Department of Transportation
Maritime Administration
Information Collection Request (ICR)
2133-0530
Eligibility of U.S.-flag Vessels 100 feet or Greater in Registered Length to Obtain a Fishery Endorsement

SUPPORTING STATEMENT

INTRODUCTION

This submission is to request a three-year approval from the Office of Management and Budget (OMB) for the renewal of the information collection entitled OMB 2133-0530 (Eligibility of U.S.-flag Vessels 100 feet or Greater in Registered Length to Obtain a Fishery Endorsement), which expires June 30, 2026. There are no changes since the last renewal, so this collection will be submitted as *an extension without change of a currently approved collection*.

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary

The American Fisheries Act of 1998 (AFA), Title II, Division C, Public Law 105-277, requires that fishing vessels, fish processing vessels, and fish tender vessels of 100 feet or greater in registered length (hereinafter “Fishing Industry Vessels”), be owned and controlled by citizens of the United States (U.S.), within the meaning of 46 United States Code (U.S.C.) Section (§) 50501 (formerly Section 2 of the Shipping Act of 1916 (1916 Act), 46 App. U.S.C. §802), in order for the vessel to be eligible to be documented with a fishery endorsement to its documentation.

On October 6, 1998, Congress enacted the AFA and raised the citizenship requirements for owners, charterers, mortgagees, and trustees of vessels wishing to participate in the fisheries of the United States. Specifically, Section 202 of the AFA raised the requirement for U.S. citizenship for vessel owners from a controlling interest standard to a mandatory 75% percent ownership and control standard for all eligible fishing industry vessels, within the meaning of 46 U.S.C. § 50501 (formerly section 2 of the Shipping Act of 1916 (1916 Act), 46 App. U.S.C. § 802). Amendments to the AFA defined the terms “commercial lender” and “lending syndicate,” and relocated the mortgage trustee provisions from 46 U.S.C. §§ 12102(c)(4) to 46 U.S.C. 31322(f).

Section 202(b) of the AFA imposed new requirements to hold a preferred mortgage on fishing industry vessels of 100 feet or greater, by amending the definition of “preferred mortgage” at 46 U.S.C. § 31322(a)(4) with respect to such vessels. Section 31322(a)(4) of Title 46, U.S.C., defines a “preferred mortgage” with respect to a fishing industry vessel of 100 feet or greater, as one that is held by a mortgagee that: (1) is a person that meets the 75% U.S. citizen ownership and control standard for fishing industry vessels under 46 U.S.C. § 12113(c); (2) is a state or federally chartered financial institution that satisfies the controlling interest criteria of 46 U.S.C. § 50501(c) (formerly section 2(b) of the Shipping Act of 1916 (1916 Act), 46 App. U.S.C. § 802); or (3) is a person that complies with the mortgage trustee provisions of 46 U.S.C. § 31322(f).

Mortgagees who plan to finance vessels of 100 feet or greater in registered length, who have a fishery endorsement, or for which a fishery endorsement to the vessel's documentation is sought, must submit a certification to demonstrate that they meet the statutory definition of a "preferred mortgagee" at 46 U.S.C. § 31322(a)(4). If a Mortgagee does not comply with the definition of a "preferred mortgagee," it must use a mortgage trustee that qualifies as a U.S. citizen, to hold the preferred mortgage for the benefit of the non-citizen lender. The mortgage trustee must file an application for approval as a mortgage trustee that includes evidence that it is eligible to hold a preferred mortgage and that it complies with the requirements of 46 U.S.C. §31322. In addition to the Affidavit of United States Citizenship, corporations and other entities must submit documents that demonstrate that the entity is organized and existing under U.S. laws, such as Articles of Incorporation and Bylaws, or other comparable documents.

The AFA specifically requires that the Maritime Administration (MARAD) consider whether a non-citizen has the rights set out below, when applying the restrictions on controlling interest in section 50501(d):

(1) to direct the business of the entity which owns the vessel;
(2) to limit the actions of, or to replace the chief executive officer, a majority of the board of directors, any general partner, and/or any person serving in a management capacity of the entity which owns the vessel; or
(3) to direct the transfer, operation, or manning of a vessel with a fishery endorsement.

