

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
May 27, 2014

Greggory B. Mendenhall, Esq.
Sheppard, Mullin, Richter & Hampton LLP
30 Rockefeller Plaza
New York, NY 10112-0015

Dear Mr. Mendenhall:

I refer to your letter of March 26, 2014, and its supporting exhibits. You have requested a determination pursuant to 46 C.F.R. §67.97 with respect to the construction by National Steel and Shipbuilding Company ("NASSCO") of eight (8) identical 50,000 DWT product/chemical tank vessels (each a "Vessel" and collectively, the "Vessels"). As your letter indicates, the Vessels will be constructed for two or more separate ship owners at NASSCO's shipyard in San Diego, California. Upon delivery, it is intended that the Vessels will be documented under the U.S. flag with coastwise endorsements and operated in the domestic trades of the United States.

I also acknowledge receipt of and have taken into consideration your letter of April 15, 2014, and its supporting exhibits, which you submitted in response to our request, transmitted by e-mail dated April 4, 2014, for clarification of certain questions and for additional information. In addition to certain minor revisions to your original exhibits which were incorporated into the exhibits attached to that letter you also confirmed, in response to our question, that the Vessels will not be constructed with bow thrusters or thruster tunnels.

As the Vessels are intended to be documented in the United States with coastwise endorsements, you have requested confirmation that NASSCO's proposed procurement and build details for the construction of these Vessels is consistent with applicable United States build requirements and that their construction in the manner described will not adversely affect their United States build determination and eligibility to operate in the coastwise trades of the United States.

You have indicated that NASSCO intends to employ the same design, material procurement and build processes for the construction of these Vessels as were employed by NASSCO for its PC-1 tankers and the TOTE 3,100 TEU containerships, as well as the construction of other containerships by NASSCO using the same PC-1 design procurement and build model, all projects which were the subject of favorable U.S. build determinations by this office.

As with those previous projects, NASSCO is under contract to purchase the Vessel design, as well as much of the equipment and material necessary to construct each Vessel, with the exceptions of most steel plate, flat bar, weld rod and paint, from a Korean source, or that source's suppliers, all of which are outside the United States. The balance of your letter contains

16713/5/2
May 27, 2014

analysis and discussion, with citations to past determination letters, of the foreign steel and fabricated components, equipment and outfitting items that will be used to construct and assemble the Vessel's in NASSCO's shipyard in San Diego, California.

In order for the Vessels to be documented in the United States with coastwise endorsements entitling them to be operated in the domestic trades of the United States they must be deemed to have been built in the United States. In order for that to be the case, their 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.”

In addition, the following definitions at 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...(portions omitted)”

And

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

Consistent with your understanding of these requirements your letter proceeds to raise and address, and request determinations as to, certain specific aspects of the proposed construction of the Vessels. As an aid to our review of certain of those issues, and consistent with our established practice, we requested a review and analysis by the Coast Guard's Naval Architecture Division (“NAD”).

Asian Angles

You have reported that, due to unavailability from United States sources, NASSCO intends to obtain from foreign sources certain metric-sized structural shapes specified in your exhibits and generally referred to as “Asian angles” or as “unequal angles” and “inverted angles”.

It is our understanding that these materials are to be imported and received at NASSCO's shipyard in San Diego as rolled raw stock from the supplier steel mills in standard mill shapes and sizes, as in the case of the earlier NASSCO construction projects already referred to. As you have confirmed, all processes that create unique parts such as marking, cutting, drilling,

beveling, bending or otherwise preparing the steel for use in the Vessels will be performed at the shipyard in San Diego.

As you know, this practice is consistent with past Coast Guard determinations. 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 have been built in the United States provided that the steel is not worked in any way and that it is imported in standard shapes and sizes as produced at the mill. The representations you have made in connection with this application are consistent with this principle.

Swaged Bulkheads

You have also reported that NASSCO is considering the use of foreign fabricated interior swaged bulkheads which are provided for space segregation only and will not provide structural integrity for the deckhouse. Consistent with past determinations, however, I confirm that the foreign fabrication of these swaged bulkheads (which will be cut, swaged, marked and edge-prepped prior to being shipped to NASSCO) will not adversely affect the determination as to whether or not the Vessels will be deemed to have been built in the United States.

Foreign Fabricated Components of the Hull and Superstructure

You have identified in your exhibits certain foreign fabricated components that NASSCO intends to incorporate into the hull and superstructure of the Vessels.

Having taken into account the analysis and conclusions of the NAD with respect to these items, which incorporates the clarifications offered with your letter of April 15, 2014, I find the total weight of these itemized components to be 55.59 metric tons. Based upon our collective review I also concur with your calculation of the discounted steelweight of each Vessel as 8,220 metric tons. Consequently, the steelweight of the foreign fabricated components represents only 0.676% of the estimated discounted steelweight of each Vessel's hull and superstructure. This percentage is well below the standard of 1.5% of a vessel's discounted steelweight for determination of the fabrication of "major components" under the regulatory and statutory requirement. For that reason, I find that your proposal for the foreign fabrication of the itemized components will not adversely implicate the status of the Vessels as built in the United States.

Foreign Fabricated Equipment and Outfitting

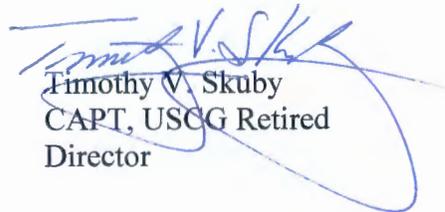
As in the case of the previous vessel construction projects already referred to, you have indicated that NASSCO intends to use modules, sub-assemblies, equipment and outfitting --- all of which will be self-supporting and independent of the Vessels' structure. These units, including piping and local steel support or skid have been generally grouped into the categories of (i) engine room modules, (ii) equipment modules, and (iii) tank top sub-assemblies, and have been described in detail in exhibits to your submission.

16713/5/2
May 27, 2014

In accordance with past determinations, as well as with the decision in Philadelphia Metal Trades Council v. Allen, 2008 WL 4003380 (E.D. Pa., August 21, 2008), I do not find that the requirements of 46 C.F.R. §67.97(b) will be adversely implicated by the use of the foreign-fabricated and assembled items described.

In light of all of the foregoing, and based upon all of the information you have provided, I confirm that NASSCO's proposed procurement and build details for the product/chemical tank vessels, as described in your letters of March 26, 2014, and April 15, 2014, together with their supporting exhibits, will not adversely affect their status as having been built in the United States at NASSCO's shipyard in San Diego, California.

Sincerely,


Timothy V. Skuby
CAPT, USCG Retired
Director