

over the vessel or vessel-owning entity to a Non-Citizen.

§ 356.43 Long-term or exclusive sales contracts.

(a) An owner or bareboat charterer of a Fishing Industry Vessel may enter into an agreement or contract with a Non-Citizen for the sale of all or a significant portion of its catch where the contract or agreement is solely for the purpose of employment of certain vessels on an exclusive basis for a specified period of time. Such contracts or agreements will not require our prior approval; provided, that the contract or agreement does not convey control over the owner or bareboat charterer of the vessel or the vessel's operation, management and harvesting activities.

(b) Provisions of a long-term or exclusive contract or agreement for the sale of all or a significant portion of a vessel's catch entered into pursuant to paragraph (a) of this section that are not considered to convey impermissible control to a Non-Citizen and do not require our approval include provisions that:

- (1) Specify that the owner or bareboat charterer agrees to sell and purchaser agrees to procure, on a preferential basis, a certain quantity of fish caught by a vessel owner or bareboat charterer on a specific vessel;
- (2) Specify that the vessel owner or charterer is responsible for supplying a specific type of fish to off-loading points designated by the purchaser;
- (3) Provide for the replacement by the vessel owner of vessels covered by the contract or agreement in the event of loss or damage;
- (4) Specify refrigeration criteria;
- (5) Provide that the owner or bareboat charterer has to comply with fishing schedules that specify the maximum age of fish to be delivered and a method to coordinate delivery to the purchaser;
- (6) Provide for methods of calculating price per pound or other price schedules and a schedule for payment for delivered fish;
- (7) Provide for an arbitration mechanism in the event of dispute; and
- (8) Provide for the purchaser to furnish off-loading crew and/or processing

or quality control technicians but no other vessel crew members.

(c) An owner or bareboat charterer of a Fishing Industry Vessel must obtain the approval of the Citizenship Approval Officer prior to entering into any agreement or contract with a Non-Citizen for the sale of all or a significant portion of a vessel's catch if the agreement or contract contains provisions that in any way convey to the purchaser of the vessel's catch control over the operation, management or harvesting activities of the vessel, vessel owner, or bareboat charterer other than as provided for in paragraph (b) of this section.

(d) An owner or bareboat charterer must submit, with its Affidavit of United States Citizenship and annually thereafter, a list of any long-term or exclusive sales agreements to which it is a party and the principal parties to those agreements. If requested, a copy of such agreements must be provided to the Citizenship Approval Officer.

§ 356.45 Advance of funds.

(a) A Non-Citizen may advance funds to the owner or bareboat charterer of a Fishing Industry Vessel:

(1) As provisional payment for products delivered for consignment sales, but not yet sold; or

(2) Where the basis of the advancement is an agreement between the Non-Citizen and the vessel owner or bareboat charterer to sell all or a portion of the vessel's catch to the Non-Citizen and the agreement meets the following conditions:

(i) The amount of the advancement does not exceed the annual value of the sales contract, measured as the value of the product to be supplied to the processor;

(ii) The Non-Citizen is not granted any rights whatsoever to control the operation, management and harvesting activities of the Fishing Industry Vessel other than as provided for in § 356.43;

(iii) The owner or bareboat charterer submits to the Citizenship Approval Officer within 30 days of execution a description of the arrangement and a certification and warranty that the agreement or contract with the Non-Citizen