In addition, Section 203 of the AFA requires that MARAD personnel "rigorously scrutinize" all transfers of ownership and control of fishing vessels of 100 feet or greater after October 1, 2001, to determine whether there has been a violation of 46 U.S.C. § 12113. MARAD personnel must also pay particular attention to leases, charters, mortgages, financing, and similar arrangements, that may convey control over the vessel to an entity that is ineligible to own a vessel with a fishery endorsement. Section 203 of the AFA also mandates that MARAD personnel scrutinize agreements related to the management, sales, financing, or other operations of a vessel-owning entity, and contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

To comply with the requirements of the AFA, it will be necessary for MARAD to collect information related to the ownership, control, management, operation, and financing of vessels of 100 feet or greater, for which a fishery endorsement to the vessel's documentation is sought. Citizenship information will be collected using an Affidavit of U.S. Citizenship for owners, preferred mortgagees, mortgage trustees, and charterers. In addition, supporting documentation related to charters, sales agreements, management contracts, or other agreements that could convey control over the vessel or vessel owning entity, will be collected to ensure that control has not been conveyed to a non-citizen.

Section 213(g) of the AFA states that a particular vessel or mortgagee may be exempt from the requirements of the AFA, if the statute and the rules conflict with an international treaty or agreement to which the United States is a party. Accordingly, the proposed rule provides for the collection of information from vessel owners and mortgagees that claim to be exempt from the provisions of the rule so that MARAD can determine whether the provisions of the rule will apply to that specific party.

Finally, Section 210(e)(3) of the AFA requires MARAD to determine, upon the request of the Secretary of Commerce or the North Pacific Fishery Council, whether a party has violated the harvesting or processing caps imposed under the Sections 210(e)(1) and (2) of the AFA. MARAD may request relevant information from vessel owners, charterers, fish processors, or other related parties to determine whether such a violation has occurred.

This information collection supports the DOT Strategic Goal(s) of safety, mobility, economic growth, human and natural environment, national security, and organizational Excellence, by ensuring that the U.S.' commercial fisheries are reserved for the benefit U.S. citizen owners and operators of fishing industry vessels.

2. Purpose and Use of the Information Collection

The parties subject to this information collection include vessel owners, charterers, preferred mortgagees, mortgage trustees, vessel managers, and parties involved in long-term contracts for the sale of all or a significant portion of a vessel's catch. The information collected will be used by MARAD to determine if a vessel is owned and controlled by U.S. citizens, in accordance with the requirements of the AFA, and is eligible to be documented with a fishery endorsement to its documentation. The information collected in the Affidavit of United States Citizenship and other supporting documentation may also be used by MARAD to determine whether the vessel owner, charterer, processor, or other entity has violated harvesting and processing caps imposed under Section 210(e)(1) and (2) of the AFA. In addition, the information may be used to determine whether there is a conflict with an international treaty or agreement, that would result in an exemption from the requirements of the rule for a particular vessel owner or mortgagee.

3. Automation or Use of Information Technology (IT)

MARAD provides an electronic option for preparing and submitting responses for this collection. In addition, many of the corporations subject to the information collection requirements maintain a computerized database on stockholders, (i.e., names and addresses, which is compiled for the annual stockholders' meeting). This information is also used for filing an Affidavit of U.S. Citizenship. There are also numerous depositories that hold stock in the fishing industry. 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.

4. Efforts to Identify Duplication

MARAD has sole responsibility for determining whether the owners of vessels of 100 feet or greater in registered length, qualify as U.S. citizens who are eligible to own a vessel with a fishery endorsement. The Coast Guard collects some similar information related to the identity of the owners of a vessel, and the characteristics of a vessel, to document a vessel, and to issue endorsements to a vessel's documentation. The only duplication of collected data is related to the identity of the vessel and the vessel owner. Detailed information related to vessel ownership or control, or a vessel owning entity will not be a duplication, since this data is not collected by the Coast Guard during the documentation process.

5. Impact on Small Businesses or Other Small Entities

Although the AFA grants broad authority to MARAD to regulate transactions related to the ownership and control of fishing vessels, fish processing vessels, and fish tender vessels, the agency promulgates requirements that pose the least possible burden on the regulated public, while still providing us with the information necessary to implement our responsibilities under the AFA.

The requirements in the Notice of Proposed Rule Making for an entity that owns, charters, or finances a fishing vessel, fish processing vessel, or fish tender vessel to provide evidence of U.S. citizenship are modeled after our existing regulations in 46 CFR Part 355. The citizenship affidavit is designed to require a minimum amount of information from respondents regardless of their size.

