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## EPA and Coast Guard Announce Agreement to Jointly Enforce US and International Air Pollution Requirements

The US Environmental Protection Agency (US EPA) and the US Coast Guard (USCG) recently announced an agreement (MOU)<sup>1</sup> to jointly enforce US (Act to Prevent Pollution from Ships)<sup>2</sup> and international air pollution (MARPOL Annex VI)<sup>3</sup> requirements for vessels operating in US waters. These requirements establish limits on nitrogen oxides (NOx) emissions and require the use of fuel with lower sulfur content, in the latest efforts to protect human health and the marine environment by reducing ozone-producing pollution. The most stringent requirements apply to ships operating within 200 nautical miles of the coast of North America.<sup>4</sup>

In US EPA's words, "[t]oday's agreement forges a strong partnership between EPA and the US Coast Guard, advancing our shared commitment to enforce air emissions standards for ships operating in US waters. Reducing harmful air pollution is a priority for EPA and by working with the Coast Guard we will ensure that the ships moving through our waters meet their environmental obligations, protecting our nation's air quality and the health of our coastal communities."<sup>5</sup>

These sentiments were echoed by USCG leadership. "This agreement demonstrates the Coast Guard's long-standing commitment to protecting our nation's marine environment," said Rear Adm. Kevin Cook, Director of Prevention Policy for the USCG. "Aligning our

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### Contacts:

[Brian D. Starer](#)

+1.212.872.9844

[Peter Crossley](#)

+44.20.7655.1299

[Juan A. Anduiza](#)

+1.212.872.9890

[Douglas R. Burnett](#)

+1.212.872.9820

[John J. Reilly](#)

+1.212.872.9865

[Alan Heblack](#)

+1.212.872.9849

[Linus D. Choo](#)

+44.20.7655.1237

[Michael P. Hartman](#)

+1.212.872.9894

[Andrew Sanderson](#)

+44.20.7655.1060

capabilities with EPA enhances our commitment to the marine environment while minimizing the impact on shipping."

By way of background, MARPOL was developed through the International Maritime Organization (IMO), the United Nations agency dealing with maritime safety and security, as well as the prevention of marine pollution from ships. MARPOL is the main international agreement covering all types of pollution from ships. Air pollution from ships is specifically addressed in Annex VI of the MARPOL treaty, which includes requirements applicable to the manufacture, certification, and operation of vessels and engines, as well as fuel quality used in vessels in the waters of the United States. Since January 2009 all vessels operating in US waters must be in compliance with MARPOL Annex VI regulations, but enforcement has lagged.

The purpose of the MOU was to establish terms by which US EPA and USCG can work together to implement and enforce Annex VI requirements. While the MOU does not add any new compliance requirements, it does signal that enforcement of the requirements has become a top priority. US EPA and USCG also sent a letter to the maritime industry notifying them of the MOU, and to advise that US EPA and USCG are taking measures to promote compliance, including investigating potential violations and pursuing enforcement actions with penalties for violations.<sup>6</sup> The central provisions of the MOU relate to vessel inspections, certification, examination and investigations. Importantly, the MOU also discusses enforcement by criminal prosecution and penalties.

More information is available on US EPA's website.<sup>7</sup>

This development signals upcoming enforcement on the part of both agencies. Shipowners, ship operators, shipbuilders, marine diesel engine manufacturers, marine fuel suppliers and marine insurance providers should be prepared to deal with increased enforcement and prosecution of air pollution laws. Squire Sanders has a team well-prepared to deal with the unique environmental, criminal and maritime concerns faced by clients due to this recent development. Please contact your principal Squire Sanders lawyer or one of the individuals listed in this alert.

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<sup>1</sup> See [the Memorandum of Understanding Between United States Coast Guard and United States Environmental Protection Agency Regarding](#)

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[Enforcement of Annex VI.](#)

<sup>2</sup> 33 U.S.C. §§ 1901 – 1915 (2002).

<sup>3</sup> International Convention for the Prevention of Pollution From Ships, International Maritime Organization, 1997 MARPOL 73/78.

<sup>4</sup> See [the Enforcement of MARPOL Annex VI Memorandum of Understanding \(MOU\) Information Sheet](#).

<sup>5</sup> June 27, 2011, Cynthia Giles, Assistant Administrator of EPA's Office of Enforcement and Compliance and Assurance.

<sup>6</sup> See [the US EPA Letter on MARPOL Annex VI Air Pollution Prevention Requirements](#).

<sup>7</sup> See [general and technical information on US EPA's strategy to address emissions from large ships, including ocean vessels and Lakers](#).

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