

(206) 217-6199

U.S. Department
of Transportation

United States
Coast Guard



Commandant
U.S. Coast Guard

2100 Second St. S.W.
Washington, DC 20593-0001
Staff Symbol: G-MOC-2
Phone: (202) 267-1464

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Mr. David L. Green
Senior Consultant
Jensen Maritime Consultants, Inc.
404 Fisheries Building
4241 21st Ave. West
Seattle, WA 98199

Dear Mr. Green:

This is in response to your letter of May 15, 1996, regarding major conversion determinations on fishing industry vessels. In your letter you requested the Coast Guard publish policy on this subject. The requirements imposed by a major conversion determination may prove onerous or prohibitive for a particular vessel. However, through the inclusion of Title 46, United States Code (USC) § 4506 "Exemptions" the Coast Guard was given the ability to exempt a vessel from the statutes and/or regulations in cases where good cause exists and it can be demonstrated that the safety of the vessel and crew will not be adversely affected. We intend to fully utilize, whenever appropriate, the exemption option as individual cases are submitted for evaluation.

The definition of major conversion in Title 46, Code of Federal Regulations § 28.50 mirrors the definition found in Title 46, USC § 2101(14a) which itself is derived from the International Convention for the Prevention of Pollution for Ships. Major conversion determinations have long provided a way to ensure that vessels kept pace with current safety requirements.

Title 46, USC § 2101(14a) states that:

"major conversion" means a conversion of a vessel that --

- (A) *substantially changes the dimensions or carrying capacity of the vessel;*
- (B) *changes the type of the vessel;*
- (C) *substantially prolongs the life of the vessel; or*
- (D) *otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.*

Due to the subjective language in this definition each determination must be based on the merits of that particular conversion and be evaluated on a case-by-case basis. However, criterion (B) of this definition is not subjective.

SUBJ: RESPONSE TO MR. GREEN'S LETTER OF MAY 15, 1996,
REGARDING MAJOR CONVERSIONS

In relation to the commercial fishing industry vessels, Congress defined three types of vessels by statute. These are fishing vessel, fish processing vessel and fish tender vessel. Each of the individual definitions for these vessels are explicit and well defined. They are:

Title 46, USC § 2101 (11a) - "fishing vessel means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish."

Title 46, USC § 2101 (11b) - "fish processing vessel means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling."

Title 46, USC § 2101 (11c) - "fish tender vessel means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or a fish processing facility."

Any alteration to a vessel which bridges from one definition to another is viewed as meeting criterion (B) and is declared a major conversion. Congress further elaborated on this criterion, in relation to fish processing vessels in the June 27, 1988, House of Representatives Congressional Record H 4733.

"...section 8(c) of the bill provides a definition for the term 'major conversion.' Among other things this includes conversion that changes the type of a vessel. The committee intends that this factor be interpreted using common sense and not be used as a catchall to cover every sort of conversion. For example, conversion of an oil supply vessel to a fish processing vessel obviously constitutes a major conversion; substitution of one type of processing equipment for another does not."

It is clear from the above that the exchange or substitution of processing equipment on a fish processing vessel was not to be viewed as meeting criterion (B). The congressional record does not address the addition of processing equipment on a fishing vessel or a fish tender vessel; however, it does implore the application of common sense.

Congress recognized that the requirements imposed by a major conversion determination may prove detrimental for a particular vessel and provided the exemption clause of Title 46, USC § 4506 as a relief. Requests for exemptions from specific statutory or regulatory cites are handled on a case-by-case basis and are to be submitted in letter form from the owner to Commandant via the local Marine Safety Office and district office.

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All major conversion determinations, including fishing industry vessels, are being considered by the Marine Safety Center (MSC) per a recent reassignment of responsibilities as part of the Marine Safety and Environmental Protection reorganization. This letter will be forwarded to all District Commanders to ensure wide spread knowledge of this process.

As you have noted, there are numerous combinations and permutations of vessel operation, construction and arrangement which come into play when addressing major conversion determinations. The MSC will continue to consider requests for major conversion determinations using the statutes as their guidelines. Where subjective interpretation of the law is involved, historical review of past determinations will continue to serve an important role in future determinations.

I trust this will provide you with an understanding of the Coast Guard's view on these determinations.

Sincerely,



J. C. CARD
Rear Admiral, U.S. Coast Guard
Assistant Commandant for Marine
Safety and Environmental Protection