(6) Opportunity for the subject of the investigation to be heard.

(e) OIG may invite outside consultants or experts to participate in an NSF investigation. They should be appointed in a manner that ensures the official nature of their involvement and provides them with legal protections available to federal employees.

(f) OIG will make every reasonable effort to complete an NSF investigation and to report its recommendations, if any, to the Deputy Director within 180 days after initiating it.

§ 689.7 Pending proposals and awards.

(a) Upon learning of alleged research misconduct OIG will identify potentially implicated awards or proposals and when appropriate, will ensure that program, grant, and contracting officers handling them are informed (subject to § 689.6(c)).

(b) Neither a suspicion or allegation of research misconduct nor a pending inquiry or investigation will normally delay review of proposals. To avoid influencing reviews, reviewers or panelists will not be informed of allegations or of ongoing inquiries or investigations. However, if allegations, inquiries, or investigations have been rumored or publicized, the responsible Program Director may consult with OIG and, after further consultation with the Office of General Counsel, either defer review, inform reviewers to disregard the matter, or inform reviewers of the status of the matter.

§ 689.8 Interim administrative actions.

(a) After an inquiry or during an external or NSF investigation the Deputy Director may order that interim actions (as described in § 689.3(c)) be taken to protect Federal resources or to guard against continuation of any suspected or alleged research misconduct. Such an order will normally be issued on recommendation from OIG and in consultation with the Division of Contracts, Policy, and Oversight or Division of Grants and Agreements, the Office of the General Counsel, the responsible Directorate, and other parts of the Foundation as appropriate.

(b) When suspension is determined to be appropriate, the case will be referred to the suspending official pursuant to 45 CFR part 620, and the suspension procedures of 45 CFR part 620 will be followed, but the suspending official will be either the Deputy Director or an official designated by the Deputy Director.

(c) Such interim actions may be taken whenever information developed during an investigation indicates a need to do so. Any interim action will be reviewed periodically during an investigation by NSF and modified as warranted. An interested party may request a review or modification by the Deputy Director of any interim action.

(d) The Deputy Director will make and OIG will retain a record of interim actions taken and the reasons for taking them.

(e) Interim administrative actions are not final agency actions subject to appeal.

§ 689.9 Dispositions.

(a) After receiving a report from an external investigation by an awardee institution or another Federal agency, OIG will assess the accuracy and completeness of the report and whether the investigating entity followed reasonable procedures. It will either recommend adoption of the findings in whole or in part or, normally within 30 days, initiate a new investigation.

(b) When any satisfactory external investigation or an NSF investigation fails to confirm alleged misconduct—

(1) OIG will notify the subject of the investigation and, if appropriate, those who reported the suspected or alleged misconduct. This notification may include the investigation report.

(2) Any interim administrative restrictions that were imposed will be lifted.

(c) When any satisfactory investigation confirms misconduct—

(1) In cases in which debarment is considered by OIG to be an appropriate disposition, the case will be referred to the debarring official pursuant to 45 CFR part 620 and the procedures of 45 CFR part 620 will be followed, but:

(i) The debarring official will be either the Deputy Director, or an official designated by the Deputy Director.

(ii) Except in unusual circumstances, the investigation report and recommended disposition will be included among the materials provided to the subject of the investigation as part of the notice of proposed debarment.

(iii) The notice of the debarring official's decision will include instructions on how to pursue an appeal to the Director.

(2) In all other cases—

(i) Except in unusual circumstances, the investigation report will be provided by OIG to the subject of the investigation, who will be invited to submit comments or rebuttal. Comments or rebuttal submitted within the period allowed, normally 30 days, will receive full consideration and may lead to revision of the report or of a recommended disposition.

(ii) Normally within 45 days after completing an NSF investigation or receiving the report from a satisfactory external investigation, OIG will submit to the Deputy Director the investigation report, any comments or rebuttal from the subject of the investigation, and a recommended disposition. The recommended disposition will propose any final actions to be taken by NSF. Section 689.3 lists possible final actions and considerations to be used in determining them.

(iii) The Deputy Director will review the investigation report and OIG's recommended disposition. Before issuing a disposition the Deputy Director may initiate further hearings or investigation. Normally within 120 days after receiving OIG's recommendations or after completion of any further proceedings, the Deputy Director will send the affected individual or institution a written disposition, specifying actions to be taken. The decision will include instructions on how to pursue an appeal to the Director.

§ 689.10 Appeals.

(a) An affected individual or institution may appeal to the Director in writing within 30 days after receiving the Deputy Director's written decision. The Deputy Director's decision becomes a final administrative action if it is not appealed within the 30 day period.

(b) The Director may appoint an uninvolved NSF officer or employee to review an appeal and make recommendations.

