Master Penalty Document

The Master Penalty Document lists contraventions resulting from failure to voluntarily comply with designated provisions identified in the *Customs Act, Customs Tariff* , *Special Import Measures Act* (SIMA) and related regulations. Each contravention describes the failure to comply, the associated penalty amounts, the associated penalty basis, legislative, regulatory and administrative references, guidelines for application of the contravention and other pertinent information applicable to said contravention.

The *Designated Provisions (Customs) Regulations* outline the sections of the *Customs Act*, *Customs Tariff*, SIMA and related regulations that can be enforced under the AMPS program. Only provisions that are designated by law are subject to AMPS penalties.

Unless otherwise indicated, penalties are normally applied by a Canada Border Services Agency (CBSA) officer.

The 'Guidelines' are meant to provide direction, non-exhaustive examples and other pertinent information that may help BSOs choose the proper contravention. For further information, refer to the appropriate legislation, regulation or other reference material.

Qualifying clients may be eligible for a reduction of penalties amounts under the Penalty Reinvestment Agreement (see D memorandum D22-1-2).

The Master Penalty Document is subject to at least, yearly revisions.

Last Revision: August 2025

C001

Contravention

Person failed to keep electronic records in an electronically readable format for the prescribed period.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Verification

Legislation

Customs Act, subsection 2(1.3)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Guidelines

Non-compliance occurs when any importer, exporter, person who causes goods to be imported or exported, or any other designated person on behalf of said individuals fails to keep electronic records in an electronically readable format for the prescribed period.

The penalty is applied as a result of an audit, verification or examination.

The system on which data is stored must have capability of producing accessible and readable electronic records.

Any person who chooses to keep records electronically must also maintain the system requirements (including any equipment, hardware and software) that are necessary to access the information contained in those records, and must be willing to provide access to the equipment to CBSA officials for the purpose of reviewing the records.

The readable format must provide a link to relevant supporting documents.

Retention Period

36 months

C004

Contravention

Person provided information to an officer that is not true, accurate and complete.

When a *Special Import Measures Act* (SIMA) code was not completed correctly for goods imported seven days or more after a preliminary determination was made and after the importer was notified in writing, and ending when the SIMA action is terminated by Canada Border Services Agency (CBSA) or the Canadian International Trade Tribunal (CITT).

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Document

Legislation

Customs Act, section 7.1

D Memo

D17-1-10, Coding of Customs Accounting Documents

Other References

D11-6-4, Relief of Interest and/or Penalties Including Voluntary Disclosure
D17-2-1, The Coding, Submission and Processing of Form B2 Canada Customs Adjustment Request
Special Import Measures Act (SIMA) Measures in Force

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second level will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued. The non-escalation rule only applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when a person failed to meet the requirements for goods subject to the *Special Import Measures Act* (SIMA) by providing information to an officer that was not true, accurate and complete.

Trade and Anti-dumping Programs Directorate will notify importers of preliminary and final determinations of dumping or subsidizing concerning specific imported goods. Importers may also be notified by receiving a Detailed Adjustment Statement as part of SIMA Compliance activities.

Applied against the importer.

SIMA Compliance officers and Senior Enforcement and Appeals Officers are authorized to apply this penalty.

Seven days after the notification is issued the applicable SIMA code must be used on import transactions (i.e. Commercial Accounting Declaration (CAD)).

Refer to the Measures in Force in the Anti-dumping section of the CBSA Web site to verify which goods are subject to the SIMA actions.

Verify that the importer has been notified regarding the SIMA codes by referring to the SIMA compliance case file found in Apollo.

The obligation to code the CAD ends when the SIMA action is terminated by the CBSA or the CITT or the surtax expires.

The penalty will be applied per document, i.e. per CAD

Retention Period

36 months

C005

Contravention

Person provided information to an officer that is not true, accurate and complete.

The information required to be provided in any permit, certificate, licence, document or declaration in respect of imported or exported goods is incorrect.

Penalty

1st: $150*
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Document

Legislation

Customs Act, section 7.1

D Memo

D17-1-10, Coding of Customs Accounting Documents

Other Reference

D20-1-1, Exporter Reporting

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when mandatory prescribed information required to be provided by electronic or written means, in respect of imported or exported goods is untrue, inaccurate or incomplete.

One penalty will be issued per declaration or document regardless of number of errors or omissions in a permit, certificate, licence, document or declaration in respect of imported or exported goods.

The penalty will be applied against the person required to provide the information e.g. importer, exporter, import carrier, export carrier, etc.

The determination of issues related to origin, tariff classification and value for duty shall not be resolved at the border. No C005 penalty shall be issued by border services officers when mandatory 10-digit HS system code, value for duty and origin submitted are questionable. Border services officers should utilize the established regional methods, i.e., round-trip memorandum, A32, etc., to refer the matter to their local Compliance Verification Unit or Investigations.

An AMP is not to be issued for instances of minor clerical or typographical errors identified in sub-paragraphs 5(f)(i) through (iv) of Memorandum D17-2-1 that have not been determined to be a part of an established pattern of non-compliance.

All Other Government Department requirements must be met prior to release or export of the shipment.

C005 is not to be used where a more specific contravention exists.

For missing import permits, certificates or energy efficiency information, see C071.

For failure to account for imported goods at time of the release request, see C360.

For non-compliance involving certificates of origin, see C152 or C194.

For Export Summary Reporting violations, see C170 and C317.

For missing CERS or G7-EDI Export Declaration for regular goods, see C170.

For missing CERS or G7-EDI Export Declaration for controlled, regulated or prohibited goods, see C345.

For missing export permit, licences or certificates, see C315.

The issuance of C348 penalties is most suitable for routine finds of breaches where fact finding is straightforward and the evidence of a breach can be easily determined and proven.

Retention Period

12 months

C008

Contravention

Person (carrier or freight forwarder) failed to report goods in the prescribed manner, including Customs Self-Assessment (CSA) shipments.

Penalty

1st: $150*
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Conveyance or Reporting Submission

Legislation

Customs Act, subsection 12(1) and (2)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-3-1, Freight Forwarder Pre-arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D17-1-10, Coding of Customs Accounting Documents
D23-2-1, Customs Self-Assessment Program for Carriers
D23-3-1, Customs Self-Assessment Program for Importers

Other References

Electronic Commerce Client Requirements Document

- Chapter 4: Advance Commercial Information (ACI)/eManifest Highway
- Chapter 7: Advance Commercial Information (ACI)/eManifest Highway – Portal
- Chapter 8: Advance Commercial Information (ACI)/eManifest House Bill Portal
- Chapter 18: Customs Self-Assessment (CSA) Carrier

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Applied per conveyance regardless of the number of shipments. A penalty may be applied against both the carrier and freight forwarder for the same conveyance. Where a conveyance is not involved, it will be applied per reporting submission (e.g., post-arrival re-manifest).

Applied against a carrier or a freight forwarder in the highway mode where paper documents are required.

Non-compliance occurs when the carrier or freight forwarder fails to report goods in the prescribed manner. Non-compliance includes failing to provide required documentation or failing to provide required

documentation in an acceptable format as per the applicable Electronic Commerce Client Requirements Document (ECCRD).

- Documentation includes lead sheets, and other paper documents required to report, abstract and re-manifest goods.
- Where lead sheets are required in the highway mode, bar codes must be provided for the Cargo Control Number or Conveyance Reference Number as per Chapter 7 of the ECCRD.

With respect to Customs Self-Assessment (CSA) participants submitting paper documents under Service Option 497, non-compliance occurs when the CSA transporter does not provide the following CSA data elements in a bar-coded format:

- CSA importer Business Number;
- CSA carrier code; and/or,
- Secondary CSA carrier code, when applicable.

All barcodes must be readable, however, a penalty should only be applied when the barcode is visibly deformed or defaced and cannot be scanned.

When a bonded carrier fails to use his authorized bonded carrier code or fails to present a letter of exclusivity when using another bonded carrier's code, see C371.

Retention Period

12 months

C010

Contravention

While transacting business as a customs broker, a broker failed to make available to an officer, within the time specified by the officer, any records required to be kept under the Regulations.

Penalty

1st: $300*
2nd: $450
3rd and Subsequent: $900

Penalty Basis
Per Request

Legislation
Customs Act, subsection 9(3)

D Memo
D1-8-1, Licensing of Customs Brokers

Other Reference
Customs Brokers Licensing Regulations

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when a broker fails to make available to an officer, within the time frame specified by the officer, and in the manner specified by regulation, any records that the customs broker is required by regulation to keep.

The information should be available in such a manner as to enable an officer to perform detailed audits and to obtain or verify information.

Failure to produce any or all records as detailed in the *Customs Brokers Licensing Regulations*, within the time period specified by an officer, shall be considered a single contravention.

Failure to produce records in relation to an individual claim identified for manual review under CREDITS shall be considered a single contravention.

It should be noted that, by regulation, customs brokers are required to keep records for a period of six years after the importation of the goods to which the information relates.

For example, the officer requested the broker to produce documentation relating to a clearance for a particular shipment. The broker did not provide, within the 30-day time frame assigned by the officer, the required information.

Retention Period
12 months

C011

Contravention

A person transacted or attempted to transact business as a customs broker, or held oneself out as a customs broker and did not hold a licence issued under subsection 9(1) of the *Customs Act* and was not qualified under the regulations, or duly authorized to transact business as a customs broker by a person who holds such a licence.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per client

Legislation

Customs Act, subsection 9(4)

D Memo

D1-6-1, Authority to Act as Agent

Other References

D1-8-1, Licensing of Customs Brokers
Customs Brokers Licensing Regulations

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when an unlicensed agent, or a person who is not qualified under the regulations or duly authorized to transact business as a customs broker by a person who holds a broker's licence performs customs brokers' licensed activities.

A penalty will be applied for each activity performed by an unlicensed broker, or by a person who is not qualified under the regulations or not duly authorized to transact business as a customs broker by a person who holds a broker's licence, and who performs customs brokers' licensed activities.

Transactions completed for additional clients, but found at the same time, will be assessed on a per client basis at the same level.

Retention Period

12 months

C018

Contravention

Person in charge of a commercial conveyance arriving in Canada failed to transport passengers and crew to a customs office designated for that purpose and open for business, forthwith on arrival.

