

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:  
Christina.G.Washburn@uscg.mil

16713/8  
March 21, 2019

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

Dear Mr. Myhre:

I refer to your letter of February 21, 2019, and the supporting exhibits which accompany it. You have requested a determination on behalf of The Interlake Steamship Company ("Interlake") regarding the qualification for a coastwise endorsement of a new vessel (the "Vessel") to be constructed for Interlake by Fincantieri Bay Shipbuilding ("FBS") at its shipyard in Sturgeon Bay, Wisconsin. Specifically, you have requested a determination that, upon completion of the work as has been described in your letter, the vessel will be considered to be built in the United States within the meaning of 46 U.S.C. § 12112(a)(2)(A) and 46 C.F.R. § 67.97.

In order for the Vessel to meet those statutory and regulatory standards and, as a consequence, to be eligible to be documented in the United States with a coastwise endorsement entitling it to be operated in the domestic trades of the United States, its construction must satisfy both 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."

In addition, the following definitions of 46 C.F.R. § 67.3 are pertinent to the application of those requirements:

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

and

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

As an aid to our review of these requirements in the context of this Vessel, and consistent with our established practice, we requested a review and analysis of the materials you submitted in support of your request by the Coast Guard’s Naval Architecture Division (“NAD”).

The Vessel will be a 639’ X 78’ X 45’ self-unloading bulk carrier that will have for that particular service, sloped cargo holds for the discharge of bulk cargoes via a conveyor belt and unloading boom. However, the unique design of this Vessel will also allow it to accommodate the movement of non-traditional cargoes such as steel coils, windmill towers and components and shipping containers. The interior part of the cargo hold will have the characteristics of a traditional self-unloading bulker accessed through large hatch openings. However, the large hatch covers will be designed to be load bearing in order to accommodate these non-traditional project cargoes.

The vessel will be built using a modular construction technique and except for certain specific components which will be procured from foreign sources it will be fabricated, erected and outfitted at FBS’ shipyard. Those foreign-sourced components are further discussed below.

In light of this, and consistent with prior rulings which have addressed the concept of modular construction in the wake of the decision in Philadelphia Metal Trades Council, MTD, AFL-CIO v. Allen, 2008 WL 4003380 (E.D. Pa., August 25, 2008), it is clear that the second requirement of 46 C.F.R. § 67.97, the so-called “assembled entirely” requirement at subparagraph (b,) is not negatively implicated by the plan of construction to be employed in this case.

The application of the first requirement of 46 C.F.R. § 67.97, the so-called “major component” requirement at subparagraph (a), requires further discussion of certain foreign-sourced materials and foreign-sourced and fabricated items to be incorporated into the Vessel. In accordance with that requirement, the steel weight of foreign-fabricated components of the hull or superstructure cannot exceed 1.5% of the Vessel’s discounted lightship steel weight.

The NAD reviewed your calculation of the discounted lightship steel weight of the Vessel and has concurred with your estimate of 4,783.55 Ltons, which equates to a limit of the total weight of foreign-fabricated components of the hull or superstructure of 71.75 Ltons.

Structural plate and conventional shapes will be sourced from steel mills in the United States. However, the Vessel’s design calls for bulb flats which are unavailable in the United States and thus, will be sourced from foreign suppliers in original stock sizes, shapes and lengths. All subsequent work such as marking, cutting, drilling, beveling, bending or otherwise preparing the bulb flats to make unique parts will be done by FBS at its Sturgeon Bay shipyard. This practice is in keeping with a long history of Coast Guard rulings that there is no regulatory or statutory limit on the amount of foreign materials, such as steel which may be used in the construction of a

vessel deemed to be built in the United States provided that the steel has not been worked in any way and that it is imported in standard shapes and sizes as produced at the steel mill.

These materials are, of course, counted toward the determination of the discounted lightship steel weight of the Vessel but will not count toward the 1.5% limitation on foreign-fabricated components.

You have identified certain foreign-fabricated items which you have assumed to count toward that 1.5% limitation ((i) exterior watertight and weather tight doors and hatches, (ii) bow and stern thruster tunnels, and (iii) rudder trunk and foundation) and one item, in particular, ((iv) cargo hatch covers) which you contend should not, as they are cargo-bearing and should be considered cargo-stowage components.

(i) **Exterior watertight and weather tight doors**

By the NAD's analysis, the Spar Deck is the designated freeboard deck. Accordingly, weather-exposed openings (doors, hatches) on the Spar Deck, 01 Deck and the Focs'l Deck are in load line Positions 1 and 2 and, therefore, are considered part of the flotation envelope of the hull. However, weather-exposed openings on the 02 Deck and higher are above Position 2 and, therefore, not subject to load line requirements or foreign-fabricated steel weight limits. Consequently, 24 doors (1.13 Ltons), 10 service hatches (2.54 Ltons), and 12 manhole covers (0.36 Ltons), all presumed to be foreign-fabricated, will be included in the foreign-fabricated steel weight calculation, for a total of 4.03 Ltons.

(ii) **Bow and stern thrusters and thruster tunnels**

Although the thrusters themselves are machinery outfitting, the thruster tunnels are part of the Vessel's flotation envelope and, therefore, included in the foreign-fabricated steel weight calculation. The weight of the thruster tunnels is accepted as reported as 1.87 Ltons each, for a total of 3.74 Ltons.

(iii) **Rudder trunk and foundations**

Contrary to your more conservative submission, the NAD has concluded that the rudder trunk is an appendage, functioning as the foundation/pedestal supporting the flap rudder. Therefore, the 11.12 Ltons attributed to it need not be included in the foreign-fabricated steel weight calculation.

(iv) **Cargo hatch covers**

The Vessel's 5 cargo hatchways will each be fitted with 2 foreign-fabricated hatch covers. The total weight of the 10 hatch covers is reported as 486.197 Ltons. Hatch covers are

16713/8/2  
March 21, 2019

subject to load line requirements and are, therefore, part of the Vessel's flotation envelope. Consequently, their weight would normally be included in steel weight calculations. Ordinary Position 1 hatch covers in Great Lakes service would be designed to the load line requirement of 250 lbs/square foot (per 46 C.F.R. § 45.145(1)). However, in this case, the Vessel's hatch covers are designed to carry a cargo "payload" of 2.0 Mtons/square meter (approx. 409 lbs/square foot). Because the cargo design loads exceeds the load line design load, the hatch covers are considered part of the Vessel's cargo gear and, therefore, not included in steel weight calculations.

Consequently, the NAD analysis has concluded that 7.77 Ltons (4.03 Ltons plus 3.74 Ltons) should count toward the 1.5% limitation, which is well less than the allowable 71.75 Ltons.

In light of all of the foregoing, and based upon the information you have provided, I confirm that the Vessel as described to be built by FBS at Sturgeon Bay, Wisconsin for Interlake will, if constructed in accordance with your description, be deemed built in the United States within the meaning of 46 U.S.C. § 12112(a)(2)(A) and 46 C.F.R. § 67.97.

Sincerely,



Christina G. Washburn  
Director