



DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 355

[Docket Number MARAD-2025-0087]

RIN 2133-AB90

Deregulatory-Establishing United States Citizenship for MARAD Program Participation; Simplifying the Application Process

AGENCY: Maritime Administration (MARAD), Department of Transportation (DOT)

ACTION: Notice of proposed rulemaking, request for comments.

SUMMARY: On May 1, 2019, MARAD published in the *Federal Register* an Advanced Notice of Proposed Rulemaking (ANPRM), titled “How to Best Evidence Corporate Citizenship: Policy and Regulatory Review,” soliciting public comment on steps MARAD could take to simplify and modernize the process for evidencing U.S. citizenship. Consistent with the comments MARAD received, the proposed rule would simplify and modernize the process for establishing United States citizenship of corporations and other business formations participating in MARAD programs. In the interest of minimizing the unnecessary disclosure of personally identifiable information, the proposed rule would also eliminate the requirement to provide dates and places of birth of corporate executives, directors, and stock owners as required in the current form of affidavit of citizenship. The proposed rule would also amend the form of affidavit with respect to publicly traded entities by eliminating the requirement to provide certain information regarding registered owners of stock, eliminate the notarization requirement, and provide a simple and streamlined process for recertification.

DATES: Comments should be filed on or before [*INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER*]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2025-0087 by any one of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Search using the DOT Docket Number (see above) and follow the instructions for submitting comments.
- Email: Rulemakings.MARAD@dot.gov. Include the DOT Docket Number 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: The 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, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on federal holidays.

Note: 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. If you submit your inputs by mail or hand-delivery, they must be submitted in an unbound format, no larger than 8 1/2 by 11 inches, single-sided, suitable for copying and electronic filing. All submissions received should include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

Instructions: All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the section entitled **Public Participation**.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if

submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Michael C. Pucci, Office of the Chief Counsel, Division of Maritime Programs, (202) 366-5167 or via email at Michael.Pucci@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 the Chief Counsel, Division of Legislation and Regulations, W24-220, 1200 New Jersey Avenue SE, Washington, D.C. 20590-0001.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

As required by 5 U.S.C. 553(b)(4), this document, including a summary of the rule, and all comments may be viewed online through the Federal eRulemaking portal at www.regulations.gov. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: www.federalregister.gov.

Background

On May 1, 2019, MARAD published an Advanced Notice of Proposed Rulemaking (ANPRM), titled "How to Best Evidence Corporate Citizenship: Policy and Regulatory Review," in the *Federal Register* (84 FR 18468) soliciting public comment on steps MARAD could take to simplify and modernize the process for evidencing U.S. citizenship in order to reduce the regulatory burden for parties participating directly, or indirectly through corporate ownership, in MARAD's maritime programs. MARAD has developed this NPRM by incorporating many of the comments and recommendations we received. MARAD welcomes your comments to ensure that agency programs benefit from current and comprehensive best practices.

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

MARAD is 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. Likewise, if the commenter believes that there is a less burdensome alternative, the commenter should describe that alternative in detail.

Discussion of Comments Received on the ANPRM

In response to the agency's ANPRM seeking public comment on ways to simplify annual requirements to evidence corporate citizenship, MARAD received one comment from The Maritime Law Association of the United States (MLA), which included several recommendations developed by the MLA's standing committee on Marine Financing. The agency responds to the MLA's recommendations as follows:

The MLA first recommended MARAD consider regulatory changes to make compliance more efficient and assured by eliminating the inclusion of birth dates and places of birth on the form of affidavit of U.S. citizenship.

MARAD agrees. Inclusion of this information in the affidavit of U.S. citizenship does not significantly improve U.S. citizenship certainty and creates an unnecessary risk of release of personally identifiable information. In any instance of doubt, MARAD would retain the

authority to request that information from submitting parties. The proposed form of affidavit at section 355.2 eliminates that requirement.

MLA next asked MARAD to consider permitting streamlined certifications for follow-on affidavits when there has been no material change to the information contained in the earlier affidavit rather than having each affidavit repeat all the required information under the current regulation, which requires annual submission of affidavits.

