perfected under paragraph (c) of this section is perfected on the later of delivery to the office of the application and all applicable fees or attachment of the security interest as prescribed by State law related to security interests in goods.
- (e) On delivery of an application that complies with paragraph (c) of this section and payment of all applicable fees, the office must create a new certificate of title pursuant to § 187.308 and deliver the new certificate or a record evidencing an electronic certificate pursuant to § 187.312(a). The office must maintain in the files of the office the date and time of delivery of the application to the office.
- (f) If a secured party assigns a perfected security interest in a vessel, the receipt by the office of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. Upon obtaining a release from the secured party indicated in the files of the office or on the certificate, a purchaser of a vessel subject to a security interest takes free of the security interest and of the rights of a transferee unless the transfer is indicated in the files of the office or on the certificate.
- (g) This section does not apply to a security interest -
  - (1) Created in a vessel by a person during any period in which the vessel is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling vessels;
  - (2) In a barge for which no application for a certificate of title has been delivered to the office; or
  - (3) In a vessel before delivery if the vessel is under construction, or completed, pursuant to contract and for which no application for a certificate has been delivered to the office.
- (h) This paragraph applies if a certificate of documentation for a documented vessel is deleted or canceled. If a security interest in the vessel was valid immediately before deletion or cancellation against a third party as a result of compliance with 42 U.S.C. 31321, the security interest is and remains perfected until the earlier of 4 months after cancellation of the certificate or the time the security interest becomes perfected under this subpart.

- (i) A security interest in a vessel arising under State law related to security interests in goods is perfected when it attaches but becomes unperfected when the debtor obtains possession of the vessel, unless before the debtor obtains possession the security interest is perfected pursuant to [paragraphs \(a\) or \(c\)](#) of this section.
- (j) A security interest in a vessel as proceeds of other collateral is perfected to the extent provided in State law.
- (k) A security interest in a vessel perfected under the law of another jurisdiction is perfected to the extent provided in State law.

#### § 187.316 Termination statement.

- (a) A secured party indicated in the files of the office as having a security interest in a vessel must deliver a termination statement to the office and, on the debtor's request, to the debtor, by the earlier of -
  - (1) Twenty days after the secured party receives a signed demand from an owner for a termination statement and there is no obligation secured by the vessel subject to the security interest and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel; or
  - (2) If the vessel is consumer goods, 30 days after there is no obligation secured by the vessel and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel.
- (b) If a written certificate of title has been created and delivered to a secured party and a termination statement is required under [paragraph \(a\)](#) of this section, the secured party, not later than the date required by paragraph (a), must deliver the certificate to the debtor or to the office with the statement. If the certificate is lost, stolen, mutilated, destroyed, or is otherwise unavailable or illegible, the secured party must deliver with the statement, not later than the date required by paragraph (a), an application for a replacement certificate meeting the requirements of [§ 187.322](#).
- (c) On delivery to the office of a termination statement authorized by the secured party, the security interest to which the statement relates ceases to be perfected. If the security interest to which the statement relates was indicated on the certificate of title, the office must create a new certificate and deliver the new certificate or a record evidencing an electronic certificate. The office must maintain in its files the date and time of delivery to the office of the statement.
- (d) A secured party that fails to comply with this section is liable for any loss that the secured party had reason to know might result from its failure to comply and which could not reasonably have been prevented and for the cost of an application for a certificate of title under [§ 187.307](#) or [§ 187.322](#).

#### § 187.317 Transfer of ownership.

- (a) On voluntary transfer of an ownership interest in a vessel covered by a certificate of title, the following rules apply:
  - (1) If the certificate is a written certificate of title and the transferor's interest is noted on the certificate, the transferor must promptly sign the certificate and deliver it to the transferee. If the transferor does not have possession of the certificate, the person in possession of the certificate has a duty to facilitate the transferor's compliance with this paragraph. A secured party does not have a duty to facilitate the transferor's compliance with this paragraph if the proposed transfer is prohibited by the security agreement.
  - (2) If the certificate of title is an electronic certificate of title, the transferor must promptly sign and deliver to the transferee a record evidencing the transfer of ownership to the transferee.
  - (3) The transferee has a right enforceable by specific performance to require the transferor comply with [paragraph \(a\)\(1\) or \(2\)](#) of this section.
- (b) The creation of a certificate of title identifying the transferee as owner of record satisfies

paragraph (a) of this section.

