



International Association of
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Submitted via: lisa.burley@dhs.gov

United States Customs & Border Protection
Office of Trade, Regulations and Rulings
Cargo Security, Carriers, and Restricted Merchandise Branch
Attn: Ms. Lisa L Burley
90 K Street NE, 10th Floor
Washington, DC 20229-1177

Re: ***Request to Withdraw Customs and Border Protection Ruling HQ309186 issued on January 27, 2021***

Dear Ms. Burley,

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) on the U.S. Outer Continental Shelf.

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

By this letter, the IADC respectfully requests that the Customs and Border Protection withdraw its recent January 27, 2021 ruling (HQ309186) addressing the installation of “scour protection” materials at certain locations on the U.S. OCS. This ruling’s conclusion that Jones Act applicability shall be indiscriminately applied to the entirety of “pristine” locations encompassed within the U.S. OCS is in complete juxtaposition to the prevailing precedence established via the multitude of CBP rulings issued over the last forty-plus years.

The “pristine conclusion” posited in CBP’s January 27th ruling contains no substantive argument for how such a conclusion was derived, particularly in light of previous determinations, since 1994, that acknowledge the absence of seabed structures and devices necessarily preclude such arbitrary application of coastwise laws.

As this ruling has come to fruition immediately following the passage of the National Defense Authorization Act of FY 2021, IADC is only able to presume that CBP has somehow determined that extension of Jones Act provisions to non-mineral energy projects also amends the manner in which the Jones Act may be applied when determining a point or place on the U.S. OCS. However, the plain language of the law does not support such a supposition.

Furthermore, OCSLA's mandate has not been amended since 1978, it would be unreasonable to assume lawmakers would make fundamental changes to the Jones Act without the benefit of any substantial legislative consideration. This ruling creates a significant degree of uncertainty for a majority of offshore activities on the U.S. OCS. This action also belies a marked shift in CBP's administrative due process towards a seeming proclivity for exercising judgement on matters heretofore requiring legislative adjudication. If not withdrawn, this ruling will surely call into question offshore activities that have otherwise been appropriately conducted for decades.

Based on the clear and compelling reasons as stated above, it is incumbent upon CBP to withdraw its otherwise capricious expansion of the Jones Act as posited by the HQ309186 ruling. To preclude any further confusion, it is expected that CBP would complete this action prior to the expiration of the 60-day revocation period.

Please feel free to contact Thad Dunham at thad.dunham@iadc.org for further clarification or insight on the comments provided herein.

Sincerely,



Jason McFarland
President

