What 2nd Trump Admin Means For Ship Pollution Compliance

By **Sean Pribyl, Allison Skopec and Chiara Kalogjera-Sackellares** (April 4, 2025)

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Two months into the Trump administration, its civil and criminal enforcement policies are beginning to take shape. Meanwhile, the administration has announced a renewed focus on increasing fossil fuel production.

This shift raises important questions about the impact on ships that have traditionally used these fuels — and the international treaties and domestic laws that regulate oil spill prevention.

As these policies develop, the maritime industry must navigate the evolving compliance landscape to align with both international obligations and domestic laws that govern how to prevent oil from going overboard, as well as ensure environmental protection and adapt to new enforcement priorities.

Major policy changes in environmental enforcement are being implemented by the U.S. Environmental Protection Agency — which is currently undertaking 31 deregulation actions in alignment with President Donald Trump's executive orders, with the stated purpose of "unleash[ing] American energy, ... restor[ing] the rule of law, and giv[ing] power back to states to make their own decisions."[1]

Through a series of executive orders, as well as memos from U.S. Attorney General Pam Bondi, the Trump administration has outlined significant changes in how the U.S. Department of Justice will handle white collar crime and the Foreign Corrupt Practices Act. Trump implemented a six-month pause on all new FCPA investigations.

In contrast, the U.S. Coast Guard has been relatively quiet regarding changes in its environmental enforcement stance, instead concentrating efforts on deploying additional resources to detect, deter and intercept illegal migration and drug smuggling.

This raises the question of whether allocating resources toward the southern border during a period of deregulation will affect the Coast Guard's efforts to combat environmental crimes.

The short answer: It's unlikely. If true, stakeholders should focus on preventive efforts and voluntary disclosure policies as a means to mitigate prosecution risk.

Environmental Enforcement

For several decades, international shipping has complied with global agreements regarding the management of oil on vessels through the International Convention for the Prevention of Pollution from Ships — also known as MARPOL — which aims to mitigate ship-borne pollution by regulating operational pollution and minimizing the risk of accidental pollution.

MARPOL stipulates guidelines for stowing, handling, shipping and transferring pollutant

cargoes, as well as rules for discharging operational wastes generated by ships. Once national governments ratify the convention, they must incorporate these regulations into their domestic laws.

The Act to Prevent Pollution from Ships, or APPS, is the U.S. law that implements MARPOL domestically, and that prohibits any individual from knowingly violating MARPOL. APPS outlines the conduct that would violate the law for most commercial vessels, and establishes penalties, both criminal and civil.

It also includes provisions to support investigations of potential violations, including in rem liability and a provision allowing the Coast Guard to request U.S. Customs and Border Protection to withhold customs clearance for a vessel if there is reasonable cause to believe that the vessel, its owner or its operator violated APPS.

The Coast Guard assesses whether such reasonable cause exists and may refer the matter to the DOJ for potential further criminal investigation. Additionally, under APPS, the Coast Guard has the authority to require the "filing of a bond or other surety satisfactory" before the vessel can continue trading. Once these requirements are fulfilled, the Coast Guard will request that the CBP grant the vessel clearance to depart.

The process by which a shipowner agrees to the Coast Guard's "surety satisfactory" typically takes the form of a security agreement. This agreement contains conditions that allow the DOJ to conduct its criminal investigation even after the vessel has departed, while still permitting the vessel to continue its operations and generate revenue.

These security agreements are negotiated with and executed by the Coast Guard, and may require the vessel owner to post a surety bond and agree to disembark certain crew members deemed necessary for the government's investigation, while continuing to pay their full wages, housing and healthcare costs, and a per diem for the disembarked crew members for the duration of their time in the U.S. — in some cases, for over a year.

Consequences of MARPOL Violations

MARPOL investigations extend beyond companies, potentially targeting various individuals, including a vessel's chief engineer, first assistant engineer, engine room crew, master, owners and shoreside superintendents or managers.

Case law evolution indicates that technical managers might be held responsible as employers of the crew, even if they serve as agents only holding the document of compliance. Vessel owners could also be accountable if they exercise control over the crew.

Contrary to public perception, the majority of enforcement actions under these regulations do not pertain to discharges occurring within U.S. waters. Instead, enforcement efforts tend to focus on recordkeeping violations which are investigated in the first instance by the Coast Guard, who can then refer a case for further criminal investigation to the DOJ.

