U.S. Department of Homeland Security

United States Coast Guard

Commandant
United States Coast Guard

2100 2nd Street, S.W., STOP 7901
Washington, DC 20593-7901
Staff Symbol: CG-4
Phone: (202) 475-5552

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MEMORANDUM

From: D. P. PEKOSKE, VADM
COMDT (CG-09)

To: Distribution

Subj: FINAL DECISION LETTER ON THE POLLUTION INCIDENT ABOARD CGC RUSH, HONOLULU, HI, 2006

Ref: (a) Marine Safety Manual, Volume V: Investigations and Enforcement, COMDTINST M16000.10A
(b) United States Coast Guard Regulations, COMDTINST M5000.3B
(c) Shipboard Regulations Manual, COMDTINST M5000.7

1. SYNOPSIS. On March 22, 2006, the Executive Officer (XO) of the Coast Guard Cutter (CGC) RUSH requested the Coast Guard Investigative Service (CGIS) conduct a preliminary inquiry into allegations that an unknown CGC RUSH crewmember was ordered to pump bilge water into Honolulu Harbor on numerous occasions. This information was based upon an anonymous complaint received on March 13, 2006, by the Hawaii Department of Health. CGIS interviews revealed that between March 8 and March 10, 2006, during Tailored Annual Cutter Training (TACT), a certain senior engineering crewmember ordered certain junior engineering crewmembers to discharge approximately 3,000 gallons of bilge waste into Honolulu Harbor via a pump and the cutter's deep sink. The pumping took place over a period of four to six hours. Additional similar events were documented in the CGIS interviews. The investigation revealed serious misconduct, an attempt to cover up a violation of the Uniform Code of Military Justice and a clear need for the Coast Guard (CG) to more strongly reinforce its existing environmental compliance culture such that no personnel will condone environmental compliance violations by fellow members of our Service. The incident resulted in federal prosecution of RUSH's Main Propulsion Assistant, a Chief Warrant Officer. He was sentenced to pay a 5,000 dollar fine, serve 200 hours of community service and serve two years of probation. The report's findings highlight the need to reinforce our commitment to environmental compliance and to make zero tolerance for environmental violations the expected standard across our organization.

2. HUMAN ERROR AND CAUSAL ANALYSIS. A factor is considered "causal" when, if removed in the sequence of events, it would most likely have broken the chain of errors and the incident would not have occurred. A factor is considered "contributory" when it is not singularly responsible for the incident; however, when combined with causal or other contributory errors it influenced the progression of the incident. "Non-contributory" factors are problems or hazards that are determined to not have been causal or contributory to the incident, but are factors identified during the analysis process that could be causal or contributory factors in a future incident.

A. HUMAN ERROR ANALYSIS. In this case, an unlawful act was committed willingly and knowingly and, when questioned about the conduct, the key actor lied to investigators and denied responsibility. That person was later convicted in Federal court for covering up his actions. The senior engineering person giving the orders to illegally discharge the oily

water knew that the operation was a violation of the law and Coast Guard (CG) policy and was clearly contrary to CG Core Values. The act reveals a disregard for the standards that the CG requires of commercial vessel operators and a lack of recognition for a key CG statutory mission: environmental enforcement. The investigative report reveals that the human error underlying the offense resulted from a lack of individual integrity.

B. CAUSAL ANALYSIS. The SHEL (Software, Hardware, Environment, Liveware) model, described in reference (a), was used to collect and analyze the information regarding the incident.

