

MARINE SAFETY AND SECURITY MANAGEMENT SYSTEM**TIER I – POLICY****DETERMINING THE PENALTY FOR NON-COMPLIANCE WITH
INTERIM ORDER RESPECTING THE DISCHARGE OF SEWAGE
AND THE RELEASE OF GREYWATER BY CRUISE SHIPS IN THE
CANADIAN WATERS**

Effective Date	Date of Revision
February 19, 2024	

MARINE SAFETY AND SECURITY MANAGEMENT SYSTEM

TIER I – POLICY

DETERMINING THE PENALTY FOR NON-COMPLIANCE WITH INTERIM ORDER RESPECTING THE DISCHARGE OF SEWAGE AND THE RELEASE OF GREYWATER BY CRUISE SHIPS IN THE CANADIAN WATERS

1 Policy Objective

- 1.1 This policy provides guidance on the assessment of an appropriate administrative monetary penalty for the non-compliance by the person or vessel subject to the [Interim Order Respecting the Discharge of Sewage and the Release of Greywater by Cruise Ships in Canadian Waters](#) made by the Minister of Transport pursuant to s. 10.1(1) of the [Canada Shipping Act, 2001](#), c. 26 (the Act).

2 Policy Statement

- 2.1 A non-compliance may be proceeded with as a violation or as an offence in accordance with s.233 of the Act; the Minister may commence proceedings in respect of that non-compliance as a violation or recommend that it be proceeded with as an offence, but it may proceed only as one or the other.
- 2.2 Any person or cruise vessel who fails to comply with the Interim Order commits a violation for the purposes of ss. 229 to 243 of the Act, as set out in [s. 711](#) of the *Budget Implementation Act, 2018, No. 2, S.C. 2018, c. 27*(BIA), and may be issued an administrative monetary penalty ranging from \$250 to \$250,000.
- 2.3 The Regional Enforcement Unit (REU) will apply a gradual escalation of penalty amounts, which will conform to the prescribed range of penalties identified in [s.711](#) of the BIA and progress according to the severity of the non-compliance from the baseline dollar value as determined in the Annex I of this policy for the specific non-compliance, to a maximum of \$250,000 per incident.
- 2.4 If a non-compliance continued more than one day, it would constitute a separate violation for each day on which it is continued as per [S.711](#) of the BIA and penalty up to a maximum of \$250,000 for each violation but in any event not greater than the maximum fine if the violation were proceeded with by way of summary conviction.

- 2.5 To ensure that an administrative monetary penalty has the desired effect, the Regional Enforcement Unit will analyze and assess the appropriate penalty amount within the range, according to the factors identified in the [Departmental Enforcement Standards](#), such as the severity of the violation, the behavior and the history of non-compliance of the regulated entity.

3 Scope

- 3.1 This policy applies solely to the application of administrative monetary penalties for non-compliance with the *Interim Order Respecting the Discharge and the Release of Sewage and Greywater by Cruise Ships in Canadian Waters*

4 Authority

- 4.1 This policy is authorized by the Marine Safety and Security Executive and is in accordance with the objectives and authority of the Act.

5 Responsibility

- 5.1 MSS Regional Directors and the Regional Enforcement Units of the National Enforcement Program are responsible for the implementation of this policy.
- 5.2 The Director, Environmental Programs & Protection Standards is the functional director for the [Interim Order Respecting the Discharge and The Release of Sewage and Greywater by Cruise Ships in the Canadian Waters](#).
- 5.3 The Executive Director of Domestic Vessel Regulatory Oversight is accountable for the development, maintenance, and continuous improvement of the policy.
- 5.4 Comments or queries related to this policy and its application should be addressed to the Manager Flag State Compliance and Enforcement, Domestic Vessel Regulatory Oversight (AMSDF), 330 Sparks St Ottawa ON K1A 0N8 or via insp.stand-norm.insp@tc.gc.ca.

6 Related Documents

- 6.1 [Canada Shipping Act, 2001](#), section 10.1, Related Provisions section 711
- 6.2 [Marine Compliance and Enforcement Manual - Canada Shipping Act, 2001](#)
- 6.3 [Policy - Transitional policy for the enforcement of the Canada Shipping Act, 2001 and the Arctic Waters Pollution Prevention Act](#)
- 6.4 [Departmental Enforcement Standards](#).

7 Date of Application

7.1 This policy comes into effect on February 19, 2024.

8 Date for Review or Expiry

8.1 This policy shall be reviewed 12 months after coming into effect and at intervals not exceeding five years thereafter.

9 RDIMS Reference

9.1 The English version of this document is saved in RDIMS under reference number 19969980. The applied naming convention is Publication - TP13585 - Policy - Determining the penalty for non-compliance with interim order respecting the discharge and the release of sewage and greywater by cruise ships in the Canadian waters.

