

## Headlines:

USCG – seafarers’ access to maritime facilities;  
APHIS – khapra beetle;  
OMB – NOAD & AIS rulemaking;  
CMTS – World Ocean Assessment;  
Court – False Claims Act action reinstated; and  
Court – shipbuilder not covered by engineer’s policy.

December 29, 2014



# Bryant’s Maritime News

Bryant’s Maritime Consulting - 4845 SW 91<sup>st</sup> Way - Gainesville, FL 32608-8135 - USA

Tel: 1-352-692-5493 – Email: [dennis.l.bryant@gmail.com](mailto: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. Better to light one candle than curse your flashlight.*

## **USCG – seafarers’ access to maritime facilities**



The US Coast Guard proposes to require each owner or operator of a facility regulated by the Coast Guard to implement a system that provides seafarers and other individuals with access between vessels moored at the facility and the facility gate, in a timely manner and at no cost to the seafarer or other individual. This process must be documented in the facility’s security plan. A meeting to receive public comments will be held on 23 January 2015 in Washington, DC. Written comments on the proposal must be received by 27 February 2015. [79 Fed. Reg. 77981](http://www.gpo.gov/fdsys/pkg/FR-2014-12-29/pdf/2014-30013.pdf) [located at <http://www.gpo.gov/fdsys/pkg/FR-2014-12-29/pdf/2014-30013.pdf>] (12/29/14). *Note: While most facilities currently comply with this proposal, it is important that seafarers be provided with reasonable access to shore during all port calls.*

## APHIS – khapra beetle



The Animal and Plant Health Inspection Service (APHIS) an interim rule amending its current khapra beetle regulations by adding additional articles and regulated countries establishing a regulated navigation area. The interim rule enters into effect immediately, but comments will be considered if received by 27 February 2015. **79 Fed. Reg. 77839** [located at <http://www.gpo.gov/fdsys/pkg/FR-2014-12-29/pdf/2014-30264.pdf>] (12/29/14).

## OMB – NOAD & AIS rulemaking



The Office of Management and Budget (OMB) completed its review of the Coast Guard’s draft final rule regarding **Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System** [located at <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201410&RIN=1625-AA99>]. The rule will expand the applicability for notice of arrival and departure (NOAD) and automatic identification system (AIS) requirements. (12/23/14). *Note: The final rule will probably be published in the federal register during January 2015.*

## CMTS – World Ocean Assessment



The US Committee of the Marine Transportation System (CMTS) issued a **notice** [located at [http://www.brymar-consulting.com/wp-content/uploads/Misc/CMTS\\_WOA\\_141223.pdf](http://www.brymar-consulting.com/wp-content/uploads/Misc/CMTS_WOA_141223.pdf)] stating that it is coordinating the US review of two chapters of the World Ocean Assessment (WOA) concerning shipping and ports. Stakeholders are encouraged to view the chapters and submit comments by 6 February 2015. (12/23/14).

## Court – False Claims Act action reinstated



The US Court of Appeals for the Fifth Circuit ruled that the United States alleged sufficient facts in its complaint against defendant shipyard relating to the False Claims Act to allow a factfinder to infer that the defendants either knew that their statements to the federal government were false or had a reckless disregard of their truth or falsity. The district court’s dismissal of the complaint was reversed and the matter remanded for further proceedings. **United States v. Bollinger Shipyards**, No. 13-31301 (5th Cir., December 23, 2014) [located at <http://www.ca5.uscourts.gov/opinions/pub/13/13-31301-CV0.pdf>].

## Court – shipbuilder not covered by engineer’s policy



The US Court of Appeals for the Eleventh Circuit ruled that, in the instant case, the shipbuilder was not covered by the architect’s and engineer’s professional liability insurance policy insuring the marine engineering firm that prepared the working drawings used to build an oceangoing passenger vessel. After the vessel was launched and in operation, a tragic accident occurred when the bulkhead door in the vessel’s forward engine room malfunctioned, causing the death of the ship’s captain. The captain’s personal representative, claiming that the engineering firm and the shipbuilder were independently at fault, brought an action against both. The insurance company provided a defense for the engineering firm, but not the shipbuilder. After both defendants separately settled, the shipbuilder brought an action against the insurance company for failure to defend. The district court held that the shipyard was a third-party beneficiary of the policy. On appeal, the lower court’s decision was reversed. [Atlantic Marine Florida v. Evanston Insurance](#), No. 13-11342 (11th Cir., December 24, 2014) [located at <http://media.ca11.uscourts.gov/opinions/pub/files/201311342.pdf> ].

## 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 91<sup>st</sup> Way  
Gainesville, FL 32608-8135  
USA

1-352-692-5493  
[dennis.l.bryant@gmail.com](mailto:dennis.l.bryant@gmail.com)

<http://brymar-consulting.com>

© Dennis L. Bryant – December 2014

 Redistribution permitted with attribution