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Court – choice of law;  
IMO – workshop on underwater noise;  
IMO – training for seafarers in polar waters;  
New Zealand – radio navigation warnings online; and  
UK – fire and foundering of workboat.

February 27, 2014

# Bryant's Maritime News



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*Note: This newsletter is one section of the [Bryant's Maritime Consulting](http://brymar-consulting.com) website. Visit the site for more extensive maritime regulatory information. Individual concerns may be addressed by retaining [Dennis Bryant](mailto:dennis.l.bryant@gmail.com) directly. Much of the highlighted text in this newsletter constitutes links to Internet sites providing more detailed information. Links on this page may be in PDF format, requiring use of Adobe Acrobat Reader. Comments on these postings are encouraged and may be made by email to the editor or by going to the blog page on the website and clicking the envelope that appears at the end of each posting. Be aware that the daily newsletter is a single posting, even though it contains a number of individual items. Don't underestimate yourself – others will do that for you.*

## White House – 21st Century Transportation Infrastructure



The White House issued a **fact sheet** laying out President Obama's vision for 21st Century Transportation Infrastructure and launching competition for \$600 million in TIGER grants. (2/26/14).

## USCG – State of the Coast Guard Address



The US Coast Guard issued a **news release** stating that Admiral Bob Papp, USCG, delivered the **State of the Coast Guard Address** at Coast Guard Headquarters in Washington, DC. He provided an overview of significant

programs and issues and looked forward to what the service may face in the future. (2/26/14).

### USCG – NVDC PDF filing



The USCG National Vessel Documentation Center (NVDC) issued a **notice** stating that customers can now receive automated email response notifications for PDF instruments properly filed through [nvdc.pdf.filing@uscg.mil](mailto:nvdc.pdf.filing@uscg.mil) . Emails must be formatted in plain text, without html-generated signature blocks or pre-set features such as decorative backgrounds or company logos, and the attachments must be in PDF format. (2/26/14).

### Columbia River – freighter grounds while repositioning



The US Coast Guard issued a **news release** stating that a 739-foot freighter grounded in the Columbia River near the Astoria Northern Anchorage while attempting to adjust position using its anchors. The freighter was in ballast, but carried approximately 532,000 gallons of bunkers. There were no reports of injury, damage, or pollution. The vessel has been refloated. The incident is under investigation. (2/26/14).

### DOT – review of existing regulations



The Department of Transportation (DOT) is conducting a review of existing regulations promulgated by it and its constituent agencies, including the Maritime Administration (MARAD). Comments on the validity and effectiveness of current regulations should be submitted by 31 March. **79 Fed. Reg. 11051** (February 27, 2014).

### BSEE – offshore operations in Alaska



The Bureau of Safety and Environmental Enforcement (BSEE) issued a **press release** stating that BSEE Director Brian Salerno and BSEE Alaska Region Director Mark Fesmire met in Bellingham, Washington with senior leaders from the US Coast Guard and the American Bureau of Shipping (ABS) and to see first-hand Shell's oil spill containment system onboard Arctic Challenger. The group discussed operations in the Arctic, certification of vessels, and significant issues affecting offshore operations in Alaska. (2/25/14).

## Court – punitive damages for unseaworthiness



On October 2, 2013, a panel of the US Court of Appeals for the Fifth Circuit ruled that seamen may recover punitive damages for their employer's willful and wanton breach of the general maritime law duty to provide a seaworthy vessel. The court found that previous decisions, to the extent that they denied recovery of punitive damages for maritime liability sounding in unseaworthiness, read too much into prior Supreme Court and appellate court rulings on related, but different, issues. **McBride v. Estis Well Service**, No. 12-30714 (5th Cir., October 2, 2013). *At that time I noted: This is potentially a major decision, likely to be appealed and certainly to generate discussion.* Now, a majority of the circuit judges have voted in favor of granting defendant's petition for rehearing en banc. **McBride v. Estis Well Service**, No. 12-30714 (5th Cir., February 24, 2014). *Note: This recent court action was brought to my attention by my good friend Tom Wagner of **Wagner, Bagot & Rayer, LLP**.*

## Court – choice of law



In an unpublished decision, the US Court of Appeals for the Second Circuit reversed and remanded a district court order regarding compulsory arbitration. Plaintiff ship brokers brought suit to recover commissions on various charter parties it negotiated with defendant ship owners on behalf of now-bankrupt Korea Line Corporation. Defendant's motion to compel arbitration was denied by the district court and it appealed. The appellate court remanded for the district court to determine whether federal or English law should apply and to determine whether plaintiffs have claims based on prior agreements. **International Chartering Services v. Eagle Bulk Shipping**, No. 13-0939-cv (2nd Cir., February 25, 2014).

## IMO – workshop on underwater noise



The IMO issued a **news release** stating that it is hosting an Expert Workshop on Underwater Noise and its Impacts on Marine and Coastal Biodiversity (25 to 27 February 2014), organized by the Secretariat of the Convention on Biodiversity (CBD), with financial support from the European Commission. IMO's MEPC 66th session (31 March to 4 April) will consider draft Guidelines for the reduction of underwater noise from commercial shipping. (2/25/14).

## IMO – training for seafarers in polar areas



The Danish Maritime Authority (DMA) issued a **news release** stating that at the first session of the IMO Sub-Committee on Human Element, Training and Watchkeeping, draft specific training requirements for seafarers on board ships navigating polar areas were agreed. (2/26/14).

## New Zealand – radio navigation warnings online



Maritime New Zealand issued a **media release** stating that the text of all radio navigational warnings for New Zealand's areas of responsibility is available **online**. (2/26/14).

## UK – fire and foundering of workboat



The UK Marine Accident Investigation Branch (MAIB) issued a **Safety Bulletin** regarding the fire and subsequent foundering of workboat ECC Topaz 11nm east of Lowestoft on 14 January 2014. The initial stage of the investigation found the most likely cause of the fire to be an uninsulated exhaust pipe from the air heater to the plywood structure of the vessel. Evidence from similar vessels indicated that this was not an isolated case. (2/26/14).

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