

# 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 –46 CFR 355 (OMB Control No. 2133-0012), which is currently due to expire on September 30, 2022. 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).

#### JUSTIFICATION

##### **1. Circumstances that make collection of information necessary.**

Applicants for benefits and those receiving benefits under 46 U.S.C. Chapters 531, 532, 533, 534, 535 and 537, 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"), Cable Security Program ("CSP"), Tanker Security Program ("TSP"), capital reserve fund ("CRF"), 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. How, by whom, and for what purpose is the information used.**

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. Extent of automated information collection**

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. Efforts to identify duplication.**

Since MARAD has the sole responsibility for the benefit programs provided for under 46 U.S.C. Chapters 531, 532, 533, 534, 535, and 537, 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 287,296, 390, 298, and 536 (CRF, MSP, CCF, Vessel Financing Guarantees, and American Fisheries Act, respectively).

## **5. Efforts to minimize the burden on small businesses.**

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. Impact of less frequent collection of information.**

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. Special circumstances.**

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

#### **8. Compliance with 5 CFR 1320.8:**

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 are sufficiently detailed enough that few major problems occur.

MARAD published a 60-day notice and request for comments on this information collection in the Federal Register on August 16, 2022 (87 FR 50373), indicating comments should be submitted on or before September 15, 2022. In addition, a 30-day notice and request for comments was published in the Federal Register on September 22, 2022 (87 FR 57977) indicating comments should be submitted on or before October 21, 2022.

#### **9. Payments or gifts to respondents.**

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. Assurance of confidentiality:**

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. Justification for collection of sensitive information:**

The information requested is not of a sensitive nature.

**12. Estimate of burden hours for information requested:**

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.

<b>Number of Respondents</b>	<b>Responses Per Respondent</b>	<b>Total Responses Annually</b>	<b>Hours Per Response</b>	<b>Total Hours Annually</b>
550	1	550	5	2750
<b>Estimated Annual Cost Per Respondent</b>	<b>Hours Per Response</b>	<b>Total Per Response Before Multiplier</b>	<b>Benefits Multiplier of 1.4</b>	<b>Total Cost for 550 Respondents Annually</b>
\$32.15	5	\$160.75	\$225.05	\$123,778

\* This mean hourly wage rate is based on the [Bureau of Labor Statistics Occupational Employment and Wages, May 2021 data for Category 43-6011 Executive Secretaries and Executive Administrative Assistant.](#)

**13. Estimate of total annual costs to respondents.**

(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. Estimate of cost to the Federal government.**

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)

<b>Number of Employees</b>	<b>Hourly Wage</b>	<b>Project Time</b>	<b>Cost Per Application</b>
3 (GS-14 Step 8)	\$67	1	\$201
<b>Cost Per Application</b>		<b>Benefits Multiplier</b>	<b>Total Cost to</b>

		<b>of 1.4</b>	<b>Government for 550 responses per year</b>
	\$201	\$281.40	\$154,770

Hourly wage was taken from the 2022 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/22Tables/html/BN%20\(LEO\)\\_h.aspx](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/22Tables/html/BN%20(LEO)_h.aspx)

**15. Explanation of program changes or adjustments.**

Updated to the packet are the Tanker Security Program (TSP), Cable Ship Security Program (CSP), and the Construction Reserve Fund (CRF) programs. The TSP and CSP programs are very similar to the Maritime Security Program. The CRF program is similar to the Capital Construction Fund program and has a significant number of respondents on an annual basis, which is why there is an increase in burden hours by 50 and the number of respondents by 50. Please contact Program Manager Michael Pucci for any additional questions at [Michael.Pucci@dot.gov](mailto:Michael.Pucci@dot.gov).

**16. Publication of results of data collection.**

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

**17. Approval for not displaying the expiration date of OMB approval.**

No such approval is being sought.

**18. Exceptions to certification statement.**

There are no exceptions to the certificate statement.