

U.S. Department of
Homeland Security

United States
Coast Guard



Director
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September 15, 2009

Francis X. Nolan, III Esq.
Vedder Price P.C.
1633 Broadway, 47th Floor
New York, New York 10019

Dear Mr. Nolan:

We refer to your letter of August 4, 2009, on behalf of your client, Dredge Technology Corporation ("DTC") and its Netherlands affiliates, IHC Merwede and IHC Beaver Dredgers B.V. As you reported, DTC is considering participation in a series of projects to design cutter suction dredges to be built in a shipyard in the United States. Each such cutter suction dredge would include one integrated machinery module which would be fabricated outside of the United States, then shipped to the United States, and incorporated into the dredge by the shipyard. As such, you have requested a determination that the incorporation of those modules into the dredges would not adversely affect the status of the dredges as built in the United States.

Based upon the information you have provided, we understand that the dredges will be approximately 188' in length, either twin-hulled (formed by two pontoon hulls with a connecting deck) or single hull (a single pontoon of approximately the same dimensions as the twin-pontoon design). Mounted on the deck will be a dredging machinery module approximately 40' long x 11-1/2' wide x 10' high. This module will contain the diesel engine, pumps, auxiliary machinery, and associated electrical, piping and control systems for the dredging equipment. The module will be bolted (not welded) into place on the vessel's deck in order to facilitate its removal for maintenance or replacement. A pilothouse structure will be located above and independent of the module.

The dredging module and its internal equipment and systems will be fabricated and assembled overseas and delivered to the United States. The dredge's hull, superstructure, pilothouse, and other machinery and equipment will be constructed in a shipyard in the United States, which will also install the dredging module onto the dredge.

You have requested a determination that the incorporation of the above-described modules into the dredges in a U.S. shipyard, where the dredges themselves are to be built, will not adversely affect the status of the dredges as built in the United States and, consequently, their eligibility for documentation with coastwise endorsements.

The regulatory standard for vessels deemed to have been built in the United States is set forth at 46 C.F.R. § 67.97, as follows:

“To be considered built in the United States a vessel must meet both of the following criteria:

- (a) All major components of its hull and superstructure are fabricated in the United States;
and
- (b) The vessel is assembled entirely in the United States.”

As your letter correctly pointed out, the meaning and application of these standards, in the context of the installation of certain mechanical systems and equipment modules built overseas but installed in vessels by a U.S. shipyard, were extensively examined in Philadelphia Metal Traders Council v. Allen, Civil Action No. 07-145, August 25, 2008 (E.D.Pa.)(2008 WL 4003380). That decision upheld determinations issued by the National Vessel Documentation Center that found that the modules described were not integral to the hull or superstructure and did not contribute to the overall structural integrity of the vessel or its watertight envelope. Rather, as those determinations found, the incorporation overseas of machinery, foundations and related systems into such a module, which module is subsequently incorporated into a vessel in a U.S. shipyard, does not violate the requirement, as set forth in 46 C.F.R. § 67.97, that the vessel (rather than its individual parts, components or, in that case, modules) be assembled entirely in the United States.

In this case, based upon the description you have provided, we agree that the module described is not part of the superstructure and does not affect either the flotation envelope or structural integrity of the hull. As such, it would not be considered an integral part of the vessel’s hull or superstructure.

Consequently, we confirm that the incorporation of the modules described into dredges built in United States shipyards will not adversely affect the determination of the status of those dredges as built in the United States.

Sincerely,



DOUGLAS G. CAMERON
Counsel
National Vessel Documentation Center
By direction