

DEPARTMENT OF TRANSPORTATION

SUPPORTING STATEMENT REQUIREMENTS FOR ESTABLISHING U.S. CITIZENSHIP

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) three-year approval clearance for the information collection entitled, Requirements for Establishing U.S. Citizenship (OMB Control No. 2133-0012, which is currently due to expire on July 31, 2019. MARAD is requesting renewal without change. There were no reported changes since OMB last approval of this collection. Note: A Private Threshold Assessment (PTA) was conducted for this collection and was adjudicated on 5/31/2019. The system is covered by an existing SORN, DOT/MARAD 014 (April 11, 2000, FR 19539, Vol 65, No. 70).

A. Justification

- 1. Explain the circumstances that make the collections of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Applicants for benefits and those receiving benefits under 46 U.S.C. Chapters 531, 535 and 537 (formerly the Merchant Marine Act, 1936, as amended), or applicants seeking fishery endorsement eligibility approval pursuant to the American Fisheries Act must be citizens of the United States within the meaning of 46 U.S.C. 50501, (formerly Section 2 of the Shipping Act, 1916, as amended). Section 50501 sets forth the statutory requirements for determining whether a corporation, partnership, or association is a U.S. citizen. Benefit programs include Chapter 537 loan guarantees for vessels operating or to be operated in the U.S. coastwise trade, Maritime Security Program ("MSP"), capital construction fund ("CCF"), and ship managers. The American Fisheries Act of 1998, incorporated in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (*Public Law 105-277*), designated the Maritime Administration as the agency responsible for ensuring compliance with the U.S. citizen ownership and control requirements for U.S.-flag fishing industry vessels of 100 feet and greater in registered length. In order to document a vessel with a fishery endorsement, the American Fisheries Act requires that 75% of the ownership and control of the vessel be vested in U.S. citizens, as defined under Section 50501, at each tier and in the aggregate. MARAD is charged with determining whether vessels of 100 feet or greater in length are owned and controlled by U.S. citizens and eligible for documentation with a fishery endorsement. In addition, MARAD must determine whether lenders, ship managers or others in positions of control are qualified to participate in the manner designated. In order to implement the statutory citizenship requirements of § 50501, the Agency published regulations appearing in the Code of Federal Regulations at 46 CFR Part 355 and Part 356, in which details for establishing U.S. citizenship are set forth, including the prescribed format of an Affidavit of U.S. Citizenship to be executed by those required to demonstrate U.S. citizenship. Participants in the various programs cited above must

execute, on an annual basis and file with the Maritime Administration (MARAD), the prescribed Affidavit (which can be modified depending upon the facts) set forth in the regulations (46 CFR Part 355 and Part 356).

Each participant in the various programs set forth above have, by statute and contracts, an obligation not only to be a citizen of the United States within the meaning of § 50501 at the time of entering into the contracts or seeking eligibility approval, but must remain a U.S. citizen during the contract period or for as long as they own or control a vessel with a fishery endorsement. Failure to do so could result in a breach of the warranties and representations provided for in the contracts and pursuant to 46 U.S.C. 56101 (formerly Section 9 of the Shipping Act, 1916, as amended) or in violation of the AFA and could result in possible vessel forfeiture and other penalties.

This information collection supports the economic growth strategic goal.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The Affidavits of the U.S. Citizenship filed with MARAD by shipowners, charterers, equity owners, ship managers, etc., are used to determine compliance with the statutory requirements. A majority of the participants involved with the programs administered by MARAD involve shipping companies, major banks, and other financing institutions within the United States.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Also, describe any consideration of using information technology to reduce burden.**

Many of the large corporations maintain a computerized database on stockholders; *i.e.*, names and addresses, which is compiled for stockholders' annual meetings. This information is also used for filing of the Affidavits of U.S. Citizenship. Further, there are numerous depositories who hold the stock and this information is also computerized with printouts made available to the companies, which in turn are used for completion of the Affidavit of U.S. Citizenship. Facsimile and e-mail submission of Affidavits is permitted.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

Since MARAD has the sole responsibility for the benefit programs provided for under 46 U.S.C. Chapters 531, 535, and 537 (formerly the Merchant Marine Act, 1936, as amended), and for issuing eligibility determinations in accordance with the American Fisheries Act there is no duplication of data submitted from other sources. These programs are promulgated at 46 C.F.R. parts 296, 390, 298, and 536 (Maritime Security

Program, Capital Construction Fund, Vessel Financing Guarantees, and American Fisheries Act, respectively).

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The citizenship affidavit is designed to require a minimum amount of information from respondents regardless of their size and was revised several years ago specifically to reduce the volume of documents previously required to be filed in connection with establishing U.S. citizenship.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.

