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20 November 2019

U.S. Customs and Border Protection,
Office of Trade, Regulations, and Rulings
Attn: Cargo Security, Carriers and Restricted Merchandise Branch
90 K St., NE, 10th Floor
Washington D.C. 20229-1177

Re: IADC Comment Submission to the 23 October 2019 Customs Bulletin and Decisions
Notice, Vol. 53, No. 38

Dear Administrators,

The International Association of Drilling Contractors is a trade association representing the interests of drilling contractors, onshore and offshore, operating worldwide. Our membership includes drilling contractors currently operating mobile offshore drilling units (MODUs) in the U.S. OCS among other regions of the world.

IADC is pleased to submit these comments in response to Customs and Border Protection's request for comment regarding the 23 October 2019 Notice of Proposed Modification and Revocation of CBP Headquarters' ruling letters related to CBP's application of the coast wise laws to certain merchandise and vessel equipment that are transported between coastwise points. More specifically, IADC welcomes the opportunity to respond to this notice such that necessary clarifications of Jones Act applicability to activities undertaken on the U.S. Outer Continental Shelf (OCS) may be achieved. IADC appreciates the engagement of all manner of consultation that may enhance and make more robust, the clarity and consistency with which coastwise laws are exercised offshore.

The below comments are offered without prejudice to those that may also be addressed or submitted directly by IADC members.

IADC applauds the CBP in its efforts to seek a more thorough understanding of the unique operational environment that comprise the activities being conducted on the U.S. OCS. The result of this focused action has been a more deliberate and fruitful dialogue between industry and CBP stakeholders. IADC is equally pleased to see that CBP has distilled its list of letter determinations to only those rulings that will most effectively provide the necessary result; *clarification of vessel equipment determinations* and *a resolution that asserts a more pragmatic approach when applying coastwise laws to offshore lifting operations*.

IADC understands that with regard to consideration of vessel equipment, this 23 October 2019 notice discusses the need to appropriately re-align previous letter determinations in

accordance with “the more narrow meaning of “vessel equipment” originally contemplated by Treasury decision (T.D.) 49815(4).” The phrases “in furtherance of the mission” and “fundamental to the operation of the vessel” contributed to the inadvertent expansion of the TD’s original intent such that the “expanded reading” of the TD was applied as the rule of law.

Consequently, IADC further appreciates CBP’s intentions in its proposal to modify and revoke the 13 rulings identified in the notice. However, it is conceivable that some of the proposed modifications and revocations could result in increasing ambiguity for stakeholders that have come to rely on rulings that have been effectively memorialized over their prolonged existence.

As a means to avoiding undesirable/unintended consequences by the actions proposed in this notice, IADC proposes that a particular focus be directed towards ruling HQ 101925 when modifying text to achieve the objective of correcting the “overbroad interpretation of what constitutes vessel equipment.” This recommended focus would include the addition of the following paragraph on page 5 of the HQ 101925 ruling (Attachment B). Inserted directly in front of the paragraph that begins “Finally, General Headnote 5.....:”, the text reads as follows:

“It should be noted as a prevailing consideration that the term “vessel equipment” includes all articles or physical resources serving to equip the vessel including the implements used in the vessel’s operation or activity. As specified in T.D. 49815(4), the scope of vessel equipment includes items which are “necessary and appropriate for the navigation, operation or maintenance of a vessel and for the comfort and safety of the persons on board.” Items considered “necessary and appropriate for the operation of the vessel” are those items that are integral to the function of the vessel and are carried by the vessel. These functions include, inter alia, those items that aid in the installation, inspection, repair, maintenance, surveying, positioning, modification, construction, decommissioning, drilling, completion, workover, abandonment or other similar activities or operations of wells, seafloor or subsea infrastructure. Classification of items as vessel equipment will receive favorable consideration when not left behind on the seabed, however, it is not a determinative factor against such consideration”

Coming from the discussion section of the 23 October notice, this proposed text addressing vessel equipment for inclusion into HQ 101925, will sustain a level of clarity and consistency necessary as CBP undertakes the desired modifications and revocations described in the notice.

Once again, IADC appreciates the CBP’s invitation to provide comments on this notice. Feel free to contact me for further clarification or insight on the comments provided herein.

Sincerely,



Jason McFarland
President