



Transport Canada Marine Safety's Compliance and Enforcement Program



Transport Canada Transports Canada

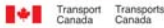

Introduction

- *Canada Shipping Act, 2001 (CSA 2001)* introduced a new Inspection and Enforcement Program.
- CSA 2001 reflects the principle that it is the authorized representative/owner's responsibility to ensure a vessel complies with the Act and its supporting regulations.
- Focus is now more performance-based and encourages voluntary compliance through Safety Management Systems.

The Safety Spectrum

<i>Companies</i>	Category 1	Category 2	Category 3	Category 4	Category 5
View	Compliance as Cost	Safety as Compliance	Safety as Risk	Safety as Opportunity	Safety is a Fully Integrated Business Practice
Issue	Reducing costs	Sanctions (fines, jail, suspensions, etc.)	Waste	Customer/stakeholder interests	Sustainability
Driver	Minimize compliance expenditures	Minimize sanctions	Minimize costs	Maximize revenues	Maximize profits
Process	Comply when forced to and attribute blame	Internal inspections and audits supported by an internal system of rewards and punishments	Integrate safety programmes	Include safety issues in marketing and operational decisions	Fully integrate safety options and issues into all aspects of business
Approach to safety management	Devoid of any approach to safety management	Compliance strategies	Safety Management Systems (SMS)	Safety Management Systems (SMS) + Business Strategies	Safety Management Systems (SMS) + Business Strategies + Business Modeling
Cultural label	Pathological	Reactive	Calculative	Proactive	Generative

<i>Regulators</i>	Category 1	Category 2	Category 3	Category 4	Category 5
Approach	Surveillance Enforcement	Educating for compliance Assist in implementing self-audit programmes	Evaluate/assess management system	Monitor	Monitor
Philosophy	Prescribe Enforce	Companies demonstrate compliance	Companies demonstrate safety performance	Self-regulating	Private regulation
Resource distribution	Regulator resources				Company resources

Objective and Outcomes

- One of the key objectives of the CSA 2001 is to “establish an effective inspection and enforcement program”.
- A national Compliance and Enforcement Program has therefore been developed.
- Administrative enforcement tools will allow Marine Safety to deal with contraventions administratively rather than through the judicial system.

Delegations under the CSA 2001

- Under the CSA 2001 there is increased flexibility for delegations of authority.
- Section 10(c) – Powers of Ministers
- Section 12(1) – Authorizing others to inspect
- Section 13 – Audit
- Section 14 – Authorized Representative



Administrative Monetary Penalties Regulations

- AMP Regulations came into force on 3 April 2008.
- These Regulations establish a range of penalties for contraventions under the CSA 2001 and its supporting Regulations.
- Under the CSA 2001, Marine Safety will have the authority to enforce compliance through issuing Administrative Monetary Penalties (AMPs) and entering into Assurance of Compliance agreements (ACs).
- AMPs and ACs can be reviewed by the Transportation Appeal Tribunal of Canada (www.tatc.gc.ca).



Administrative Monetary Penalties Regulations

Assessment Matrix

Gravity	1 st offence individual/vessel or corporation	2 nd offence individual/vessel or corporation	Subsequent offence individual/vessel or corporation
Low	\$250 / \$1,000	\$500 / \$2,000	\$1,000 / \$5,000
Medium	\$600 / \$3,000	\$1,200 / \$6,000	\$2,400 / \$12,000
High	\$1,250 / \$6,000	\$2,500 / \$12,000	\$5,000 / \$25,000

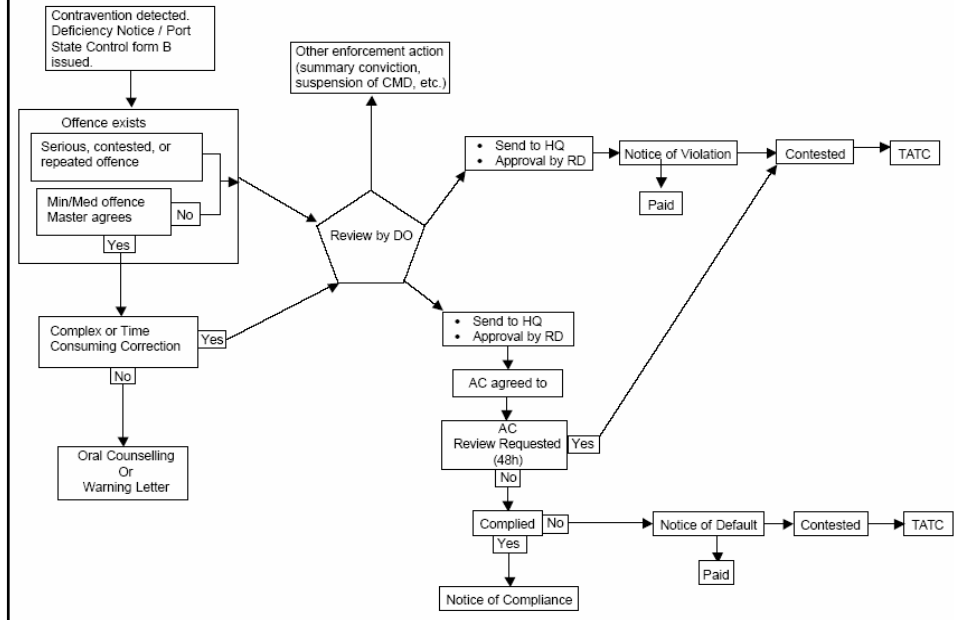


Administrative Enforcement Tools under the CSA 2001

- AMPs will be used for violations against CSA 2001 and Regulations.
- AMPs are new to the marine sector.
- ACs are binding agreements between violators and the Minister of Transport.
- To view the national policy on compliance and enforcement, visit www.tc.gc.ca/cea-caa/.



TCMS Enforcement - HOW IT WORKS



Marine Technical Review Board (MTRB)

- The MTRB has replaced the old Board of Steamship Inspection.
- The MTRB has the authority under the CSA 2001 to:
 - Make decisions on applications for exemption from, or equivalencies to, regulatory requirements in respect of Canadian vessels or the issuance of a Canadian maritime document;
 - Decide on applications for review of vessel detention orders; and
 - Act on behalf of the Minister to resolve technical disputes between marine safety inspectors and affected parties.



Conclusion

- A new Compliance, Enforcement and Appeals (CEA) Section has recently been established within Marine Safety to ensure fair assessment of administrative penalties against marine violators and ensure national consistency in the use of the new enforcement tools provided by the CSA 2001.
- Comprehensive training packages have been prepared and provided for Marine Safety Inspectors and our partners.
- Client education and awareness sessions are available upon request to help explain the regime.
- A Compliance, Enforcement and Appeals website has been developed for stakeholders. For more information visit www.tc.gc.ca/cea-cao/.