MARAD agrees with this recommendation. Permitting an optional streamlined certification would reduce the burden of annual filing for those entities whose ownership information has not changed since the last affidavit was filed without impacting MARAD's ability to make annual U.S. citizenship determinations. In the proposed section 355.4(b), MARAD includes a provision for optional annual certification of citizenship information.

The MLA further recommended that MARAD revise its regulations to take into account the current state of public stock ownership and other factors affecting the ability of any public company to prove its U.S. citizenship. In particular, the MLA provided the following five recommendations concerning public companies:

1. The MLA asked that MARAD consider coordinating with the Coast Guard to provide the affected industry guidance that is practical and adequately implements the intent of U.S. maritime citizenship laws. The MLA further suggested that the U.S. Coast Guard's November 26, 2012, Federal Register Notice, "Mechanisms of Compliance with United States Citizenship Requirements for the Ownership of Vessels Eligible to Engage in Restricted Trades by Publicly Traded Companies" (77 FR 70453), would be a good starting point for developing a regulation that both agencies would promulgate.

MARAD agrees. The guidance contained the U.S. Coast Guard's November 2012 Notice serves as the basis for MARAD's proposed revisions to the form of affidavit of U.S. citizenship to be used by publicly traded corporations and other business formations whose ownership interests are publicly traded. Adoption of this guidance in the proposed rule will harmonize the

agencies' approaches to evidencing citizenship. In particular, the proposed rule at section 355.3(d) would provide publicly traded entities flexibility in applying several reasonably available methods to ensure ongoing compliance with U.S. ownership requirements without sacrificing the accuracy of ownership information upon which such entities must rely upon to affirm their citizenship status.

2. The MLA recommends that further improvements might be considered with respect to the fair inference rule including relaxing the percentages and making it clear that address lists made available by financial intermediaries can be relied upon.

MARAD agrees that the "fair inference rule," as applied to publicly traded corporations, must be updated because it relies upon stock records that are no longer controlled by the issuing corporation since the advent of electronic trading. MARAD proposes a modified fair inference rule under which a publicly traded corporation may rely upon reasonably available shareholder residence information, including geographic surveys and statistical sampling. However, at this time, MARAD will not adjust the current non-citizen ownership percentage limits of the fair inference rule until such time that we have confidence that reducing such limits will not result in an unreasonable risk of submitters breaching the statutory non-citizen ownership levels.

3. The MLA recommends that MARAD review methods adopted by other federal agencies for establishing U.S.-citizen citizenship.

MARAD agrees. The proposed rule was informed by our review of guidance and rules of other agencies, including the Federal Communications Commission's Review of Foreign Ownership Policies for Broadcast, Common Carrier, and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended (Sep. 30, 2016); Federal Aviation Administration regulations; and USCG's November 2012 Notice (discussed above). MARAD's proposed rule would afford submitters flexibility in selecting the methods they use to determine ownership while maintaining compliance with annual filing requirements.

4. The MLA recommends that MARAD work with the Securities and Exchange Commission and the Depository Trust Company to improve the SEG-100 system to make it an even more reliable indicator of U.S. citizen stock ownership.

In light of the obsolescence of the current form of affidavit, MARAD has accepted annual filers' participation in the SEG-100 system as a basis for affirming U.S. stock ownership. The proposed rule includes participation in the SEG-100 system as an acceptable method for maintaining and evidencing U.S. ownership. MARAD is not proposing to make participation in SEG-100 mandatory.

5. The MLA recommends that MARAD, in coordination with the U.S. Coast Guard, adopt a process by which companies can present their citizenship compliance plans for approval by the two agencies and, if acting on the basis of those plans for approval by the two agencies, have the benefit of a presumption that they satisfy the applicable citizenship standard and the benefit of a grace period to come back into compliance if the maximum permissible non-citizenship threshold is exceeded due to market trading.

MARAD agrees that submitters should be permitted to submit their citizenship compliance plans for MARAD's review and approval. MARAD's proposed rule includes an option for submitting compliance methods for MARAD review and approval. As noted above, MARAD's proposed rule is intended to harmonize its compliance procedures with the guidance from U.S. Coast Guard's November 2012 Notice. Upon request from submitters, MARAD will share such determinations with the U.S. Coast Guard.

The proposed rule adopts the changes described above and updates statutory authorities, which have changed since the current rule was published on July 18, 1970.