MARAD personnel have also reviewed alternatives with respect to the approval and oversight of mortgages and mortgage trustees. While § 203(c) of the AFA requires us to rigorously scrutinize mortgages and financing agreements, MARAD will not require transactional approval of each financing and mortgage transaction, to minimize the burden to finance a vessel. MARAD proposed to allow non-citizens, who are in the business of financing vessels, to obtain general approval of their standard loan agreement, provided that the standard loan covenants are acceptable to us. Section 356.21 of the regulation allows a non-citizen lender to get general approval for its standard loan documents if it does not include covenants that would convey impermissible control to the non-citizen. Once a non-citizen lender has received approval for its standard loan agreements, it may enter loans for fishing industry vessels without having to obtain the approval of the Citizenship Approval Officer for each standard loan agreement. The general approval should reduce the paperwork required for lenders and owners, provide certainty regarding the loan covenants that will be considered permissible, streamline the process for financing fishing industry vessels, and increase the range of financing options for vessel owners, including small business entities.

MARAD also streamlined the submission required for a preferred mortgagee so that they can merely submit a certification to demonstrate that they comply with the requirements of the AFA. This certification will provide the required information to MARAD to ensure that the mortgagee complies with the requirements of the statute without imposing a heavy burden on mortgagees.

A lender that is not qualified to hold a preferred mortgage directly is required to use an approved mortgage trustee to hold a preferred mortgage on the vessel. A mortgage trustee may obtain approval from the Citizenship Approval Officer on an annual basis to act as a mortgage trustee and will not be required to obtain transactional approval. The mortgage trustee will be required to simply provide an annual certification in the form of an Affidavit of United States Citizenship, to demonstrate their U.S. citizenship, as well as a current copy of its Articles of Incorporation and Bylaws, a copy of its most recent published report of condition, and a list of the vessels and lenders for which it is acting as mortgage trustee. The freedom for mortgage trustees to enter into agreements without being required to get transactional approval, will minimize the burden of using a mortgage trustee, while providing certainty for vessel owners and foreign lenders regarding qualified mortgage trustees, and simplifying the process for owners to obtain foreign financing.

Regarding long-term or exclusive contracts for the sale of all or a significant portion of a vessel’s catch, MARAD considered requiring that these agreements be approved on a transactional basis. However, the decision was taken not to impose requirements on owners of fishing vessels that will interfere with their ability to enter into such agreements in a timely manner, MARAD authorized such standard agreements, if they do not convey impermissible control to a non-citizen. It was also determined that certain standard provisions do not convey impermissible control to non-citizens and may be included in these agreements. The final rule will thus permit owners and bareboat charterers of fishing vessels to enter into these agreements with non-citizens in a timely manner, without imposing additional costs or time-consuming regulatory requirements.

Finally, with respect to management agreements, rather than requiring approval of each agreement to determine whether there is an impermissible transfer of ownership or control over the vessel to a non-citizen, MARAD opted to establish a set of criteria for such agreements and to generally approve certain management agreements, if they are for technical, administrative, and/or advisory service.

6. Impact of Not Conducting or Less Frequent Collection of Information

MARAD would be unable able to comply with the statutory requirements of the AFA, without the collection of the Affidavit of U.S. Citizenship and any supporting documentation on an annual basis from vessel owners, charterers, preferred mortgagees, and mortgage trustees. Ownership of publicly traded corporations is subject to frequent change. Therefore, it is essential to require this information on an annual basis.

Information must also be collected on a case-by-case basis from vessel owners or mortgagees that are asserting a conflict between the rules and an international treaty or agreement pursuant to Section 213(g) of the AFA. Any exemption granted pursuant to Section 213(g) of the AFA only applies to the specific vessel and parties involved; therefore, the information must be collected on a case-by-case basis.

Information related to the violation of harvesting and processing caps must also be collected on a case-by-case basis. To the extent possible, MARAD personnel will rely on information that is already in our possession or was previously submitted to the Coast Guard, National Marine Fisheries Service or the National Oceanographic and Atmospheric Administration.

7. Special Circumstances Relating to the Guidelines 5 CFR 1320.5

There are no special circumstances that require the collection of information to be conducted in any other manner as set forth below:

- Requiring respondents to report information to MARAD more often than quarterly;
- Requiring respondents to prepare a written response in fewer than 30 days after receipt to a collection of information;
- Requiring respondents to submit more than an original copy of any document;
- Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- Requiring the use of any statistical data that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- Requiring any pledge of confidentiality; or
- Requiring respondents to submit proprietary or trade secret

8. Public Comments in Response to the Federal Register Notice and Outside Consultation

MARAD published a 60-day notice and request for comments on this information collection in the Federal Register (FR 15689, Vol .91, No. 60) on March 30, 2026, indicating comments should be submitted on or before May 29, 2026. No comments were received. A 30-day notice will now be published in the Federal Register to solicit public comments.

