

**UPDATE TO THE STANDING COMMITTEE ON PUBLIC ACCOUNTS: RECOMMENDATION 2 – ON VERIFYING COMPLIANCE**

**TRANSPORTATION OF DANGEROUS GOODS: PERFORMANCE AGAINST THE FOLLOW-UP CONFIRMATIONS OF COMPLIANCE STANDARD (2023-2024 Q3 – OCTOBER 1 TO DECEMBER 31, 2023)**

***Documenting non-compliances***

In 2020, the Commissioner of the Environment and Sustainable Development (CESD) conducted a [follow-up audit](#) on the transportation of dangerous goods (TDG).

As per recommendation 1.33<sup>1</sup>, Transport Canada (TC) committed to strengthen the application of, and supporting training on, oversight procedures for follow-up activities conducted by inspectors after they detect non-compliance by regulated entities. TDG's Procedures on Follow-Up to Non-Compliance requires inspectors to document the current status of all non-compliances.

- 100% of the non-compliances must be recorded (and up-to-date)
  - Inspectors are still expected to confirm compliance for the bulk of non-compliances within 30 days, however, the standard allows inspectors discretion for situations where confirmations of compliance are not warranted (i.e., very minor non-compliances with no impact on safety) or to extend the deadline to confirm compliance.

A non-compliance is considered documented if it has a recorded status and is up-to-date (that is, the 'due date' assigned by the inspector has not passed).

With the implementation of the new Regulatory Oversight Management application for inspection reporting in September 2021, 100% of non-compliances have a recorded status. Please refer to the pie chart and table below for the possible statuses. TDG has indicated in its Management Action Plan for the 2020 CESD Follow-up Audit that Recommendation 1.33 has been addressed and is now complete.

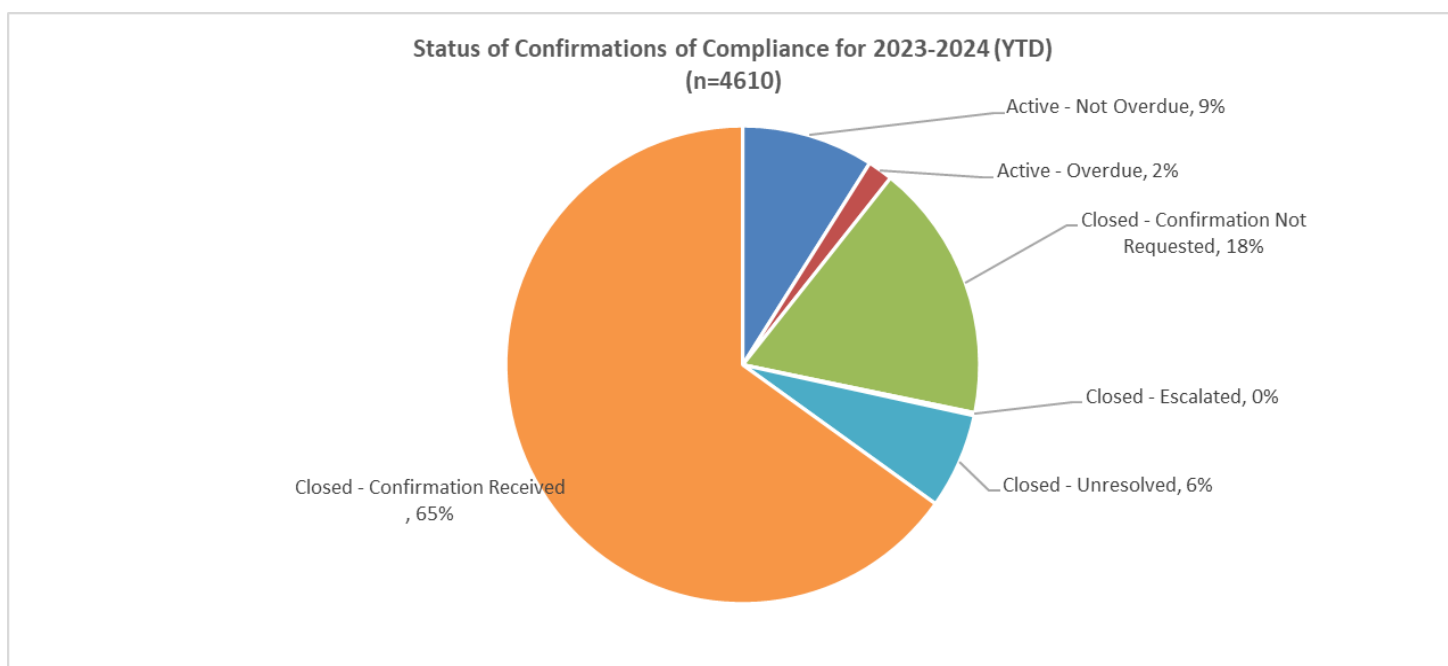
As of the end of Q3, 4,610 confirmations of compliance are recorded in the Regulatory Oversight Management. 79 (or 2%) are overdue (i.e., active and deadline for confirmation of compliance has passed) and, therefore, not documented. All other confirmations of compliance are considered documented – 415 (or 9%) are active, but not overdue (i.e., confirmation of compliance not yet received, but within the period given to respond), and 4,116 (or 89%) are closed.

