

Opportunity to Comment on MARAD's U.S. Citizenship Regulations and Policies

The Maritime Administration (MARAD) is issuing two Advanced Notice of Proposed Rulemaking (ANPRM) soliciting comments on steps that MARAD can take to simplify and/or modernize its U.S. citizenship regulations and policies. The first ANPRM seeks comments on potential improvements to MARAD's regulations at 46 C.F.R. Part 355, which govern the submission of annual citizenship affidavits to participate in MARAD programs (such as the Maritime Security Program, Title XI Federal Ship Financing Program, Capital Construction Fund, and Construction Reserve Fund). The anticipated scope of comments include, but is not limited to: (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) alignment with current best business practices; (3) reduction of the cost of compliance; and (4) revision of the corporate citizenship affidavit.

The second ANPRM seeks comments on potential improvements to MARAD's American Fisheries Act (AFA) regulations at 46 C.F.R. Part 356, which govern the requisite annual evidence to establish U.S. citizenship ownership and control of fishing vessels 100 feet or greater in length. The anticipated scope of comments include, but is not limited to: (1) whether there are less burdensome methods to evidence corporate citizenship annually; (2) how those alternatives may be applied to improve MARAD program administration; and (3) how program participants will benefit from a revision of MARAD's AFA regulations.

In addition, while not specifically addressed by the notices, MARAD also reviews U.S. citizenship pursuant to its foreign transfer authority under Section 9 of the Shipping Act, 1916, 46 U.S.C. § 56101. Together with the U.S. Coast Guard National Vessel Documentation Center (NVDC), MARAD exercises this authority to determine whether certain vessel ownership and chartering structures are consistent with U.S. citizenship, documentation, and coastwise laws. These ANPRMs may present an opportunity for vessel operators (and investors) engaged in coastwise trades to seek clearer implementation of MARAD's "subjective" U.S. citizen tests.

Comments to both ANPRMs are due by **July 1, 2019**.

Please contact the authors of this Alert if you: (1) have any questions about the content of the ANPRMs, (2) are interested in submitting comments, or (3) have any questions about MARAD or the NVDC's citizenship requirements, in which we have significant experience.



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