Public Participation

How long do I have to submit comments?

We are providing a 60-day comment period.

How do I prepare and submit comments?

To ensure that your comments are correctly filed in the Docket, please include the Docket Number shown at the beginning of this document in your comments.

Comments may be submitted to the docket electronically by logging onto the Docket Management System website at <http://www.regulations.gov>. Search using the docket number and follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at http://www.bts.gov/programs/statistical_policy_and_research/data_quality_guidelines.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

Confidential business information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the proposed rule contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this proposed rule, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. MARAD will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this proposed rule. Submissions containing CBI should be sent to the email address provided in the **FOR FURTHER INFORMATION**

CONTACT section. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. Any comments MARAD receives which are not specifically designated as CBI will be placed in the public docket for this rulemaking.

Will the agency consider late comments?

MARAD will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing any follow-on action, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket Management Unit are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that, even after the comment closing date, MARAD will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Rulemaking Analysis and Notices

Executive Orders 12866 and DOT Rulemaking Procedures

Executive Order (E.O.) 12866 and the Department of Transportation's administrative rulemaking procedures set forth in 49 CFR part 5, subpart B, provide for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of E.O. 12866.

This rule will streamline the process for establishing United States citizenship of corporations and other business formations participating in MARAD programs by removing the unnecessary disclosure of personally identifiable information. It also amends the form of affidavit with respect to publicly traded entities to eliminate the requirement to provide certain information regarding registered owners of stock, which is no longer consistent with how stocks are traded in U.S. equity markets today.

This rule is not a significant regulatory action under E.O. 12866 and DOT Order 2100.6B and, therefore it was not reviewed by OMB. It is also not considered a major rule for purposes of Congressional review under Public Law 104-121.

Executive Order 14192 (Deregulation)

E.O. 14192 requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation guidance for E.O. 14192, issued by OMB (Memorandum M-25-20, March 26, 2025), defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This rule will have total costs less than zero, and therefore is an E.O. 14192 deregulatory action.

Executive Order 13132 (Federalism)

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”) and has determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rulemaking has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this document preempts any State law or regulation. Therefore, MARAD did not consult with State and local officials because it was not necessary.

Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

MARAD does not believe that this rulemaking will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria

contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires MARAD to assess whether this rulemaking would have a significant economic impact on a substantial number of small entities and to minimize any adverse impact. The proposed rule would simplify and modernize the process for establishing United States citizenship of corporations and other business formations participating in MARAD programs. The proposed rule would also eliminate the requirement to provide dates and places of birth of corporate executives, directors, and stock owners as required in the current form of affidavit of citizenship. Lastly, the proposed rule would amend the form of affidavit with respect to publicly traded entities by eliminating the requirement to provide certain information regarding registered owners of stock, eliminate the notarization requirement, and provide a simple and streamlined process for recertification. MARAD certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108-447, div. H, 118 Stat. 2809 at 3268) requires the Department of Transportation and certain other federal agencies to conduct a privacy impact assessment of each proposed rule that will affect the privacy of individuals.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires Agencies to evaluate whether an agency action would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$206 million or more (as adjusted for inflation) in any 1 year, and if so, to take steps to minimize these unfunded mandates. This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of \$206 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public. This proposed rule would likely result in a reduction in the burden hours required for information collection 2133-0012, Requirements for Establishing U.S. Citizenship -- 46 CFR 355, because changes to the regulation will shorten the time and effort to evidence citizenship for many first-time applicants as well as those that must recertify. We expect that the information collection requirement under this proposed rule would reduce the “hours per response” from 5 hours to 4 hours resulting in a 20% reduction in burden hours annually and having a net cost saving of \$24,756 annually across 550 respondents. We request comments on this issue.

Notwithstanding any other provision of law, a person is not required to respond to a collection of information by a federal agency unless the collection displays a valid OMB control

number.

List of Subjects in 46 CFR Part 355

Citizenship and naturalization, Maritime carriers, Reporting and recordkeeping requirements.

For the reasons described in the preamble, MARAD proposes to revise 46 CFR part 355 to read as follows:

PART 355—REQUIREMENTS FOR ESTABLISHING UNITED STATES CITIZENSHIP

Sec.