Penalty

1st: $250 per person, minimum penalty of $2,500
2nd: $500 per person, minimum penalty of $5,000
3rd: $1,000 per person, minimum penalty of $10,000
4th and Subsequent: Flat rate $25,000

Penalty Basis

Per unreported person, passenger or crew

Legislation

Customs Act, subsection 11(3)

D Memo

D2-5-0, Legislative Requirements for the Presentation of Persons at a CBSA Office

Other References

Presentation of Persons (2003) Regulations
D2-5-6, Aircrew Reporting
Customs Act, section 5
D3-5-1, Commercial Vessels in International Service
Refer to List of Designated Offices and Services
http://www.cbsa-asfc.gc.ca/contact/listing/offices/servicecodes-e.html

Guidelines

Every person in charge of a commercial conveyance arriving in Canada is required to proceed without delay to a designated customs office open for business prior to disembarking any persons, passengers, and/or crew.

Applies when commercial conveyances arrive at a place non-designated for customs clearance or arrives at a designated customs office that is not open for business. Consideration may be given based on weather conditions, emergencies or pre-arrival arrangements that have been made with customs office.

Applied against any commercial carrier that is in the business of transporting freight, crew and/or passengers and fails to report passengers or crew.

Apply to all modes of transportation.

In the **air** mode, the "customs office open for business" is the designated customs office where the air carrier is scheduled to land.

In the **marine** mode, the "customs office open for business" is the designated customs office where the marine carrier is scheduled to conduct a first stop.

In the **highway** mode, the "customs office open for business" is the first designated customs office where the highway carrier arrives in Canada.

In the **rail** mode, the "customs office open for business" is the designated customs office where the rail carrier is scheduled to conduct a first stop.

Apply a penalty per unreported person, passenger or crew member.

Example of Non-Compliance:

A vessel reports to a location that is not open for business (ex. arrives after business hours) and has not notified or made prior arrangements with the CBSA.

For failure to report conveyances inbound, see C023.

Retention Period

12 months

C021

Contravention

Person (Carrier) failed to report imported goods, to customs forthwith in writing at the nearest designated customs office that was open for business.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Shipment

Legislation

Customs Act, subsection 12(1)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Other References

Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

Non-compliance occurs when the carrier fails to report a shipment to customs in the prescribed manner at the nearest designated customs office. Non-compliance must be discovered through a CBSA initiated examination, tracer or audit.

For Specified Goods, additional sanctions will apply, including seizure and/or ascertained forfeiture.

Carriers have only one obligation per arrival; that is to report. In scenarios where the carrier has met their one obligation and numerous shipments have not been reported on their conveyance, the CBSA can issue the penalties based on the number of shipments not reported – however only one Notice of Penalty Assessment (NPA) can be issued.

Retention Period

12 months

C023

Contravention

Person failed to report conveyances inbound and/or upon arrival.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Conveyance

Legislation

Customs Act, section 12

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Other References

Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

Non-compliance occurs when a conveyance is not reported upon arrival in Canada, as prescribed, at the nearest designated customs office open for business.

Non-compliance with CACM requirements:

In instances where the Conveyance Arrival Certification Message (CACM) requirements are not met, or where the carrier fails to transmit their CACM within the prescribed manner and timeframe, i.e., CACM is transmitted prior to the timeframe allowed. The officer must forward this information to the Commercial Program Directorate at Headquarters (HQ). This penalty is to be issued by the Commercial Program Directorate at Headquarters, against the carrier responsible for providing CACM.

The CACM shall be sent to the CBSA using an Electronic Data Interchange (EDI) method at first point of arrival (FPOA) in accordance with the timelines, technical requirements, specifications and procedures for electronic means as set out in the Reporting of Imported Goods Regulations and the applicable Electronic Commerce Client Requirements Document.

Examples:

- An air carrier failed to transmit electronic CACM, after the aircraft was cleared to land at an airport of arrival, following arrival in Canada.

- A marine carrier failed to transmit their CACM within a two hour window prior to their actual arrival at a Canadian port. The vessel must be within Canadian waters at the time the CACM is submitted.
- A rail carrier failed to transmit their CACM within a 30 minute window prior to their actual arrival at the Canadian border.

Non-compliance with reporting requirement, (CACM exempt):

Conveyances exempt from transmitting ACI data to the CBSA are also exempt from transmitting the CACM.

Exempt conveyances must still be reported to the CBSA at the FPOA, under section 12(1) of the Customs Act.

In instances where a carrier fails to report a conveyance upon arrival in Canada, border services officers will issue the penalty against the carrier responsible for reporting.

Examples:

- A commercial passenger aircraft (including charter flights) arrives in Canada, or makes a technical stop at an AOE, and fails to report the arrival of the conveyance to the CBSA.
- A cruise ship makes an unscheduled stop at a port in Canada prior to arriving at its indicated FPOA and fails to report the stop to the CBSA.
- A highway carrier fails to report their conveyance at the Primary Inspection Line at the First Point of Arrival.

Exceptions/exemptions from transmitting pre-arrival information are listed in D-3.

It is important to understand that the transmission of ACI data does not constitute report. The carrier must report the conveyance on arrival in the prescribed manner.

For failure to transmit Advance Commercial Information, refer to C378.

If a carrier fails to report imported goods, refer to C021.

Retention Period

12 months

C025

Contravention

Person reporting goods under section 12 of the *Customs Act* inside or outside Canada failed to answer truthfully any question asked by an officer with respect to the goods.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Occurrence

Legislation

Customs Act, subsection 13(*a*)

D Memo

N/A

Guidelines

Non-compliance occurs when a person reporting commercial goods fails to answer truthfully any question asked with regards to the goods. The goods have been reported to the CBSA, but an untrue statement is made with respect to the goods.

Applied against the person reporting the goods.

This penalty applies to commercial goods only.

Person makes a verbal statement that is false in material fact in order to avoid compliance with the Act.

If **no** goods are reported and goods are subsequently found during an exam, contravention C021 should apply.

For written administrative type errors, see C005.

For written false statements, see C348.

Retention Period

12 months

C026

Contravention

When requested by an officer, person failed to present goods, to remove any covering from goods, to unload any conveyance or open any part thereof, or failed to open or unpack any package or container.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Request

Legislation

Customs Act, subsection 13*(b)*

D Memo

N/A

Guidelines

***** A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the person who has reported goods under section 12 or the person who is stopped by an officer in accordance with subsection 99(1) of the *Customs Act* fails to present goods, to remove any covering from goods, to unload any conveyance or open any part thereof, or failed to open or unpack any package or container when requested to do so by an officer.

Applied against person who reports the goods under section 12 of the *Customs Act* inside or outside Canada or person who is stopped by an officer in accordance with subsection 99(1) of the *Customs Act*.

Officers should use discretion with regard to the term "available for examination" when goods are referred. For example, if the goods have arrived at the sufferance warehouse yard, but have not yet been off-loaded into the warehouse, no AMPS would be applicable.

If an RMD or RNS arrival notice is submitted or transmitted to the CBSA despite the person who reported goods under section 12 of the *Customs Act* having clearly indicated that the goods had not arrived, see C274.

In the case where the goods must be on hand at the time of the release request, and there are multiple containers documented on one cargo control document (against one release request), at least one of the containers must have arrived at the destination sufferance warehouse at the time the release request is submitted. The remaining containers must have arrived at the port of report and be en route or awaiting furtherance to the inland destination.

Should goods be referred for secondary processing, the importer / broker will be given an opportunity to provide information to the officer that the remaining goods have arrived in Canada and are en route or awaiting transportation to destination.

Requests for examinations must have enough detail for client to understand what is expected.

A reasonable amount of time to prepare the goods will be allowed. The term ‘reasonable’ is dependent on mode (for example marine operators will be given time to offload and stage the goods which is not required in other modes) and the nature or quality of the goods (such as hazardous goods that require special handling); extra time will be allotted to make the arrangements.

For situations where goods are moved or removed from the customs office or sufferance warehouse, see C033.

For non-compliance when the operator of a bonded warehouse, duty free shop, or a sufferance warehouse fails to open any package or container of goods or fails to remove any covering to allow free access to the goods when an officer requests to see the goods in order to conduct an examination, refer to C047 or C357.

Retention Period

12 months

C031

Contravention

A person failed to report to an officer goods in their possession in respect of which an Act of Parliament that prohibits, controls or regulates, the importation of goods has been contravened.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Occurrence

Legislation

Customs Act, section 15

Guidelines

Non-compliance occurs in instances where an officer finds controlled or prohibited goods that have not been reported.

Applied against any person found in possession of imported goods.

Results from secondary examination or investigation.

Although a penalty may be applied under this contravention all OGD admissibility requirements must be met prior to release. It is also possible that the OGD may have their own administrative monetary penalties.

Retention Period

12 months

C032

Contravention

Owner, having received the delivery of a wreck to themself or their agent, failed to have reported such delivery to an officer.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Legislation

Customs Act, paragraph 16(2)(*a*)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Other References

Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

Non-compliance occurs when a person having received the delivery of a wreck to himself/herself or their agent, failed to have reported such a delivery to an officer.

Applied against owner of the wreck.

Wreck defined as:

- jetsam, flotsam, lagan and derelict found in or on the shores of the sea or on any tidal water, or of any of the inland waters of Canada;
- cargo, stores and tackle of any vessel and of all parts of the vessel separated therefrom;
- the property of shipwrecked persons; and
- any wrecked aircraft, any part or cargo of a wrecked aircraft and a property in the possession of persons on board any aircraft that is wrecked, stranded or in distress.

Prior to issuance of penalty, ensure that client has not reported delivery of wreck elsewhere.

Retention Period

12 months

C033

Contravention

Person moved, removed, or caused to be moved goods that have been reported but not released from a CBSA office or sufferance warehouse, without CBSA authorization.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Shipment

Legislation

Customs Act, section 31

D Memo

D2-5-13, International to Domestic Connections Process
D3-1-1, Policy Respecting the Importation and Transportation of Goods
D4-1-4, Customs Sufferance Warehouses
D11-6-4, Relief of Interest and/or Penalties Including Voluntary Disclosure

Other References

Reporting of Imported Goods Regulations
Transportation of Goods Regulations
Customs Sufferance Warehouses Regulations

Guidelines

Non-compliance occurs when goods have been reported under subsection 12(1) of the *Customs Act*, are under CBSA control, and the goods or traveller's baggage are moved, removed, or delivered without CBSA authorization. For example:

- Removed from a CBSA office without release/authorization;
- Removed from a customs-controlled area (e.g., international airport, sufferance warehouse) without authorization;
- Delivered directly to the consignee or traveller without release/authorization; or,
- Moved to another customs-controlled location without authorization.

Goods or travellers' baggage may be non-bonded, bonded, or in-transit.

Applied against a carrier, freight forwarder or a sufferance warehouse operator.

