

## § 67.23

(3) Is subject to supervision or examination by an official of the United States Government or a State;

(4) Has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

(5) Meets any other requirements prescribed by the Commandant.

For vessels greater than or equal to 100 feet in length, approval of such an arrangement from the Maritime Administration will be accepted as evidence that the above conditions are met and will be approved by the Commandant. For vessels less than 100 feet, a standard loan and mortgage agreement that has received general approval under 46 CFR 356.21 will be accepted as evidence that the above conditions are met and will be approved by the Commandant.

[CGD 89-007, CGD 89-007A, 58 FR 60266, Nov. 15, 1993, as amended by CGD 94-040, 61 FR 17815, Apr. 22, 1996; USCG-1999-6095, 65 FR 76575, Dec. 7, 2000; USCG-2009-0702, 74 FR 49230, Sept. 25, 2009]

### § 67.23 Recreational endorsement.

(a) A recreational endorsement entitles a vessel to pleasure use only.

(b) Any vessel eligible for documentation under § 67.5 is eligible for a recreational endorsement.

NOTE: A vessel having a Certificate of Documentation endorsed only for recreation may be bareboat chartered only for recreational use. Guidance on the elements of a valid bareboat charter should be obtained through private legal counsel.

## Subpart C—Citizenship Requirements for Vessel Documentation

### § 67.30 Requirement for citizen owner.

Certificates of Documentation may be issued under this part only to vessels which are wholly owned by United States citizens. Pursuant to extraordinary legislation at 46 U.S.C. app. 883-1 (Bowater Amendment) and 46 U.S.C. 12106(d) (Oil Pollution Act of 1990), Certificates of Documentation with limited endorsements may be issued in accordance with part 68 of this chapter to vessels owned by certain persons who are not citizens as defined in this part.

## 46 CFR Ch. I (10-1-10 Edition)

### § 67.31 Stock or equity interest requirements.

(a) The stock or equity interest requirements for citizenship under this subpart encompass: Title to all classes of stock; title to voting stock; and ownership of equity. An otherwise qualifying corporation or partnership may fail to meet stock or equity interest requirements because: Stock is subject to trust or fiduciary obligations in favor of non-citizens; non-citizens exercise, directly or indirectly, voting power; or non-citizens, by any means, exercise control over the entity. The applicable stock or equity interest requirement is not met if the amount of stock subject to obligations in favor of non-citizens, non-citizen voting power, or non-citizen control exceeds the percentage of the non-citizen interest permitted.

(b) For the purpose of stock or equity interest requirements for citizenship under this subpart, control of non-fishing industry vessels includes an absolute right to: Direct corporate or partnership business; limit the actions of or replace the chief executive officer, a majority of the board of directors, or any general partner; direct the transfer or operations of any vessel owned by the corporation or partnership; or otherwise exercise authority over the business of the corporation or partnership. Control does not include the right to simply participate in these activities or the right to receive a financial return, e.g., interest or the equivalent of interest on a loan or other financing obligations.

(c) For the purpose of this section, control of a fishing industry vessel means having:

(1) The right to direct the business of the entity that owns the vessel;

(2) The right to limit the actions of or to replace the chief executive officer, the majority of the board of directors, any general partner, or any person serving in a management capacity of the entity that owns the vessel;

(3) The right to direct the transfer, the operation, or the manning of a vessel with a fishery endorsement.

(d) For purposes of meeting the stock or equity interest requirements for citizenship under this subpart where title to a vessel is held by an entity

comprised, in whole or in part, of other entities which are not individuals, each entity contributing to the stock or equity interest qualifications of the entity holding title must be a citizen eligible to document vessels in its own right with the trade endorsement sought.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1003, as amended by USCG-1999-6095, 65 FR 76575, Dec. 7, 2000; USCG-2004-18884, 69 FR 58346, Sept. 30, 2004]

#### § 67.33 Individual.

An individual is a citizen if native-born, naturalized, or a derivative citizen of the United States, or otherwise qualifies as a United States citizen.

#### § 67.35 Partnership.

A partnership meets citizenship requirements if all its general partners are citizens, and:

(a) For the purpose of obtaining a registry or recreational endorsement, at least 50 percent of the equity interest in the partnership is owned by citizens.

(b) For the purpose of obtaining a fishery endorsement, at least 75 percent of the equity interest in the partnership, at each tier of the partnership and in the aggregate, is owned by citizens.

(c) For the purpose of obtaining a coastwise endorsement at least 75 percent of the equity interest in the partnership is owned by citizens or the vessel qualifies under § 68.60 or § 68.105 of this chapter.

[CGD 94-008, 59 FR 49846, Sept. 30, 1994, as amended by USCG-1999-6095, 65 FR 76575, Dec. 7, 2000; USCG-2001-8825, 69 FR 5401, Feb. 4, 2004; USCG-2005-20258, 71 FR 61417, Oct. 18, 2006; USCG-2009-0702, 74 FR 49230, Sept. 25, 2009]

#### § 67.36 Trust.

(a) For the purpose of obtaining a registry or recreational endorsement, a trust arrangement meets citizenship requirements if:

(1) Each of its trustees is a citizen; and

(2) Each beneficiary with an enforceable interest in the trust is a citizen.

(b) For the purpose of obtaining a fishery endorsement, a trust arrange-

ment meets citizenship requirements if:

(1) It meets all the requirements of paragraph (a) of this section; and

(2) At least 75 percent of the equity interest in the trust, at each tier of the trust and in the aggregate, is owned by citizens.

(c) For the purpose of obtaining a coastwise endorsement a trust arrangement meets citizenship requirements if:

(1) It meets the requirements of paragraph (a) of this section and at least 75 percent of the equity interest in the trust is owned by citizens; or

(2) It meets the requirements of § 68.60 or § 68.105 of this chapter.

[CGD 94-008, 59 FR 49846, Sept. 30, 1994, as amended by USCG-1999-6095, 65 FR 76576, Dec. 7, 2000; USCG-2001-8825, 69 FR 5401, Feb. 4, 2004; USCG-2005-20258, 71 FR 61417, Oct. 18, 2006; USCG-2009-0702, 74 FR 49230, Sept. 25, 2009]

#### § 67.37 Association or joint venture.

(a) An association meets citizenship requirements if each of its members is a citizen.

(b) A joint venture meets citizenship requirements if each of its members is a citizen.

[USCG-1999-6095, 65 FR 76576, Dec. 7, 2000]

#### § 67.39 Corporation.

(a) For the purpose of obtaining a registry or a recreational endorsement, a corporation meets citizenship requirements if:

(1) It is incorporated under the laws of the United States or of a State;

(2) Its chief executive officer, by whatever title, is a citizen;

(3) Its chairman of the board of directors is a citizen; and

(4) No more of its directors are non-citizens than a minority of the number necessary to constitute a quorum.

(b) For the purpose of obtaining a fishery endorsement, a corporation meets citizenship requirements if:

(1) It meets all the requirements of paragraph (a) of this section; and

(2) At least 75 percent of the stock interest in the corporation, at each tier of the corporation and in the aggregate, is owned by citizens.