(c) The Director will normally inform the appellant of a final decision within 60 days after receiving the appeal. That decision will be the final administrative action of the Foundation.

[FR Doc. 02–6179 Filed 3–15–02; 8:45 am]

BILLING CODE 7555–01–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 356

[Docket No. MARAD–2001–10518]

RIN 2133–AB45

Eligibility of U.S.-Flag Vessels of 100 Feet or Greater in Registered Length To Obtain a Fishery Endorsement to the Vessel's Documentation

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: In an interim final rule published on August 31, 2001, the Maritime Administration (''MARAD,'' ''we,'' ''our,'' or ''us'') amended our

regulations implementing the new U.S. citizenship requirements set forth in the American Fisheries Act of 1998 (''AFA''). MARAD's regulation, at 46 CFR part 356, contains the substantive requirements mandated by the AFA and procedural requirements established by MARAD for administration of the AFA. We promulgated an amendment that provides us with the ability to waive any procedural requirement, if there is good cause to do so and the waiver would not be inconsistent with the AFA and the intent of part 356. The waiver provision was effective, as an interim final rule, upon publication, but we are now publishing this waiver provision as a final rule.

DATES: The effective date of this final rule is March 18, 2002.

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Citizenship Approval Officer, Maritime Administration, MAR–222 Room 7228, 400 7th Street, SW, Washington, DC 20590. Telephone: (202) 366–5320.

SUPPLEMENTARY INFORMATION: The AFA imposes new citizenship requirements for the owners of vessels of 100 feet or greater in registered length which hold a fishery endorsement or for which a fishery endorsement is sought and for entities holding a preferred ship mortgage on such vessels. We are required by the AFA to ''rigorously'' scrutinize any transfer of ownership and control over fishing vessels, fish processing vessels and fish tender vessels. In so doing, we must pay particular attention to leases, charters, financing arrangements, mortgages, and other documents to determine if they constitute an impermissible conveyance of control to persons not eligible to own a vessel with a fishery endorsement.

MARAD's detailed regulations, 46 CFR part 356, were published in the **Federal Register** on July 19, 2000 (65 FR 44859), following notice and opportunity for submission of comments. The new citizenship requirements became effective on October 1, 2001. Vessel owners were directed to submit citizenship affidavits and other documents to us by June 1, 2001. We have provided information on the new requirements on MARAD's web site, http:/marad.dot.gov/afa.html, mailed information to owners of fishing industry vessels and conducted briefings open to the public.

The new regulations applied for the first time to a population of individuals who had not communicated or worked with MARAD. Therefore, we were concerned about circumstances and issues that were not anticipated by us or the public and that could not be resolved in the short period of time before October 1, 2001. In addition, we were concerned that some confusion may have arisen for the public because the U.S. Coast Guard will administer the AFA's citizenship requirements with regard to vessels under 100 feet in registered length under its own procedures. Our concerns were based on actual contacts between MARAD staff and the public that brought to our attention the potential for certain inequitable results that could stem from the implementation of the regulations if MARAD did not have the ability to waive certain procedural requirements. At that time, we expected to review about 500 affidavits along with underlying articles of incorporation, bylaws, charters, management agreements, sales agreements and other documents.

In the course of reviewing this large number of complicated business arrangements, it became apparent that there were circumstances, often not the fault of the vessel owner, that prevented us in several instances from making a complete citizenship finding by October 1, 2001. Our regulations provide the opportunity for the applicant to work with us to resolve matters prior to issuing a determination whether the applicant qualifies as a U.S. citizen. However, the AFA rule would have caused the vessel owner's fishery endorsement to be deemed invalid on October 1, 2001 if we had not issued a citizenship determination. Thus, there were times when a waiver of our procedures would have been appropriate to avoid this result. Accordingly, MARAD promulgated this amendment to 46 CFR part 356, on August 31, 2001 at 66 FR 45945, which allows us to waive procedural provisions of the rule not mandated by the AFA. The waiver provision is not applicable to the substantive requirements set out in the AFA and the rule. In addition, any waiver must be supported by good cause shown.

The waiver provision became effective as an interim measure immediately upon publication on August 31, 2001 so that it was in place before October 1, 2001, the date when MARAD was required to determine the U.S. citizenship status of 500–700 vessel owners and operators. The need to fairly administer the new and intricate requirements of the AFA within the stringent time constraints fully supports a finding of good cause, under the Administrative Procedure Act, 5 U.S.C. 553(b) and (d), that the final rule should be effective upon publication.