Applied per shipment. For example, if five shipments were moved without authorization, five penalties would be applicable at the same penalty level.

- For the International to Domestic (ITD) process, a shipment is defined as a single inbound international flight. Therefore, all recalled baggage which fall under the guidelines of this

contravention which are on the same conveyance count as one shipment and are only subject to one penalty assessment.

C033 is issued to the **Carrier** where a carrier:

- has been directed to present baggage in the ITD process to the CBSA but fails to do so, and baggage is subsequently transported on a domestic flight without first being inspected by the CBSA at the FPOA.

C033 is issued to the **Carrier** or **Freight Forwarder** where a carrier or freight forwarder:

- removes reported goods from a CBSA office or highway frontier examining warehouse without CBSA authorization;
- has reported goods to the CBSA upon arrival at FPOA and the release of the goods will be effected at an CBSA inland office (the FPOA authorizes the bonded carrier or bonded freight forwarder to move the goods in-bond to an inland location for release) but the carrier or freight forwarder directly delivers the goods to the importer/consignee rather than reporting to the inland office or sufferance warehouse;
- moves in-bond goods from FPOA directly to a location, other than what is indicated on the original cargo transmission; or,
- has been directed to present the goods to a CBSA examining warehouse on form Y28 (Report to Warehouse), but fails to do so.

C033 is issued to the **Sufferance Warehouse Operator** where a sufferance warehouse operator:

- has received in-bond goods and allows the removal of in-bond goods from the warehouse prior to release or authorization by CBSA.

In all cases, this penalty applies only if the contravention is found during a CBSA examination, tracing procedure or an audit, and there is evidence to support that a contravention to section 31 of the *Customs Act* has been made.

- The act of reviewing documentation and matching it to previously submitted documents constitutes an examination.
- Other monitoring activities conducted by a BSO also satisfies this requirement.

This penalty will not be applied in situations where a carrier, freight forwarder or sufferance warehouse operator **voluntarily discloses non-compliance** to CBSA in accordance with D11-6-4 Relief of Interest and/or Penalties Including Voluntary Disclosure .

Voluntary disclosure only applies if the disclosure is made by the party responsible for reporting the goods and in accordance with the terms articulated in D11-6-4.

- For greater clarity, a pattern of repetitive non-compliance with C033 negates the ability of the carrier, freight forwarder or sufferance warehouse operator to avoid penalties through the voluntary disclosure process unless the responsible party demonstrates the means to avoid future non-compliance.
- Furthermore, the submission of a V-type accounting entry by a broker or importer does not preclude a carrier, freight forwarder or sufferance warehouse operator from receiving a C033 penalty.

This penalty will not be applied in circumstances involving domestic goods bound for export.

For transporting goods from point to point within Canada without the appropriate bond or security prior to release, see C036.

For removal of goods from a CBSA bonded warehouse or duty free shop, see C066.

Retention Period

12 months

C036

Contravention

Person transported or caused to be transported within Canada goods that have been imported but which have not been released, without having the appropriate bond or security.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Shipment

Legislation

Customs Act, subsection 20(1)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Other References

Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when goods have been moved from point to point within Canada, without the appropriate bond or security, prior to having been released.

In an audit situation, each shipment found in contravention within a first audit will be assessed a first level penalty.

For example, if five shipments were transported within Canada, without the appropriate bond or security, a penalty of $2,500 (5 × $500) would be assessed. The same applies for the second and third level penalties.

For situations where goods are moved or removed from the customs office or sufferance warehouse, see C033.

For situations where goods are removed from a bonded warehouse or duty free shop prior to release, see C066.

Retention Period

12 months

C037

Contravention

Person who transported goods within Canada that have been imported but have not been released, failed to ensure that the conveyance or container which had been sealed for customs purposes, remained sealed until authorization from customs to break the seal was received.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Container or Conveyance

Legislation

Customs Act, subsection 20(1)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Other Reference

Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

Non-compliance occurs when a seal number appears on the Cargo Control Document (CCD) but the conveyance or container that was sealed for customs purposes, is not sealed when it reaches the agency's inland release point.

A carrier must ensure that, when the conveyance or container is sealed by the agency for inland movement or when the company applied seal is accepted and notated on CBSA documentation, the conveyance or container remains sealed until the agency’s authorization to break the seal is granted at the agency’s inland release point.

This penalty does not apply when the agency's seal has been broken and replaced with one issued by a Canadian Police Service, a Provincial or Federal Government Department / Agency in the administration or enforcement of an Act of Parliament or the Criminal Code.

Replacement seal(s) must be intact and the new seal numbers are documented on the cargo control document / manifest.

For a damaged or broken seal as a result of an accident or other unforeseen event, see C039.

Retention Period

12 months

C039

Contravention

Person transporting goods within Canada that have been imported but have not been released failed to report, as a result of an accident or other unforeseen event, a damaged or broken seal.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Container or Conveyance

Regulation

Transportation of Goods Regulations, paragraph 4(1)(*a*)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Other References

Reporting of Imported Goods Regulations

Guidelines

Non-compliance occurs when a person transporting goods within Canada that have been imported but have not been released failed to report, as a result of an accident or other unforeseen event, a damaged or broken seal.

The requirement to prove who damaged or removed seal is not an element of offence.

Retention Period

12 months

C040

Contravention

Person transporting goods within Canada that have been imported but have not been released failed to report, as a result of an accident or other unforeseen event, the removal of goods from a damaged or disabled container or conveyance or has failed to report that the conveyance or container is damaged or disabled and can no longer transport goods.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Container or Conveyance

Regulation

Transportation of Goods Regulations, paragraphs 4(1)(*b*) and (*c*)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Other References

Reporting of Imported Goods Regulations

Guidelines

Applied by a Senior Officer Trade Compliance (SOTC) during an audit.

Non-compliance occurs when a person transporting imported goods within Canada that have not been released, fails to report as a result of an accident or other unforeseen event:

- the removal of goods from container or conveyance
- the transfer of goods to another container or conveyance
- the conveyance or container is damaged or disabled and can no longer transport goods.

Retention Period

12 months

C042

Contravention

Person who transports or causes to be transported within Canada goods that have been imported but have not been released failed to afford an officer free access to any premises under his control.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, section 21

D Memo

N/A

Guidelines

Non-compliance occurs when the person who transported (carrier) or caused to be transported (transporter company) in bond goods fails to permit access to any premise under his control when a request was made by an officer.

Access must be granted to any place that is part of or attached to any place where goods transported in bond are reported, loaded, unloaded or stored.

The officer must first clearly indicate he is requesting access to the premises. This request may be done verbally or in writing upon or prior to arrival at the location for examination of the goods.

Penalty is applied if entry is prevented, refused or there is failure to take the necessary steps to allow access to the officer.

However, a security guard or an employee who refuses to allow the entry to the premises should not be considered as preventing / refusing entry, when he is, within a reasonable time frame, in the process of contacting or obtaining permission or authority from a person in charge of the operation.

Access to property or facilities can only take place at "reasonable times" construed to mean during business hours.

For failure to allow an officer access to a bonded warehouse or duty free shop, see C046.

For failure to allow an officer access to a sufferance warehouse, see C356.

Retention Period

12 months

C043

Contravention

Person who transports or causes to be transported within Canada goods that have been imported but have not been released failed to open any package or container of such goods or remove any covering therefrom.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, section 21

D Memo

N/A

Other References

Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

Non-compliance occurs when the person who transports or causes to transport in bond goods inland fails, upon request, to allow access to the premises under their control where the goods are and open any package or container or remove any covering for customs examination.

Border Services Officer must first make request to examine goods.

Request must have enough detail for client to understand what is expected.

Retention Period

12 months

C044

Contravention

Person who is required by subsection 22(1) of the *Customs Act* to keep records in respect of commercial goods, failed to keep records at the specified place for the prescribed period and in the prescribed manner, or failed to make those records available to an officer within the specified time or answer truthfully questions asked by an officer about the prescribed records.

Penalty

1st: $300*
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 22(1)

D Memo

N/A

Other References

D3-1-5, International Commercial Transportation
D3-1-8, Cargo-Export Movements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-7-1, CBSA Marine Operations – Cargo Containers used in International Service
D23-2-1, Customs Self-Assessment Program for Carriers
Reporting of Exported Goods Regulations
Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the owner, operator or person in charge of company fails to:

- keep prescribed records at specified place for three years in the prescribed manner; or
- make prescribed records available to an officer within the time specified; or
- answer truthfully questions asked by an officer about the prescribed records.

In the case of CSA transporters:

- Commercial documentation (e.g., bill of lading, freight bill, waybill) requested at time of report should be limited to that necessary to make a risk determination for contraband or public safety (admissibility) and whether the goods are CSA eligible.
- Records may include those which reflect the "start to end of a shipment", for example, bills of lading, invoices, and proof of delivery receipts for goods authorized for delivery to an approved importer.
- Records may be hard copy or electronic; consolidated, multiple or separate records.
- Circumstances surrounding each request will determine how much time is reasonable to allow person to produce information.

For example, during CSA monitoring review, the carrier was requested to provide proof of delivery for 24 shipments. The carrier could only provide proof for 22 of the 24 shipments. The CSA accounts manager gave the carrier two time extensions in which to provide the proof for the remaining two shipments, but the carrier was unable to provide the requested documentation. C044 may be issued in this instance.

A warehouse check is conducted resulting in goods not accounted for and it is discovered that records are missing.

Carrier failed to provide documents requested in writing via the cargo tracing process.

Retention Period

36 months

C045

Contravention

The operator of a Type BW sufferance warehouse refused to receive any goods brought to the warehouse that qualified under the terms of the licence.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Request

Legislation

Customs Act, section 25

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

Non-compliance occurs when a highway sufferance warehouse operator refuses to receive qualified goods. "Qualified goods" refers to the class of goods authorized for storage, and the cargo control document on which the goods are being transported to the warehouse. These criteria are specified on the licence.

Applied against the operator of a type BW highway sufferance warehouse.

Operator may refuse goods when the storage of goods is requested by or on behalf of person who has unpaid account for storage fees at the sufferance warehouse.

Retention Period

12 months

C046

Contravention

When requested by an officer, operator of a bonded warehouse or duty free shop failed to allow an officer free access to the warehouse or duty free shop or any premises or place under his control that is attached to or forms part of the warehouse or duty free shop.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, section 27

D Memo

D7-4-4, Customs Bonded Warehouses

Other References

D4-3-7, Duty Free Shop – Contraventions and Penalties
D7-4-1, Duty Deferral Program

Guidelines

Non-compliance occurs when operator of a bonded warehouse or duty free shop fails to permit access to any premises under his control when a request was made by an officer.

