

Customs Goes Back to the Drawing Board (Again) on Jones Act Equipment Exception

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On November 15, Customs and Border Protection or CBP withdrew its Advance Notice of Proposed Rulemaking (ANPRM) on the issue of what “equipment” foreign vessels can carry in the U.S. Jones Act trade. CBP has ruled for decades that vessel “equipment” is not “merchandise” under the Jones Act and can be carried between U.S. points by foreign vessels. A February 20, 2009 CBP ruling issued to BP America Production Company confirming that multi-function well head assemblies called “Christmas Trees” could be considered vessel “equipment” gave rise to industry controversy. First that ruling was withdrawn, then CBP issued a proposed policy on July 17, 2009 and then that was withdrawn on September 15, 2009. Then CBP filed the ANPRM notice with the Office of Management and Budget on March 17, 2010 – yesterday that ANPRM notice was also withdrawn presumably leaving CBP’s string of rulings defining vessel “equipment” intact. Further developments in this area will apparently occur CBP ruling-by-ruling.

1 Min Read

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