Our practical experience with the waiver authority validated our original assumptions. More than a dozen waivers have been issued so far. Each waiver was well justified in that they allowed vessel owners some additional time to revise troublesome provisions of complicated vessel charters or corporate documents or provided needed time for us to resolve complex issues. Going forward, we expect the waiver provision to be used sparingly. However, there is still a need for the waiver provision, because vessel owners enter into new business arrangements constantly, and we need to ensure a thorough review of such arrangements.

We received no comments from the public either in favor or opposed to making the interim final rule a final rule.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review)

After discussing compliance requirements with interested vessel owners, operators and mortgagees, we became aware of a need to have a waiver provision in the AFA regulations so that non-material discrepancies in a vessel's documentation would not arbitrarily cause a vessel owner to lose their fishery endorsement. The waiver provision will not entail any cost to vessel owners, mortgagees, charterers, or other parties regulated by 46 CFR part 356.

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866. Consequently, it was not reviewed by the Office of Management and Budget. The economic impact, if any, should be minimal; therefore, no further analysis is necessary. This final rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation, 44 FR 11034 (February 26, 1979) as it merely allows waiver of administrative and procedural requirements.

Federalism

We analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132 (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant consultation with State and local officials. The regulations have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

Executive Order 13175

MARAD does not believe that this final rule 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 would not apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires us to consider whether our proposals will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). This rulemaking may reasonably be expected to affect small businesses or entities that currently own documented fishing vessels, fish processing vessels, or fish tender vessels, that have financed such vessels, or that are engaging in the fisheries of the United States with such vessels. The Small Business Administration defines businesses within the fishing industry that have annual receipts of $3 million or less as small businesses, 13 CFR 121.201. We believe that any cost to small business entities to comply with this final rule will be minimal, if any, because this final rule allows waiver of procedural (i.e., administrative) requirements that may cause a vessel owner to lose its fishery endorsement. Therefore, MARAD certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact Statement

We have analyzed this rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), the preparation of an Environmental Assessment, and an Environmental Impact Statement, or a Finding of No Significant Impact for this rulemaking is not required. This rulemaking involves administrative and procedural regulations that clearly have no environmental impact.

Paperwork Reduction Act

This rulemaking does not establish any new requirement for the collection of information.

Unfunded Mandates Reform Act of 1995

This final rule will not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It will 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 final rule is the least burdensome alternative that achieves the objective of the rule.

Regulation Identifier Number

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.

List of Subjects in 46 CFR Part 356

Citizenship and naturalization, Fishery endorsement, Fishing vessels, Mortgages, Mortgage trustee, Penalties, Preferred mortgages, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, MARAD amends 46 CFR part 356 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 46 CFR part 356 is revised to read as follows:

Authority: 46 App. U.S.C. 12102; Public Law 105–277, Division C, Title II, Subtitle I, section 203 (46 App. U.S.C. 12102 note), section 210(e), and section 213(g), 112 Stat. 2681; 49 CFR 1.66.

2. For the convenience of the reader, 3356.2 is republished to read as follows:

§ 356.2 Waivers.

In special circumstances and for good cause shown, we may waive the procedures prescribed in this part, provided the waiver is consistent with the requirements of the AFA and with the intent of this part.

Dated: March 11, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–6304 Filed 3–15–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000816233–1154–02; I.D. 050200A]

RIN 0648–AK23

Fisheries off West Coast States and in the Western Pacific; Precious Corals Fisheries; Harvest Quotas, Definitions, Size Limits, Gear Restrictions, and Bed Classification

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS has partially approved a regulatory amendment under the Fishery Management Plan for Precious Coral Fisheries of the Western Pacific Region (FMP) submitted by the Western Pacific Fishery Management Council (Council) and is issuing a final rule that will implement gear restrictions, size limits, and definitions governing the harvest of precious coral resources managed under the FMP. Precious coral management measures that were published in the proposed rule that apply only to the Northwestern Hawaiian Islands (NWHI) are not being implemented by NMFS because they were determined to be inconsistent with certain provisions of Executive Order 13178 and Executive Order 13196, which together establish the NWHI Coral Reef Ecosystem Reserve (Reserve).

DATES: Effective April 17, 2002.

ADDRESSES: Copies of the background documents, including an environmental assessment/initial regulatory flexibility analysis/regulatory impact review (EA/IRFA/RIR) (March 2001) and an RIR/final regulatory flexibility analysis (FRFA), (March 2002) are available from Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, 808–973–2937.

SUPPLEMENTARY INFORMATION: On September 5, 2000, NMFS published a proposed rule (65 FR 53692) on regulatory adjustments governing the harvest of precious coral resources managed under the FMP. The rule contained eight measures intended to conserve and reduce the risk of overfishing the precious coral resource; promote optimal utilization of the resource and minimize waste; and