Applied against operator of a bonded warehouse or duty free shop or, when approved for the Duty Deferral Program, applied against the processor, importer or exporter.

Access must be granted to any place that is part of or attached to any place where goods are reported, loaded, unloaded or stored.

The officer must first clearly indicate he is requesting access to the premises. This request may be done verbally or in writing upon or prior to arrival at the location for examination of the goods.

Penalty is applied if entry is prevented, refused or there is failure to take the necessary steps to allow access to the officer. However, a security guard or an employee who refuses to allow the entry to the premises should not be considered as preventing / refusing entry, when he, within a reasonable time frame, is in the process of contacting or obtaining permission or authority from a person in charge of the operation.

For failure by the person who transported (carrier) or caused to be transported (transporter company) to allow an officer access to an area where the in bond goods are being held, see C042.

For failure to allow access to a sufferance warehouse, see C356.

Retention Period

36 months

C047

Contravention

When requested by an officer, operator of a bonded warehouse or duty free shop failed to open any package or container of goods therein or remove any covering therefrom to allow free access to the goods.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, section 27

D Memo

D7-4-4, Customs Bonded Warehouses

Other References

D4-3-7, Duty Free Shop - Contraventions and Penalties
D7-4-1, Duty Deferral Program

Guidelines

Non-compliance occurs when the operator of a bonded warehouse or duty free shop fails to open any package or container of goods or fails to remove any covering to allow free access to the goods when an officer requests to see the goods in order to conduct an examination.

Applied against an operator of a bonded warehouse or duty free shop when operator fails or refuses to open any package, container of goods or remove any covering.

This contravention applies to an operator of a Customs Bonded Warehouse and should NOT be confused with the other Duty Deferral programs.

For situations where goods are moved or removed from the customs office or sufferance warehouse, see C033.

For failure to allow access to goods in a sufferance warehouse, see C357.

Retention Period

36 months

C048

Contravention

Licensee of a sufferance warehouse failed to ensure that goods received in the sufferance warehouse were stored safely and securely in the area designated for that purpose.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Regulation

Customs Sufferance Warehouses Regulations, subsection 12(1)

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the goods are not stored in either a safe or secure manner in the area designated on the site plan in the licensee's file.

For example, weapons or firearms are to be stored in a locked area within the warehouse.

For failure to ensure the safety and security of goods while in a customs bonded warehouse, see C196.

Retention Period

12 months

C049

Contravention

Licensee of a sufferance warehouse allowed a person other than the licensee, an employee of the licensee or an employee of a carrier engaged in the delivery of goods to or the removal of goods from the sufferance warehouse, to enter where goods are stored, without the written authorization or the attendance of an officer.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Instance

Regulation

Customs Sufferance Warehouses Regulations, subsection 12(2)

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

Non-compliance occurs when a person, other than the licensee or his employees or an employee of a carrier engaged in the delivery or the removal of goods from the sufferance warehouse, enters any place where goods are stored.

For example, during a warehouse check, an unauthorized person is seen opening a parcel.

A penalty will apply when unauthorized persons are allowed access without written authorization or the attendance of an officer.

Applied for each occurrence and not based on the number of persons allowed access without proper authorization.

For unauthorized person found in a customs bonded warehouse, see C198.

Retention Period

12 months

C050

Contravention

Licensee failed to have in place procedures to maintain the security of, and restrict access to, the sufferance warehouse.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Regulation

Customs Sufferance Warehouses Regulations, paragraph 12(3)*(a)*

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when there is either lack of proper or visible signage restricting access posted at the entrance or when the licensee's procedures to ensure employees are aware of their responsibilities in the operation of a sufferance warehouse are inadequate.

Officer determines that the licensee did not have proper security procedures.

For failure to prevent access of an unauthorized person to customs sufferance warehouse, see C049.

For unauthorized person found in customs bonded warehouse, see C198.

Retention Period

12 months

C052

Contravention

Licensee of a duty free shop failed to ensure that goods received are held in an area designated by customs until they have been accounted for or have been approved for entry into the inventory.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Duty Free Shop Regulations, subsection 14*(b)*

D Memo

D4-3-5, Duty Free Shop – Inventory Control and Sales Requirements

Other Reference

D4-3-7, Duty Free Shop - Contraventions and Penalties

Guidelines

Non-compliance occurs when the duty free shop licensee fails to ensure that:

- imported goods received are held in a designated area until accounted for, or
- domestic goods received are held in designated area until approved for entry into inventory.

A penalty will be assessed if one requirement or the other is not met.

Retention Period

12 months

C053

Contravention

Licensee of a duty free shop failed to ensure that the duty free shop was locked and sealed when requested by a customs officer or other officer as prescribed in the *Duty Free Shop Regulations*.

Penalty

1st: $250
2nd: $375
3rd and Subsequent: $750

Penalty Basis

Per Instance

Regulation

Duty Free Shop Regulations, subsection 14*(c)*

D Memo

D4-3-3, Duty Free Shop – Security

Other Reference

D4-3-7, Duty Free Shop - Contraventions and Penalties

Guidelines

Non-compliance occurs when the licensee of the duty free shop fails to ensure that the duty free shop is locked and sealed when requested by a customs officer or other officer as prescribed in the *Duty Free Shop Regulations*.

The requirement to lock and seal a duty free shop is normally requested by a customs officer when a complete inventory is undertaken by local CBSA officers or when a licensee fails to renew its duty free shop licence, or the licence has been suspended or cancelled by the Minister of Public Safety.

Authority for the above is required to be given by the Manager of the Duty Free Shop Program prior to taking action.

Retention Period

12 months

C054

Contravention

Licensee of a duty free shop failed to ensure that the duty free shop was kept suitable for the safekeeping of the goods stored therein.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Duty Free Shop Regulations, subsection 14*(e)*

D Memo

D4-3-5, Duty Free Shop - Inventory Control and Sales Requirements

Other References

D4-3-4, Duty Free Shop – Operational Requirements
D4-3-6, Duty Free Shop – Off-Site Storage
D4-3-7, Duty Free Shop - Contraventions and Penalties

Guidelines

Non-compliance occurs when the licensee of a duty free shop fails to ensure that the shop is kept suitable for the safekeeping of the goods stored therein or in the off-site storage facility.

For example, C054 may apply in the following cases:

Licensee of duty free shop fails to ensure access to the warehouse is properly controlled in a manner that ensures there is no public access to the inventory therein.

Or, during routine examination, a CBSA officer discovers that the licensee has not taken every reasonable measure to safeguard the security of the goods in the retail area to minimize theft.

Or, the licensee is found to not have adequate physical security (alarms, motion sensors, etc…) to protect the inventory in the shop, warehouse and/or off-site storage facility during silent hours.

Retention Period

12 months

C055

Contravention

Licensee of a duty free shop failed to acknowledge receipt of goods as prescribed in the *Duty Free Shop Regulations*, subsection 16(1).

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per CCD

Regulation

Duty Free Shop Regulations, paragraph 16(1)*(a)*

D Memo

D4-3-5, Duty Free Shop – Inventory Control and Sales Requirements

Other Reference

D4-3-7, Duty Free Shop - Contraventions and Penalties

Guidelines

Non-compliance occurs when the licensee fails to acknowledge receipt of goods by endorsing bill of lading, waybill or similar document or endorse the document used by the licensee, to account for inventory.

For example, during an examination a CBSA officer finds a bill of lading, waybill or similar document that has not been properly endorsed.

A duty free shop operator fails to account for the overages or shortages in shipments subsequent to endorsing bill of lading, waybill or similar document.

Retention Period

12 months

C057

Contravention

Licensee of a Duty Free Shop failed to present required documents to the chief officer of customs before any goods were taken into a duty free shop.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Duty Free Shop Regulations, subsection 16(2)

D Memo

D4-3-5, Duty Free Shop – Inventory Control and Sales Requirements

Other Reference

D4-3-7, Duty Free Shop - Contraventions and Penalties

Guidelines

Non-compliance occurs when the licensee fails, when requested, to present documents to the local CBSA chief of operations as required in the Duty Free Shop Policy and Regulations before any goods are taken into the duty free shop.

For example, while performing inventory verification, the licensee is found to have shipments in its warehouse for which appropriate documents have not been presented to the CBSA, and when requested, the licensee either refuses to provide the documents or has not retained such documents.

Chief of operations means the manager of the CBSA office or offices that serve the area in which the duty free shop is located.

Retention Period

12 months

C058

Contravention

Licensee of a sufferance warehouse failed to acknowledge receipt of goods as prescribed in the *Customs Sufferance Warehouses Regulations* section 14.

Penalty

1st: $300*
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per CCD

Regulation

Customs Sufferance Warehouses Regulations, section 14

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when a licensee fails to acknowledge receipt of imported goods by electronic means or in the prescribed manner as prescribed in the *Customs Sufferance Warehouses Regulations* subsection 14(2).

Examples of non-compliance under C058:

- A licensee failed to transmit a Warehouse Arrival Certification Message (WACM).
- A licensee failed to endorse a bill of lading, for goods transported to Canada by a courier and to be released under subsection 32(4) of the Act.

For failure to acknowledge receipt of goods by a duty free shop licensee, see C055.

For failure to acknowledge receipt of goods by a customs bonded warehouse licensee, see C204.

Retention Period

12 months

C059

Contravention

Person altered or manipulated goods in a sufferance warehouse in a manner not prescribed in the *Customs Sufferance Warehouses Regulations* section 17.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Warehouse Check

Regulation

Customs Sufferance Warehouses Regulations, section 17

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

Non-compliance occurs when it is discovered that goods located in a sufferance warehouse were altered or manipulated in a manner not prescribed in the regulations.

Goods may be manipulated, unpacked, packed, altered or combined with other goods only for the purpose of:

Stamping or marking of manufactured raw leaf tobacco, tobacco products and vaping products or marking goods to indicate their country or geographic area of origin.

For failure to prevent the manipulation, combination or altering of goods in a customs bonded warehouse, see C210.

Retention Period

12 months

C060

Contravention

Licensee of a customs sufferance warehouse failed to provide facilities, equipment and personnel, sufficient to control access to the sufferance warehouse and secure storage of the goods.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Regulation

Customs Sufferance Warehouses Regulations, paragraph 11(1)*(e)*

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the physical security, equipment and personnel, of the sufferance warehouse including; doors, other building components, locks and signs are not sufficient to secure storage of the goods.

This contravention also refers to equipment and personnel such as security systems and security guards.

