



Ottawa, February 2, 2009

CUSTOMS NOTICE 09-001

New Carrier Export Penalty

1. The purpose of this notice is to announce the implementation of a new carrier export penalty.

Administrative Monetary Penalty C369

2. Penalty C369 will be introduced on February 3, 2009. The contravention text reads as follows:

“Carrier failed to report the export of cargo at the time, the place and/or in the manner prescribed.”

Legislative/Regulatory Basis

3. The legislative basis for the penalty is subsection 95(1) of the *Customs Act*, which reads, “goods that are exported shall be reported at such time and place and in such manner as may be prescribed”. The *Reporting of Exported Goods Regulations* prescribe the time and place at which, and the manner in which, exported goods must be reported.

Applicability

4. Penalty C369 may be applied against any exporting carrier who fails to submit the required cargo control documentation, according to legislated time frames, at the prescribed Canada Border Services Agency (CBSA) export reporting office.

Note: If applicable, the required cargo control documentation may be transmitted electronically to the CBSA by the exporting carrier. Cargo control documentation transmitted electronically to the CBSA is considered to have been submitted at the prescribed CBSA export reporting office.

5. A carrier, in respect of goods that are exported, is defined as the person or entity, other than the exporter of the goods, who transports the goods from Canada. This definition includes couriers.

In-transit Cargo

6. Penalty C369 may be applied when a carrier fails to report the export of **any** cargo required to be reported to the CBSA. This includes cargo originating in Canada as well as cargo being exported after moving in-transit through Canada. Since penalty C369 will apply against a failure to report the export of in-transit cargo, it will supersede penalty C343 (Person failed to report in bond cargo to

customs outbound). Therefore, as of February 3, 2009, penalty C343 will be deleted and will no longer be in use.

Memorandum of Understanding (MOU) for Carrier Export Reporting

7. Penalty C369 may be applied against MOU carriers and non-MOU carriers alike. With respect to the issuance of the penalty, a carrier’s MOU status will only be relevant in determining the time frame under which the carrier is required to report cargo.

8. Penalty C369 will not apply against an MOU carrier’s failure to notate the exporter’s proof of report number (or exemption number), when applicable, on the required cargo control documentation. However, a failure to notate the exporter’s proof of report number could result in the termination of the carrier’s MOU by the CBSA. (The CBSA will provide 30 days notice in writing to any carrier whose MOU will be terminated.)

Carrier Conveyance Reporting

9. Penalty C369 will not apply against a carrier’s failure to report the exporting conveyance. Any carrier failing to report the exporting conveyance (if required) is subject to existing penalty C368 (Carrier failed to report the conveyance in writing, prior to export, at the export reporting office closest to each place of loading).

Penalty Basis, Amount and Retention Period

10. Penalty C369 will be applied against the carrier once per “export movement”. “Export movement” means the departure of the conveyance from the location in Canada from which the cargo is exported.

11. For example, a marine vessel carrying export cargo leaves the port of Montréal en route to Amsterdam. This is considered one “export movement”. A failure to report, as prescribed, some or all of the cargo exported from the port of Montréal, on board that vessel, would result in the issuance of one penalty C369 against the carrier.

12. Penalty C369 will not be applied more than once per “export movement” against the same carrier.

13. The penalty amount for C369 will be \$300 for the first infraction, \$450 for the second, and \$900 for the third and subsequent infractions. The retention period for the penalty will be one year.

Grace Period

14. For the first six months following its introduction, penalty C369 will only be applied as a warning; no monetary penalties will be assessed. The monetary penalty amounts and the retention period will become effective on August 2, 2009, and will be applied starting at level one, regardless of how many \$0 penalties a carrier may have received during the grace period.

Carrier Export Reporting Requirements

15. For specific carrier export reporting requirements and exemptions, including reporting time frames for MOU and non-MOU carriers, please refer to the *Reporting of Exported Goods Regulations* and Memorandum D3-1-8, *Cargo – Export Movements*. Both publications are available at www.cbsa.gc.ca under “Exporters”.

16. Please note that the introduction of penalty C369 does **not** signify a change to existing carrier export reporting requirements or policies. Penalty C369 will only apply when a carrier fails to meet an existing requirement to report the export of cargo. Penalty C369 will not apply against any carrier exempted from the requirement to report the export of cargo.

Other information

17. Please direct any questions regarding this notice to:

Export Process
Licensing, Export and Accounting Policy Division
Admissibility Branch
Canada Border Services Agency
150 Isabella Street, 10th Floor
Ottawa ON K1A 0L8

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