

MARPOL ANNEX VI & ACT TO PREVENT POLLUTION FROM SHIPS LEGAL AUTHORITIES

- International Convention for Prevention of Pollution from Ships (MARPOL)
- Annex VI of the MARPOL treaty is the main international treaty addressing air pollution prevention requirements from ships.
- Annex VI requirements comprise both engine-based and fuel-based standards, which apply to U.S. flagged ships wherever located and to non-U.S. flagged ships operating in U.S. waters.
- Annex VI establishes:
 - Limits on nitrous oxides (NO_x) emissions from marine diesel engines with a power output of more than 130 kW. The standards apply to both main propulsion and auxiliary engines and require the engines to be operated in conformance with the Annex VI NO_x emission limits.
 - Limits on the sulfur content of marine fuels.
- Ships operating up to 200 nautical miles off of U.S. shores must meet the most advanced standards for NO_x emissions and use fuel with lower sulfur content. That geographic area is designated under Annex VI as the “Emission Control Area” (ECA).
- Each regulated diesel engine in U.S. flagged vessels must have an Engine International Air Pollution Prevention (EIAPP) certificate, issued by the Environmental Protection Agency (EPA), to document that the engine meets Annex VI NO_x standards. Certain vessels are also required to have an International Air Pollution Prevention Certificate (IAPP), which is issued by the United States Coast Guard (USCG). Ship operators must also maintain records on board regarding their compliance with the emission standards, fuels requirements and other provisions of Annex VI.
- The Act to Prevent Pollution from Ships (APPS) enacts Annex VI in the United States.
 - 33 U.S.C. §§ 1901–1915
- A Memorandum of Understanding (MOU) between the EPA and the USCG of June 27, 2011 states the terms by which those bodies will cooperate to implement Annex VI of MARPOL.

- The EPA has the authority to issue, modify, and revoke an EIAPP certificate as to any applicable engines of a ship, or any part of an applicable engine. 33 U.S.C. § 1903(b)(1).
- The USCG has the authority to issue, modify, and revoke an IAPP certificate as to any applicable ship and a Certificate of Adequacy (COA) to any applicable facility. 33 U.S.C. §§ 1903(a), 1904(a).
- The USCG has the authority and responsibility to conduct ship inspections, examinations, and investigations, and to undertake enforcement action. 33 U.S.C. § 1907(f).
- The EPA has the authority to enforce Annex VI. *Id.*
- The EPA and the USCG have authority and responsibility to conduct inspections and investigations of reception facilities, in accordance with Regulation 17 of Annex VI and APPS. *Id.*
- The EPA and the USCG have authority and responsibility for fuel oil availability and quality, as those terms are discussed in Regulation 18, including the bunker delivery note and fuel sample under Regulation 18 of Annex VI. *Id.*
- The USCG will provide Volatile Organic Compounds (VOC) reports to the International Maritime Organization (IMO) under Regulation 15 of Annex VI and will provide an update to IMO annually.
- For a suspected violation that is reported to or detected by the USCG, or referred by EPA to the USCG, the procedures in 33 C.F.R. section 1.07–10 for investigation or 33 C.F.R. section 1.07–11 for notice of violation will be followed.
- For a suspected violation that is reported to or detected by the EPA, or referred by USCG to EPA, EPA will proceed with any investigation and potential enforcement action in accordance with its authority under APPS and the Clean Air Act, 42 U.S.C. sections 101 *et seq.*, as applicable.
- EPA and USCG should make determinations on referrals for criminal prosecutions in accordance with each body's internally-established policies and procedures for those matters over which the body has cognizance.

- As of June 28, 2019, ship owners and operators of vessels heading to ports in the United States that are unable to purchase compliant fuel oil may satisfy the MARPOL Annex VI Regulation 18.2.4 requirement to notify the competent authority of the relevant port of destination by notifying the cognizant USCG Captain of the Port (COPT). As of June 30, 2019, the EPA stopped accepting Fuel Oil Non-Availability Reports and the FOND portal closed.
 - https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/MSIB/2019/MSIB_005_19.pdf?ver=2019-06-28-094538-950
- On January 16, 2015, EPA released a penalty policy for violations of the sulfur in fuel standard and related provisions for ships:
 - <https://www.epa.gov/sites/production/files/2015-03/documents/marinepenaltypolicy.pdf>
- USCG Policy Letters—CG-543 Policy Ltr. 09-01 and CG-CVC Policy Ltr. 12-04:
 - https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2009/CG-543_pol09-01.pdf
 - https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2012/CG-CVC_pol12-04.pdf
- EPA Revised Protocols:
 - <https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Marpol/annexsix-EPAProtocols.pdf>