On 24 July 2008 the California Air Resources Board (CARB) announced the adoption of a new regulation requiring the use of low sulphur marine fuel within 24 miles of the California coastline. With effect from 1 January 2009 vessels will be required to use marine diesel oil with 0.5% sulphur or less. On 1 January 2012 the level will be reduced to 0.1%.

It is estimated that over 40% of all marine freight imported to the U.S. moves through the Californian ports of Los Angeles and Long Beach. The new regulation is, therefore, likely to affect a large number of vessels.

An earlier CARB regulation, the Ocean-Going Vessel Auxiliary Diesel Engine Regulation, proved controversial; it resulted in a lawsuit brought against CARB by the Pacific Merchant Shipping Association (PMSA) on the basis that the Federal Clean Air Act pre-empts regulations adopted by individual states and that California had developed and implemented these regulations without the consultation and authorisation of the U.S. Environmental Protection Agency (see California - Enforcement of CARB Regulation Discontinued ... Again ... for Now).

CARB has sought to distinguish the new Regulation for fuel sulfur and other operational requirements for ocean-going vessels in California waters and within 24 nautical miles of the California baseline from the earlier regulation on the basis that it is an "in-use operational requirement", for which no federal authorisation is required, rather than an "emissions standard". In addition, CARB maintains, the new regulation does not require retrofitting or redesign but only requires that specified fuels are used in OGV engines and auxiliary boilers while vessels remain in regulated waters.

CARB has acknowledged that uniform national and international regulation is preferable to individual state regulation and is aware that IMO is currently working towards strengthening the international standard to reduce emissions from ships. However, even though the final fuel sulphur limits being considered by IMO mirror those imposed by CARB, such limits are unlikely to be implemented by IMO before 2015. Due to the health impacts attributable to ship emissions CARB says that California cannot wait until 2015 and is acting now.

It remains to be seen whether PMSA, or any other organisation, will take action over the new regulation.

Further information is available from the CARB website at: www.arb.ca.gov/homepage.htm