

Headlines:

USCG – preemption assessment framework;
OSHA – vertical tandem lifts;
USACE & EPA – “waters of the United States”;
FWS – stock assessment reports;
USCG – consistency of international & USCG certificates;
Virginia – bulk carrier refloated;
NTSB – tanker allision;
BSEE – drilling in the Arctic;
GAO – maritime infrastructure in the US Arctic;
Court – suspension & revocation;
IMO – Wreck Removal Convention to enter into force; and
MREN – Doing less with less.

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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. Life is short. Don't make the same mistake twice – be original.

USCG – preemption assessment framework



The US Coast Guard issued a notice stating that it will host public meetings in Arlington, Virginia (13 May) and Seattle (16 May) to receive comments on its proposed rulemaking addressing the Coast Guard's assessment framework for, and a restatement of its position regarding, the federalism implications of regulations issued under the authority of various statutes within Title 33 and 46 of the United States Code. Written comments must be submitted by 26 May. [79 Fed. Reg. 22071](https://www.federalregister.gov/d/2014-04-21) (April 21, 2014).

OSHA – vertical tandem lifts



The Occupational Safety and Health Administration (OSHA) issued a final rule implementing a court-ordered remand of certain portions of the standard for vertical tandem lifts (VTLs). This final rule implements the remand by limiting the application of the corner-casting and interbox-connector inspection requirements to shore-to-ship VTLs and removing the tandem lifts of platform containers from the scope of the VTL standard. The amendments come into effect on 21 July. [79 Fed. Reg. 22018](#) (April 21, 2014).

USACE & EPA – “waters of the United States”



The US Army Corps of Engineers (USACE) and the Environmental Protection Agency (EPA) issued a proposed rule defining the term “waters of the United States” for purposes of the Federal Water Pollution Control Act (FWPCA) [also known as the Clean Water Act] in light of recent decisions of the US Supreme Court. Under the proposal, the following waters would be included: (a) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) all interstate waters, including interstate wetlands; (c) the territorial seas; (d) various identified impoundments of waters; (e) various identified tributaries; (f) all waters, including wetlands, adjacent to identified waters; and (g) on a case-by-case basis, other waters, including wetlands, provided that those waters along, or in combination with other similarly situated waters, including wetlands, located in the same region, have a significant nexus to an identified water. Comments on the proposal should be submitted by 21 July. [79 Fed. Reg. 22187](#) (April 21, 2014).

FWS – stock assessment reports



The Fish and Wildlife Service (FWS) issued a notice stating that it has revised the stock assessment reports (SARs) for the Pacific walrus stock and for various northern sea otter stocks in Alaska. [79 Fed. Reg. 22154](#) (April 21, 2014).

USCG – consistency of international & US certificates



The USCG Sector Houston-Galveston issued a bulletin reminding owners and operators to thoroughly review pertinent cargo documents prior to cargo operations and to encourage communication with the Coast Guard in a timely manner regarding such matters. In particular, the vessel’s international

and USCG certificates should be compared to ensure consistency. **MSIB 05-14** (4/17/14).

Virginia – bulk carrier refloated



The US Coast Guard issued a **news release** stating that the bulk carrier Ornak, which grounded off Virginia Beach in heavy weather, has been refloated through the coordinated efforts of Svitzer (the contracted salvage company), McAllister Towing, the Virginia Pilots, and the Coast Guard. An underwater hull survey will be conducted to ensure that the vessel may safely continue on its voyage. (4/18/14).

NTSB – tanker allision



The National Transportation Safety Board (NTSB) issued the report of its investigation of the allision of the tanker Wawasan Ruby with the CSX Bayside Coal Pier in Baltimore on 25 August 2012. The allision occurred while the tanker was making a turn in the channel toward its destination berth. One person on pier was injured. The damage to the pier totaled more than \$2 million. The tanker incurred an estimated \$15,000 in damages. The probable cause of the allision was the high rate of speed at which the pilot and the master were operating the vessel while attempting a 70-degree turn into Curtis Creek. **MAB 14-07** (4/18/14).

BSEE – drilling in the Arctic



The Bureau of Safety and Environmental Enforcement (BSEE) issued a **press release** regarding the participation of the Alaska Regional Director in a panel discussion on drilling in the Arctic. The Director emphasized that, should drilling operations occur in the Arctic, they will be done safely. (4/17/14).

GAO – maritime infrastructure in the US Arctic



The Government Accountability Office (GAO) issued a report on maritime infrastructure in the United States Arctic and its potential impact on commercial activity in the region over the next decade. The report notes that efforts have begun to improve mapping, charting, and weather information; to study the development of a deepwater port; and to acquire a new polar icebreaker that could be used for emergency response, research assistance, and patrols. The report further notes that the Committee on the Marine Transportation System

(CMTS) has prioritized actions for developing Arctic maritime infrastructure and identified a lead agency for each action. [GAO-14-299](#) (4/18/14).

Court – suspension & revocation



In an unpublished decision, the US Court of Appeals for the Ninth Circuit affirmed the Coast Guard order revoking a merchant mariner certificate for mental incompetence as upheld by the National Transportation Safety Board (NTSB). The court found that the record included evidence of multiple acts of incompetence by the petitioner. The court declined to address the issue of whether a psychotherapist-patient privilege applies to suspension and revocation proceedings, while noting that the Military Rules of Evidence includes an exception applicable to comparable cases. [Shine v. US](#), No. 11-72740 (9th Cir., April 17, 2014).

IMO – Wreck Removal Convention to enter into force



The IMO issued a [news release](#) stating that, with the deposit of an instrument of ratification by Denmark, the Nairobi International Convention on the Removal of Wrecks will enter into force on 14 April 2015. Ten nations have now ratified the Convention. (4/15/14).

MREN – Doing less with less



In the April 2014 edition of Maritime Reporter and Engineering News, you can find my article entitled "[Doing less with less](#)". In the article, I discuss the budget reductions for the US Coast Guard, their implications, and suggest some hard choices that the service may have to make to preserve its important missions. (3/17/14).

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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>

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