

U.S. Department of  
Homeland Security

United States  
Coast Guard



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16713/5/2  
April 25, 2013

Messrs. John H. Musser  
and  
Timothy D DePaula  
Murphy, Rogers, Sloss & Gambel  
One Shell Square  
701 Poydras Street, Suite 400  
New Orleans, Louisiana 70139

Dear Messrs. Musser and DePaula:

We refer to your letter of March 20, 2013, with its enclosures, wherein you reported that Normrock Industries, Inc. of Quebec, Canada ("Normrock") is planning to construct amphibious excavator and dredging vessels at the Marine Inland Fabricators shipyard in Panama City, Florida ("Marine Inland") which, upon completion, are intended to be Jones Act-compliant, documented in the United States, and eligible to engage in the coastwise trade of the United States. It is our understanding that you intend to construct a series of such vessels, known as "Amphibex", all using the essential design of the Amphibex 400, drawings for which you have submitted to accompany your request for confirmation that the Amphibex vessels, if constructed and designed as described, would be considered to be built in the United States and, as such, qualified to engage in the coastwise trade of the United States.

The Amphibex vessels, as you have described them, would be constructed in several sizes but all would have the same functional design, arrangements and method of construction as described in your letter with particular reference to the Amphibex 400. They would have multi-functional capabilities, permitting them to engage in such activities as aquatic weed cutting and harvesting, excavating and dredging, trash and debris collection, and the laying of pipeline and underwater cables. This multi-functionality would be facilitated by a quick connection system which would allow for the rapid exchange of different tools and attachments which, as they are designed to be interchangeable, are not permanently attached to the hull.

By your description of the planned construction, the hull and superstructure of the Amphibex vessels, as detailed in the drawings submitted, would be fabricated exclusively by Marine Inland in the United States. However, the lifting arms, front stabilizers, rear stabilizer, attachments and accessories, including extendable outriggers, all as also detailed in those drawings, would be manufactured in Canada but subsequently assembled into the vessels in the United States. All systems would be controlled by a single operator seated in an enclosed cab mounted on the deck.

You have sought confirmation that the Amphibex vessels, designed, constructed and assembled as described, would be considered built in the United States and qualified to engage in the coastwise trade of the United States notwithstanding that the various items as described would be foreign-built but assembled into the vessels in the United States.

Your letter correctly reflects that, in order to be documented in the United States with a coastwise endorsement entitling them to be operated in the coastwise trades of the United States, the vessels must be determined to have been built in the United States. Moreover, in order for that to be the case, its construction must satisfy both of the requirements of 46 C.F.R. § 67.97; namely:

“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.”

For the purposes of our determination in this case the definitions of the terms “hull” and “superstructure” at 46 C.F.R. § 67.3 must also be considered, in pertinent part, as follows:

“*Hull* means the shell, or outer casing, and integral structure below the main deck which provide both the flotation envelope and structural integrity of the vessel in its normal operations...”

“*Superstructure* means the main deck and any other structural part above the main deck.”

Your letter, with its enclosures, was referred to the Coast Guard’s Naval Architecture Division (“NAD”) which, at our request, has reviewed your plans. A copy of the NAD report, dated April 16, 2013, has been attached hereto as Exhibit A in support of this determination.

The question addressed to the NAD for technical review by the facts presented in this case is straightforward. Would any of the lifting arms, front stabilizers, rear stabilizer, accessories and attachments, including the outriggers and the operator’s cab, as described, form part of the “hull” or “superstructure”, as defined above, of the vessels? If so, their estimated steelweight would then have to be taken into account to ascertain whether the component at issue would constitute a “major component” of the hull or superstructure (the standard for which has consistently been set at 1.5% of a vessel’s lightship steelweight) and, as such, would need to be fabricated in the United States in order for the vessels to be considered built in the United States. If not, on the other hand, then, notwithstanding their size, the fact that they might be fabricated outside of the United States would not negatively implicate the first criterion of 46 C.F.R. § 67.97, set forth above. However, as your submission does not include steelweight calculations, the sole issue for us to consider is whether the items at issue would constitute part of the hull or superstructure.

After review, the NAD offered the following findings at paragraphs 8, 9, 10 and 11 of its report, which we repeat in pertinent part:

“8. Consistent with our previous reviews of this nature, we consider ‘superstructure’ to include deckhouses and pilothouses, but not breakwaters, crane or mast houses, or ventilation or exhaust trunks...In this regard, the operator’s cab is only large enough for a single, seated person. It is essentially a weather-sheltered operating station, functionally equivalent to the enclosed cab of a large crane. Therefore, we do not consider it to be a superstructure.

9. The purpose of the outriggers is to provide lateral stability during crane operations when a loaded bucket swings around over the side. In shallow water, the outriggers can reach down and brace against the bottom; in deeper water, detachable floats can be attached to accomplish the same function. Because they are detachable and only used in conjunction with crane operations (and not to provide general buoyancy for the vessel), we do not consider them to be part of the flotation envelope of the hull.

10. We consider the cranes, outriggers, spuds and other mechanical systems to be deck equipment, and therefore their foundations and attachment points are not hull components.

11. In conclusion, none of the attachments to the basic pontoon hull are components of the hull or superstructure. Under these circumstances, there is no need to determine a discounted steel weight.”

The second criterion of 46 C.F.R. § 67.97, set forth above, requires that the vessel be assembled entirely in the United States. In this case you have indicated that all of the various components and attachments discussed above will, in fact, be assembled into the vessels in the United States at Marine Inland, and will be detachable in any event in the course of normal operation.

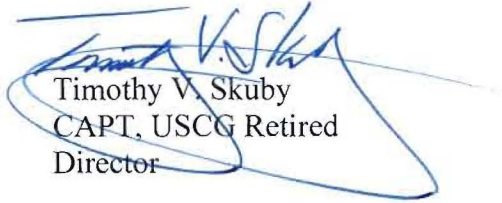
The Coast Guard has long held that items not integral to the hull or superstructure of a vessel may be foreign built without compromising its coastwise eligibility. However, if attached or joined to the vessel in a foreign shipyard, the second criterion of the test, the “assembled entirely in the United States” criterion, would be impacted. Because all of the various components and attachments at issue in this case will be assembled into the vessels in the United States, as your submission has represented, and will be detachable in any event in the course of normal operations, that is not a concern here.

Moreover, the Coast Guard’s interpretation that the second criterion of the test refers to the assembly of the vessel itself, and does not require assembly in the United States of every component part of the vessel, has also been upheld. Philadelphia Metal Trades Council, MTD, AFL-CIO v. Allen, 2008 WL 4003380, E.D. Pa., 2008.

For all of the above reasons, we confirm that foreign manufacture of the lifting arms, front stabilizers, rear stabilizer, accessories and attachments, as described, of the Amphibex vessels will not jeopardize the coastwise eligibility of the vessels provided that those components and attachments are assembled into the vessels in the United States, as has been represented.

Consequently, subject to the same caveat raised by the NAD in paragraph 12 of its report, we confirm that the Amphibex vessels, if designed, constructed and assembled as described, would be qualified to engage in the coastwise trades of the United States.

Sincerely,



Timothy V. Skuby  
CAPT, USCG Retired  
Director

Enclosure