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

No payment or gift are provided to respondents.

10. Assurance of Confidentiality and Protection of Privacy

Information compiled for this collection is protected by the Privacy Act of 1974, will not be released to the public unless through a Freedom of Information Act (FOIA) request.

Under those circumstances, the submitting party has an opportunity to claim an exemption from release pursuant to the FOIA. Prior to release, MARAD will conduct a careful review of the reasons claimed for not releasing any requested data.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature.

12. Estimate of Annualized Burden Hours and Cost

a. Estimated Annualized Burden Hours

An estimated 450 vessel owners/charterers will take 6 hours, while some 50 preferred mortgagees/ mortgage trustees will take 5 hours respectively, to respond to this collection. This involves the time taken to complete the required affidavit(s) of citizenship, and compile and submit relevant supporting documentation to fulfill the requirements of this collection, once annually. Therefore, the combined total burden for this collection is 2,950 hours, as shown in the table below**:**

Type of Respondents Respondents	Total Respondents		Total Responses Per Respondents Annually		Total Responses		Average Time Taken to Respond (In Hours)		Total Hours Annually
Vessel Owners/ Charterers	450	*	1	=	450	*	6	=	2,700
Preferred Mortgagees/ Mortgage Trustees	50				50		5		250
TOTAL	**500**				**500**		**11**		**2,950**

b. Estimated Annualized Burden Costs

The Bureau of Labor and Statistics (BLS)[1] estimates that the average hourly wage for Secretaries/Administrative Assistants (43-6010) is $25.63. When combined with the total compensation rate of 29%[2], the annualized hourly rate is $ 33.06. Therefore, the total annualized cost for all tasks associated with preparing and submitting responses to this collection is $ 97,527.00, which can be calculated as shown in the table below:

[1]The hourly wage for Secretaries/Administrative Assistants is taken from: https://data.bls.gov/oes/#/area/0000000/2025

[2] Per BLS Employee Compensation Memo, the total compensation rate for the private sector is 29%, :https://www.bls.gov/news.release/pdf/ecec.pdf

Title and Code of Respondents	Hourly Wage	Compensation Rate of 29%	Number of Employees	Total Annualized Burden Hours	Total Annualized Cost Burden
Secretaries and Administrative Assistants (43-6010)	$ 25.03	$ 32.29	1	2,950	$97,527.00

13. Estimate of Total Annual Cost Burden to Respondents and/or Record Keepers

There are no capital/start-up costs, and/or operational/maintenance/service costs associated with this information collection.

14. Estimates of Federal Government Costs

The total annual cost to the Federal Government for processing the collection is: $ 292,820.00.

According to the Office of Personnel Management (OPM)[3] wage tables, the hourly wage rate for the following Federal employees with a Washington-Baltimore-Arlington locality pay is as follows: one GS-14 (Step 5) specialist is $ 77.38 and GS-8 (Step 5) paralegal) is $ 34.38. When combined with the Federal Employee Compensation rate of 31%[4], the total hourly wage rate for each professional is one GS-14 (Step 5) specialist is $ 77.38 and GS-8 (Step 5) paralegal) is $ 34.38. Each professional will take approximately five reviews to review and process all 500 affidavits associated with this information collection. Therefore, the total annual cost to the Federal Government is $ 292,820.00, which can be calculated as follows:

FTE Grade and Step & Program Related Task	Hourly Wage	Average Hourly Wage Rate with 31% Compensation	Total Employees	Total Time for Per application (Avg. Hours)	Total Applications	Total Federal Government Wages
GS 14 (Step 5): review and process affidavits	$ 77.38	$ 101.37	1	4	500	$ 202,740.00
GS 8 (Step 5): review and process affidavits	$ 34.38	$ 45.04	1	4		$ 90,080.00
Total Combined Federal Wages						**$ 292,820.00**

15. Explanation of Program Changes or Adjustments

[3] The hourly Federal Government wage is taken from OPM 2025 wage tables: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/25Tables/html/DCB_h.aspx

[4] Per BLS Employee Compensation Memo, the total compensation rate for the Federal Government is 31%, :https://www.bls.gov/news.release/pdf/ecec.pdf

There are no changes or adjustments associated with the collection.

16. Publication of Data Collection Results

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

17. Display of the OMB Expiration Date

MARAD is not requesting approval to omit the expiration date for this collection.

18. Exception to the Certification Statement

There are no exceptions to the certification statement.