For failure to ensure the safety and security of goods while in a sufferance warehouse, see C048.

For failure to ensure the safety and security of goods while in a customs bonded warehouse, see C196.

Retention Period

12 months

C063

Contravention

Licensee failed to provide a list of all goods not removed from the sufferance warehouse within the time limit prescribed in subsection 15(1), 15(2), 15(3) or 15(4) of the *Customs Sufferance Warehouses Regulations*, as the case may have been, on the first business day following the end of that period.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Shipment

Regulation

Customs Sufferance Warehouses Regulations, subsection 15(5)

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

Non-compliance occurs when the licensee fails to provide a list of all goods not removed from the sufferance warehouse within the prescribed time limit. The goods may, at the end of that limitation period, be deposited in a place of safe-keeping as provided for in subsection 37(1) of the Act.

The licensee must provide a list of all the goods not removed from the sufferance warehouse within 40 days after the day the goods were reported under section 12 of the *Customs Act*.

Perishable goods must be removed from the sufferance warehouse within four days after the day on which they were reported under section 12 of the Act.

Nuclear substances as defined in section 2 of the *Nuclear Safety and* Control Act or prescribed equipment as defined in section 1 of the *General Nuclear Safety and* Control Regulations must be removed from the sufferance warehouse within 14 days after the day on which they were reported under section 12 of the Act.

Tobacco products, vaping products, distilled spirits, firearms, weapons and ammunition constitute a class of goods that are forfeit if they are not removed from a sufferance warehouse within 14 days after the day on which they were reported under section 12 of the Act.

Retention Period

12 months

C064

Contravention

Licensee of a duty free shop sold, gave or in any manner conveyed tobacco products to persons deemed to be minors under the laws of the province in which the duty free shop is located.

Penalty

1st: $1,600
2nd: $3,200
3rd and Subsequent: $6,400

Penalty Basis

Per Instance

Regulation

Duty Free Shop Regulations, section 19

D Memo

D4-3-5, Duty Free Shop – Inventory Control and Sales Requirements

Other Reference

D4-3-7, Duty Free Shop - Contraventions and Penalties

Guidelines

Non-compliance occurs when the licensee of a duty free shop has sold or otherwise conveyed any tobacco product to a person deemed to be a minor under the laws of the province in which the duty free shop is located.

Retention Period

12 months

C066

Contravention

Person removed goods from a bonded warehouse or duty free shop prior to release by an officer.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Shipment

Legislation

Customs Act, section 31

D Memo

D7-4-4, Customs Bonded Warehouses

Other References

D17-1-10, Coding of Customs Accounting Documents

Guidelines

Non-compliance occurs when goods are removed from a bonded warehouse or duty free shop prior to authorization.

For example, the BSO requests from the warehouse operator to examine a shipment, but the warehouse operator advises CBSA that the shipment is not available for examination and it is determined that the shipment had been delivered to the importer without customs release or authorization.

Or, the BSO conducts a warehouse examination. Documentation indicates that certain imported goods that are supposed to be in the warehouse are not there.

Or, the Regional CBSA Senior Officer Trade Compliance (SOTC) conducts a thorough Duty Deferral verification. The results indicate some imported goods were not available and are consequently considered to have been delivered without release or authorization.

For specified goods, ascertained forfeiture to be applied in addition to AMPS penalty.

For situations where goods are moved or removed from the customs office or sufferance warehouse, see C033.

Retention Period

36 months

C069

Contravention

Person generated or used a false Release Notification System (RNS) notice to remove goods from a bonded warehouse, or duty free shop.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Shipment

Legislation

Customs Act, section 31

D Memo

D17-1-5, Registration, Accounting and Payment for Commercial Goods

Other References

D7-4-4, Customs Bonded Warehouses
D17-1-10, Coding of Customs Accounting Documents
Release Notification System (RNS) Participants' Requirements Document

Guidelines

Non-compliance occurs when a person generates or uses a false Release Notification System (RNS) to remove goods from a bonded warehouse or duty free shop.

Assessed against warehouse operator or person who generated a false message (i.e. importer).

Applied when it is discovered during a bonded warehouse examination or verification or a duty free shop audit that goods believed to be on site have been removed by the use of a false RNS.

For specified goods, ascertained forfeiture to be applied in addition to AMPS penalty.

For using a false RNS message to remove goods from a customs office or sufferance warehouse, see C359.

Retention Period

36 months

C070

Contravention

Importer or owner failed to account for goods in prescribed time and manner.

Penalty

1st: $1,200
2nd: $2,400
3rd and Subsequent: $4,800

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 32(3)

D Memo

D17-1-5, Registration, Accounting and Payment for Commercial Goods

Guidelines

Non-compliance occurs when neither interim nor final accounting has been done by the importer or owner to account for the imported goods, and thus late accounting penalties would not be appropriate.

Each penalty imposed during a first verification will be at the first level ($1,200 per invoice/document) and each penalty imposed during a second verification will be at second level ($2,400 each).

The same applies for the third and subsequent verifications where each penalty will be assessed at $4,800.

Apply a penalty per commercial invoice or similar document.

Retention Period

36 months

C071

Contravention

Person failed to provide required certificate, licence, permit or information before the goods are released.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Document

Regulation

Accounting for Imported Goods and Payment of Duties Regulations, section 4

D Memo

D17-1-5, Registration, Accounting and Payment for Commercial Goods

Other Reference

D19 Series - Acts and Regulations of Other Government Departments

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when a person fails to provide a permit, licence, certificate or other document or information that is required by customs at time of interim or final accounting before the goods are released.

For example, a release request was received for a shipment of cheese without a permit.

Or, a release request for agricultural goods was transmitted with an incorrect service option bypassing the Canadian Food Inspection Agency (CFIA) review process.

Although a penalty may be applied under this contravention all OGD admissibility requirements must be met prior to release. It is also possible that the OGD may have their own administrative monetary penalties.

Retention Period

12 months

C080

Contravention

Authorized person failed to make the required corrections to a declaration of origin of imported goods subject to a free trade agreement within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: $500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*

Legislation

Customs Act, paragraph 32.2(1)*(a)*

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Guidelines

***** The term “per issue” applies to each good for which a preferential tariff treatment under a free trade agreement was incorrectly claimed and for which a correction was not made, regardless of how often the error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected errors for which a preferential tariff treatment under a free trade agreement was incorrectly claimed per CAD and not per line on the CAD.

Non-compliance is normally discovered by a Senior Officer Trade Compliance.

(SOTC) as a result of an audit, examination, verification, or subsequent monitoring activity.

Penalties are applied against the importer of record (IOR).

Where an amount of customs duties and/or taxes is owing to the CBSA as a result of the required corrections, C350 [http://www.cbsa-asfc.gc.ca/trade-commerce/amps/contraventions- infractions/c350-eng.html] will apply.

Where a correction to a declaration results in a claim for refund of customs duties, no penalty will apply.

Errors unrelated to the first penalty assessment that are discovered during a subsequent audit, examination, verification, or monitoring activity will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted “reason to believe” for that error. This is required in order to establish the level of penalty for any subsequent occurrences of the same error.

There will be a maximum penalty amount of $1,000 for each group of repeated errors where the IOR can demonstrate that the errors in the declarations were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C080 and C350 shall not exceed the maximum penalty amount for each specific level and shall include all penalties Issued at the same level as a result of an audit, examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is $5,000 (per issue basis) or $25,000 (per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a self-correction under section 32.2 of the *Customs Act*, specific information regarding the origin that gives an IOR reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions, such as specific origin provisions, that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent) and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in Memorandum D11-6-6;

(b) Formal assessment documents (e.g., statement of adjustment) issued by the CBSA to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervenor;

(d) Information received from exporters, suppliers, etc. (e.g. cancellation of certificates of origin);

(e) Written communication, addressed directly to the IOR from the CBSA, such as a ruling (e.g., advance ruling issued under section 43.1 of the *Customs Act*), a trade compliance verification final report, a directed compliance letter, a final compliance validation letter or an official notification as a result of an exporter origin verification; or

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company.

First Level Penalties

Penalties apply where an IOR failed to make the required correction to a declaration of the origin of goods subject to a free trade agreement within 90 days after having "reason to believe" that the declaration was incorrect.

<u>For errors that have occurred as a result of reason to believe criterion *(a)*</u>:

First level penalties for errors that are the result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days from the day the IOR has reason to believe. First level penalties will be assessed at $500 for each issue on the CAD, up to a maximum amount of $5000, regardless of how often the same error occurs on the CAD during the reassessment period, provided that all occurrences of the error are corrected within 90 days of the date of the trade compliance verification final report.

Errors that are not corrected within 90 days of the date of the trade compliance verification final report will be assessed a penalty of $500 per occurrence during the reassessment period, up to a maximum of $25,000.

Assessments of penalties on a "per issue" basis will not apply in circumstances where an IOR fails to furnish any proof of origin upon request.

<u>Example</u>:

> An IOR declares multiple goods under an FTA preferential tariff treatment (FTA PTT) and has a valid multiple product or multi-page proof of origin in support of the majority of the declared goods. In the same shipment and under the same declaration, the IOR incorrectly declares an FTA PTT for one or two goods that are not certified on the multi-product or multi-page proof of

origin. If the IOR corrects the tariff treatment errors within 90 days of the date of the trade compliance verification final report, only one penalty of $500 on a per issue basis will be assessed, regardless of how often the error occurred over multiple CADs. However, if all occurrences of the error are not corrected within 90 days of the date of the trade compliance verification final report, a penalty of $500 will be assessed for each occurrence of the error throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(f)*:

First level penalties for errors that are the result of one of the reason to believe criteria *(b)* to *(f)* will be assessed on a per occurrence basis for errors not corrected within 90 days of having reason to believe. A penalty of $500 will be assessed for each occurrence during the reassessment period, up to a maximum amount of $25,000.

Example:

Where an IOR has received information from an exporter (or producer) that advises a certificate of origin is no longer valid or that goods no longer qualify as originating, corrections to declarations of origin must be made within 90 days of receipt of this notification. This would be considered an IOR's reason to believe under criterion *(d)*.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on the same goods that have previously been assessed a first level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, second level penalties will be assessed at $750 on a per occurrence basis, up to a maximum amount of $200,000 for the reassessment period. Second level penalties will also be assessed for all adjustments made by IORs where they failed to make the required corrections to a declaration of origin within 90 days of having reason to believe that corrections are required.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on the same goods that have previously been assessed a second level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties will be assessed at $1500 on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to make the required corrections to a declaration of origin within 90 days of having reason to believe that corrections are required.