355.1 General.

355.2 Evidencing U.S. citizenship; affidavit guide.

355.3 Criteria to be applied in support of stock data in affidavit.

355.4 Changes in citizenship data.

355.5 Additional material.

PART 355—REQUIREMENTS FOR ESTABLISHING UNITED STATES CITIZENSHIP

Authority: Secs. 2, 204, 39 Stat. 729, as amended, 49 Stat. 1987, as amended, 73 Stat. 597; 46 U.S.C. 50501, 50502.

§ 355.1 General.

(a) Under 46 U.S.C. 50501, no corporation is deemed to be a citizen of the United States unless (1) it is organized under the laws of the United States or of a State, Territory, District, or possession thereof; (2) its president or other chief executive officer, and the chairman of its board of directors are citizens of the United States, and no more of its directors than a minority of the number necessary to constitute a quorum are non-citizens; and (3) the controlling interest therein is owned by citizens of the United States or, in the case of a corporation operating any vessel in the coastwise trade, on the Great Lakes, or inland lakes of the United States, 75 per centum of the interest in such corporation is owned by citizens of the United States.

(b) As used in this regulation, the term *primary corporation* includes, but not exclusively, participants in certain transactions or programs under Title 46 of the U.S. Code, such as Owner

Trustees and certain vessel owners and contractors under 46 U.S.C. 53102 or Capital

Construction Fund holders under 46 U.S.C. 53501 *et seq.*

(c) To satisfy the statutory requirements, an Affidavit of U.S. Citizenship of a primary corporation by one of its officers duly authorized to execute such Affidavit, should be submitted.

This Affidavit should contain facts from which the corporation's citizenship can be determined.

§ 355.2 Evidencing U.S. citizenship; affidavit guide.

(a) In order to establish that a corporation is a citizen of the United States within the meaning of 46 U.S.C. 50501, as amended, the form of affidavit to be used as a guide is hereby prescribed for execution on behalf of the primary corporation and filing with an application or, if required, subsequent filing within 30 days after the annual meeting of the stockholders (if the primary corporation is a wholly owned subsidiary and contrary to the bylaw provision does not hold the annual meeting of stockholders, the subsequent filing should be annually and related to the date of the original filing) as evidence of the continuing U.S. citizenship of a filing entity:

Affidavit of U.S. Citizenship

(NAME OF CORPORATION)

State of _____)

) ss.:

County of _____)

I, (Name), of (Physical residence address, city, and state), being duly sworn, depose and say:

1. That I am the (Title of office(s) held) of (Name of Corporation), a corporation organized and existing under the laws of the State of _____ (hereinafter called the "Corporation"), with offices at (Business address), in evidence of which incorporation a certified copy of the Articles or Certificate of Incorporation (or Association) is filed herewith (or has been filed) together with a certified copy of the corporate Bylaws. [Evidence of continuing U.S.

citizenship status, including amendments to said Articles or Certificate and Bylaws, should be filed within 30 days after the annual meeting of the stockholders or annually, within 30 days after the original affidavit if there has been no meeting of the stockholders prior to that time.];

2. That I am authorized by and on behalf of the Corporation to execute and deliver this Affidavit of U.S. Citizenship;

3. That the names of the Chief Executive Officer, by whatever title, Vice Presidents or other individuals who are authorized to act in the absence or disability of the Chief Executive Officer, by whatever title, the Chairman of the Board of Directors, and the Directors of the Corporation are as follows:

<u>Name</u>	<u>Title</u>	<u>Citizen of the United States</u>
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Name	Title	Yes/No
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[NOTE: The foregoing list should include the officers, whether or not they are also directors, and all directors, whether or not they are also officers] and that each of said individuals is a citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization, by naturalization during minority through the naturalization of a parent, by marriage (if a woman) to a U.S. citizen prior to September 22, 1922, or as otherwise authorized by law, except (give name and nationality of all Non-Citizen officers and directors, if any);

however, the By-laws of the Corporation provide that (Number) of the directors are necessary to constitute a quorum; therefore, the alien directors named represent no more than a minority of the number necessary to constitute a quorum;

[Select and complete the applicable paragraph 4 describing the Corporation's stock ownership and strike inapplicable paragraphs 4]

