

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Vessel Documentation Center

792 T J Jackson Drive
Falling Waters, WV 25419
Staff Symbol: NVDC
Phone: (304) 271-2506
Fax: (304) 271-2405
Email: Timothy.V.Skuby@uscg.mil

16713/5/3
December 11, 2013

Mr. Edward Washburn
GM Engineering and Technical Services
Horizon Lines Inc.
600 E. Las Colinas Blvd., Suite 600
Dallas, TX 75039

Dear Mr. Washburn:

We are responding to your letter of September 13, 2013, with enclosures, by which you requested a preliminary foreign rebuild determination, in accordance with 46 C.F.R. § 67.177(g), with respect to proposed work to be done in a foreign shipyard to the vessels HORIZON ENTERPRISE, official number 625873, HORIZON PACIFIC, official number 624457, HORIZON TRADER, official number 552706 and HORIZON NAVIGATOR, official number 541868 (together, the "Vessels"). As your letter indicated, the vessels are C8 class sister containerships built in 1980, 1979, 1973 and 1972, respectively.

The work you propose to do, in an as yet unidentified foreign shipyard, will be the same as to each vessel; specifically, you propose to replace the steam propulsion and auxiliary plants of each vessel during their scheduled shipyard periods with a geared medium speed diesel dual (LNG and liquid) fuel engine plant in order to improve the fuel efficiency and environmental performance of the Vessels. Your letter and its enclosures have provided extensive detail of the work proposed to be done in association with this project.

You have requested a preliminary determination that, in accordance with the regulatory standards set forth at 46 C.F.R. § 67.177 with regard to work done in foreign shipyards to vessels built in the United States, the Vessels will not be deemed to have been rebuilt foreign and, consequently, that their coastwise eligibility will not be adversely affected by the proposed work.

We note at the outset, as you have also indicated, that the work proposed to be done in this project is similar in all important respects to the project which was the subject of your application earlier this year for the repowering of two Horizon Lines C9 class vessels. The National Vessel Documentation Center ("NVDC") issued a favorable determination letter dated June 14, 2013, which discussed in detail the work proposed to be done and the impact of that work when measured against the regulatory considerations of the two-part test established by 46 C.F.R. § 67.177 to determine whether the vessels in that case would be deemed "rebuilt foreign" and, as a consequence of that determination, no longer eligible to engage in the coastwise trades of the United States. Due to the very close similarity of this new project to the one just ruled upon by the NVDC in June we will dispense with a repeated discussion of those considerations here and, instead, incorporate that letter by reference herein.

Nevertheless, as with your earlier project, in order to aid our understanding and assessment of your proposal we have referred your current submission to the Coast Guard's Naval Architecture Division ("NAD") for their review, with particular focus on (i) the various estimated steelweights provided, and (ii) your categorization of the work as between those portions deemed structural which implicate the hull or superstructure and those deemed otherwise. We will rely upon and refer to as appropriate the findings and conclusions of the NAD herein.

Against that background, and with the aid of the NAD review, we conclude as follows:

First, we note, as we did in the prior determination letter already referred to, that there is no prohibition against the incorporation into a U.S. built vessel outside of the United States of items, whether or not foreign-sourced, which are not structural components of either the hull or superstructure of the vessel and, as such, have generally come to be known as outfit. Among such items in this case would be the two medium-speed dual-fuel propulsion engines, reduction gear, diesel generators, auxiliary systems (cooling system, pumps, lube oil, fuel) and associated piping, electrical, and control systems. In this vein, we also note the installation of an engine control room, new emergency generator and switchboard, two new LNG fuel tanks, with LNG bunkering station, and the conversion of existing fuel oil tanks. To provide access openings for removals and installations 26' and 36' flats will be temporarily removed. However, the NAD has concluded that these flats do not extend beyond the engine room and their steel components do not impact the overall structural integrity of the hull.

Second, on the basis of the information you presented, and the review of that information by the NAD which has concluded that several non-structural weight items totaling 91.54 Ltons should be excluded, we accept that the appropriate figure to be used as the steelweight of the Vessels prior to the proposed work, against which, in accordance with the regulatory tests, the steelweight associated with the proposed work must be measured, is 8,957.78 Ltons.

Third, with regard to the first prong of the test established by 46 C.F.R. § 67.177, the "major component test", we note that the NAD has concluded that the largest single structural components of the hull to be added to any of the Vessels will be two weathertight doors with a combined steelweight (as found by the NAD) of 600 pounds, a de minimis percentage of the Vessels' steelweight prior to the work and well below the standard of 1.5% of the Vessels' steelweight at which threshold a component would be characterized as a "major component". However, we also note that sections of the hull side shell will be cut out to provide temporary access and that Horizon intends to re-weld the original cut-outs back into place. These side shell cutouts are discussed further in connection with the "considerable part test", below. However, even if treated as added components, these side shell cut-outs have been determined to have an estimated weight of 12,711 pounds (5.67 Ltons), or a mere 0.06% of the Vessels' steelweight. Thus, they would also not approach the threshold for characterization as a "major component". It is our practice, however, in applying the regulatory standard as a whole, to nonetheless take the steelweight of these components into account when measuring your proposal against the second prong of that standard, the "considerable part test".

16713/5/3
December 11, 2013

Fourth, with regard to the second prong of the test established by 46 C.F.R. § 67.177, the “considerable part test”, we note that the NAD has concluded that the steel to be removed will constitute 0 Ltons and that the steel to be added will constitute 2.0 Ltons.

With regard to the former, the steel to be removed, the weight of removed steel which does not impact the overall structural integrity of the hull, including items listed in enclosure 6 of your letter and the 26’ and 36’ flats referred to earlier, have been properly excluded by the NAD in its review. However, this number does not take into account the removal of the hull side shell cut-outs also discussed earlier. As the applicable regulation speaks of the steelweight of “work performed” on a vessel’s hull or superstructure it is the practice of the NVDC, when addressing the removal and subsequent replacement of steel for purposes of access, to count the steelweight of that work as either steel removed or steel added, but not both, even though the same steel that was removed may be later replaced. Thus, we will elect to include the weight of those side shell cut-outs, but will do so as steel added upon their replacement.

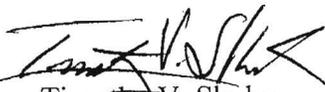
Consequently, with regard to the latter, the steel to be added, including the estimated weight of the side shell cut-outs of 5.67 Ltons, would be 7.67 Ltons. Expressed as a percentage of the Vessels’ discounted steelweight this is a de minimis amount and well below the permitted threshold of 7.5%.

Finally, we note that the proposed scope of work submitted for our review does not account for the possibility of other structural steel repairs that might also be accomplished during the same shipyard overhaul, such as the replacement of hull plating. We caution you that work of that nature could impact the calculations, and conclusions, herein.

For the reasons expressed herein we conclude, and confirm, that performance of the described work to the Vessels outside of the United States would not, under currently applicable law and practice, adversely affect their eligibility to engage in the coastwise trades of the United States.

We require that you confirm to this office in writing following completion of the work that the work actually done to each Vessel is as you have described it or, if not in any respect, including by the completion of additional work not included as part of the scope of work submitted for our review, that you provide documentation of the actual work, as done, with supporting calculations and appropriate drawings and descriptions.

Sincerely,


Timothy V. Skuby
CAPT, USCG Retired
Director