



16750

MEMORANDUM

MAY 23 2012

From: CHIEF, BOATING SAFETY DIVISION
(CG-BSX-2)

Reply to: CG-BSX-21
Attn of: JEFF LUDWIG
(202) 372-1061

To: FILE

Subj: LEGAL DETERMINATION ON VESSEL STATUS OF GOLD DREDGES

1. US Coast Guard District 17 has asked whether the Coast Guard considers a "gold dredge" to be a vessel for purposes of compliance with laws and regulations pertaining to navigation and safety equipment carriage. D17 reports that gold dredges are a recent phenomenon in Alaska and used to mine gold off the ocean floor. They are becoming more popular due to publicity received from television shows.
2. In response to the request, we have researched the criteria used and guidance provided in previous Chief Counsel Opinions regarding whether or not a specified device was a vessel under 1 U.S.C. § 3 and used the typical criteria for preparing an analysis of this device (Enclosure 1).
3. Based on the information available, the Coast Guard has determined that devices known as "gold dredges" are vessels under 46 U.S.C. § 2101, and subject to regulations administered by the U.S. Coast Guard, unless specifically exempted.

#

Enclosures: (1) Parameters for determining whether a gold dredge is a vessel
(2) E-mail from CGD 17
(3) Pictures of examples of gold dredges

Copy: CG-0941
CG-CVC-1



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Reply to: CG-BSX-21
Attn of: JEFF LUDWIG
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Subj: PARAMETERS FOR DETERMINING WHETHER A "GOLD DREDGE" IS A
VESSEL

Below are the criteria adopted by the U.S. Coast Guard, utilizing case law and other references, to be used to determine if a certain device is to be considered a vessel for issues related to compliance with any applicable laws or regulations.

(1) Whether the watercraft is "practically capable" of carrying persons or property beyond the narrow limits of a swimming, surfing, or bathing area:

Gold dredges are "practically capable" of and intended to be used beyond the narrow limits of a swimming, surfing, or bathing area. They use traditional hull types (e.g. monohull, pontoon, etc.) and are propelled by propulsion machinery, which are typically outboard motors.

(2) Whether the useful operating range of the device is limited by the physical endurance of its operator:

The useful operating range of a gold dredge is only limited by how much fuel it can carry to run its propulsion machinery.

(3) Whether the device presents a substantial hazard to navigation or safety not already present:

Gold dredges are used in locations where the operation of other larger and faster craft presents a substantial hazard to navigation or safety not otherwise present. Gold dredges may not be as powerful or maneuverable as larger craft, and may not be as visible. They also have the potential to block or obstruct navigation channels when engaged in gold dredging operations.

Subj: PARAMETERS FOR DETERMINING WHETHER A "GOLD DREDGE" IS A VESSEL

(4) Whether the normal objectives sought to be accomplished by the regulation of a device as a "vessel" are present:

As a potential hazard to navigation or safety, regulation of gold dredges as vessels would meet the normal objectives sought to be accomplished by the National Recreational Boating Safety Program.

(5) Whether the operator and/or cargo would no longer be safe in the water if the device became disabled.

Gold dredges are operated in potentially extreme operating conditions in the coastal waters of Alaska. They would provide a minimal level of safety to operators if they became disabled. Thus, the operator and any crew/passengers may no longer be safe in the water if the device became disabled.

Conclusion.

1 U.S.C. § 3 states that "The word 'vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water." Given the answers to the questions above and the definition of the word "vessel" in the US Code, a gold dredge is a vessel subject to regulations administered by the U.S. Coast Guard.

From: [Hoedt, Jeff](#)
To: [Ludwig, Jeffrey](#);
Subject: FW: Nome gold dredges
Date: Thursday, March 22, 2012 2:04:59 PM
Attachments: [navigablewatersrequirements.pdf](#)
[DSC_0239.jpg](#)
[DSC_0244.jpg](#)
[DSC_0320.jpg](#)
[DSC_0281.jpg](#)
[DSC_0275.jpg](#)
[DSC_0249.jpg](#)

Jeff:

I've held this to date and discussed it with CAPT Rizzo. Now, we need for you to take it from here. Put this craft through the test to make a determination. Keep me posted on the progress. When ready, need you to prepare a letter for the Captain's signature in response to this.

Thanks,

J

Jeffrey N. Hoedt, Chief
Boating Safety Division (CG-5422)
Office of Auxiliary and Boating Safety
(202) 372-1051

-----Original Message-----

From: Folkerts, Michael GS
Sent: Tuesday, March 13, 2012 6:25 PM
To: Hoedt, Jeff; Rizzo, Mark CAPT
Cc: Ropp, Patrick CDR; Franklin, Michael LCDR; Borg, David GS
Subject: Nome gold dredges

CAPT/Jeff:

As you may have seen on the Discovery Channel series "Bering Sea Gold", the recreational dredges in Nome, Alaska have created a concern for the Coast Guard. We are attempting to definitively confirm our assessment of these watercraft as recreational for enforcement purposes.

I've included photos of a few of the dredges we're talking about and links to the State of Alaska's Division of Mining permit process for clarification.

<http://www.visitnomealaska.com/nome-gold-dredging.html>

<http://dnr.alaska.gov/mlw/mining/nome/>

As far as we know, the recreational dredgers are working as partners (sharing costs and returns on sale of the gold they find..). At least one of the commercial dredges have paid employees and are operating as commercial.

All are operating within waters that are under joint federal and state jurisdiction.

Please let me know if you need additional information for a determination.

v/r

Mike Folkerts

RBSS D17











