DBRA-34

September 9, 1977

This is in reference to your letter of August 4, 1977, requesting a ruling in accordance with section 5.12 of Regulations, 29 CFR Part 5, Subtitle A regarding the applicability of the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act to crewman of self-propelled hopper dredges. The question turns on whether such crewmen are considered laborers and mechanics or seamen.

It is indicated that (1) The self-propelled hopper dredges are documented by and are subject to the standards of the United States Coast Guard; (2) Crewman of self-propelled hopper dredges are licensed (ticketed) by the United States Coast Guard; (3) That dragtenders (levermen) and possibly welders, if and when employed, are the only persons on the hopper dredge engaged in the dredging operations; and (4) All crewmen (except for dragtenders) are engaged primarily in the operation and navigation of the vessel.

The Department has consistently held that seamen are not laborers or mechanics. Essentially, the question of whether or not an employee (crewmen) is a seaman depends on the nature of his duties rather than the title of his occupation. Based on the information you have furnished it appears that the crewmen (except dragtenders and welders) about whom you inquire are employed solely in the operation of the self-propelled hoppers as a means of transportation and they do not perform a substantial amount of work of a different character, such as dredging, in connection with the contract work. It is my opinion, therefore, that such crewmen are not laborers and mechanics within the meaning of the Davis-Bacon Act.

Having determined, therefore, that the crewmen are not laborers or mechanics but seamen, they are also not subject to the Contract Work Hours and Safety Standards Act, since seamen are specifically exempted from coverage by section 103(a) of the Act.

We trust the foregoing has satisfactorily answered your inquiry.

Sincerely,

Ray J. Dolan
Assistant Administrator