

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

16713/5/2
March 6, 2014

William N. Myhre, Esq.
K & L Gates LLP
1601 K Street NW
Washington, DC 20006-1600

Dear Mr. Myhre:

I am responding to your letter of January 13, 2014, with exhibits, by which you wrote on behalf of OSG Ship Management, Inc., and its affiliate, Overseas Tampa LLC (together, "OSG") to request a preliminary determination that certain work proposed to be performed overseas on the vessel OVERSEAS TAMPA, official number 1071956 (the "Vessel"), will not result in a loss of the Vessel's eligibility for a coastwise endorsement. The Vessel is currently documented with a coastwise endorsement pursuant to 46 U.S.C. § 12119 and has been documented under the U.S. flag with a coastwise endorsement since its construction in 2011 at the facilities of APSI Aker Philadelphia Shipyard, Inc. in Philadelphia, Pennsylvania.

The Vessel is an oil/chemical carrier and OSG intends to modify it for shuttle tanker service with all of the proposed work to be performed in the Remontowa Shipyard in Poland. More specifically, and as detailed further in the exhibits attached to your letter, OSG proposes to undertake the following work:

"Addition of a bow loading system consisting of a bow loading platform at approximately frames 95 to 110 with associated supporting systems and cargo pipe line.

Addition of generator set for auxiliary power to bow thruster and bow loading equipment.

Addition of single electrically driven bow thruster with tunnel (not previously fitted) at approximately frames 95-105.

Conversion of main engine fixed pitch propulsion to controllable pitch propulsion and related upgrades; addition of main engine damper.

Other related work such as the high-tech automation of these components."

The regulatory standard by which a coastwise qualified vessel that is rebuilt outside of the United States will permanently lose its coastwise privileges, pursuant to 46 U.S.C. §§ 12101(a) and 12132(b), is set forth at 46 C.F.R. § 67.177. As your letter has correctly articulated, two tests have been established to determine whether any considerable part of a vessel has been has been

substantially altered outside of the United States: the so-called “major component test” (46 C.F.R. § 67.177(a)) and the so-called “considerable part test” (46 C.F.R. § 67.177(b)).

The “major component test” requires that the vessel be deemed rebuilt foreign “when a major component of the hull or superstructure not built in the United States is added to the vessel”. Although the term “major component” is not defined by statute or regulation, longstanding Agency practice, affirmed by the Courts (Shipbuilders Council of America v. U.S. Coast Guard, 578 F. 3d 234 (4th Cir. 2009)), defines it as a new, separate and completely-constructed unit, built separate from and added to the vessel, that weighs more than 1.5% of the steelweight (or discounted lightship weight) of the vessel.

The “considerable part test” requires that only a certain quantity of work can be performed on the hull or superstructure of a coastwise qualified vessel outside of the United States without risk of the loss of its coastwise eligibility. For vessels of which the hull or superstructure are constructed of steel, as in this case, “a vessel is not considered rebuilt when work performed on its hull or superstructure constitutes 7.5% or less of the vessel’s steelweight prior to the work”. (46 C.F.R. § 67.177(b)(3)) Of course, the steelweight of separately constructed components to the hull or superstructure, whether or not deemed “major” under the “major component test”, would be counted toward this 7.5% threshold.

We also note for purposes of the tests described above that the terms “hull” and “superstructure” are defined at 46 C.F.R. § 67.3, as follows (in pertinent part):

“*Hull*” means the shell, or outer casing, and internal structure below the main deck which provides 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.

In light of this background it is necessary to determine which added (or removed) steel items are components of the hull or superstructure and the weight of those items relative to the discounted steelweight of the Vessel. In order to aid our understanding and assessment of your proposal your submission was referred to the Coast Guard’s Naval Architecture Division (“NAD”) for their review. We will rely upon and refer to the findings and conclusions of the NAD as appropriate herein.

