



DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE

WASHINGTON, D.C. 20229



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REFER TO
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108442 PH

Thomas L. Mills, Esq.
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Dear Mr. Mills:

With your letter of June 24, 1986, you enclosed a ruling request from Michael K. Bell, Esq., of Clann, Bell, & Murphy in Houston, Texas, on the applicability of the coastwise laws to foreign-flag self-elevating work platforms denominated as "liftboats." The liftboats, which carry at least one crane derrick, move to and from offshore oil structures under their own power. On location the liftboats change from seagoing vessels into stationary bottom-bearing, elevated work platforms by lowering their legs to the seabed and jacking themselves up on their legs to the desired height.

Mr. Bell states that, typically, the liftboat company contracts with an oil company or oilfield servicing company which provides the maintenance crew to perform the work at the rigs or platforms. The liftboats will carry the tools and supplies of the maintenance crew, as well as the maintenance crew, between and to such offshore worksites. The maintenance crew may include scientific and/or technical personnel necessary to perform the mission of the liftboats. On occasion, the maintenance crew may be transported to or from the worksite by helicopter or non-affiliated crew boat. Mr. Bell states that although the liftboats may be large enough to transport drilling mud, treating fluids, lumber, drill pipe, casing, tubing and other items to and from offshore worksites, the liftboats are not intended to be used to transport such items unless they are to be utilized in connection with the operation or business of the liftboats.

Title 46, United States Code, section 883 (46 U.S.C. 883, often called the Jones Act), prohibits the transportation of merchandise between points in the United States embraced within the coastwise laws in any vessel other than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States. Section 289 of title 46, as interpreted by the Customs Service, prohibits the transportation of passengers between points in the United States embraced within the coastwise laws, either directly or by way of a foreign port, in a non-coastwise-qualified vessel (see above).

A point in United States territorial waters is considered a point embraced within the coastwise laws of the United States, for purposes of these provisions. The territorial waters of the United States consist of the territorial sea, defined as the belt, 3 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline.

Section 4(a)(1) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1333(a)(1)) (OCSLA), provides, in pertinent part, that the laws of the United States are extended to "... the subsoil and seabed of the outer Continental Shelf and to all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom ... to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State."

Under the foregoing provision, we have ruled that the coastwise laws are extended to mobile rigs during the period they are secured to or submerged onto the seabed of the outer continental shelf (OCS) (Treasury Decision 54281(1)). Subsequent rulings have applied the same principles to drilling platforms, artificial islands, warehouse vessels anchored over the OCS when used to supply drilling rigs on the OCS, and other installations and devices attached to the OCS for any of the requisite purposes.

In our interpretation of the coastwise laws, we have ruled that crewmembers, divers, the maintenance crew, and other personnel carried on a vessel the function of which is to engage in oceanographic research, service or repair of drilling rigs on the OCS, or similar operations are not passengers, for purposes of 46 U.S.C. 289. We have ruled that the supplies and equipment necessary to support the vessel in these activities are not merchandise, for purposes of 46 U.S.C. 883. Thus the coastwise laws would not prohibit the transportation by the non-coastwise-qualified liftboat of such persons and supplies and equipment from a point in the United States to a point on the OCS where the liftboat would engage in the described activities. The liftboat would be prohibited from transporting such persons or supplies and equipment from a coastwise point to a drilling rig or other device or installation attached to the OCS for the requisite purposes if the described activities were to be performed from or on the drilling rig or other device or installation instead of from or on the liftboat.

We have ruled that the use of a vessel in oceanographic research, including marine coring, the laying and repair of underwater cable or pipe, oil well stimulation, including the

pumping of cement and other agents into an oil well or oil field on the OCS, and movement of articles by crane on a vessel when such movement is accomplished only by operation of the crane and not movement of the vessel, are not coastwise trade.

The applicability of the coastwise laws to the specific uses of the liftboat listed by Mr. Bell in his summary is considered below:

1. Well maintenance projects.

- a. Use of the liftboat, equipped with electrical wire, a wireline unit, wireline tools, and other equipment necessary to conduct down hole wireline services would not violate the coastwise laws, assuming these services were performed from the liftboat and the liftboat did not merely transport the necessary personnel and equipment to an OCS drilling rig or other device or installation from which the services were performed.
- b. Use of the liftboat to transport well workover units from a port in the United States to a platform attached to the OCS where well maintenance would be performed by or with the use of the workover unit would violate the coastwise laws because the function of the liftboat in this operation is merely to transport the workover unit between coastwise points.
- c. Use of the liftboat outfitted with disposable burners, transfer pumps, heat exchangers, separators, a laboratory and other equipment essential for production test analysis of OCS oil wells would not violate the coastwise laws if the operation involved the liftboat jacking up next to a platform with the equipment remaining on board and performing tests by connecting the equipment to the oil wells.
- d. Use of the liftboat, with lightweight rotary rigs installed on board, to obtain core samples on the OCS would not violate the coastwise laws.

2. Construction/repair work. Use of the liftboat to inspect and/or repair an oil well on the OCS would not violate the coastwise laws but transportation of repair materials,

structural materials, clamps, sandblasting equipment and the persons necessary to perform these operations by the liftboat to an oil well on the OCS on or from which the construction or repair work was performed would violate the coastwise laws. If the construction or repair work was performed from or on the liftboat, the coastwise laws would not be violated.

3. Diving operations. Use of the liftboat to support diving operations at a work site on the OCS, when the liftboat transported the divers and their equipment to the worksite and the diving operations were performed from the liftboat, would not violate the coastwise laws.

4. Salvage. Use of the foreign-flag liftboat in salvage operations on the OCS, when the article being salvaged and/or the liftboat are considered to be subject to the laws of the United States by virtue of 43 U.S.C. 1333(a)(1), would violate 46 U.S.C. 316(d), unless the liftboat is authorized to engage in the salvage operations under 46 U.S.C. 316(d) and 19 CFR 4.97.

5. Pipe-laying. Use of the liftboat in a joint operation with a pipelaying crane barge to provide an additional work area and a stable platform for underwater pipe-laying would not violate the coastwise laws. Use of the liftboat to transport pipeline burial tools to a job site where they would be used for burying the pipeline and to return them to the point from which they were transported also would not violate the coastwise laws, assuming that the pipeline burial tools were used from the liftboat and the liftboat did not merely transport them to a point on the OCS subject to the coastwise laws by virtue of 43 U.S.C. 1333(a)(1). Mr. Bell should be aware that if the pipeline burial operation is considered dredging, it could be prohibited by 46 U.S.C. 292 when performed by the liftboat if the latter is foreign-built (see ruling VES-10-02/VES-10-03 R:CD:C 103692 MKT, December 28, 1978, and Customs Service Decision (C.S.D.) 85-11, copies enclosed). Use of the liftboat to transport pipeline connectors and tools from a port in the United States to an OCS job site and to connect a pipeline to a drilling platform or subsea wellhead would not violate the coastwise laws if the work was done from the liftboat but would violate the coastwise law if the liftboat merely transported the connectors and tools to the drilling platform or subsea wellhead and the connection operation was not performed on or from the liftboat. The same is true of the use of the liftboat to transport pipe and repair materials from a port in the United States to a construction site for use to repair a pipeline.