

National Shipbuilding Research Program

All Panel Meeting

Philadelphia, PA

September 15-17, 2009

Emerging Environmental Issues
Affecting Shipbuilding & Repair

John Wittenborn, Partner
Kelley Drye & Warren, LLP
Washington, DC



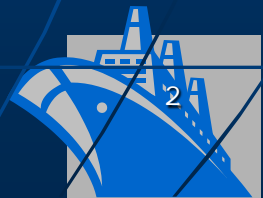
Emerging Environmental Issues

■ Climate Change

- Legislation?
- Regulation?

■ Regulation of Hazardous Air Pollutants

- Shipyard Residual Risk Rule & Technology
- Regulation of welding/blasting emissions



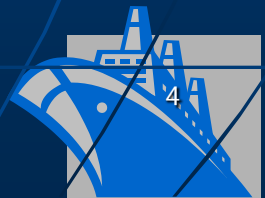
Emerging Environmental Issues

- Water Discharge Regulation
 - Vessel General Permit – ballast water and other ship discharges
- Solid Waste Regulation
 - Definition of solid waste



Emerging Environmental Issues

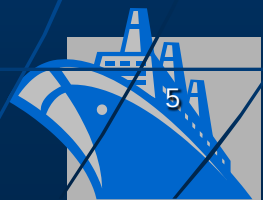
- Climate Change
 - Massachusetts v. EPA
 - GHG = "Pollutants"
 - Required EPA to make "Endangerment" Findings
 - Bush Administration – ANPRM
 - Obama Administration – New story



Climate Change

■ Regulatory Activities

- Reconsideration of California waiver (motor vehicles)
- Proposal for new tail pipe emission standards (will affect stationary sources)
- Reconsideration of applicability of PSD to GHG emissions
- GHG Reporting Rule (proposal)
- Endangerment Finding (proposal)
- Threshold Tailoring Rule (near proposal)



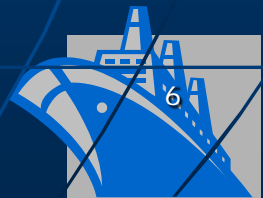
Climate Change

■ Legislative Activities

- American Clean Energy & Security Act of 2005 (ACES)

“Waxman Markey” (House Bill)

- Cap & Trade (allocation of allowances)
 - GHG emissions reduction targets
offset/credits/markets
- Renewable Energy Standard
- Carbon Capture and Sequestration
- Smart Grid
- Green Jobs
- Adaptation



Climate Change

- Legislative Activities – Senate
 - No legislation pending
 - Bill expected soon
 - Outlook uncertain
 - Impact of health care debate
 - Impact of Copenhagen Conference



Shipyard Environmental Issues

- Clean Air Act – HAP
- Residual Risk/Technology Review
 - 8 years following MACT
 - Risk threshold = 1 in one million -- any facility
 - EPA preliminary review
 - Risk > 1 in one million
 - Due to manganese/chromium in welding/blasting
 - Shipyard intervention/comments
 - Status: On hold
 - Pending separate category for welding emissions.



Shipyard Environmental Issues

■ Clean Water Act

- *Northwest Environmental Advocates v. EPA* (2005): Invalidated exemption for discharges incidental to the normal operation of a vessel (e.g., ballast water)
- December 2008: Vessel General Permit – VGP)
 - Litigation: Status
 - Obama Administration: Reconsideration of the VGP Rule
 - Issues:
 - Stringency of standards
 - State Certification
 - Coordination with U.S. Coast Guard



Shipyard Environmental Issues

■ Solid Waste

• DSW Rule – October 2008

- Exemptions for Hazardous Waste recycling
- Definition of legitimate recycling

• Obama Administration

- Petition for reconsideration January 2009
- Comment on petition – May 2009
- Consideration of Environmental Justice – July 2009

• Impact

- On and Offsite reclamation of solvents
- Recycling of listed waste (F006)