Retention Period

36 months

C081

Contravention

Authorized person failed to make the required corrections to a declaration of origin of imported goods within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: $500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*

Legislation

Customs Act, paragraph 32.2(2)*(a)*

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Guidelines

***** The term “per issue” applies to each good for which a preferential tariff treatment (not related to a free trade agreement) was incorrectly claimed and for which a correction was not made, regardless of how often the error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected errors for which a preferential tariff treatment (not related to a free trade agreement) was incorrectly claimed per CAD and not per line on the CAD.

Non-compliance is normally discovered by a Senior Officer Trade Compliance.

(SOTC) as a result of an audit, examination, verification, or subsequent monitoring activity. Penalties are applied against the importer of record (IOR).

Where an amount of customs duties and/or taxes is owing to the CBSA as a result of the required corrections, C351 will apply.

Where a correction to a declaration results in a claim for refund of customs duties, no penalty will apply.

Errors unrelated to the first penalty assessment that are discovered during a subsequent audit, examination, verification, or monitoring activity will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted “reason to believe” for that error. This is required in order to establish the level of penalty for any subsequent occurrences of the same error.

There will be a maximum penalty amount of $1,000 for each group of repeated errors where the IOR can demonstrate that the errors in the declarations were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C081 and C351 shall not exceed the maximum penalty amount for each specific level and shall include all penalties Issued at the same level as a result of an audit, examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is

$5,000 (per issue basis) or $25,000 (per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a self-correction under section 32.2 of the Customs Act, specific information regarding the origin that gives an IOR reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions, such as specific origin provisions that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent) and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in *Memorandum D11-6-6*;

(b) Formal assessment documents (e.g., statement of adjustment) issued by the Canada Border Services Agency (CBSA) to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), redeterminations, further redeterminations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervenor;

(d) Information received from exporters, suppliers, etc. (e.g. cancellation of certificates of origin);

(e) Written communication, addressed directly to the IOR from the CBSA, such as a ruling (e.g., advance ruling issued under section 43.1 of the *Customs Act*), a trade compliance verification final report, a directed compliance letter, or a final compliance validation letter or an official notification as a result of an exporter origin verification; or

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company.

First Level Penalties

Penalties apply where an IOR failed to make the required correction to a declaration of the origin of goods within 90 days after having reason to believe that the declaration was incorrect.

<u>For errors that have occurred as a result of reason to believe criterion *(a)*:</u>

First level penalties for errors that are the result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days from the day the IOR has reason to believe. First level penalties will be assessed at $500 for each issue on the CAD, up to a maximum amount of $5000, regardless of how often the same error occurs on the CAD during the reassessment period, provided that all occurrences of the error are corrected within 90 days of the date of the trade compliance verification final report.

Errors that are not corrected within 90 days of the date of the trade compliance verification final report will be assessed a penalty of $500 per occurrence during the reassessment period, up to a maximum amount of $25,000.

Assessments of penalties on a "per issue" basis will not apply in circumstances where an IOR fails to furnish any proof of origin upon request.

<u>Example</u>:

> An IOR declares multiple goods under tariff treatment and has valid multi-product or multi-page proof of origin in support of the majority of the declared goods. In the same shipment and under the same declaration, the IOR incorrectly declares a tariff treatment for one or two goods that are not certified on the multi-product or multi-page proof of origin that has been provided. If the IOR corrects the tariff treatment errors within 90 days of the date of the trade compliance verification final report,

only one penalty of $500 on a per issue basis will be assessed, regardless of how often the error occurred over multiple CADs. However, if all occurrences of the error are not corrected within 90 days of the date of the trade compliance verification final report, a penalty of $500 will be assessed for each occurrence of the error throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(f)*:

First level penalties for errors that are the result of one of the reason to believe criteria *(b)* to *(f)* will be assessed on a per occurrence basis for errors not corrected within 90 days of having reason to believe. A $500 penalty will apply for each occurrence during the reassessment period, up to a maximum amount of $25,000.

Example:

Where an IOR has received information from an exporter (or producer) that advises a proof of origin is no longer valid or that goods no longer qualify as originating, corrections to declarations of origin must be made within 90 days of receipt of this notification. This would be considered an IOR's reason to believe under criterion *(d)*.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on the same goods that have been assessed a first level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, second level penalties will be assessed at $750 on a per occurrence basis, up to a maximum of $200,000 for the reassessment period.

Second level penalties will also be assessed for all adjustments made by IORs where they failed to make the required corrections to a declaration of origin within 90 days of having reason to believe that corrections are required.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on the same goods that have previously been assessed a second level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties will be assessed at $1500 on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to make the required corrections to a declaration of origin within 90 days of having reason to believe that corrections are required.

Retention Period

36 months

C082

Contravention

Authorized person failed to make the required corrections to a declaration of tariff classification within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: $500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*

Legislation

Customs Act, paragraph 32.2(2)(a)

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Guidelines

* The term “per issue” applies to each uncorrected tariff classification error of goods regardless of how often the error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected tariff classification errors of goods per CAD and not per line on the CAD.

”Goods” include same and similar goods, which are identical and other models/styles of goods that have the same purpose/function as the goods being subject of the specific information that gives reason to believe, that differ in a manner (e.g., size, colour, capacity, etc.), but that are classified under the same tariff item number at the 8-digit level.

Non-compliance is normally discovered by a Senior Officer Trade Compliance (SOTC) as a result of an audit, examination, verification, or subsequent monitoring activity.

Penalties are applied against the importer of record (IOR).

Where customs duties and/or taxes are owed to the CBSA as a result of the required corrections, C352 will apply.

Where a correction to a declaration results in a claim for refund of customs duties, no penalty will apply.

Errors unrelated to the first penalty assessment, as they don’t pertain to same and similar goods, that are discovered during a subsequent audit, examination, verification, or monitoring activity, will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted “reason to believe” for that error. This is required in order to establish the level of penalty for any subsequent occurrence of the same error.

There will be a maximum penalty amount of $1,000 applied to each group of repeated errors where the IOR can demonstrate that the errors in the CAD were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C082 and C352 shall not exceed the maximum penalty amount for each specific level and shall include all penalties issued at the same level as a result of an audit, examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is $5,000 (on a per issue basis) or $25,000 (on a per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a correction under section 32.2 of the *Customs Act*, specific information regarding the tariff classification or diversion of the imported goods that gives an importer reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions, such as specific tariff classification provisions, that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent), and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in *Memorandum D11-6-6*;

(b) Formal assessment documents (e.g., statement of adjustment) issued by the Canada Border Services Agency (CBSA) to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervener;

(d) Information received from exporters, suppliers, manufacturers or producers, etc. (e.g., change in production material or functionality that would impact the tariff classification);

(e) Written communication, addressed directly to the IOR from the CBSA, such as a ruling (e.g., national customs ruling, advance ruling issued under section 43.1 of the *Customs Act*), a trade compliance verification final report, a directed compliance letter, or a final compliance validation letter;

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company; or

(g) Knowledge that the goods were diverted (i.e., goods that no longer qualify or comply with a condition of relief or a restriction imposed by the concessionary tariff item declared), such as the diversion of goods to a non-qualified conditional use or conditional user.

First Level Penalties

A tariff classification error occurs when goods are not classified and accounted for in accordance with the rules and schedules of the *Customs Tariff Act*. Penalties apply where an IOR failed to make the required corrections to a declaration of tariff classification within 90 days after having reason to believe that the declaration was incorrect.

For errors that have occurred as a result of reason to believe criterion *(a)*:

First level penalties for errors that are the result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days from the day the IOR has reason to believe. First level penalties will be assessed at $500 for each distinct issue on the CAD, up to a maximum amount of $5,000, regardless of how often the same error occurs on the CAD during the applicable reassessment period, provided that all occurrences of the error are corrected within 90 days of the date of issuance of the trade compliance verification final report.

Errors that are not corrected within 90 days of receiving the trade compliance verification final report will be assessed a penalty of $500 per occurrence over the reassessment period, up to a maximum amount of $25,000.

Example:

> Plastic conveyor belts have been classified and accounted for under Chapter 84, but are specifically excluded from that chapter according to Note 1(a) to Section XVI. The tariff classification error occurred on multiple CADs. Only one penalty of $500 on a per issue basis will be assessed if all occurrences of the error are corrected within 90 days of the date of the trade compliance verification final report, regardless of how often the same error occurred over multiple CADs. However, if all occurrences of the error are not corrected within 90 days of the date of the trade compliance verification final report, a penalty of $500 on a per occurrence basis will be assessed for each occurrence of the error found throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(g)*:

First level penalties for errors that are the result of one of the criteria *(b)* through *(g)* will be assessed on a per occurrence basis for errors not corrected within 90 days of having reason to believe. A penalty of $500 will be assessed for each occurrence over the reassessment period, up to a maximum amount of $25,000.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on same and similar goods that have previously been assessed a first level penalty within the retention period.

For the same tariff classification errors previously assessed a penalty at the first level that have been identified as a result of subsequent audits, examinations, verifications, or monitoring activities, second level penalties of $750 will be assessed on a per occurrence basis, up to a maximum amount of $200,000 for the reassessment period.

Second level penalties will also be assessed on all adjustments made by IORs where they failed to make the required corrections to a declaration of tariff classification within 90 days of having reason to believe that corrections are required.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on same and similar goods that have been previously assessed a second level penalty within the retention period.

For the same tariff classification errors previously assessed a penalty at the second level that have been identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties of $1,500 will be assessed on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to make the required corrections to a declaration of tariff classification within 90 days of having reason to believe that corrections are required.

Retention Period

36 months

C083

Contravention

Authorized person failed to make the required corrections to a declaration of value for duty within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: $500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*

Legislation

Customs Act, paragraph 32.2(2)*(a)*

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Guidelines

***** The term “per issue” applies to each element of the value for duty provisions that is incorrect and for which a correction was not made, regardless of how often the error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected value for duty errors of goods per CAD and not per line on the CAD.

Non-compliance is normally discovered by a Senior Officer Trade Compliance.

(SOTC) as a result of an audit, examination, verification or subsequent monitoring activity.

Penalties are applied against the importer of record (IOR).

Where an amount of customs duties and/or taxes is owing to the CBSA as a result of the required corrections, C353 will apply.

Where a correction to a declaration results in a claim for refund of customs duties, no penalty will apply.