4. Information as to stock, where a non-publicly traded Corporation has 30 or more stockholders:

That I have access to the stock books and records of the Corporation; that said stock books and records have been examined and disclose (a) that, as of (Date), the Corporation had issued and outstanding (Number) shares of (Class or series), the only class or series of stock of the Corporation has issued and outstanding [if such is the case], owned of record by (Number) stockholders, said number of stockholders representing the ownership of the entire issued and outstanding stock of the Corporation, and (b) that no stockholder owned of record as of said date five per centum (5%) or more of the issued and outstanding stock of the Corporation of any class. [If different classes or series of stock exist, give the same information for each class or series issued and outstanding, showing the monetary value and voting rights per share in each class or series. If there is an exception to the statement in clause (b), the name, address, and citizenship of the stockholder and the amount and class or series of stock owned should be stated.]

That the registered addresses of (Number) owners of record of (Number) shares of the issued and outstanding (Class or series) stock of the Corporation are shown on the stock books and records of the Corporation as being within the United States, said _____ shares being _____ per centum (_____ %) of the total number of shares of said stock (each class or series). [The exact figure as disclosed by the stock books of the corporation must be given and the per centum figure must not be less than 65 per centum, except that for a corporation operating a vessel in the coastwise trade, the per centum figure must be not less than 95 per centum. These per centum figures apply to corporate stockholders as well as to the primary corporation.]

(The same statement should be made with reference to each class or series of stock, if there is more than one class.)

4. Information as to stock, where Corporation's shares are publicly traded on a U.S. stock exchange:

That the Corporation has diligently employed, administered, and adhered to methods such as those identified at 46 CFR 355.3(d) to monitor the Corporation's stock ownership.

[In the case of Corporation seeking to demonstrate controlling interest ownership (greater than 50% U.S. Citizen ownership) use the following]:

That, based on the foregoing, the percentage of shares of the Corporation owned by U.S. citizens eligible to document vessels in their own right is greater than 50 per centum.

[In the case of a Corporation seeking to demonstrate eligibility for a coastwise endorsement (at least 75% U.S. ownership), use the following]:

That, based on the foregoing, the percentage of shares of the Corporation owned by U.S. citizens eligible to document vessels in their own right is 75% or greater.

4. Information as to stock, where Corporation has less than 30 stockholders:

That the information as to stock ownership, upon which the Corporation relies to establish that the required percentage¹ of the stock ownership is vested in Citizens of the United States, is as follows:

Name of Stockholder	Number of shares owned (each class)	Percentage of shares owned (each class or series)

Name	Number and Class	Number and Class

and that each of said individual stockholders is a Citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization during minority through the naturalization of a parent, by marriage (if a woman) to a U.S. citizen prior to September 22, 1922, or as otherwise authorized by law.

¹ 75% if Corporation is operating in the coastwise trade, on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States; and controlling interest if Corporation is operating solely in the foreign trade, both terms as defined in 46 U.S.C. 50501.

5. That the controlling interest (or 75% of the interest)² in (each) said Corporation, as established by the data hereinbefore set forth, is owned by citizens of the United States; that the title to a majority (or 75%)² of the stock of (each) said Corporation is vested in Citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; that such proportion of the voting power of (each) said Corporation is vested in citizens of the United States; that through no contract or understanding is it so arranged that the majority (or more than 25%)² of the voting power of (each) said Corporation may be exercised, directly or indirectly, on behalf of any person who is not a Citizen of the United States; and that by no means whatsoever, is control of (each) said Corporation (or any interest in said Corporation in excess of 25%) conferred upon or permitted to be exercised by any person who is not a citizen of the United States; and

6. That affiant has carefully examined this Affidavit and asserts that all the statements and representations contained therein are true to the best of their knowledge, information, and belief.

Dated: _____

(Name and title of affiant)

Penalty for False Statement: A fine or imprisonment, or both, are provided for violation of the proscriptions contained in 18 U.S.C. 1001 (*see also*, 18 U.S.C. 286, 287).

§ 355.3 Criteria to be applied in support of stock data in affidavit.

