

Headlines:

USCG – foreign rebuild determination;
DOJ – ship owner to pay \$1.2 million penalty;
Lake Washington – bridge permit application;
DOT – pre-operational GPS broadcasts;
House – hearing on maritime transportation regulations;
Court – BP bound by terms of settlement agreement;
Court – maritime rescue doctrine inapplicable; and
Australia – crew member fatality.

March 5, 2014



Bryant's Maritime News

Bryant's Maritime Consulting - 4845 SW 91st Way - Gainesville, FL 32608-8135 - USA

Tel: 1-352-692-5493 – Email: dennis.l.bryant@gmail.com – Internet: <http://brymar-consulting.com>

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. A boiled egg first thing in the morning is hard to beat.

USCG – foreign rebuild determination



The USCG National Vessel Documentation Center (NVDC) issued a **determination** that installation of container racks fabricated in China and installed in Canada on a US-flag rail barge would not result in the vessel being found to have been rebuilt foreign and would not impact the vessel's coastwise trading privileges. (2/27/14).

DOJ – ship owner to pay \$1.2 million penalty



The Department of Justice (DOJ) issued a **news release** stating that Singapore-based Odfjell Asia II Pte Ltd and Chief Engineer of the MV Bow Lind, Mr. Ramil Leuterio, pleaded guilty in federal court to violating the Act to Prevent Pollution from Ships by discharging machinery space bilge water directly into the

sea and making improper entries in the ship's oil record book. Odfjell has agreed to pay a criminal penalty of \$1.2 million and serve a three-year probation period. (3/4/14).

Lake Washington – bridge permit application



The US Coast Guard issued a [news release](#) stating that it received an application from the State of Washington to amend the permit for the SR 520 bridge across Lake Washington. Comments on the application should be submitted by 3 April. (3/4/14).

DOT – pre-operational GPS broadcasts



The Department of Transportation (DOT) issued a notice stating that it seeks comments regarding plans by the US Air Force to broadcast pre-operational L2C and L5 civil navigation (CNAV) messages from certain Global Positioning System (GPS) satellites beginning in April. These messages will be formatted in accordance with Interface Specifications IS-GPS 200G and IS-GPS-705C. However, availability and other characteristics of the pre-operational broadcast signal may not comply with all requirements of the relevant Interface Specifications and should be employed at the users' own risk. Comments should be submitted by 4 April. [79 Fed. Reg. 12563](#) (March 5, 2014).

House – hearing on maritime transportation regulations



The Subcommittee on Coast Guard and Maritime Transportation of the House Committee on Transportation and Infrastructure conducted a [hearing](#) on the impacts on safety, security, jobs, and the environment of maritime transportation regulations. [RADM Joseph Servidio](#), USCG, testified concerning the Coast Guard's environmental regulations. [The Honorable Michael Shapiro](#), Environmental Protection Agency, testified concerning the EPA's vessel general permit (VGP) program. [The Honorable Chris Grundler](#), Environmental Protection Agency, testified concerning the North America and US Caribbean Sea Emission Control Areas (ECAs). [Mr. Thomas A. Allegretti](#), American Waterways Operators, called for a uniform national discharge standard for commercial vessels. [Ms. Kathy J. Metcalf](#), Chamber of Shipping of America, called for better coordination on regulatory matters among the various federal agencies, with the Coast Guard and Maritime Administration being given the lead. [Mr. James Roussos](#), [LaMonica Fine Foods](#), testified concerning the impact of the VGP program on fishing vessels. [Mr. Rod James](#), Maritime Industrial Transportation Alliance, testified concerning the operational impact of the North American ECA.

Mr. William Terry, Maritime Industrial Transportation Alliance, testified concerning the economic impact of the North American ECA. (3/4/14).

Court – BP bound by terms of settlement agreement



Over a strong dissent, the US Court of Appeals for the Fifth Circuit ruled that the settlement agreement establishing a mechanism for presenting and processing claims for business losses caused by the April 2010 Deepwater Horizon disaster in the Gulf of Mexico does not require those submitting claims to provide evidence of causation. That mechanism, to which BP agreed, does not require claimants to submit evidence of causation. The panel's dissenting judge contended that damages are only recoverable under OPA 90 if they result from an oil spill. *In re Deepwater Horizon*, No. 13-30315 (5th Cir., March 3, 2014).

Court – maritime rescue doctrine inapplicable



The US Court of Appeals for the Second Circuit declined to apply the maritime rescue doctrine in a seafarer personal injury suit. In the instant case, plaintiff seafarer was injured while engaged in handling of the ship's mooring lines. Evidence indicated that plaintiff was negligent in his handling of the mooring line. Plaintiff contended that this was an emergency situation and that his actions amounted to no more than simple negligence. Under the maritime rescue doctrine, utilized in various federal circuits, seafarer negligence in an emergency situation must be reckless in order to reduce a damage award. The court ruled that the maritime rescue doctrine arose to overcome the harsh contributory negligence doctrine that existed in maritime law prior to adoption of the modern comparative negligence doctrine and has no validity under current law. *Barlow v. Liberty Maritime*, No. 13-0254-cv (2nd Cir., March 4, 2014).

Australia – crew member fatality



The Australian Transport Safety Bureau (ATSB) issued the report of its investigation of a crew member fatality on board the bulk carrier Nireas at the Old Gladstone Anchorage on 20 March 2013. An engineer was carrying out the routine task of draining water from the ship's main air receiver when the air receiver drainage pot observation window exploded. Flying debris from the observation window fatally injured the engineer. Explosive pressure accumulated in the drainage pot because the water being drained restricted air flow into and through the pot outlet line. The shipyard that built the ship, and designed and installed the condensate drain system, considered the drain system to be open to the atmosphere. When the design of the drainage pot was modified to create a closed system, the shipyard did not ensure that the design was

adequately engineered, tested, and approved prior to installation, despite having procedures in place that should have ensured such scrutiny. Similar designs of drainage systems have been, and continue to be, fitted in ships by various shipyards around the world. [MO-2013-005](#) (3/4/14).

Join our mailing list



If you are not receiving our almost daily electronic newsletter and would like have it sent directly to your email inbox, please right-click the box below and provide your email address.

[Join Our Mailing List!](#)

If you have questions regarding the above items, please contact the editor:

Dennis L. Bryant

Bryant's Maritime Consulting
4845 SW 91st Way
Gainesville, FL 32608-8135
USA

1-352-692-5493
dennis.l.bryant@gmail.com
<http://brymar-consulting.com>

© Dennis L. Bryant – March 2014



Redistribution permitted with attribution