Errors unrelated to the first penalty assessment that are discovered during a subsequent audit, examination, verification, or monitoring activity will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted “reason to believe” for that error. This is required in order to establish the level of penalty for any subsequent occurrences of the same error.

There will be a maximum penalty amount of $1,000 for each group of repeated errors where the IOR can demonstrate that the errors in the declarations were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C083 and C353 shall not exceed the maximum penalty amount for each specific level and shall include all penalties issued at the same level as a result of an audit,

examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is $5,000 (per issue basis) or $25,000 (per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

Errors in declarations of value for duty do not always lend themselves to a clear distinction on the assessment of penalties on a "per issue" or "per occurrence" basis. Where there is uncertainty over whether a penalty should be assessed on a "per issue" or "per occurrence" basis, officers are strongly encouraged to contact the Origin, Valuation and Negotiations Unit for assistance in the assessment of penalties.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a correction under section 32.2 of the *Customs Act*, specific information regarding the value for duty that gives an IOR reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions, such as specific valuation provisions, that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent) and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in *Memorandum D11-6-6*;

(b) Formal assessment documents (e.g., statement of adjustment) issued by the Canada Border Services Agency (CBSA) to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervenor;

(d) Information received from exporters, suppliers, etc. (e.g. vendor's invoice indicating retroactive price increase for goods already purchased, corrected invoice);

(e) Written communication, addressed directly to the IOR from the CBSA, such as a national customs ruling, a trade compliance verification final report, a directed compliance letter, or a final compliance validation letter; or

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company.

First Level Penalties

A value for duty error occurs when the value for duty of goods is not determined in accordance with the requirements of sections 44 to 55 of the Customs Act. A value for duty error can be, but is not limited to, the use of the wrong valuation method or its improper application, the use of the incorrect price paid or payable, or not making each of the required adjustments as required under the valuation provisions of the Customs Act. Each will be considered a separate error. Penalties apply where an IOR failed to make the required correction to a declaration of the value for duty of the goods within 90 days after having reason to believe that the declaration was incorrect.

<u>For errors that have occurred as a result of reason to believe criterion *(a)*:</u>

First level penalties for errors that are the result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days from the day the IOR has reason to believe. First level penalties will be assessed at $500 for each issue on the CAD, up to a maximum amount of $5000, regardless of how often the same error occurs on a CAD during the reassessment period, provided that all occurrences of the error are corrected within 90 days of the date of the trade compliance verification final report.

Errors that are not corrected within 90 days of the date of the trade compliance verification final report will be assessed a penalty of $500 per occurrence during the reassessment period, up to a maximum amount of $25,000.

Example:

> An IOR failed to make an adjustment for assists, as required under the provisions of 48(5)(a)(iii) of the *Customs Act*. If the error is corrected within 90 days of the date of the trade compliance verification final report, only one penalty of $500 on a per issue basis will be assessed, regardless of how often the error occurred over multiple CADs. However, if all occurrences of the error are not corrected within 90 days of the date of the trade compliance verification final report, a penalty of $500 will be assessed for each occurrence of the error throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(f)*:

First level penalties for errors that are the result of one of the reason to believe criteria *(b)* through *(f)* will be assessed on a per occurrence basis for errors not corrected within 90 days of having reason to believe. A penalty of $500 will be assessed for each occurrence during the reassessment period, up to a maximum amount of $25,000.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on the same issues that have previously been assessed a first level penalty within the retention period.

For the same value for duty errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, second level penalties will be assessed at $750 on a per occurrence basis, up to a maximum amount of $200,000 for the reassessment period.

Second level penalties will also be assessed for all adjustments made by IORs where they failed to make the required corrections to a declaration of value for duty within 90 days of having reason to believe that corrections are required.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on the same issues that have previously been assessed a second level penalty within the retention period.

For the same value for duty errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties will be assessed at $1500 on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to make the required corrections to a declaration of value for duty within 90 days of having reason to believe that corrections are required.

Retention Period

36 months

C152

Contravention

Importer or owner of goods failed to furnish the proof of origin upon request.

Penalty

1st: $500
2nd: $750
3rd and subsequent: $1,500

Penalty Basis

Per Request

Legislation

Customs Act, section 35.1

D Memo

D11-4-2, Proof of Origin

Other Reference

D11-4-4, Rules of Origin Respecting the General Preferential Tariff and Least Developed Country Tariff

Guidelines

Non-compliance occurs when, subsequent to a written request, the importer or owner of the goods fails to furnish proof of origin or the proof of origin presented does not support the tariff treatment claimed in the original (final) accounting document. Specific proofs of origin required in support of a claim for a specific tariff treatment are set out in Departmental Memorandum D11-4-2, Proof of Origin.

Non-compliance occurs where a signature is required, but is not included in the proof of origin presented.

Applied against the importer.

Normally applied by a Senior Officer Trade Compliance (SOTC).

SOTCs must make a request and provide reasonable amount of time for the client to comply. Current policy is a minimum of five business days with one extension.

Apply a penalty per request, regardless of the number of transactions or documents pertaining to that request.

This penalty also applies when the blanket period field, with respect to free trade agreements where a certificate of origin is the required proof, is missing and there is no indication on the document of a reference number such as the invoice number, the purchase order number or any other unique reference indicator that could be used to identify that the goods covered by the certificate are the imported goods.

C152 does not apply when a certificate of origin is not properly completed or field information, other than a signature, is missing or omitted. In this situation, see C005.

Applicable to all tariff treatments.

Retention Period

36 months

C157

Contravention

Person who imports, or causes to be imported, commercial goods failed to make records and documents in respect of those goods available to an officer when requested.

Apply a penalty per written request for records and documents basis.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Written Request

Legislation

Customs Act, subsection 40(1)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Other Reference

Imported Goods Records Regulations, section 2

Guidelines

Non-compliance occurs when a verification, audit, inspection or examination determines that a company does not make records and documents available to an officer for review purposes.

Applied against the importer.

This penalty is normally applied by a Senior Officer Trade Compliance (SOTC) and approved by the regional Manager, Trade Compliance.

Records and documents can be made available on-site at the company premises, delivered directly to the officer's place of work, or made available at another place as designated by the Minister (Non-Resident Importers may undertake to keep records at another location as provided in the Memorandum D17-1-21).

SOTCs must use discretion when deciding how much time to allow the importer to make records and documents available. Thirty days is considered reasonable for the first request for records and documents and fifteen days for subsequent requests for the same records and documents.

This contravention is subject to graduated penalties and is applied on a per request basis, which will be made in writing and may involve more than one record or document.

Typically, one written request for records and documents would be made per audit, verification, or examination. Subsequent written requests for records and documents will be necessary if **some** or **all** of the records and documents requested have not been made available to an officer.

The first contravention is subject to a $600 penalty.

Subsequent requests for records and documents that are not made available will be subject to an escalation of penalty levels on a per request basis.

Second contravention is subject to a $1,200 penalty; third and subsequent contraventions are subject to a $2,400 penalty.

Retention Period

36 months

C158

Contravention

Person failed to answer truthfully questions asked by an officer concerning the records in respect of commercial goods.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 40(1)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Other Reference

Imported Goods Records Regulations, section 2

Guidelines

Non-compliance occurs when a verification, audit or examination determines that a company failed to answer questions truthfully about records requested by an officer.

Applied against the importer.

This penalty is normally applied by an investigations officer and approved by the regional Manager, Investigations.

The officer must have written documentation proving that the company did not provide truthful answers.

Apply a penalty per instance.

Retention Period

36 months

C160

Contravention

Person who is required by subsection 40(3) of the *Customs Act* to keep records in respect of commercial goods failed to keep records for a period of six years, or as specified in the *Imported Goods Records Regulations*.

This applied when an audit, verification or examination determines that there are no records in existence.

Penalty

Flat rate: $25,000

Penalty Basis
Per Audit

Legislation
Customs Act, subsection 40(3)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Other Reference
Imported Goods Records Regulations, section 3.1

Guidelines

Non-compliance occurs when an audit, verification or examination determines that a licensee of a duty free shop, sufferance warehouse or bonded warehouse has kept no records regarding the receipt and removal of commercial goods into and from the duty free shop or sufferance warehouse.

Applied against the licensee (warehouse or DFS), certificate holder (duty deferral), courier or CSA importer.

Because no records exist, the audit or verification team is unable to proceed with the verification and render a determination regarding the company's compliance with CBSA administered legislation and regulations.

Consultation with regional management and headquarters personnel must occur prior to the application of this penalty.

The officer should proceed with caution.

The officer should use discretion when deciding how much time to allow the company to prove that records exist. Thirty days may be considered reasonable as a minimum.

This contravention is subject to a flat penalty amount of $25,000.

Because the verification is stopped at the outset due to nil record keeping, no other determination regarding other record contraventions can be made.

No other penalty for record contraventions can be combined with this penalty.

Apply a penalty when records do not exist.

Retention Period

36 months

C161

Contravention

Person who is required by subsection 40(3) of the *Customs Act* to keep records in respect of commercial goods failed to keep records at the person's place of business or at such other place that may be designated by the Minister as specified in the *Imported Goods Records Regulations*.

Apply a penalty per written request for records basis.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Written Request

Legislation

Customs Act, subsection 40(3)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Other Reference

Imported Goods Records Regulations, section 3.1

Guidelines

Non-compliance occurs when an audit, verification or examination determines that a licensee of a duty free shop, sufferance warehouse or bonded warehouse, who is known to keep records, failed to keep specific records that were formally requested by an officer in writing regarding the sale or disposal of commercial goods that were previously received into it.

Applied against the licensee (warehouse or DFS), certificate holder (duty deferral), courier or CSA importer.

The officer should use discretion when deciding how much time to allow the company to prove that records exist. Thirty days may be considered reasonable as a minimum.

This contravention is subject to graduated penalties and is applied on a per request basis, which will be made in writing and may involve more than one record.

Typically, only one written request for records would be made per audit, verification or examination.

The first contravention is subject to a $300 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second and third level penalties.

Retention Period

36 months

C163

Contravention

Person who is required by subsection 40(3) of the *Customs Act* to keep records in respect of commercial goods failed to make the records available to the officer when requested.

Apply a penalty per written request for records basis.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Written Request

Legislation

Customs Act, subsection 40(3)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Other Reference

Imported Goods Records Regulations, section 3.1

Guidelines

Non-compliance occurs when an audit, verification or examination determines that the licensee of a duty free shop, sufferance warehouse or bonded warehouse, already determined to keep records and that records exist, does not make records available to an officer for review purposes.

Applied against the licensee (warehouse or DFS), certificate holder (duty deferral), courier or CSA importer.

