



02 October 2009

CUSTOMS ADMINISTRATIVE ORDER

No. 2-2009

SUBJECT: RULES AND REGULATIONS GOVERNING OVERTIME SERVICES AND PAYMENT OF CORRESPONDING OFFSHORE DUTY PAY AND OVERTIME SERVICE PAY APPLICABLE TO THE OFFSHORE OPERATIONS OF THE OPERATOR OF THE OIL DRILLING AND EXPLORATION UNDER SERVICE CONTRACT NO. 56 IN THE SOUTH SULU SEA.

By the authority of Section 608 in relation to Section 3506 of the Tariff and Customs Code of the Philippines, as amended, the following rules and regulations covering overtime services and payment thereof, including provisions on off-shore duty pay and insurance coverage, for customs officials, employees, and/or deputies assigned to perform customs formalities and/or procedures for the oil drilling and exploration of the operator of Service Contract No. 56 (hereunder referred to as the **OPERATOR**) in remote off-shore areas of the South Sulu Sea payable by the **OPERATOR** or its authorized agent, are hereby prescribed:

I. AUTHORITY TO ALLOW RENDITION OF OVERTIME SERVICES

- A. The District Collector of the Port of Zamboanga shall assign and deploy customs officials, employees, and/or deputies to render overtime services in connection with the Off-shore Operations of the **OPERATOR** in the South Sulu Sea under Service Contract No. 56. Such assignment shall be covered by the appropriate Customs Personnel Order setting forth the duration of the assignment and other relevant terms and conditions as well as any limitation on the power and functions of the employees assigned;
- B. The assignment of customs officials, employees, and/or deputies shall be made strictly on rotation basis. Provided, however, that in no instance shall the duration of an assignment exceed twenty-eight (28) consecutive days at any given time.

II. OFFSHORE DUTY PAY AND OVERTIME SERVICES PAY:

Taking into consideration the unique circumstances attendant in the subject Offshore Operations, including concomitant hardship and inconvenience of affected customs officials, employees, and/or deputies who will be required to stay on the drill

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vessel "West Aquarius" with Panamanian Registry No. 34821-09 (herein after referred to as the "DRILL VESSEL") under on-call status, the following rates are hereby prescribed:

A. OFFSHORE DUTY PAY

A offshore duty pay of **Eight Thousand Five Hundred Pesos (Php8,500.00)** per day separate from the overtime service pay, shall be paid to the customs officials, employees and/or deputies, counted from day of their arrival at the rig but excluding the day of their departure from the DRILL VESSEL;

B. OVERTIME SERVICE PAY

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| i. Boarding Formalities | - | Php11,800 per Clearance |
| ii. Cargo Examination (if required) | - | Php11,800 per vessel/aircraft |
| iii. Underguarding (if required) | - | Php11,800 per vessel/aircraft |
| iv. Inspection/Supervision (if required) | - | Php11,800 per vessel/aircraft |

The foregoing lump sum rates shall be applicable only for the duration of the exploration phase of Service Contract No. 56 and do not include the provision or reimbursement of travel-related and other necessary expenses of customs officials, employees, and/or deputies;

The OPERATOR shall be responsible for withholding the appropriate amount of tax on payments of the OFFSHORE DUTY RATE and remitting such withheld amounts to the Bureau of Internal Revenue. The Administrative Unit of the Port of Zamboanga shall provide the OPERATOR with the information necessary to remit such withholding and OPERATOR shall submit to the Administrative Unit of the Port of Zamboanga evidence of such payments. The Port of Zamboanga shall be responsible for withholding the appropriate amount of tax on all other payments made to customs officials, employees and/or other authorized government personnel, and remitting and reporting such withheld amounts to the Bureau of Internal Revenue.

The duration of the assignment of Customs officials, employees and/or deputies for off-shore duties shall be for a minimum period of fifteen (15) calendar days but in no way shall it exceed twenty eight (28) days. The minimum period of assignment to offshore duty may be reduced for valid reasons provided however that the District Collector shall

immediately assign a replacement so as not to hamper the operations of the drill vessel.