In some cases, the DOJ pursues MARPOL violations following a whistleblower provision. Despite ongoing deregulatory efforts and increased shipowner vigilance, these cases continue — and are expected to persist — under the second Trump administration.

In suspected cases of MARPOL violations, the Coast Guard may initiate an expanded MARPOL examination. No explicit notice is given when the Coast Guard shifts from inspection to investigation. Therefore, any red flags should be promptly reported to

shoreside management.

Violations of MARPOL can result in severe repercussions, including significant financial penalties and fines, implementation of an environmental compliance program over multiple years and across the fleet, and imprisonment of crewmembers. Entities and individuals may face various criminal charges, such as aiding and abetting, alteration or falsification of records, false statements, obstruction of justice and witness tampering.

Government Voluntary Disclosure Campaigns and Policies

In 2023, the DOJ amended its corporate enforcement policy, promoting voluntary self-disclosure of corporate misconduct. Companies that self-disclose, cooperate fully and remediate may receive nonprosecution agreements or reduced criminal fines.

Additionally, in the fall of 2024, the DOJ launched a pilot program on voluntary self-disclosures, encouraging individuals to provide original information on violations in areas such as financial institutions, market integrity and healthcare fraud. The new policy requires disclosures to be voluntary, and made before any government inquiry.

Individuals must cooperate fully, forfeit profits from wrongdoing and pay restitution. The DOJ has also introduced whistleblower programs offering financial rewards for reporting corporate crime. Whistleblowers can report internally and still benefit from the program if they notify the DOJ within 120 days.

The DOJ has further amended the corporate enforcement folicy to recognize companies that self-report misconduct in good faith, even if they do not meet all voluntary self-disclosure program requirements. This approach highlights the advantages of self-reporting before DOJ contact.

Similarly, the U.S. Securities and Exchange Commission encourages self-reporting and cooperation, but relies on the Seaboard Factors of self-policing, self-reporting, remediation and cooperation to assess compliance. In 2024, the SEC credited cooperation in 75% of public company investigations, showing the importance of prompt and thorough self-reporting.

Both the DOJ and SEC continue to support strong corporate compliance programs, and the benefits of voluntary self-disclosure and cooperation.

The Coast Guard has a policy regarding voluntary disclosure of environmental crimes that has been in force since 2007. The policy aims to promote self-regulation, and incentivize companies to use effective compliance systems by offering the avoidance of criminal prosecution.

Interestingly, unlike the aforementioned U.S. government agency disclosure policies, the Coast Guard's voluntary disclosure policy is not publicly available, as it resides in the Coast Guard Maritime Law Enforcement Manual.

In any case, the policy is well known to experienced legal counsel who practice in the area of MARPOL compliance, and has proven a successful tool for close to two decades in mitigating risk exposure to affected entities, as the policy generally ensures that regulated entities who disclose environmental violations will not have criminal charges recommended by the Coast Guard to the DOJ, provided they meet applicable conditions.

Generally, to be eligible for the policy, violations must be discovered voluntarily through an environmental audit or a compliance management system, such as a vessel's safety management system, that exercises due diligence in prevention, detection and correction.

There are time limits for disclosure, and the discovery and disclosure must be independent of the government. Correction and remediation are important considerations with measures undertaken to prevent recurrence, such as through improvements to the entity's environmental auditing efforts.

A vessel's history of compliance is also important, as is cooperation with the Coast Guard. The full scope of the applicable measures that must be undertaken is determined on a case-by-case basis, and guided by the legacy disclosure protocols.

Conclusions

Government agencies are increasingly expecting voluntary disclosures, with the DOJ, the SEC and the U.S. Environmental Protection Agency updating their policies accordingly. However, the Coast Guard has yet to revise its voluntary disclosure policies.

Recent workforce reductions highlight the growing importance of such disclosures, which serve a mutually beneficial purpose.

While prevention of environmental violations remains the best option to mitigate risk, generally, the Coast Guard policy serves as a useful mechanism for owners and operators to report environmental violations — which is beneficial for foreign companies operating foreign-flag vessels in the U.S., as they often interact with the Coast Guard under the Port State Control program.

Additionally, the possibility of avoiding criminal prosecution and related consequences, such as suspension and debarment, represents a significant procedural option. Engaging in voluntary disclosure can assist in avoiding criminal prosecution and its associated ramifications, rendering it a crucial procedural and strategic option when executed appropriately.

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[1] https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history.