



16713/5/2
March 25, 2024

K&L Gates LLP
Attn: Mr. Luke M. Reid
State Street Financial Center
One Lincoln Street
Boston, MA 02111

Dear Mr. Reid:

This letter is in response to your request for a preliminary foreign rebuild determination for the Fish Tender Barge HANNAH (O.N. 1067457) under the provisions of 46 C.F.R. § 67.177(g), dated 28 November 2023. Upon review of the scope and details of the proposed installation of accommodation modules specified by your letter and associated exhibits, it is the preliminary determination of the National Vessel Documentation Center (NVDC) that the proposed installation will not render the vessel as foreign rebuilt and follows from this preliminary determination that the proposed installation of accommodation modules will not render the vessel ineligible for future documentation with coastwise and/or fisheries endorsements.

46 C.F.R. § 67.177(b)(3) provides that a steel vessel is not considered foreign rebuilt when foreign materials or work performed on its hull or superstructure do not exceed 7.5% of the vessel's prior steel-weight (also known as discounted lightship weight). The proposed work and calculations submitted in your request indicates that the total weight of foreign materials and workmanship amounts to an estimated 422,080 lbs (188.43 LT). This figure is 5.2% of the vessel's calculated prior steel-weight (or discounted lightship weight) of 8,070,720 lbs (3,060.00 LT). Therefore, according to your submitted calculations, the vessel will not be considered foreign rebuilt under the provisions of 46 C.F.R. § 67.177(b).

46 C.F.R. § 67.177(a), applicable to all vessels regardless of construction material, provides that a vessel is deemed to be foreign rebuilt when a major component not built in the United States is added to the vessel's hull or superstructure. Under this provision, the Coast Guard generally applies a 1.5% prior steel-weight threshold in determining whether the addition amounted to a major component. *Shipbuilder's Council of America v. U.S. Coast Guard*, 578 F.3d 234, 243 (4th Cir. 2009). Because the total amount of proposed foreign-built accommodation modules amounts to 5.2% of the vessel's calculated discounted lightship weight, it clearly exceeds the 1.5% threshold. This fact is not determinative, however, because the 1.5% limit only applies to additions to the vessel's hull or superstructure.

46 C.F.R. § 67.3 defines *superstructure* as "the main deck and any other *structural* part above the main deck" (emphasis added). The Coast Guard has consistently held that installations which are not structurally integral to the vessel's hull or superstructure, such as portable modules for accommodations, auxiliary machinery, etc., have no bearing on a foreign build determination.

Philadelphia Metal Trades Council, MTD, AFL-CIO v. Allen, 2008 WL 4003380, 3 (E.D. Penn. 2008). In your request, you detailed that 30 portable accommodation modules would be installed with a bolted bracketing system such that the modules would not become integrated into the structure of the vessel's hull or superstructure. Because the portable accommodation modules will not become part of the vessel's integral structure, they are not considered added components for the purposes of 46 C.F.R. § 67.177(a).

In conclusion, it is the preliminary determination of the NVDC that the proposed installation of accommodation modules, as specified in your request letter, will not disqualify the vessel HANNAH (O.N. 1067457) from documentation as a U.S. commercial vessel with coastwise and/or fisheries endorsements.

Sincerely,



Christina G. Washburn
Director, National Vessel Documentation Center
United States Coast Guard