



## INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS

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14 March 2003

RADM Paul Pluta  
Commandant (G-M)  
U.S. Coast Guard  
2100 Second Street, SW  
Washington, DC 20593-0001

Re: Notification of Arrival in U.S. Ports

Dear Admiral Pluta:

As briefly discussed during our meeting on 4 March 2003, we have several concerns regarding the final rule on Notification of Arrival in U.S. Ports (USCG-2002-11865) promulgated in the 28 February 2003 *Federal Register*.

The changes adopted in the final rule do provide additional clarity with regard to the application of the requirements to the typical operating practices of Mobile Offshore Drilling Units (MODUs). However, the new rule also raises several questions regarding our members' obligations to provide notice of arrival and related information which we wish to clarify.

In our 5 August 2002 submission to the rulemaking docket, we asked that the Coast Guard define "port or place in the United States." The Coast Guard declined to do so; however, in apparent response to our comments the preamble to the final rule (68 FR 9538) states:

"The MODU's arrival or change of location on the OCS does not require submission of an NOA, only the notification to the District Commander required by §146.202. If a MODU is leaving the OCS to arrive at a U.S. port the MODU must comply with the NOA submission requirement in this rule."

From this we infer that the Coast Guard does not consider a location on the OCS to be a "port or place in the United States" for the purpose of this rule. **We ask for your confirmation on this point.**

This leaves uncertainty with respect to MODUs not otherwise exempt and destined for locations within State waters but not within a traditional "port", *e.g.*, a MODU being stacked at an offshore location in State waters after returning from a foreign operating location. **Is an operating or anchoring (stacking) location in State waters a location within a port or place in the United States?**

In our 5 August 2002 submission to the rulemaking docket, we asked that the term “domestic voyage” be defined. We indicated that we presumed that the intent was to use the term as it was being used by the U.S. Customs service. The term was not used in the final rule; however, in lieu of this term the term “continental United States” was introduced --without definition. **Does the Coast Guard consider locations on the Outer Continental Shelf adjacent to the 48 contiguous States to be within the continental United States?**

In our 5 August 2002 submission to the rulemaking docket we also asked that the term “barge” be defined and suggested that the Coast Guard adopt the definition used in 46 U.S.C. 2101. The Coast Guard defined the term, but added the caveat “engaged in commerce” – again terminology without a supporting definition. **Does the Coast Guard consider a non-self propelled MODU moving between ports or operating locations in the normal course of business to be “non-self propelled vessel engaged in commerce”?**

We note from Admiral Collins’ speech before the International Maritime and Port Security Conference in Singapore on 21 January 2003, that:

- The Coast Guard is collaborating with the U.S. Customs Service and the Immigration and Naturalization Service (INS) to improve and simplify the collection of information on people, cargo, and vessels entering in and passing through the United States’ maritime transportation system;
- The agencies have been meeting regularly to discuss the information needs of each agency and how to collect and share information; and
- The goal is to eventually require vessel operators to submit all arrival information to just one location, allowing government agencies to share the information.

We would ask that the Coast Guard participants in these discussions be mindful of the operating practices on the OCS, particularly as they relate to MODUs. We would note that because of the complexities of the OCS Lands Act, the U.S. Customs Service has issued numerous rulings clarifying their entry requirements with respect to MODUs and other vessels engaged in OCS activities. These rulings are available through the Customs Rulings Online Search System (<http://rulings.customs.gov/>). We would also note that, in response to a recent INS Notice of Proposed Rulemaking on Manifest Requirements (INS no. 2182-01; 68 FR 292), IADC has asked for clarification of the Service’s reporting requirements as they pertain to typical MODU operations. A copy of our letter to the INS rulemaking docket is attached.

If you and your staff have any questions regarding this matter, please contact me by phone at: (281) 578-7171, ext. 207.

Sincerely,



Alan Spackman  
Director, Offshore Technical  
and Regulatory Affairs