(1) Software – The information and support systems that guide people. This includes checklists, manuals, regulations, charts, training, etc.

a. Environmental laws and regulations are somewhat confusing regarding specific applicability, but the actor(s) clearly knew that the discharge of oily water into Honolulu Harbor was illegal and improper. (Contributory)

b. References (b) and (c) provide broad CG policy prohibiting the conduct in this case, as did the applicable Pacific Area Command (PACAREA) instruction (PACAREA INST 16450.1 (series)) that clearly applied to CGC RUSH. Additionally, the Maintenance and Logistics Command, Pacific (MLCPAC) developed Unit Environmental Guides (UEGs) for each of the west coast cutters. A guide was onboard the CGC RUSH prior to this incident. However, with the exception of reference (b) and (c), CG policy at the time of the incident did not sufficiently address pollution prevention. There was not specific CG-wide policy or procedures for pollution prevention and response outside the CG regulations. (Contributory)

c. While CG cutter crewmembers receive training on operating in compliance with environmental laws, it is not an extensive part of their job qualification requirements or mandated training. The CG needs to do a better job of training all its personnel in environmental protection through strict compliance. (Contributory)

(2) Hardware – These are the vessels, facilities, machinery, equipment and other materials people work with.

a. The Oily Water Separator (OWS) functioned as designed, but the throughput rate was relatively slow. (Contributory)

b. Due to the existing design of the 378' High-Endurance Cutter (WHEC) fleet, as part of normal operations some of the heating, ventilation, and air conditioning system (amongst other systems) drain directly into the engine room bilges. As a result, untreated oily bilge water accumulates in the bilges on a daily basis. (Contributory)

c. The deep sink in the engine room is piped to go directly overboard. This is particularly risky with regard to its proximity to oil and oily residue, and provided the physical opportunity for the actor(s) to discharge oily water from the vessel into Honolulu Harbor. (Causal)

d. At the time of the incident, other than shore side pollution prevention and response support, there was no specific pollution response equipment identified or required to be on board. (Non-contributory)

(3) Environment – The internal and marine environment in which people work. The internal environment includes workplace culture as well as physical environmental conditions such as noise and lighting.

a. Our organization demands that within the limitations of the vessel, each Coast Guard Cutter do well in Command Assessment for Readiness and Training (CART) and Tailored Annual Cutter Training (TACT); one material readiness measure is whether the bilges are free of oily water and waste. However, highly demanding readiness activities are an expected part of vessel operations, and crewmembers are expected to inform their chain of command of any impediments to vessel readiness. Selection of a course of action to enhance operational availability by engaging in criminal activity was clearly inappropriate. (Contributory)

b. The entire crew was experiencing a significant amount of stress normally associated with going through CART and TACT. However, senior CG leadership and the vessel Commanding Officer (CO) bears ultimate responsibility for developing a work culture that will cause CG personnel to reject solutions that lead to legal violations. (Contributory)

c. There was a general perception of mistrust of senior personnel by the junior enlisted engineering personnel on board CGC RUSH. This statement is based upon the fact that the person reporting the incident did not use the internal communication protocols set up within our organization: chain of command, command chief, mentors, and XO's complaint and request mast. (Causal)

(4) Liveware – The people themselves.

a. The senior personnel (officers and enlisted) did not adequately communicate to the junior engineering personnel the consequences for discharging untreated oily bilge waste directly overboard via the engine room deep sink. The junior enlisted personnel knew that it was, at a minimum, inappropriate to pollute the water. However, they did not recognize the fact that untreated bilge water was, in fact, considered untreated oily bilge waste and thus a pollutant. (Contributory)

b. Several people were not following the requirements of their jobs. Specifically, and depending on underway or in port status; the Officer of the Day (OOD), Engineer of the Watch (EOW) and Assistant Engineer of the Watch (AEOW) in port and the EOW, Throttleman, Auxiliary Watchstander, and Security Watchstander underway were either not making rounds of the engineering spaces, or were not aware of the engine room status when the illegal pumping was occurring. (Causal)

c. The senior engineer who ordered the illegal pumping had knowledge that what he was doing was illegal. This is based upon the various newly created watches that were used during the operation as well as a discussion about "decanting." (Causal)

d. Several senior engineers either heard rumors or actually observed parts or all of the illegal pumping and took no action, indicating a failure in leadership which undercut the status and trust placed in senior vessel personnel. (Causal)

3. CORRECTIVE ACTIONS.

A. COMPLETED ACTIONS. The following actions were accomplished by the Office of Naval Engineering (CG-45), Office of Cutter Forces (CG-751), Office of Environmental Management (CG-47), and the Office of Training, Workforce Performance, & Development (CG-132) through a reprioritization of existing resources:

(1) The Vessel Environmental Manual, COMDTINST M16455.1 (VEM), providing specific guidance to cutters regarding environmental regulations and operating restrictions, including the proper use and placement of placards, was promulgated in August 2007.