The chart below provides a breakdown by status for all confirmations of compliance for 2023-2024 (YTD).

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<sup>1</sup> "Transport Canada should systematically track and document its verification that companies have returned to compliance after violations are found." (CESD Audit 2020)

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*Note: Percentages may not sum to 100% due to rounding*

Status	Definition
Active – Active	Status of the confirmation of compliance record when initially created by the system. The user can make changes to the record when this status is set.
Closed – Confirmation Received	The company provided confirmation of compliance to the inspector.
Closed – Unresolved	An extended period has passed and the company has yet to provide the confirmation of compliance, another inspection is scheduled at this site, and/or the violation is deemed to be low risk.
Closed – Escalated	The company has not cooperated in providing confirmation of compliance and the inspector has chosen to escalate their enforcement approach to achieve compliance.
Closed – Confirmation Not Requested	While entering their inspection findings (i.e., synopsis/violations tab), the inspector indicates that confirmation of compliance is not required.

The table below identifies the number of confirmations of compliance from the current and previous fiscal year that are overdue, by region and fiscal year. These 132 non-compliances are no longer considered documented. The statuses of these confirmations of compliance need to be updated by the inspector in the ROM.

Region	Number of confirmations of compliance that are 'overdue'		
	2022-2023	2023-2024	Total
Atlantic	0	0	0
Quebec	0	3	3
Ontario	0	32	32
PNR	52	4	56
Pacific	0	23	23
HQ-Regulatory Frameworks and International Engagement	0	0	0
HQ-Compliance and Response	1	17	18

Total	53	79	132
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## ANNEX ON VERIFYING COMPLIANCE

Beyond what is found in the procedures provided by the Enforcement Team, the following information is provided to the inspectorate in the TDG Inspectors' Manual, the TDG Regional Managers' Manual, the Introductions to TDG Inspections course, and the TDG Inspectors' Learning Continuum with respect to tracking and documenting verification that companies have returned to compliance after violations are found.

**The TDG Inspectors' Manual** was reviewed following the audit and is reviewed and updated on a yearly basis (since 2019) to provide inspectors with the most up to date guidelines to promote national consistency in carrying out the TDG Program.

The manual covers information on follow-up activities and confirmation of compliance in many chapters as well as making references to the "Procedures on Confirmation of Compliance and Follow-Up Inspections". It covers elements such as:

- Requirements for inspectors to request in their inspection report that the company representative provide proof that the non-compliance(s) has/have been corrected and that, if the company does not provide the confirmation of compliance within the requested time, to consider additional follow-up actions (Chapter 4.5.2).
- Requirements for inspectors to carry out follow-up activities in accordance with the Procedures on Confirmation of Compliance and Follow-Up Inspections (Chapters 6.3.1 & 6.9).
- Clearly explains what is expected from the inspector when debriefing the company representative (cease activities related to the non-compliance and be corrected, to follow the procedure, request confirmation of compliance, etc.) (Chapter 6.10).
- Information related to Quality Control by the Enforcement Team at HQ (Chapter 15.3.2.1).

Both the **TDG Inspectors' Manual** and the **TDG Regional Managers' Manual** cover the periodic review of inspection activities to be done by managers which is done through quality control to ensure that inspectors' work is in compliance with the current inspection procedures.

Each fiscal year, managers must perform four quality reviews on inspections performed by each of the inspectors under their supervision. As per chapter 15 of the TDG Inspectors' Manual, three of these quality reviews are to be a document review within the Regulatory Oversight Management application, while the fourth will be a comprehensive review including an in-field review. At their own discretion, they may choose to carry out additional reviews. These quality reviews are to be done using the Regional Managers Quality Control File Review – Regulatory Oversight Management checklist. This checklist contains a section on "Violation - Confirmation of Compliance".