With respect to added items, OSG took a conservative approach and erred on the side of including items in that category even when some items (e.g., non-structural components such as piping, certain internal bulkheads; etc.) might have been excluded. In doing so, it found that items with a total steelweight of 168.60 Mtons would be added to the hull or superstructure. The NAD, on the other hand, focused on items which would form part of the structural integrity and flotation envelope of the hull (e.g., thruster tunnel extensions, underdeck reinforcements and other miscellaneous items) and found that the total steelweight of those items would amount to only 22.9 Mtons.

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In neither case were there items which could remotely have been categorized as "major components".

Moreover, although there is to be some removed steel in the course of the modifications, at only 1.2 Mtons (per the NAD review), it is negligible and immaterial for the purposes of this determination relative to the greater amount of added steel.

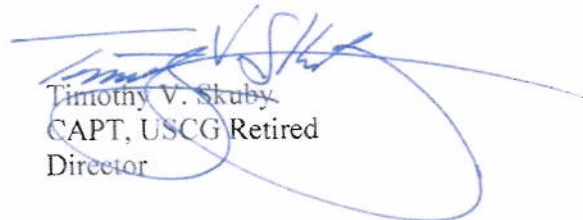
Minor differences (which are inconsequential in light of the overall analysis of the work proposed to be done) were also identified in the calculation of the Vessel's discounted lightship weight resulting in 7,889.60 Mtons, as calculated by OSG, and 7,952.20 Mtons, as calculated by the NAD.

However, even given OSG's more conservative calculations, resulting in a case less favorable to itself (168.60 Mtons for the steelweight of added components and 7,889.60 Mtons for the discounted lightship weight of the Vessel), the resulting percentage is only 2.14 %, well under the applicable threshold. Conversely, based upon the analysis and findings of the NAD (22.90 Mtons for the steelweight of added components and 7,952.20 Mtons for the discounted lightship weight of the Vessel), the resulting percentage would be even lower at 0.3%.

For the aforementioned reasons we conclude, and confirm, that performance of the work, as described, to the Vessel outside of the United States will not result in the Vessel being deemed to have been rebuilt foreign and will not jeopardize the Vessel's eligibility to engage in the coastwise trades of the United States.

We caution you that this is a preliminary determination which is premised on the descriptions you have provided of the proposed work. We ask that you confirm to this office in writing following completion of the work that the work actually done to the Vessel is as you have described it, or, if not, that you provide documentation of the work, as done, with supporting calculations and drawings.

Sincerely,



Timothy V. Skuby
CAPT, USCG Retired
Director

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Staff Symbol: NVDC
Phone: (304) 271-2506
Fax: (304) 271-2405
Email: Timothy.V.Skuby@uscg.mil

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August 11, 2014

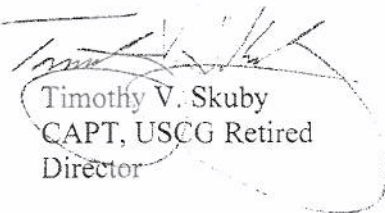
William N. Myhre, Esq.
K & L Gates LLP
1601 K Street NW
Washington DC 20006-1600

Dear Mr. Myhre:

I am writing in response to your letter of August 5, 2014, in which you reported on the completion of the work done to the OVERSEAS TAMPA, official number 1225533 (the "Vessel"), and delivery of the Vessel from the shipyard in Gdansk, Poland, on August 2, 2014. This report was requested by our preliminary foreign rebuild determination letter dated March 6, 2014 **please note: the official number noted in the referenced letter should have been 1225533.**

You have reported that there were minor changes in the work actually done to the Vessel from the work as proposed and described in your submissions which formed the basis for our favorable preliminary foreign rebuild determination. However, we find that those changes resulted in *de minimis* changes to the percentages of steelwork done, which remain well below the regulatory thresholds. Consequently, we confirm our final determination that the Vessel will not be considered to have been rebuilt foreign and that it will retain its eligibility for a coastwise endorsement.

Sincerely,


Timothy V. Skuby
CAPT, USCG Retired
Director