



**Billing Code: 4910-81-P**

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

**46 CFR Part 355**

**[Docket No. MARAD-2019-0069]**

**RIN 2133-AB90**

**How Best to Evidence Corporate Citizenship: Policy and Regulatory Review.**

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Advance Notice of Proposed Rulemaking (ANPRM), request for comments.

**SUMMARY:** The Maritime Administration (MARAD) is publishing this notice to solicit public comment on steps MARAD could take to simplify and/or modernize the process for evidencing United States citizenship of corporations and other entities participating in MARAD programs. To be eligible to participate in various MARAD programs and activities, applicants and interested parties must demonstrate at least a majority of ownership and control by United States citizens at each tier of ownership. MARAD is not considering any changes to that standard, but to the types of documents or evidence applicants provide to MARAD.

**DATES:** Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. MARAD will consider comments filed after this date to the extent practicable.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2019-0069 by any one of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Search MARAD-2019-0069 and follow the instructions for submitting comments.

- E-mail: Rulemakings.MARAD@dot.gov. Include MARAD-2019-0069 in the subject line of the message and provide your comments in the body of the email or as an attachment.
- Mail or Hand Delivery: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0069, 1200 New Jersey Avenue, SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled **Public Participation**.

**FOR FURTHER INFORMATION CONTACT:** T. Mitchell Hudson, Jr., Office of Chief Counsel, Division of Legislation and Regulations, (202) 366-9373 or via email at [Mitch.Hudson@dot.gov](mailto:Mitch.Hudson@dot.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to Department of Transportation, Maritime Administration, Office of Chief Counsel, Division of Legislation and Regulations, W24-220, 1200 New Jersey Avenue, SE,

Washington, DC 20590-0001.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Improvement of regulations is a continuous focus for the Department of Transportation (DOT) and MARAD. For that reason, DOT/MARAD regularly and deliberately review their rules in accordance with DOT's 1979 Regulatory Policies and Procedures (44 FR 11034), Executive Order (EO) 12866, EO 13563, and section 610 of the Regulatory Flexibility Act. That process is summarized in Appendix D of DOT's semi-annual regulatory agenda (e.g., 81 FR 94784). In EO 13771 and EO 13777, President Trump directed agencies to further scrutinize their regulations. Comments received will inform the review described in this notice and supplement MARAD's periodic regulatory review and its activities under EO 13771 and EO 13777. This request for comments is narrowly focused on improving and modernizing MARAD's program administration.

Accordingly, MARAD has identified its regulations at 46 CFR Part 355 governing requirements for evidencing United States citizenship for consideration consistent with the President's direction. This notice seeks to solicit comments to ensure that MARAD's programs remain effective, modern, and the least burdensome to the public. As part of our review, MARAD is issuing this notice to engage the public and the broad spectrum of stakeholders that may be affected. Information received will be used to evaluate the issues and determine whether to propose a change in how corporations evidence their citizenship.

Citizenship eligibility criteria and documentation requirements may affect stakeholders who participate, directly or indirectly, in MARAD programs and activities, including ship managers and agents of MARAD-owned ships (herein collectively referred to as "Vessel

Operators”) which may be used by the Department of Defense (DOD) in support of certain DOD-controlled activities. For example, Vessel Operators are required by regulation to be at least majority owned and controlled by United States citizens at each tier of ownership.

### **Scope of Comments**

MARAD is interested in learning how it could reduce or remove regulatory burdens on the public. Accordingly, commenters may want to focus on the following: (1) recognition of modern business forms in addition to corporations (e.g., limited liability companies and limited partnerships) and modern securities ownership practices (e.g., street name securities); (2) aligning with current best business practices; (3) reducing the cost of compliance; and (4) revising the corporate citizenship affidavit.

### **Content of Comments**

We are interested in information on how any changes to 46 CFR Part 355 could impact small businesses, either positively or negatively. In describing a burden placed on your organization by our regulations or potential changes to the regulations, direct experience and quantifiable data are more useful than anecdotal descriptions. If the commenter believes that there is a less burdensome alternative, the commenter should describe that alternative in verifiable detail.

Under this notice, MARAD is not soliciting petitions for rulemaking.

### **Public Participation**

#### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments

must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Please note that even after the comment period has closed, MARAD will continue to file relevant information in the Docket as it becomes available.

*Where do I go to read public comments and find supporting information?*

Go to the docket online at <http://www.regulations.gov>., keyword search MARAD-2019-0069 or visit us in person at the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue, SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

### **Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS,

accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR Sections 1.92 and 1.93)

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Dated: April 26, 2019

By Order of the Maritime Administrator.

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**T. Mitchell Hudson, Jr.**

*Secretary, Maritime Administration*

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