Submitting the affidavit of U.S. Citizenship less frequently than presently required would make it extremely difficult to enforce compliance with the statutory requirements. Ownership of publicly-traded corporations is subject to frequent change; therefore, it is essential to require submission of the Affidavit annually.

Possible consequence of not requiring submission of the Affidavits of U.S. citizenship is that programs provided by statute for the benefit of U.S. citizens could likely benefit non-U.S. citizens. Further, vessels under the benefits programs that are U.S.-documented and owned by citizens are subject to requisition by the U.S. Government in times of national emergencies.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- o requiring respondents to report information to the agency more often than quarterly;**
- o requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- o requiring respondents to submit more than an original and two copies of any document;**
- o requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- o in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- o requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

- o that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing data with other agencies for compatible confidential use; or**
- o requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances that require the collection of information to be conducted in a manner set forth above.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

- o Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record-keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**
- o Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The prescribed format of the Affidavit and the Agency's use dates back to 1950. The Affidavit of U.S. Citizenship is used to determine whether, pursuant to statutory requirements, corporate entities are eligible for loan guarantees and other benefits involving millions of dollars. The agency is in frequent contact with corporate officials and their legal counsel concerning, among other things, availability of the requested information, disclosure, etc.

The data required is readily available in that the data is based on corporate stockbooks and records and regulations and Affidavit format is sufficiently detailed enough that few major problems occur.

The Maritime Administration published a 60-day notice requesting comments on this information collection in the Federal Register (Vol. 84, No. 41, Page 7170) on March 1, 2019, indicating comments should be submitted on or before April 30, 2019. No comments were received. In addition, a 30-day notice requesting comments was

published on June 6, 2019, indicating comments should be submitted on or before July 8, 2019.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Not applicable. As previously stated, the Affidavit is used to determine whether the applicant is eligible for monetary benefits provided to applicants meeting the statutory requirements.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Data is not released to the public unless through a Freedom of Information Act request or a Privacy Act request. Upon receipt of a Freedom of Information Act request, prior to release of such data, the submitting party is given an opportunity to claim an exemption from release pursuant to the FOIA. Prior to release, careful review of the reasons claimed for not releasing any requested data is done by the agency. Access to this data may also be gained pursuant to a court order of competent jurisdiction.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The information requested is not of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- o Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- o If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in item 13 of OMB Form 83-I.**

- o **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in item 14.**

The estimated hour burden of the collection of information is approximately five (5) hours per respondent. Most of the work can be done by administrative type personnel. As previously indicated the information required is readily available to corporate entities. Further, there are no start-up costs, or any other costs such as computers/software purchases required.

Number of Respondents	Responses Per Respondent	Total Responses Annually	Hours Per Response	Total Hours Annually
500	1	500	5	2500

The estimated annual cost per respondent is $\$28.56 \times 5 \times 1.4$ (benefits) = \$199.92. Therefore, for approximately 500 respondents, the estimated cost will be \$99,960.

*The hourly wage used is the mean hourly wage for Executive Secretaries and Executive Administrative Assistant, code 43-6011 @ \$28.56 an hour (taking from the 2018 BLS Occupation and Wage table). https://www.bls.gov/oes/2017/may/oes_nat.htm.

13. **Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).**

- o **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- o **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a**

part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- o Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

(a) Total Capital and Start-Up Costs Estimate: There are no capital or start-up costs associated with this information collection.

(b) Total Operation and Maintenance and Purchase of Services Estimate: There are no operational and maintenance or purchase of service costs associated with this information collection.

14. **Provide estimates of annualized cost to the Federal Government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from items 12, 13, and 14 in a single table.**

The total annual cost to the Federal Government for processing the collection is estimated as follows:

Review of each affidavit and attendant processing (including memo preparation)

<u>Number of Employees</u>	<u>Hourly Wage</u>	<u>Project Time</u>	<u>Cost Per Application</u>
3 (GS-14)	x \$70	x 1 hour	= \$ 210.00
Benefits - 210	x 1.4		= \$ 294.00
Sub Total (\$294.00 x 500 responses per year)			= \$147,000.00
Total Cost to Government			= \$147,000.00

Hourly wage was taken from the 2019 Wage table for GS-14 step 8 (rounded up to the nearest dollar); https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB_h.pdf.

15. **Explain the reasons for any program changes or adjustments reported in items 13 or 14 of OMB Form 83-I.**

There were no adjustments or program changes since the last approval by OMB.

16. **For collections of information whose results are planned to be published for**

statistical use, outline plans for tabulation, statistical analysis, and publication. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates and other actions.

The results of information submitted in affidavits will not be published.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

No such approval is being sought.

- 18. Explain each exception to the certification statement identified in Item 19. "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no exceptions to the certificate statement.