

Summary: Pollution Event During Safety System Bypass

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The OIG investigated allegations from the Bureau of Safety and Environmental Enforcement (BSEE) involving Cox Operating, LLC (Cox). Cox previously held Federal oil and gas leases and operated multiple offshore platforms in the Gulf of America. BSEE reported to our office allegations that Cox placed several safety systems into bypass on an offshore platform in the South Marsh Island, Block 99, over approximately three days in late January 2023. The allegations included claims that the Person in Charge¹ of the platform placed the safety systems in bypass, resulting in a discharge of oil. The allegations also stated that Cox did not immediately notify the Government regarding the spill as required. We substantiated the allegations.

As a Federal lessee, Cox was required to comply with the Outer Continental Shelf Lands Act (OCSLA),² and the regulations set forth at 30 C.F.R. Part 250 Subpart H, Oil and Gas Production Safety Systems. Under these regulations, safety systems “must not be bypassed or blocked out of service unless they are temporarily out of service for startup, maintenance, or testing.”³ Moreover, “Personnel must monitor the bypassed or blocked-out functions until the safety devices are placed back in service.”⁴

We found that Cox violated 30 C.F.R. § 250.869 while operating the South Marsh Island, Block 99 A platform when it placed its safety systems in bypass without personnel monitoring the bypassed systems. We were unable to determine why Cox placed its safety systems into bypass even after interviewing multiple Cox employees, including the Cox employee suspected of having placed the systems in bypass. Cox employees confirmed that if the safety systems had been working properly and had not been in bypass, an alarm would have sounded, and the platform would have shut-in, stopping the production of oil to prevent or limit the discharge of oil.

Provisions of Federal law relating to Oil and Substance Hazardous Liability, 33 U.S.C. § 1321(b)(3), prohibit the discharge of oil or hazardous substances into the navigable waters of the United States, or in connection with activities under OCSLA. Under 40 C.F.R. § 110.3, “discharges of oil in such quantities that the Administrator [of the Environmental Protection Agency (EPA)] has determined may be harmful to the public health or welfare or the environment of the United States include discharges of oil that . . . [c]ause a film or sheen⁵ upon or discoloration of the surface of the water or adjoining shorelines.”⁶ Moreover, 33 U.S.C. § 1321(b)(5) requires that any person in charge of an offshore facility “shall, as soon as he has knowledge of any discharge of oil or a hazardous substance” from such facility “immediately

¹ 33 C.F.R. § 146.5(a) requires the owner or operator to designate by title and in order of succession the persons on each Outer Continental Shelf facility who shall be the “person in charge.”

² 43 U.S.C. §§ 1331-1356c. OCSLA provides for both civil and criminal penalties as well as injunctive relief for violation of its provisions.

³ 30 C.F.R. § 250.869(a).

⁴ *Id.*

⁵ 40 C.F.R. § 110.1 defines “Sheen” as “an iridescent appearance on the surface of water.”

⁶ *Id.* § 110.3.



notify the appropriate agency of the United States Government of such discharge.”⁷ 40 C.F.R. § 110.6 also requires that any person in charge of an offshore facility immediately notify the National Response Center (NRC)⁸ of any discharge of oil as soon as he or she has knowledge of it.⁹

We found that Cox violated 33 U.S.C. § 1321(b)(3) when it discharged oil into the Gulf of America on or about January 27, 2023.¹⁰ On January 30, 2023, Cox notified BSEE that it discharged 0.1776 gallons of crude oil into the ocean based on a small sheen Cox employees observed the morning of January 27, 2023. Based on pictures BSEE received, BSEE estimated that the oil discharge was half a mile long and fifty feet wide. Regardless of the amount reported, Cox confirmed that it created an observable sheen on the surface of the water and thus was of a quantity that “may be harmful” as defined under the law. We also found that Cox violated 33 U.S.C. § 1321(b)(5) and 40 C.F.R. § 110.6 when it did not immediately notify the NRC of the oil discharge. Cox employees and BSEE confirmed that Cox discovered the discharge on January 27, 2023, but that Cox did not notify the NRC of the discharge until four days later, on January 31, 2023. This occurred after Cox notified BSEE of the spill and BSEE in turn inquired whether Cox had made the required NRC notifications.

We, with the EPA Criminal Investigations Division, presented our findings to the U.S. Attorney’s Office for the Western District of Louisiana, which declined to prosecute the matter.

This is a summary of an investigative report that we issued to the BSEE Principal Deputy Director for any action deemed appropriate.

⁷ 33 U.S.C. § 1321(b)(5). This subsection also provides that a person who fails to notify immediately the appropriate U.S. government agency of such discharge shall, upon conviction, be fined in accordance with title 18, or imprisoned for not more than five years, or both.

⁸ The NRC is the designated Federal point of contact for reporting all oil discharges. See U.S. EPA, National Response Center, <https://www.epa.gov/emergency-response/national-response-center>. The NRC is part of the federally established National Response System and is staffed 24 hours a day by the U.S. Coast Guard. *Id.*

⁹ 40 CFR § 110.6. Section 110.6 goes on to provide that “[i]f direct reporting to the NRC is not practicable, reports may be made to the Coast Guard or EPA predesignated On-Scene Coordinator (OSC) for the geographic area where the discharge occur[ed], but that “the person in charge of the vessel or onshore or offshore facility” must notify the NRC “as soon as possible.” *Id.*

¹⁰ We investigated this allegation jointly with the EPA.