(2) A pollution incident evaluation / data collection system was developed. This database provides a record of reported spills and is accessible from the CG-45 website on CG CENTRAL/CG Portal at: https://cgportal.uscg.mil/lotus/myquickr/vessel---environmental---information/library

(3) A contract was established for providing Unit Environmental Guides (UEGs) for a limited number of Atlantic Area Command (LANT) cutters. Currently, UEGs have been completed for the Portsmouth cutter fleet. These UEGs provide inport and underway operating guidance that is tailored to each cutter class and homeport and supplement policy set forth in the VEM. Distribution to cutters Service-wide is directed in paragraph 3.B(4) below.

B. FUTURE ACTIONS. The following actions shall be taken by the Offices indicated:

(1) Commandant (CG-45) shall update the VEM to reflect recent changes due to modernization and environmental regulations, and to provide clearer guidance on environmental compliance issues. It shall also make clear that even a single environmental compliance violation will not be tolerated and that we, as a service, will not tolerate those within our ranks who engage in such violations.

(2) The Judge Advocate General and Chief Counsel, Commandant (CG-094), in all future investigations of environmentally significant spills by Coast Guard units, shall report the probable outcome for a private vessel under identical circumstances and explain any differences in outcome.

(3) The Assistant Commandant for Resources, Commandant (CG-8), the Assistant Commandant for Engineering (CG-4), the Director of Prevention Policy (CG-54), Surface Forces Logistics Center (SFLC) and Force Readiness Command (FORCECOM) shall develop a plan to properly resource and complete environmental compliance reviews of all Coast Guard cutters on a periodic basis, to be conducted by independent (outside unit's command) inspectors.

(4) Commandant (CG-45), (CG-751), (CG-132) and SFLC shall develop or update Unit Environmental Guides for all cutters and promulgate policy requiring all cutter personnel to review the UEG.

(5) FORCECOM shall work with Commandant (CG-45), (CG-47), (CG-751), and (CG-731) to provide resource estimates to increase and emphasize environmental regulatory compliance awareness in formal training system(s) at the appropriate level, and

implement these enhancements within available resources. Given the appropriate policy documents, the training system should address appropriate interventions in the different levels of training (e.g., recruit, specific "A" schools, hazmat training, Chief Petty Officer Academy and PCO/PXO courses).

(6) Commandant (CG-45) shall ensure that environmental compliance expectations and requirements that individuals assigned to vessels must follow are clearly identified and documented. This will be tracked utilizing the mandated annual self-assessment surveys contained in the VEM with records kept by Commandant (CG-45).

(7) Commandant (CG-45) shall review the feasibility of an alternate piping configuration or removal of the 378' WHEC engine room deep sink to prevent a direct discharge of bilge water to the environment.

(8) Commandant (CG-45) shall coordinate with the SFLC to review Naval Vessel Rules and ensure that they provide for appropriate environmental standards.

(9) Commandant (CG-45) shall share information collected from the pollution incident evaluation / data collection system with Coast Guard units via the Intranet.

(10) Finally, and most importantly, this investigation underscores the CG's significant stewardship role regarding its own environmental compliance. We must not presume that everyone will comply, and we must be alert for those who engage in such violations. Therefore, the Assistant Commandant for Engineering and Logistics (CG-4), in the role of Operating Agency Environmental Executive, shall report to me no later than 1 July 2010, on the future actions outlined above and on methods to improve a culture of zero tolerance for environmental violations throughout our organization.

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