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EPA and Coast Guard Announce Agreement to Enforce Air Pollution Requirements for Vessels Operating in U.S. Waters

On June 27, 2011, the U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard announced an agreement to jointly enforce U.S. and international air pollution requirements for vessels operating in U.S. waters. This agreement provides further evidence of the growing trend toward interagency coordination and enforcement of maritime regulations. The renewed focus on enforcement may also be intended to demonstrate to the shipping community that the U.S., which has lagged behind other MARPOL signatories with respect to vessel emissions, is committed to addressing air quality, particularly in and around U.S. ports.

In the Memorandum of Understanding (MOU) documenting the agreement, the agencies agreed to "mutually cooperate" in implementing Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL). As implemented in the United States by the Act to Prevent Pollution from Ships, Annex VI primarily limits nitrogen oxide emissions from marine diesel engines and the sulfur content of vessel fuels. Specifically, the MOU outlines the ways in which the agencies will coordinate efforts and share information, oversight, and responsibility with regard to ship and engine certifications, fuel oil availability and quality, and, in the event of violations, enforcement. Recognizing the two agencies' overlapping jurisdiction for vessel emissions, the MOU states that both agencies can conduct investigations and either agency can bring an enforcement action. The agencies may refer suspected violations to one another based on each agency's technical expertise. They will also track Annex VI violations by foreign flag ships at ports outside of the U.S., thus raising the profile of such ships if they subsequently enter a U.S. port and increasing the likelihood of an inspection. Finally, the EPA and Coast Guard agreed to jointly develop new protocols for conducting investigations and carrying out civil enforcement. Each agency will maintain their own procedures for addressing criminal violations.

In conjunction with the agreement, the EPA and Coast Guard issued a letter to the shipping industry reminding companies of the regulations to prevent air pollution from ships and providing notice that the agencies will be taking measures to promote compliance with the regulations, including investigating potential violations and pursuing civil and criminal enforcement actions

and related penalties for violations. The letter encourages companies to contact the EPA and Coast Guard to discuss their compliance plans.

The June 27 MOU provides further evidence of a growing trend toward increased coordination between the EPA, the lead agency in the United States for policing environmental laws and regulations, and the Coast Guard, the agency most familiar with commercial shipping and vessel operations, in enforcing environmental maritime regulations. It should be noted that the EPA has a well-developed enforcement regime, both civil and criminal, and significant resources at its disposal. [As discussed in a prior Robinson & Cole maritime enforcement alert](#), earlier this year the Coast Guard agreed to incorporate components of EPA's Vessel General Permit program into its existing inspection protocols and procedures and share information gathered during its inspections with the EPA for enforcement.

FOR MORE INFORMATION

Additional information, including the June 27 Memorandum of Understanding and the letter sent to the industry, is available at: <http://www.epa.gov/compliance/civil/caa/annexvi-mou.html>.

Robinson & Cole LLP has represented vessel owners and managers on a wide variety of regulatory, compliance, and enforcement matters. For more information, please contact one of the following attorneys:

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