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Loss of tanker Argo Merchant – 15 December 1976.

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# Bryant's Maritime News

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*Note: This newsletter is one section of the **Bryant's Maritime Consulting** website. Visit the site for more extensive maritime regulatory information. Individual concerns may be addressed by retaining **Dennis Bryant** 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. The biggest lie I tell myself is: "I don't need to write that down – I'll remember it."*

## **USCG – MTS planning**



The US Coast Guard issued **Commandant Instruction 16003.2A**, Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy. The instruction promulgates Coast Guard policy, roles, and responsibilities in implementing guidance in conjunction with ongoing marine planning and operations. (11/18/16)  
[[https://www.uscg.mil/directives/ci/16000-16999/CI\\_16003\\_2A.pdf](https://www.uscg.mil/directives/ci/16000-16999/CI_16003_2A.pdf)].

## USCG – ROUPV endorsement reminder



The USCG National Maritime Center (NMC) issued an **announcement** reminding mariners that the Coast Guard recently published CG-MMC Policy Letter 01-16 entitled Restricted Operator of Uninspected Passenger Vessels (ROUPV) Endorsements. (12/14/16) [[https://www.uscg.mil/nmc/announcements/pdfs/new\\_pl01\\_16\\_roupv\\_notice.pdf](https://www.uscg.mil/nmc/announcements/pdfs/new_pl01_16_roupv_notice.pdf)].

## FCC – maritime radio equipment



The Federal Communications Commission (FCC) promulgated a final rule regarding technologies used to locate and rescue distressed ships and individuals in distress at sea or on land to provide better and more accurate data to rescue personnel. The rule also addresses issues regarding radar equipment, the use of portable marine VHF transmitters by persons on shore, permitting VHF digital small message service (VDSMS), and allowing assignment and transfer of control of ship station licenses. The rule enters into effect on 17 January 2017. **81 Fed. Reg. 90739** (12/15/16) [<https://www.gpo.gov/fdsys/pkg/FR-2016-12-15/pdf/2016-29612.pdf>].

## Pascagoula – restricted area



The US Army Corps of Engineers (USACE) promulgated a rule establishing a restricted area on waters around the Huntington Ingalls Incorporated/Ingalls Shipbuilding and Dry Dock (HII) facility located in Pascagoula. The rule enters into effect on 17 January 2017. **81 Fed. Reg. 90722** (12/15/16) [<https://www.gpo.gov/fdsys/pkg/FR-2016-12-15/pdf/2016-30015.pdf>].

## NOAA – Atlantic marine mammal stock assessment



The National Oceanic and Atmospheric Administration (NOAA) seeks comments on the draft 2016 Atlantic regional marine mammal stock assessment. Comments must be received by 9 January 2017. **81 Fed. Reg. 90782** (12/15/16) [<https://www.gpo.gov/fdsys/pkg/FR-2016-12-15/pdf/2016-30171.pdf>].

## FMC – meeting summary



The Federal Maritime Commission (FMC) issued a **news release** stating that, at its 13 December meeting, the Commissioners approved the draft final rule governing presenting evidence to the Commission, were briefed on progress of the Supply Chain Innovation Initiative, and discussed the pending 'THE Alliance' agreement. (12/14/16) [<http://www.fmc.gov/NR16-26/>].

## Court – issue preclusion



The US Court of Appeals for the Seventh Circuit ruled that issue preclusion prevents the criminal prosecution of parties following a marine casualty where the federal government had pursued and lost a civil suit on the same issue in the same casualty. Following a fatal explosion on a tank barge that led to an oil spill, the government brought a civil action against the barge owner seeking damages. After a bench trial, the judge determined that the government did not prove, by a preponderance of the evidence, that the deceased deckhand was using a propane torch to warm the cargo pump at the time of the explosion. Subsequently, the government prosecuted the barge owner and the master of the tug for maritime negligence and the negligent discharge of oil into navigable waters. Defendants were convicted and appealed. The appellate court reversed the convictions, holding that issue preclusion (collateral estoppel) prevents the government from criminally prosecuting a defendant where the crucial issue has been litigated and lost in a civil action by the government against the same party. **United States v. Egan Marine**, No. 15-2477 (7th Cir., December 12, 2016) [<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2016/D12-12/C:15-2477:J:Easterbrook:aut:T:fnOp:N:1876856:S:0>]. *Note: This item was brought to my attention by my good friend Warren Marwedel of **Marwedel, Minichello & Reeb**.*

## EC – Galileo goes live



The European Commission (EC) issued a **press release** stating that the Galileo satellite navigation system will go live on 15 December. Its current constellation consists of 18 satellites. Full service will consist of 30 satellites, projected for 2020. [[http://europa.eu/rapid/press-release\\_IP-16-4366\\_en.htm](http://europa.eu/rapid/press-release_IP-16-4366_en.htm)]. A **second press release** provides further details. [[http://europa.eu/rapid/press-release\\_MEMO-16-4382\\_en.htm](http://europa.eu/rapid/press-release_MEMO-16-4382_en.htm)] (12/14/16).

## Loss of tanker *Argo Merchant* – 15 December 1976



On 15 December 1976, the oil tanker *Argo Merchant* grounded on Middle Rip Shoal in international waters approximately 25 nautical miles southeast of Nantucket Island. The tanker was en route from Venezuela to Boston carrying 7.7 million gallons of No. 6 fuel oil. The US Government refused to grant permission for the jettisoning of cargo in an attempt to lighten the ship. On 21 December, the *Argo Merchant* broke into two pieces, spilling all of its cargo and bunkers. The Coast Guard sank the bow of the ship with gunfire. The prevailing wind and current carried the oil offshore and away from rich fishing grounds nearby. The spill was the largest in US history to that date. Publicity surrounding the casualty resulted in Congress adopting the Port and Tanker Safety Act of 1978, giving the Coast Guard increased authority to inspect and regulate tank vessels, foreign and domestic, operating in US waters.

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