(a) The same criteria should be observed in obtaining information to be furnished for stockholders named (direct ownership of required percentage of shares of stock of each class or

² Strike inapplicable language.

series) in the Affidavit as those observed for the primary corporation. If, on the other hand, the “fair inference rule” is applied with respect to stock ownership (see *Collier Advertising Service, Inc. v. Hudson River Day Line*, 14 Fed. Supp. 335), the extent of U.S. citizen ownership of stock should be ascertained in the requisite percentage (65 percent for foreign operation and 95 percent for coastwise operation) in order that the veracity of the statutory statements made in the Affidavit (paragraph 5) may be relied upon by the Maritime Administration.

(b) When applying the fair inference rule (where there are more than 30 stockholders, except where one or more of such number actually owns the controlling or 75 percent interest) in order to prove U.S. citizen ownership in the required percentages:

(1) for non-publicly traded corporations (i) for foreign operation, 65 percent of the shares of stock of each class or series must be shown to be held by persons with registered addresses within the United States to prove that 51 percent or controlling interest is vested in citizens of the United States and (ii) for coastwise operation, 95 percent of the shares of stock of each class or series must be shown to be held by persons having registered addresses within the United States to prove that 75 percent of the interest in the corporation is vested in citizens of the United States; and

(2) for publicly traded corporations (i) at least 95% of the stock (each class) of the corporation be held directly or beneficially by Persons having a U.S. address in order to infer at least 75% ownership by U.S. Citizens, or (ii) at least 65% of the stock (each class) of the corporation be held directly or beneficially by Persons having a U.S. address in order to infer at least 51% ownership by U.S. Citizens; and

(3) For determining the requisite percentage of stockholders with U.S. addresses, the corporation may rely on the methods outlined in § 355.3(d); and

(c) If the primary corporation is consecutively owned by several “parent” corporations (holders of 100 percent of the stock of each or all classes or series of stock issued and outstanding), the facts should be given in proper sequence either by chart or in narrative form, revealing the facts

of stock ownership. The information with respect to the ultimate parent should include data relative to the basis upon which controlling or 75 percent (depending upon whether the primary corporation operates in the domestic or foreign commerce) is established, together with the names of the owners of record or beneficial owners of 5 percent or more of each class or series of stock, if more than one class or series, and a statement that such owners are citizens of the United States. In any case where different classes or series of stock exist, each class or series will be treated depending upon whether “closely held” or “publicly held,” individually in applying the fair inference rule, if applicable, or giving the relevant information with respect to United States citizens owning of record 51 percent or 75 percent of the interest.

(d) If the corporation is publicly traded, the corporation may employ the following methods to measure, monitor, determine, and affirm the required percentage U.S. citizen share ownership for the primary corporation:

- (1) Use of the Depository Trust Company segregated account (or “SEG– 100”) system;
- (2) Monitoring SEC filings for 5% holders (Schedules 13D, 13G, Form 13F) and follow-up requests for information from filers;
- (3) Use of protective provisions in organizational documents in order to guard against and rectify the possibility of what are referred to as excess shares;
- (4) Communications with Non-Objecting Beneficial Owners (or “NOBOs”);
- (5) Geographic surveys or statistical analyses of shareholder residences;
- (6) Use of dual stock certificates; and
- (7) Alternative methods upon written Maritime Administration approval.

§ 355.4 Changes in citizenship data.

(a) It is incumbent upon the parties filing affidavits under this part to apprise the Maritime Administration promptly in writing relative to changes in data last furnished with respect to officers, directors, and stockholders holding 5 percent or more of the issued and outstanding stock of each class or series, together with statements concerning the citizenship status thereof.

(b) If the information contained in a party's most recent affidavit of citizenship filing has not changed materially, as an alternative to submitting an annual affidavit of citizenship under this part, a party may file a certification with the Maritime Administration. The certification should be substantially in the following format:

"I, [Name], [Title] of [Name of Corporation] ("Corporation"), being duly authorized by the Corporation, certify to you that there have been no changes to the ownership information contained in the Affidavit of Citizenship filed with the Maritime Administration on [DATE]."

§ 355.5 Additional material.

If additional material is determined to be essential to clarify or support the evidence of U.S. citizenship, such material must be furnished by the primary corporation upon request by the Maritime Administration.

(Authority: 46 U.S.C. 50501, 49 CFR 1.93(a))

By order of the Maritime Administration.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2025-12102 Filed: 6/27/2025 4:15 pm; Publication Date: 7/1/2025]