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NTSB – report on loss of El Faro;  
USACE & EPA – ‘waters of the United States’;  
NSGAB – meeting on 6-7 March;  
DOS - meeting re SSE 5 on 1 March;  
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USCG – list of prohibited vessels;  
TSAC – meeting on 6-8 March;  
House – bill introduced re USCG Commandant and JCS;  
Court – maritime attachment pleading requirements; and  
Court – application of state employment laws to OCS facilities.

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# Bryant's Maritime News

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## **NTSB – report on loss of El Faro**



The National Transportation Safety Board (NTSB) issued a **news release** with links to the report of its investigation of the loss of the cargo ship El Faro and the 33 persons on board. (2/7/18)  
[<https://www.nts.gov/investigations/AccidentReports/Pages/MAR1701.aspx>].

## **USACE & EPA – ‘waters of the United States’**



The US Army Corps of Engineers (USACE) and the Environmental Protection Agency (EPA) promulgated a final rule adding an applicability date to the 2015 regulation defining ‘waters of the United States’

of 6 February 2020. This change enters into effect immediately. **83 Fed. Reg. 5200** (2/6/18) [<https://www.gpo.gov/fdsys/pkg/FR-2018-02-06/pdf/2018-02429.pdf>].

### **NSGAB – meeting on 6-7 March**



The National Sea Grant Advisory Board (NSGAB), sponsored by the National Oceanic and Atmospheric Administration (NOAA) will meet in Washington, DC on 6-7 March. **83 Fed. Reg. 5249** (2/6/18) [<https://www.gpo.gov/fdsys/pkg/FR-2018-02-06/pdf/2018-02313.pdf>].

### **DOS – meeting re SSE 5 on 1 March**



The Department of State (DOS) will host a meeting on 1 March in Arlington, Virginia in order to prepare for the upcoming session of the IMO Subcommittee on Ship Systems and Equipment (SSE 5). Items on the agenda include fires in ro-ro spaces on passenger ships and onboard lifting appliances. **83 Fed. Reg. 5288** (2/6/18) [<https://www.gpo.gov/fdsys/pkg/FR-2018-02-06/pdf/2018-02272.pdf>].

### **COAC – meeting on 28 February**



The Customs Commercial Operations Advisory Committee (COAC), sponsored by the US Customs and Border Protection (CBP), will meet in Miami on 28 February. **83 Fed. Reg. 5268** (2/6/18) [<https://www.gpo.gov/fdsys/pkg/FR-2018-02-06/pdf/2018-02297.pdf>].

### **Northern California – RNAs proposed**



The US Coast Guard proposes to establish regulated navigation areas (RNAs) at the harbor entrance bars of Crescent Harbor, Humboldt Bay, Noyo River, and Morro Bay in Northern California. Comments must be submitted by 12 March. **83 Fed. Reg. 5592** (2/7/18) [<https://www.gpo.gov/fdsys/pkg/FR-2018-02-08/pdf/2018-02503.pdf>].

## USCG – list of prohibited vessels



The US Coast Guard published an official list of vessels prohibited from entering the waters of the United States. The list enters into effect immediately. **83 Fed. Reg. 5683** (2/7/18) [<https://www.gpo.gov/fdsys/pkg/FR-2018-02-08/pdf/2018-02536.pdf>].

## TSAC – meeting on 6-8 March



The Chemical Transportation Advisory Committee (CTAC), sponsored by the US Coast Guard, will meet on 6-8 March in Houston. Topics on the agenda include design standards for vessels with natural gas and hazardous substance spill response plans for vessels. **83 Fed. Reg. 5683** (2/7/18) [<https://www.gpo.gov/fdsys/pkg/FR-2018-02-08/pdf/2018-02510.pdf>].

## House – bill introduced re USCG Commandant and JCS



Representative Tipton (R-CO) introduced a bill (H.R. 4939) to amend title 10, United States Code, to provide for the membership of the Commandant of the Coast Guard on the Joint Chiefs of Staff. Official text of the bill is not yet available. (2/6/18).

## Court – maritime attachment pleading requirements



In a well-reasoned and thoroughly explained opinion, the US Court of Appeals for the Second Circuit affirmed the district court's denial of a motion for a maritime attachment of property allegedly owned by one of plaintiff's debtors. The court held that the motion for attachment must contain more than an assertion that unidentified property that might be owned by an affiliate of the debtor might be in the possession of the defendant is insufficient to fulfill the pleading requirements. **DS-Rendite v Essar Capital Americas**, No. 15-3777-cv (2nd Cir., February 6, 2018)

[[http://www.ca2.uscourts.gov/decisions/isysquery/ed44f30e-4099-45a9-81ca-63f6d73fb1bc/1/doc/15-3777\\_opn.pdf#xml=http://www.ca2.uscourts.gov/decisions/isysquery/ed44f30e-4099-45a9-81ca-63f6d73fb1bc/1/hilite/](http://www.ca2.uscourts.gov/decisions/isysquery/ed44f30e-4099-45a9-81ca-63f6d73fb1bc/1/doc/15-3777_opn.pdf#xml=http://www.ca2.uscourts.gov/decisions/isysquery/ed44f30e-4099-45a9-81ca-63f6d73fb1bc/1/hilite/)]. *Note: This item was first brought to my attention by my good friend Keith Heard of **Burke & Parsons**.*

## Court – application of state employment laws to OCS facilities



The US Court of Appeals for the Ninth Circuit overruled the district court and held that, under the Outer Continental Shelf Lands Act (OCSLA), a coastal state's wage and hour laws could be applied to a claim for wages by a discharged employee previously employed on an offshore platform. **Newton v Parker Drilling Management Services**, No. 15-56352 (9th Cir., February 5, 2018) [<http://cdn.ca9.uscourts.gov/datastore/opinions/2018/02/05/15-56352.pdf>].

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