



## Ports, Harbors & Shipping Advisory

September 17, 2008

### Untying the Global Emissions Net, One Knot at a Time

In July, President Bush signed into law the Maritime Pollution Protection Act of 2008 (MPPA), paving the way for U.S. agencies to implement the vessel emission-reduction strategies set forth under Annex VI of the International Convention on the Prevention of Pollution from Ships (known as MARPOL). Under MARPOL Annex VI, container ships, tankers, cruise ships and bulk carriers are required to reduce NOx emissions from their category three diesel engines and they must comply with a sulfur content "cap" for the fuel they burn. The MPPA, codified under 33 U.S.C. section 1901 et seq., officially incorporates MARPOL Annex VI standards into the U.S. regulatory scheme for controlling emissions of NOx and SOx from ship exhaust.

The significant remaining step for the U.S. becoming a party to MARPOL Annex VI is the process of delivering a diplomatic instrument of ratification to the Secretary-General of the International Maritime Organization. The United States will become a party to the Annex three months after this instrument is submitted to the International Maritime Organization (IMO) in London.

As foreign trade grows and EPA's new emissions controls take effect on other transportation sources, emissions from large ships comprise an increasing share of the nation's pollution inventory. Regulatory agencies predict that without further controls, those numbers may rise to about 34 percent of NOx, 45 percent of PM2.5, and 94 percent of SO2 emissions by 2030. Next month, the MARPOL parties will coordinate efforts to establish stringent NOx and SO2 standards and sulfur limitations in fuel for ocean-going vessels. If adopted, these international standards will result in significant environmental and public health benefits worldwide, and will also be the subject of enforcement in the U.S. once the process for MARPOL Annex VI ratification is completed.

### California State Agency Redefines the Recipe for Emission Prescriptions

Earlier this year, California air regulators approved the most stringent rules in the U.S. to reduce harmful emissions from ocean-going ships headed into the state's ports. The regulations require domestic and foreign cargo ships, tankers and cruise vessels sailing into California waters to use cleaner fuel to power their engines and boilers. In 2006, ships made nearly 11,000 port calls in California, a number that is expected to rise with the increase in international trade. Regulators projected that, without these new regulations, vessel emissions levels in 2006 would more than double by 2020.

Last year shippers won a federal lawsuit challenging a 2006 California regulation requiring large ships to use cleaner fuel in their auxiliary engines. A federal judge ruled the state did not have the authority to set shipping emission standards without the approval of the U.S. Environmental Protection Agency. The latest California regulations take a new direction on regulating vessel emissions. They define the pollution standards as a "fuel requirement," in an effort by state regulators to avoid federal permission. The new regulations would ban ships from using so-called bunker fuel, a dirty, heavy crude oil that has the consistency of asphalt and must be heated onboard the ships to power the engines.

Under the new regulations, proposed by the California Air Resource Board (CARB), starting July 1, 2009, ocean-going vessels would be required to switch to a more expensive but cleaner-burning marine fuel to power their engines and auxiliary boilers when they sail within 24 nautical miles of California's coast (under Title 13 of the California Code of Regulations, section 2299.2). The rules apply to ships headed to ports in the San Francisco Bay area, Los Angeles, Long Beach and San Diego, as well as inland ports for ocean-going vessels in Sacramento and Stockton. There is an exemption for military, government and research vessels, as well as those ships that will be modified to comply with the regulation.

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## Opportunities for Sustainable Growth

The new emissions regulations identified above highlight the emphasis on clean air initiatives on the global, national and local levels. These new measures present challenges and opportunities for port commissions and authorities, shipping industry participants, local communities and regulatory agencies to develop creative and comprehensive initiatives to meet the emission reduction standards. Such actions may entail voluntary early compliance programs with benefits in the form of offsets or accessibility priority or incentives for port services that move toward cleaner-fuel operations, as well as essential education and compliance on all levels.

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