

§ 356.39

Approval Officer, except where non-commercial operation is necessary for the immediate safety of the vessel, or for repairs, drydocking or berthing changes; provided, that the vessel is operated under the command of a Citizen of the United States for a period of no more than 15 calendar days.

[68 FR 5582, Feb. 4, 2003]

Subpart F—Charters, Management Agreements and Exclusive or Long-Term Contracts

§ 356.39 Charters.

(a) Charters to Citizens of the United States:

(1) Bareboat charters may be entered into with Citizens of the United States subject to approval by the Citizenship Approval Officer that the charterer is a Citizen of the United States. The bareboat charterer of Fishing Industry Vessel must submit an Affidavit of U.S. Citizenship to the Citizenship Approval Officer for review and approval prior to entering into such charter.

(2) Time charters, voyage charters and other charter arrangements that do not constitute a bareboat charter of the Fishing Industry Vessel may be entered into with Citizens of the United States. The charterer must submit an Affidavit of U.S. Citizenship to the Citizenship Approval Officer within 30 calendar days of execution of the charter.

(b) Charters to Non-Citizens:

(1) Bareboat or demise charters to Non-Citizens of Fishing Industry Vessel for use in the United States are prohibited. Bareboat charters to Non-Citizens of Fish Processing Vessels and Fish Tender Vessels for use solely outside of the United States are permitted.

(2) Time charters, voyage charters and other charters that are not a demise of the vessel may be entered into with Non-Citizens for the charter of dedicated Fish Tender Vessels and Fish Processing Vessels that are not engaged in the Harvesting of fish or fishery resources. A copy of the charter must be submitted to the Citizenship Approval Officer prior to being executed in order for the Citizenship Ap-

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proval officer to verify that the charter is not in fact a demise of the vessel.

(3) Time charters, voyage charters and other charters of Fishing Industry Vessels to Non-Citizens are prohibited if the Fishing Industry Vessel will be used to Harvest fish or fishery resources.

(c) We reserve the right to request a copy of any time charter, voyage charter, contract of affreightment or other Charter of a Fishing Industry Vessel in order to confirm that the Charter is not a bareboat charter of the Fishing Industry Vessel.

(d) Any violation of this section will render the vessel's fishery endorsement immediately invalid upon notification from the Citizenship Approval Officer.

§ 356.41 Management agreements.

(a) An owner or bareboat charterer of a Fishing Industry Vessel may enter into a management agreement with a Non-Citizen in which the management company provides marketing services, consulting services or other services that are ministerial in nature and do not convey control of the vessel to the Non-Citizen.

(b) An owner or bareboat charterer of a Fishing Industry Vessel may not enter into a management agreement that allows the Non-Citizen to appoint, discipline or replace the crew or the master, direct the operations of the vessel or to otherwise effectively gain control over the management and operation of the vessel or vessel-owning entity.

(c) The owner or bareboat charterer must file with the Citizenship Approval Officer a description of any management agreement entered into with a Non-Citizen. The description must be submitted within 30 days of the execution and must include:

(1) A description of the agreement with a summary of the terms and conditions, and,

(2) A representation and warranty that the agreement does not contain any provisions that convey control over the vessel or vessel-owning entity to a Non-Citizen.

(d) The Citizenship Approval Officer may request a copy of any management agreement to determine if it contains provisions that convey control