

## Headlines:

MARAD – Maritime Security Program;  
MARAD – America’s Marine Highway Program;  
MARAD – documented fishing industry vessels;  
USCG – cellular phone geolocation;  
USCG – BWMS update;  
NTSB – grounding near Bella Bella, BC;  
DOJ – settlement of foreign bribery case;  
USN – retired Admiral censured;  
House – bill introduced re recreational vessel operator training;  
Court – maritime lien for bunkers; and  
Court – arbitral clause unenforceable.

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# 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. 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 Ship of Theseus sails forever.*

## **MARAD – Maritime Security Program**



The Maritime Administration (MARAD) promulgated a final rule amending its regulations to implement amendments to the Maritime Security Act of 2003. The rule enters into effect on 2 January 2018. **82 Fed. Reg. 56895** (12/1/17) [<https://www.gpo.gov/fdsys/pkg/FR-2017-12-01/pdf/2017-25898.pdf>].

## MARAD – America’s Marine Highway Program



The Maritime Administration (MARAD) promulgated a final rule amending its America’s Marine Highway Program (AMHP) to implement legislative measures. The rule enters into effect on 2 January 2018. **82 Fed. Reg. 56902** (12/1/17) [<https://www.gpo.gov/fdsys/pkg/FR-2017-12-01/pdf/2017-25897.pdf>].

## MARAD – documenting fishing industry vessels



The Maritime Administration (MARAD) promulgated a final rule amending its regulations concerning requirements to document US-flag fishing industry vessels of 100 feet or greater in registered length. The rule enters into effect on 2 January 2018. **82 Fed. Reg. 56899** (12/1/17) [<https://www.gpo.gov/fdsys/pkg/FR-2017-12-01/pdf/2017-25896.pdf>].

## USCG – cellular phone geolocation



The US Coast Guard issued a notice announcing its intent to enter into a Cooperative Research and Development Agreement (CRADA) with TriaSys Technologies Corp. to investigate the potential operational use of cellular phone direction finding technology. Comments must be submitted by 2 January 2018. **82 Fed. Reg. 56980** (12/1/17) [<https://www.gpo.gov/fdsys/pkg/FR-2017-12-01/pdf/2017-25926.pdf>].

## USCG – BWMS update



The US Coast Guard issued a **bulletin** providing an update regarding the ballast water management system (BWMS) type approval program. (11/29/17) [<http://mariners.coastguard.dodlive.mil/2017/11/29/11292017-ballast-water-series-part-3-coast-guard-bwms-type-approval-program-update/>].

## NTSB – grounding near Bella Bella, BC



The National Transportation Safety Board (NTSB) issued the report of its investigation of the October 13, 2016 grounding of the articulated tug and barge (ATB) *Nathan E Stewart/DBL 55* on Edge Reef off Athlone Island in the Seaforth Channel near Bella Bella, British Columbia, Canada. At the time of the accident, the *Nathan E Stewart* was en route to the Port of Vancouver with the empty *DBL 55*. None of the crewmembers were injured, but environmental damage occurred when approximately 29,000 gallons of fuel and lube oil were released. Damage to the vessel and barge was estimated at \$12 million. The probable cause of the grounding was the second mate falling asleep while on watch. Contributing to the grounding was the ineffective implementation of the company's safety management system procedures for watchstanding. **MAB 17/38** (11/30/17) [<https://www.nts.gov/investigations/AccidentReports/Reports/MAB1738.pdf>].

## DOJ – settlement of foreign bribery case



The Department of Justice (DOJ) issued a **news release** stating that offshore drilling equipment manufacturer SBM Offshore N.V. and its US subsidiary have agreed to resolve criminal charges and pay a criminal penalty of \$238 million in connection with schemes involving bribery of foreign officials. (11/29/17) [<https://www.justice.gov/opa/pr/sbm-offshore-nv-and-united-states-based-subsidiary-resolve-foreign-corrupt-practices-act-case>]. *Note: This item was first brought to my attention by my good friend Dave Shirlaw of **SeaWaves Magazine**.*

## USN – retired Admiral censured



The US Navy issued a **news release** stating that the Secretary of the Navy issued a Secretarial Letter of Censure to RADM Kenneth Norton, USN (ret) for accepting gifts from Glenn Defense Marine Asia while on active duty. (11/29/17) [[http://www.navy.mil/submit/display.asp?story\\_id=103562](http://www.navy.mil/submit/display.asp?story_id=103562)].

## House – bill introduced re recreational vessel operator training



Representative King (R-NY) introduced a bill (**H.R. 4468**) to direct the Secretary of the department in which the Coast Guard is operating to study and report to the Congress regarding recreational vessel operator training. (11/28/17) [<https://www.gpo.gov/fdsys/pkg/BILLS-115hr4468ih/pdf/BILLS-115hr4468ih.pdf>].

## Court – maritime lien for bunkers



The US Court of Appeals for the Eleventh Circuit affirmed the denial of a maritime lien in an in rem action brought by a bunker provider against the vessel to which the bunkers had been delivered. The vessel owner had contracted with O.W. UK to purchase bunkers for the vessel to be delivered in the Port of Mobile. O.W. UK purchased the fuel from an affiliate, which, in turn, subcontracted with plaintiff to actually supply the several hundred metric tons of fuel on the credit of O.W. UK. After the fuel was provided but before any money changed hands, O.W. UK collapsed into bankruptcy. Plaintiff brought the instant action and a bank intervened. The court held that the maritime lien for the bunkers had arisen in favor of O.W. UK and had been assigned to the bank. **Barcliff LLC v MV Deep Blue**, No. 16-17755 (11th Cir., November 30, 2017) [<http://media.ca11.uscourts.gov/opinions/pub/files/201617755.pdf>].

## Court – arbitral clause unenforceable



The US Court of Appeals for the Ninth Circuit affirmed the district court's denial of a motion by defendant vessel manager to compel arbitration in a maritime wrongful death case. Defendant sought to compel arbitration based on an employment contract between the seaman and the vessel owner. The court held that an arbitral clause in a contract must be signed by the parties in order to be enforceable. **Yang v Dongwon Industries**, No. 15-16881 (9th Cir., November 30, 2017) [<http://cdn.ca9.uscourts.gov/datastore/opinions/2017/11/30/15-16881.pdf>].

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