



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

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Preston G. Gaddis II, Esq.  
Crowe & Dunlevy  
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Oklahoma City, OK 73102

Dear Mr. Gaddis:

**Re: Proclamation 7219 of September 2, 1999  
Contiguous Zone of the United States**

This is in response to your Fax of October 1, 1999, which requests our opinion on Proclamation 7219 of September 2, 1999, Contiguous Zone of the United States (the "Proclamation"). Specifically, your questions were as follows:

1. Does this (the Proclamation) mean an aircraft can lawfully fly up to 24 miles (instead of 12 miles) offshore with the pink copy of the Aircraft Registration Application on board?
2. Can an aircraft registered under the "based and primarily used" registration fly to and from an oil rig within 24 miles of the shore and have it count as a flight within the United States?

Background. The Proclamation extended the contiguous zone of the United States from 12 nautical miles to 24 nautical miles "from the baselines of the United States in accordance with international law." The contiguous zone is defined in the Proclamation as "a zone contiguous to the territorial sea of the United States, in which the United States may exercise the control necessary to prevent infringement of its customs, fiscal, immigration, or sanitary laws and regulations . . . ."

Discussion. As you know, territorial seas and the associated airspace were discussed at length in my letters on Pink copy aircraft operations outside United States, dated October 10, 1995, and Offshore flights to oil rigs in the Gulf of Mexico, dated December 29, 1995. Both letters stated that U.S. civil aircraft which commence operation from within the United States and proceed outside the United States must carry a certificate of aircraft registration. Under 49 U.S.C. § 40102, "United States" means "the states of the United States, the District of Columbia, and the territories and possessions of the United States including the territorial sea and overlying airspace." [Emphasis supplied]

The territorial sea of the United States was extended by Presidential Proclamation No. 5928 on December 27, 1988, from 3 to 12 nautical miles from the baselines of the United States. This proclamation extended the area "over which the United States exercises . . . a sovereignty and jurisdiction that extend to the airspace over the territorial sea, as well as to its bed and subsoil." As mentioned in my letter on Pink copy aircraft operations outside United States, consistent with the extension of the territorial sea is the extension of the associate U.S. airspace.

The Proclamation that you refer to formally extended the United States contiguous zone from 12 to 24 nautical miles, 12 nautical miles beyond the boundary of the territorial sea. Under international law, a nation can claim a territorial sea up to 12 nautical miles from its coast and a contiguous zone extending an additional 12 miles. See 1982 U.N. Convention on the Law of the Sea. The effect of this Proclamation was to allow enforcement of environmental, customs, fiscal or immigration laws, or to apprehend vessels suspected of violating them. The Proclamation states that "within the contiguous zone of the United States[,] the ships and aircraft of all countries enjoy the high seas freedoms of navigation and overflight . . ." The Proclamation does not enlarge the territorial seas or the associated U.S. airspace beyond 12 nautical miles.

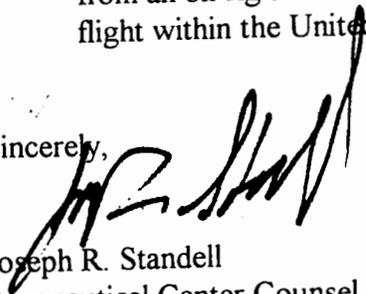
Because the Proclamation does not enlarge the territorial seas or the associated U.S. airspace, it has no effect on our previous opinion Offshore flights to oil rigs in the Gulf of Mexico, dated December 29, 1995. As you recall, that letter addressed aircraft registered under 47 C.F.R. § 47.9, which permits U.S. registration provided the aircraft are based and primarily used in the United States. The opinion stated that operations between the U.S. coastline and within 12 nautical miles thereof (the "territorial sea") are within the United States. If the oil rig is within the 12 nautical miles of the United States coast line it is a "point" in the United States and the round trip flight hours would count towards the "based and primarily used" test. As we addressed earlier, the United States ends at 12 nautical miles, or at the end of the territorial seas and does not continue into the contiguous zones. Therefore, a flight to an oil rig beyond the territorial seas but still within the contiguous zone would not be a flight "within the United States" and could not be used as a "point" within the United States.

Conclusion. Based on our review and after consultation with the organization having primary interest, the International Affairs and Legal Policy Staff (AGC-7), it is our opinion that the Proclamation does not affect opinions given in my previous letters. Under international law and U.S. law, U.S. territory extends out to "12 miles from the baselines of the United States determined in accordance with international law." Airspace beyond the 12 miles is international airspace and aircraft flying over the high seas must comply with the standards promulgated by ICAO under the Chicago Convention. Therefore, it is still our opinion that U.S. civil aircraft which commence operation from within the United States and proceed outside the United States must carry a certificate of aircraft registration.

To answer your questions:

1. U.S. civil aircraft cannot lawfully fly beyond 12 nautical miles from the coast of the United States with the pink copy of the Aircraft Registration Application on board.
2. An aircraft registered under the "based and primarily used" registration cannot fly to and from an oil rig that is beyond 12 nautical miles from the U.S. baselines, and have it count as a flight within the United States.

Sincerely,



Joseph R. Standell  
Aeronautical Center Counsel