- (c) A failure to comply with paragraph (a) or to apply for a new certificate of title does not render a transfer of ownership of a vessel ineffective between the parties. Except as otherwise provided in [§ 187.318](#), [§ 187.319](#), [§ 187.323\(a\)](#), or [§ 187.324](#), a transfer of ownership without compliance with paragraph (a) of this section is not effective against another person claiming an interest in the vessel.
- (d) A transferor that complies with paragraph (a) of this section is not liable as owner of the vessel for an event occurring after the transfer, regardless of whether the transferee applies for a new certificate of title.

### § 187.318 Effect of missing or incorrect information.

Except as otherwise provided as prescribed by State law related to security interests in goods, a certificate of title or other record required or authorized by this subpart is effective even if it contains incorrect information or does not contain required information.

### § 187.319 Transfer of ownership by secured party's transfer statement.

- (a) In this section, "secured party's transfer statement" means a record signed by the secured party of record stating -
  - (1) That there has been a default on an obligation secured by the vessel;
  - (2) The secured party of record is exercising or has exercised post-default remedies with respect to the vessel;
  - (3) By reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner, and the name of the owner;
  - (4) The name and last known mailing address of the owner of record and the secured party of record;
  - (5) The name of the transferee;
  - (6) Other information required by [§ 187.307\(b\)](#); and
  - (7) One of the following:
    - (i) The certificate of title is an electronic certificate;
    - (ii) The secured party does not have possession of the written certificate of title created in the name of the owner of record; or
    - (iii) The secured party is delivering the written certificate of title to the office with the secured party's transfer statement.
- (b) Unless the office rejects a secured party's transfer statement for a reason stated in [§ 187.308\(c\)](#), not later than 20 days after delivery to the office of the statement and payment of fees and taxes payable under State law in connection with the statement or the acquisition or use of the vessel, the office must -
  - (1) Accept the statement;
  - (2) Amend the files of the office to reflect the transfer; and
  - (3) If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title -
    - (i) Cancel the certificate even if the certificate has not been delivered to the office;
    - (ii) Create a new certificate indicating the transferee as owner; and
    - (iii) Deliver the new certificate or a record evidencing an electronic certificate.
- (c) An application under paragraph (a) of this section or the creation of a certificate of title under paragraph (b) of this section is not by itself a disposition of the vessel and does not by itself

relieve the secured party of its duties under State law.

### § 187.320 Transfer by operation of law.

- (a) In this section -
  - (1) "By operation of law" means pursuant to a law or judicial order affecting ownership of a vessel -
    - (i) Because of death, divorce or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;
    - (ii) Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or
    - (iii) Through other legal process.
  - (2) "Transfer-by-law statement" means a record signed by a transferee stating that by operation of law the transferee has acquired or has the right to acquire an ownership interest in a vessel.
- (b) A transfer-by-law statement must contain -
  - (1) The name and last known mailing address of the owner of record and the transferee and the other information required by § 187.307(b);
  - (2) Documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;
  - (3) A statement that -
    - (i) The certificate of title is an electronic certificate of title;
    - (ii) The transferee does not have possession of the written certificate of title created in the name of the owner of record; or
    - (ii) The transferee is delivering the written certificate to the office with the transfer-by-law statement; and
  - (4) Except for a transfer described in paragraph (a)(1)(i) of this section, evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the office as having an interest, including a security interest, in the vessel.
- (c) Unless the office rejects a transfer-by-law statement for a reason stated in § 187.308(c) or because the statement does not include documentation satisfactory to the office as to the transferee's ownership interest or right to acquire the ownership interest, not later than 20 days after delivery to the office of the statement and payment of fees and taxes payable under State law in connection with the statement or with the acquisition or use of the vessel, the office must -
  - (1) Accept the statement;
  - (2) Amend the files of the office to reflect the transfer; and
  - (3) If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title -
    - (i) Cancel the certificate even if the certificate has not been delivered to the office;
    - (ii) Create a new certificate indicating the transferee as owner;
    - (iii) Indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and
    - (iv) Deliver the new certificate or a record evidencing an electronic certificate.
- (d) This section does not apply to a transfer of an interest in a vessel by a secured party as prescribed by State law related to security interests in goods.

### **§ 187.321 Application for transfer of ownership or termination of security interest without certificate of title.**

- (a) Except as otherwise provided in §§ 187.319 and 187.320, if the office receives, unaccompanied by a signed certificate of title, an application for a new certificate that includes an indication of a transfer of ownership or a termination statement, the office may create a new certificate under this section only if -
  - (1) All other requirements under §§ 187.307 and 187.308 are met;
  - (2) The applicant provides an affidavit stating facts showing that the applicant is entitled to a transfer of ownership or termination statement;
  - (3) The applicant provides the office with satisfactory evidence that notification of the application has been sent to the owner of record and all persons indicated in the files of the office as having an interest, including a security interest, in the vessel, at least 45 days have passed since the notification was sent, and the office has not received an objection from any of those persons; and
  - (4) The applicant submits any other information required by the office as evidence of the applicant's ownership or right to terminate the security interest, and the office has no credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel.
- (b) The office may indicate in a certificate of title created under paragraph (a) of this section that the certificate was created without submission of a signed certificate or termination statement. Unless credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel is delivered to the office not later than 1 year after creation of the certificate, on request in a form and manner required by the office, the office must remove the indication from the certificate.