The content of Module 9 – Concluding the **Inspection of the Introduction to TDG Inspections Training** was revised following the audit to emphasize the importance of follow-up activities and confirmation of compliance. The following elements are covered:

- Importance of ensuring that the inspected site representative understands the nature of the non-compliance, takes immediate action if necessary or understands that activity must cease until compliance is returned, which must be confirmed within a time period specified in the inspection report.
- Much emphasis has been added on confirmation of compliance (proof that the non-compliance noted at the time of inspection has been corrected):

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- Documentation of all non-compliance and corresponding requests for confirmation of compliance in the Regulatory Oversight Management.
- The saving of non-compliance corrected on site during the inspection in the Regulatory Oversight Management.
- The different formats of confirmations of compliance (photos, declarations or documentation).
- The 30-day standard for receiving confirmations of compliance. Timeline can be changed at the inspector's discretion.
- Failure to provide confirmation of compliance within the established time frame may result in a triggered inspection or additional enforcement action.
- Procedure for the status and closure of a confirmation of compliance file in the Regulatory Oversight Management.
- Procedure for the closure of the inspection only when all enforcement and safety measures and all compliance confirmation files are closed.

The information listed above is based on the following reference documents:

- National Enforcement Program Desk Book – Chapters 1, 2 and 3;
- Regulatory Oversight Management User Guide;
- TDG Inspector’s Manual - Chapters 4, 5, 6, and 8; and
- Procedures on Confirmation of Compliance and Follow-Up Inspections.

The **TDG Inspectors’ Learning Continuum**, which is a standardized training plan or continuum, to guide inspectors’ professional development was also updated to include the reading of the “Procedures on Confirmation of Compliance and Follow-up Inspections” as a mandatory training for all TDG Inspectors. To track this mandatory reading activity, inspector must complete a form, which upon signature, indicates that they have read and acknowledged the contents of the documents, and that they are capable of locating and referencing information contained within these documents when needed. The employee also acknowledges that they will read updates and/or changes to the documents as they occur in order to maintain their knowledge.

**UPDATE TO THE STANDING COMMITTEE ON PUBLIC ACCOUNTS: RECOMMENDATION 3 – ON ITS CERTIFICATION PROCESS**

**TRANSPORTATION OF DANGEROUS GOODS: PROGRESS REPORTS WITH REGARD TO ENSURING THAT CONTAINMENT FACILITIES WITH EXPIRED CERTIFICATES ARE NOT CONDUCTING THE ACTIVITIES FOR WHICH THE CERTIFICATES WERE ISSUED**

Transport Canada (TC) produced a detailed snapshot on April 29, 2024. At this time, 0.9% of Means of Containment (MOC) facilities registrations are expired. Of that number, 0.5% are in the renewal process, 0.2% are being vetted by the Program Officers in Engineering Services and 0.2% have been assigned to the regions for an inspector on-site visit. This means that 99.1% of registered MOC facilities have a known status.

<b>Title</b>	<b>Percentage</b>	<b>Total</b>
Canadian MOC Facilities -- Active Certificate	99.1%	1,676
Canadian MOC Facilities -- Expired Certificate	0.9%	15
		<b>1,691</b>
<b>Expired Certificate – Known status</b>	<b>0.5%</b>	
Renewal in process		8
		<b>8</b>
<b>Certificate expired – Unknown status</b>	<b>0.4%</b>	
Vetting by HQ/ES	0.2%	4
Vetting by Region	0.2%	3
		<b>7</b>

Below is the process TC has in place to ensure MOC facilities are not conducting activities with an expired certificate:

1. Four months prior to expiry, TC sends a renewal notice, which clearly states on the notice that the facility can't perform any MOC activities after the expiry date.
2. If no renewal application is received before the expiry date, then upon expiry, TC sends an expiry notice clearly stating on the notice that the facility's registration is expired and therefore they cannot perform any MOC activities. The responsibility lies with the facility to have a valid registration.
3. Should TC not receive a response from the company following two notices, and 30 days have passed, TC will attempt to contact the facility directly and request a response regarding their expired registration (vetting by HQ/ES).
4. If unsuccessful in contacting the facility, TC will request that a regional inspector perform an on-site verification (vetting by region). Should the inspector discover that a company is continuing operations with an expired certificate, the appropriate enforcement actions will be taken. Conversely, if the company is not conducting any MOC activities, then the inspector will report back to Engineering Services and the file will be closed.