



CLIENT ALERT:
EPA TO CONDUCT PERIODIC OVERFLIGHTS TO ENFORCE COMPLIANCE WITH MARPOL ANNEX VI REQUIREMENTS IN THE NORTH AMERICAN EMISSION CONTROL AREA (“ECA”)

May 24, 2013

In what is yet a further indication of increased enforcement of the North American Emission Control Area (“ECA”), the U.S. Environmental Protection Agency (“EPA”) has advised that it has commenced conducting overflights for purposes of testing the plume emissions of commercial vessels to ensure compliance with MARPOL Annex VI fuel standard requirements. As previously noted in our client alert of August 3, 2012, the EPA, in conjunction with the United States Coast Guard (“USCG”), commenced enforcement of the North American ECA effective August 1, 2012. Vessels operating in the North American ECA – subject to certain very limited exceptions – are required to utilize fuel oil with sulfur content not in excess of 1.00 percent (10,000 ppm) (The maximum sulfur content is to be reduced even further to .10 percent effective January 1, 2015.)

The recent announcement from the EPA indicates that at present the overflights will be limited to the upper Chesapeake Bay. However, this is understood to be a test program and the overflights are ultimately expected to be extended to other areas of the ECA. The implementation of this overflight program, along with recent reported instances of vessels being targeted for violations in the North American ECA, provide clear evidence that as we are approaching the one-year anniversary of the effective enforcement date of the ECA, the EPA and USCG are intensifying their enforcement efforts. Vessel owners and operators should be guided accordingly to ensure compliance with the required fuel standards as well as to verify that all required records are being

maintained properly, including the vessel's fuel oil changeover logbook, and that the required fuel oil samples are being maintained.

Owners, operators and other interested parties may consult our August 3, 2012 client alert for a discussion as to the requirements for vessels entering the North American ECA. A copy of our August 3, 2012 client alert is available on the "News & Articles" page of the FH&M website.

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