

is eligible for continued documentation with a fishery endorsement. In addition, rather than demonstrate that they meet specific U.S. citizenship standards, most preferred mortgagees will now be required to submit information to demonstrate that they comply with the new statutory definition of a preferred mortgagee at 46 U.S.C. 31322(a)(4). Without the information it would be impossible to know whether certain vessels are eligible for documentation with a fishery endorsement and whether a preferred mortgagee is eligible to hold a preferred mortgage on a fishing industry vessel. This amendment to the collection of information does not result in an increased burden, but it does result in a change in the type of information that is being collected.

One commenter suggested that the requirements under section 356.19 are inconsistent with the Paperwork Reduction Act and the Ship Mortgage Act. The regulations require a lender to file a certification with MARAD to demonstrate that the lender complies with the statutory requirements to hold a preferred mortgage on a fishing industry vessel before the mortgage will qualify as a preferred mortgage. The commenter states that a lender has the most to lose if it does not comply with the statutory requirements; therefore, self regulation by the industry should be sufficient. In addition, the commenter states that the Ship Mortgage Act, as amended, does not give MARAD specific authority to require such a certification from preferred mortgagees, so the certification requirement is inconsistent with the requirements of both the Ship Mortgage Act and the Paperwork Reduction Act.

While we agree with the commenter that a lender has the most to lose if a determination is made that it does not qualify as a preferred mortgagee, self regulation of preferred mortgagees is not adequate to satisfy the spirit of the law and MARAD's mandate to ensure that non-citizens do not acquire impermissible control of fishing industry vessels. Because a preferred mortgagee can exercise control over a fishing industry vessel, it is important that MARAD establish that the mortgagee complies with the requirements of the statute and that it is not an entity that is prohibited from exercising control over the vessel. There is no language in the statute to indicate that MARAD is limited in any way regarding the information that it can or should require from preferred mortgagees. Furthermore, as discussed in the preamble to section 356.19, we have created a simple certification that

should not be burdensome to lenders that wish to file a preferred mortgage.

*Description of Respondents:* Owners, bareboat charterers, mortgagees, and mortgage trustees of vessels of 100 feet or greater in registered length for which a fishery endorsement to the vessel's documentation is being sought.

*Annual Responses:* Responses will be required on an occasional and an annual basis. Updates will be required during the year if there are changes to the ownership or financing of the vessel. There are approximately 550 vessels and 400 vessel owners that are subject to this regulation. Approximately 450 responses are expected from owners and bareboat charterers and less than 50 responses are expected from mortgagees and mortgage trustees.

*Annual Burden:* 2950 hours.

#### *Unfunded Mandates Reform Act of 1995*

This rule would not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It would not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This rule is the least burdensome alternative that achieves the objective of the rule.

#### *Regulatory Identification Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) 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 is contained in the heading of this document to cross-reference this action with the Unified Agenda.

#### **List of Subjects in 46 CFR Part 356**

Citizenship and naturalization, Fishery endorsement, Fishing vessels, International investment agreements, Mortgages, Penalties, Reporting and recordkeeping requirements.

Accordingly, 46 CFR part 356 is amended as follows:

#### **PART 356—REQUIREMENTS FOR VESSELS OF 100 FEET OR GREATER IN REGISTERED LENGTH TO OBTAIN A FISHERY ENDORSEMENT TO THE VESSEL'S DOCUMENTATION**

1. The authority citation for part 356 is revised to read as follows:

**Authority:** 46 U.S.C. 12102; 46 U.S.C. 31322; Pub. L. 105–277, division C, title II, subtitle I, section 203 (46 U.S.C. 12102 note), section 210(e), and section 213(g), 112 Stat. 2681; Pub. L. 107–20, section 2202, 115 Stat. 168–170; 49 CFR 1.66.

2. Part 356 is amended by revising the phrases “Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel” and “Fishing Vessel, Fish Tender Vessel, or Fish Processing Vessel” to read “Fishing Industry Vessel” in every place that either phrase appears in part 356 except as used in newly added § 356.3(j).

#### **Subpart A—General Provisions**

##### **356.3 [Amended]**

3. Section 356.3 is amended as follows:

- a. Paragraphs (l) through (x) are redesignated as paragraphs (o) through (aa).
- b. Paragraphs (i) through (k) are redesignated as paragraphs (k) through (m).
- c. Paragraphs (g) and (h) are redesignated as paragraphs (h) and (i).
- d. New paragraphs (g), (j) and (n) are added.
- e. Paragraph (e)(2) and newly designated paragraphs (h)(2), (u) and (y)(2) are revised.
- f. In newly designated paragraph (q), paragraph (q)(2) is removed, paragraph (q)(3) is redesignated as paragraph (q)(2), and new paragraph (q)(3) is added.
- g. In newly designated paragraphs (p) and (q), add the word “Industry” following the word “Fishing”.
- h. Newly designated paragraph (s) is revised.

The additions and revisions read as follows:

##### **356.3 Definitions**

\* \* \* \* \*

(e) *Citizen of the United States, Citizen or U.S. Citizen:*

\* \* \* \* \*

(2) Other criteria that must be met by entities other than individuals include:

- (i) In the case of a corporation:
  - (A) The chief executive officer, by whatever title, and chairman of the board of directors and all officers authorized to act in the absence or disability of such persons must be Citizens of the United States; and
  - (B) No more of its directors than a minority of the number necessary to constitute a quorum are Non-Citizens;
- (ii) In the case of a partnership all general partners are Citizens of the United States;
- (iii) In the case of an association:
  - (A) All of the members are Citizens of the United States;
  - (B) The chief executive officer, by whatever title, and the chairman of the board of directors (or equivalent committee or body) and all officers authorized to act in their absence or