9.2 La version française du présent document est dans le SGDDI et porte le Numéro de référence 19970362. La règle d'affectation des noms est Publication - TP13585 - Politique - Détermination de la sanction pour une non-conformité de l'Arrêté d'Urgence relatif au rejet des eaux usées et à la Libération des eaux grises par les navires de croisière dans les eaux Canadiennes.

10 Keywords

- Enforcement
- Interim Order
- Discharge and the Release of Sewage and Greywater
- Cruise Ships in Canadian Waters

ANNEX I – PENALTY RANGE FOR THE INTERIM ORDER RESPECTING THE DISCHARGE OF THE SEWAGE AND THE RELEASE GREY WATER BY CRUISE SHIPS IN THE CANADIAN WATERS

TABLE 1

Gradual Scale AMP Amounts.

Gravity Classification of the Violation	Baseline Penalty	Maximum Penalty	Aggravating Factor Level	History of Non-Compliance	Distance from nearest land	Duration of Violation	Volume Discharged
	(A)			(B)	(C)	(D)	(E)
Minor	\$6,000	\$18,000	None/Low	\$0	N/A	N/A	N/A
			Moderate	\$6,000	N/A	N/A	N/A
			High	\$12,000	N/A	N/A	N/A
Medium	\$25,000	\$150,000	None/Low	\$0	\$0	\$0	\$0
			Moderate	\$25,000	\$12,500	\$12,500	\$12,500
			High	\$50,000	\$25,000	\$25,000	\$25,000
Serious	\$50,000	\$250,000*	None/Low	\$0	\$0	\$0	\$0
			Moderate	\$50,000	\$19,125	\$19,125	\$19,125
			High	\$100,000	\$38,250	\$38,250	\$38,250

Note: See under table 3, section 2.*

TABLE 2

Guidance for examples of Minor, Medium and Serious Violation with reference to Interim Order. (Sewage and Grey Water).

Gravity of Violation Sewage / Grey Water	Criteria / Description
Minor	<p>Violations that are less serious and are typically administrative in nature. These may include, but are not limited to, failure to respect:</p> <ul style="list-style-type: none"> ➤ Erratic or inconsistent record keeping or deficient information management (including the circumstances of and reasons for any discharge or release or any other accidental discharge or release not properly recorded) ➤ No proper entries or signature (not in English or in French or entry done not done without delay).
Medium	<p>More significant failures to comply with requirements such as:</p> <ul style="list-style-type: none"> ➤ No sewage record book, Greywater record book or equivalent was found onboard ➤ No effluent test records or no evidence of periodic testing ➤ Tests not as per the accepted standards ➤ Self-reporting of discharges or releases anticipated discharges or releases to Authorities or Marine Safety Inspector ➤ No International Sewage Pollution Prevention Certificate or Certificate of compliance ➤ Records of 2 years or since the IO came into force if 2 years have not already passed not found onboard (Direct violation and hence high on duration to be added)
Serious	<p>Violations that could create a risk of harm to people or the environment. This typically includes requirements relating to:</p> <ul style="list-style-type: none"> ➤ Any unreported discharge would always be considered as serious violation. ➤ Fraud (e.g., providing false or misleading information or statement), the destruction of documents, or obstruction of authority, such as non-compliance with a direction from a marine safety inspector or the Minister of Transport.

TABLE 31. Description of the aggravating factors

Aggravating Factors	Level	Description
History of Non-Compliance of AR / ISM Manager (B)	None/Low	No previous non-compliance
	Medium	One previous non-compliance
	High	Two or more previous non-compliance
Distance of the discharge from the nearest land (C)	None/Low	more than 12 Nm
	Medium	More than 3Nm but not more than 12 Nm from shore
	High	Not more than 3Nm from shore
Economic Benefit: Duration of Violation (D)	None/Low	Duration of Discharge Violation less than 5 minutes
	Medium	Duration of discharge violation between 5 minutes and 15 Minutes
	High	Duration of Discharge Violation greater than 15 minutes.
Volume Discharged [E]	None/Low	Less than 100 Liters
	Medium	Between 100 - 1000 Liters
	High	Greater than 1000 Liters

2. The amount for each of the aggravating factors is added to the baseline penalty

$$\text{AMP Amount} = \text{Baseline Penalty} + (B) + (C) + (D) + (E)$$

*To a maximum of \$250,000

3. The penalty amount may be adjusted +/- 30% on recommendation of the enforcement officer, if mitigating or aggravating factors not already specified in the table are present. If those factors are not already specified in the table, the penalty amount should then be adjusted with a comprehensive justification.
4. The regional director of the REU for the region responsible for the enforcement action, may assess and recommend a penalty that is below or above the value of the table, with a comprehensive justification, so long as the penalty stays within the range prescribed by the BIA (\$250 to \$250,000).