### **§ 187.322 Replacement certificate of title.**

- (a) If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise becomes unavailable or illegible, the secured party of record or, if no secured party is indicated in the files of the office, the owner of record may apply for and, by furnishing information satisfactory to the office, obtain a replacement certificate in the name of the owner of record.
- (b) An applicant for a replacement certificate of title must sign the application, and, except as otherwise permitted by the office, the application must comply with § 187.307. The application must include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable.
- (c) A replacement certificate of title created by the office must comply with § 187.309 and indicate on the face of the certificate that it is a replacement certificate.
- (d) If a person receiving a replacement certificate of title subsequently obtains possession of the original written certificate, the person must promptly destroy the original certificate of title.

### **§ 187.323 Rights of purchaser other than secured party.**

- (a) A buyer in ordinary course of business has the protections afforded by State law even if an existing certificate of title was not signed and delivered to the buyer or a new certificate listing the buyer as owner of record was not created.
- (b) Except as otherwise provided in §§ 187.317 and 187.324, the rights of a purchaser of a vessel who is not a buyer in ordinary course of business or a lien creditor are governed by State law.

### **§ 187.324 Rights of secured party.**

- (a) Subject to paragraph (b) of this section, the effect of perfection and non-perfection of a security interest and the priority of a perfected or unperfected security interest with respect to the rights of a purchaser or creditor, including a lien creditor, is governed by State law.

- (b) If, while a security interest in a vessel is perfected by any method under this subpart, the office creates a certificate of title that does not indicate that the vessel is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate -
  - (1) A buyer of the vessel, other than a person in the business of selling or leasing vessels of that kind, takes free of the security interest if the buyer, acting in good faith and without knowledge of the security interest, gives value and receives possession of the vessel; and
  - (2) The security interest is subordinate to a conflicting security interest in the vessel that is perfected under [§ 187.315](#) after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

#### **§ 187.325 Duties and operation of office.**

- (a) The office must retain the evidence used to establish the accuracy of the information in its files relating to the current ownership of a vessel and the information on the certificate of title.
- (b) The office must retain in its files all information regarding a security interest in a vessel for at least 10 years after the office receives a termination statement regarding the security interest. The information must be accessible by the hull identification number (HIN) for the vessel and any other methods provided by the office.
- (c) If a person submits a record to the office, or submits information that is accepted by the office, and requests an acknowledgment of the filing or submission, the office must send to the person an acknowledgment showing the HIN of the vessel to which the record or submission relates, the information in the filed record or submission, and the date and time the record was received or the submission accepted. A request under this section must contain the HIN and be delivered by means authorized by the office.
- (d) The office must send or otherwise make available in a record the following information to any person that requests it and pays the applicable fee:
  - (1) Whether the files of the office indicate, as of a date and time specified by the office, but not a date earlier than 3 days before the office received the request, any certificate of title, security interest, termination statement, or title brand that relates to a vessel -
    - (i) Identified by a HIN designated in the request;
    - (ii) Identified by a vessel number designated in the request; or
    - (iii) Owned by a person designated in the request.
  - (2) With respect to the vessel -
    - (i) The name and address of any owner as indicated in the files of the office or on the certificate of title;
    - (ii) The name and address of any secured party as indicated in the files of the office or on the certificate, and the effective date of the information; and
    - (iii) A copy of any termination statement indicated in the files of the office and the effective date of the termination statement.
  - (3) With respect to the vessel, a copy of any certificate of origin, secured party transfer statement, transfer-by-law statement under [§ 187.320](#), and other evidence of previous or current transfers of ownership.
- (e) In responding to a request under this section, the office may provide the requested information in any medium. On request, the office must send the requested information in a record that is in keeping with State rules of evidence.

## PAGES

- [Home](#)
- [Titles](#)
- [Search](#)
- [Recent Changes](#)
- [Corrections](#)

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- [Using the eCFR Point-in-Time System](#)
- [Understanding the eCFR](#)
- [Government Policy and OFR Procedures](#)
- [Developer Resources](#)

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- [About This Site](#)
- [Legal Status](#)
- [Privacy](#)
- [Accessibility](#)
- [FOIA](#)
- [No Fear Act](#)
- [Continuity Information](#)

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