III. INVOICING AND PAYMENT FOR SERVICES

- A. After completion of the assignment of each customs officials, employees, and/or deputies, he or she shall prepare and submit the necessary voucher supported by detailed statement of all the services rendered within the duration of his or her assignment duly accomplished in BC Form Nos. 35 and 35-A to the Administrative Unit of the Port of Zamboanga;
- B. In turn, the Administrative Unit of the Port of Zamboanga shall check the vouchers, certify their correctness, approve the same for payment, and forward the corresponding Billing Statement to the OPERATOR or its authorized representative for payment;
- C. All Billing Statements must be paid in full within ten (10) days from receipt thereof, unless prior thereto a written notice disputing the amounts in the Billing Statement is sent to the Administrative Unit of the Port of Zamboanga. Where written notice of a disputed amount is submitted, all undisputed amounts must be paid within ten (10) days from receipt of the Billing Statement;
- D. Payments shall be made in cash or check to the official cashier of the Port of Zamboanga for deposit into an official bank account of the Port of Zamboanga established in a duly authorized depository bank for government funds and subject to disbursement and audit requirements as prescribed for such accounts under applicable laws and regulations. After payment, an official receipt covering said payment shall be issued by the Administrative Unit of the Port of Zamboanga to the OPERATOR or its authorized representative to acknowledge receipt of payment;
- E. Upon payment of the full invoiced amounts, the OPERATOR shall have no further payment obligations relative to the services which are the subject of the invoice;
- F. All customs officials, employees, and/or deputies assigned/deployed to render offshore overtime services are prohibited from receiving payment of offshore duty pay and

overtime pay for services rendered directly from OPERATOR or its representatives for services rendered;

- G. Any customs officials, employees, and/or deputies who shall violate any provision of this Administrative Order shall be subject to disciplinary action. Violation by the OPERATOR or its representative of any provision of this Administrative Order shall be subject to the imposition of the penalties provided for by law.

IV. TRAVEL, INSURANCE AND RELATED EXPENSES

- A. The OPERATOR shall be responsible for all reasonable traveling, board and lodging, and other necessary incidental expenses of customs officials, employees, and/or deputies performing work in connection with Offshore Operations in the South Sulu Sea under Service Contract No. 56;
- B. Prior to the deployment of customs officials, employees, and/or deputies to their Offshore work station, the District Collector of the Port of Zamboanga shall notify the OPERATOR or its authorized agent of the projected travel schedules of concerned customs officials, employees, and/or deputies;
- C. The OPERATOR shall secure individual personal insurance policy in favor of deployed customs officials, employees, and/or deputies covering all risks or injuries during their travel to and from their designated offshore work station as well as during their stay thereat;
- D. The OPERATOR shall provide airline tickets, hotel vouchers, meal tickets or the like, or provide cash advances for reasonable airfare, accommodations, meals and other necessary incidental expenses for the projected travel. Such cash advances shall be covered by a receipt and shall be subject to liquidation. All tickets, vouchers and cash advances shall be returned to the OPERATOR or its authorized agent, if the travel is cancelled for any reason;
- E. Nothing herein shall diminish the authority or responsibility of customs officials, employees and/or other authorized government personnel under applicable laws and regulations. They shall retain full discretion to grant or deny clearances, certifications, permits and licenses and take

such other actions within their regulatory mandate as is permitted or required under applicable laws and regulations.

V. PAYMENT OF OTHER OVERTIME SERVICES

Payment of overtime for other boarding formalities and customs services rendered not connected to offshore duty assignments shall be billed in accordance with the prescribed rates under existing customs administrative orders.

VI. REPEALING/SEPARABILITY CLAUSE

All Orders, Rules, Regulations and other Issuances which are inconsistent with the provisions of this CAO are hereby revoked and/or modified accordingly. In case any provision of this Order is declared invalid or unconstitutional, the provisions not affected thereby shall continue to be in full force and effect.

VI. EFFECTIVITY

This Order shall take effect upon approval of the Secretary of Finance and compliance with the publication requirement under Section 608 of the Tariff and Customs Code of the Philippines, as amended.

NAPOLEON L. MORALES
Commissioner



Approved:

MARGARITO B. TEVES
Secretary of Finance

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