Records can be made available on-site at the company premises or delivered directly to the place of work of the Senior Officer Trade Compliance.

The officer must exercise discretion when deciding how much time to allow the person to make records available. Thirty days may be considered reasonable as a minimum.

This contravention is subject to graduated penalties and is applied on a per request basis, which will be made in writing and may involve more than one record.

Typically, only one written request for records would be made per audit, verification or examination.

The first contravention is subject to a $300 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second and third level penalties.

Because the record(s) are not available for verification, no other record penalty can be assessed regarding the transaction(s) under review.

This is the only record penalty that can be applied to the transaction(s) under review.

If all records of an audit, verification or examination are not available for review, the officer may wish to reconsider whether the records actually exist, see C160.

Retention Period

36 months

C164

Contravention

Person who is required by subsection 40(3) of the *Customs Act* to keep records in respect of commercial goods failed to truthfully answer any questions asked by the officer concerning the records.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 40(3)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Other Reference

Imported Goods Records Regulations, section 2

Guidelines

Non-compliance occurs when an audit, verification or examination determines that a licensee of a duty free shop or bonded warehouse failed to answer questions truthfully about records requested by an officer.

Applied against the licensee (warehouse or DFS), certificate holder (duty deferral), courier or CSA importer.

This penalty is normally applied by an investigations officer.

The officer must have written documentation proving that the licensee failed to answer questions truthfully.

Retention Period

36 months

C168

Contravention

Person failed to report within 90 days a failure to comply with a condition imposed under a tariff item in the List of Tariff Provisions in the schedule to the *Customs Tariff*.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, paragraph 80.2(2)*(a)*

D Memo

D6-2-3, Refund of Duties

Other Reference

D11-6-5, Interest and Penalty Provisions - Determinations and Re-Determinations, Appraisals and Re-Appraisals, and Duty Relief

Guidelines

Non-compliance occurs when a person was granted a refund under paragraph 74(1)(*f*) of the *Customs Act* and:

- The goods subsequently failed to comply with conditions imposed under a tariff item; and
- Refund has been paid under paragraph 74(1)(f) of the Act and the goods are subsequently sold or disposed of in a manner that would not entitle the importer to relief (i.e. revenue adjustment). For example, failure to maintain records or certificates of end use.

This penalty is also applied if a good is diverted from one conditional relief tariff item to another such that no additional duties are payable or refunded, but the diversion was not reported.

Applied against the importer.

Results from review or verification.

This contravention applies whether or not the refund received is repayable.

For errors discovered during a first audit, the first level penalty will apply.

For errors discovered during a second audit, the second level penalty will apply.

For errors discovered during a third or subsequent audits, the third level penalty will apply.

For situations where there is a repayable refund, see C169.

Retention Period

36 months

C169

Contravention

Person failed to repay within 90 days duties and interest refunded under paragraph 74(1)(f) of the *Customs Act* after a failure to comply with a condition imposed under a tariff item in the List of Tariff Provisions in the schedule to the *Customs Tariff*.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, paragraph 80.2(2)*(b)*

D Memo

D6-2-3, Refund of Duties

Other Reference

D11-6-5, Interest and Penalty Provisions - Determinations and Re-Determinations, Appraisals and Re-Appraisals, and Duty Relief

Guidelines

Non-compliance occurs when a refund has been paid under paragraph 74(1)(*f*) of the *Customs Act* and the goods subsequently fail to comply with conditions imposed under a tariff item.

Applied against the importer.

Penalty is applied as a result of a review or verification.

For errors discovered during a first visit, review or verification, a first level penalty will apply.

For errors discovered during a second visit, review or verification, a second level penalty will apply.

For errors discovered during a third and subsequent visits, reviews or verifications, the third level penalty will apply.

For failure to report a failure to comply with a condition imposed under a tariff item, see C168.

Retention Period

36 months

C170

Contravention

Exporter failed to report the export of goods on an export declaration at the time, place and/or in the manner prescribed.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Shipment

Legislation

Customs Act, subsection 95(1)

D Memo

D20-1-1, Exporter Reporting

Other Reference

Reporting of Exported Goods Regulations, sections 3 and 4

Guidelines

***** A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the exporter fails to provide an export declaration for goods that are not controlled, regulated or prohibited within the following legislative time frames prior to export:

- if the goods are exported by mail, not less than two hours before the goods are delivered to the post office where the goods are mailed;
- if the goods are exported by vessel, not less than 48 hours before the goods are loaded onto the vessel;
- if the goods are exported by aircraft, not less than two hours before the goods are loaded on board the aircraft;
- if the goods are exported by rail, not less than two hours before the railcar on which the goods have been loaded is assembled to form part of a train for export; and
- if the goods are exported by highway or any other mode of transportation, they must be reported immediately before being exported, i.e. before the conveyance transporting the goods crosses the border or leaves Canada.

Applied against the exporter.

Note: Live animals or time-sensitive goods may, unless they are prohibited, controlled or regulated goods, be reported immediately before they are exported, regardless of mode.

Apply a penalty per shipment.

One C170 will apply to exporters who fail to submit a monthly export summary report within the legislative time frame as per Section 4(2) of the *Reporting of Exported Goods Regulations*, regardless of the number of shipments contained on the summary reports.

An export declaration must be presented for goods moving in transit through the U.S. en route to a non-U.S. destination within the legislated time frames.

Note: An export declaration is not required when goods are destined for final consumption in the United States, Puerto Rico, or the U.S. Virgin Islands.

However, if the goods are prohibited, controlled or regulated, any required permits, licences and/or certificates must be presented to the CBSA according to the legislative time frames prior to export.

In a post-export verification situation, each shipment found in contravention within the verification period should be assessed a penalty at first level to a maximum amount of $25,000.

For example, in cases where

- the export of ten shipments were not reported, a penalty of $5,000 ($500 x 10) would be assessed, or
- the export of 100 shipments were not reported, a penalty of $25, 000 ($500 x 100 = $50,000) would be assessed.

For failure to provide export permit, licence or certificate, see C315.

For failure to report goods subject to export control, see C345.

For exporters who use summary reporting for goods that have not been approved by the CBSA, see C317.

For failure to provide true, accurate and complete information on an export report, see C005.

Retention Period

12 months

C189

Contravention

Person who has reported goods under subsection 95(1) of the *Customs Act* failed to answer truthfully any question asked by an officer with respect to the goods.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Instance

Legislation

Customs Act, paragraph 95(3)*(a)*

D Memo

N/A

Guidelines

Non-compliance occurs when the officer finds evidence during an examination that the information reported regarding the goods for export is not true, accurate and/or complete.

For example, the information regarding the origin of the goods for export is untrue. Or when the officer contacts the exporter to verify the information and the exporter gives an untrue response.

Applied against the exporter, exporter's agent or person transporting the goods.

For failure to answer truthfully any question with respect to goods subject to export control, see C346.

Retention Period

12 months

C190

Contravention

Person who has reported goods under subsection 95(1) of the *Customs Act* or the person who has possession of the goods at the time of the request by the Officer failed to present goods, remove any covering from the goods, unload the conveyance or open thereof or unpack any package.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, paragraph 95(3)*(b)*

D Memo

N/A

Guidelines

Applied against the person who files the report or the person in possession of the goods at the time of the request.

Officer must request from the person in possession of the goods to examine the goods.

Request must have enough details for the client to understand what is expected.

Reasonable amount of time to prepare the goods will be allowed.

Apply a penalty per instance.

Retention Period

12 months

C192

Contravention

Person who reported goods under subsection 95(1) of the *Customs Act* failed to export goods and failed to report failure to export the goods.

Penalty

1st: $150*
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Shipment

Legislation

Customs Act, section 96

D Memo

N/A

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the exporter fails to notify the CBSA that the goods are no longer to be exported as originally reported.

Applied against the exporter.

Officers should determine if the failure to export the goods was caused by circumstances beyond the exporter's / carrier's responsibility or control.

Apply a penalty per shipment.

Retention Period

12 months

C193

Contravention

Exporter or producer of goods failed to provide officer with a copy of certificate of origin on request.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Request

Legislation

Customs Act, subsection 97.1(2)

D Memo

D11-4-14, Certification of Origin

Other Reference

D20-1-5, Maintenance of Records in Canada by Exporters and Producers

Guidelines

Non-compliance occurs when, upon request, the exporter or the producer of goods fails to provide the completed and signed certificate of origin to the officer.

Applied against the producer of goods or the exporter.

Officer must first request the certificate of origin.

This requirement ensures that Canadian exporters are following bi-lateral agreements.

Apply a penalty per request.

Retention Period

12 months

C194

Contravention

Person who has completed and signed a certificate of origin in accordance with subsection 97.1(1) and (1.1) of the *Customs Act* failed to notify person to whom the certificate was given, of incorrect information.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Certificate

Legislation

Customs Act, subsection 97.1(3)

D Memo

D11-4-14, Certification of Origin

Other Reference

D20-1-5, Maintenance of Records in Canada by Exporters and Producers

Guidelines

Non-compliance occurs when there is evidence that person who completed and signed the certificate did not immediately notify all persons to whom the certificate was given of incorrect information.

Applied against the exporter or the producer of the goods.

This penalty only applies to the certificate of origin.

Apply a penalty per certificate.

Retention Period

12 months

C195

Contravention

Person who exported goods or caused goods to be exported failed to keep records at the place of business in Canada or at a designated place for a prescribed period.

Penalty

Flat rate: $25,000

Penalty Basis

Per Audit

Legislation

Customs Act, subsection 97.2(1)

D Memo

D20-1-5, Maintenance of Records in Canada by Exporters and Producers

Other Reference

Exporters' and Producers' Records Regulations

Guidelines

Non-compliance occurs when the person fails to keep records at the specified place, in the prescribed manner and for the prescribed period which is deemed to be six years following the exportation.

Retention Period

12 months

C196

Contravention

Bonded warehouse licensee or operator failed to comply with the provisions in the *Customs Bonded Warehouses Regulations* in respect of safety and security of goods while in a warehouse.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Regulation

Customs Bonded Warehouses Regulations, section 11 and 12

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the physical security, equipment and personnel, of the bonded warehouse including; doors, other building components, locks and signs are not sufficient to secure storage of the goods.

This contravention also refers to equipment and personnel such as security systems and security guards.

Non-compliance occurs when the licensee fails to fulfill any of these requirements.

Apply a penalty per instance (i.e. per visit to the warehouse).

For failure to ensure the safety and security of goods while in a sufferance warehouse, see C048.

Retention Period

36 months

C197

Contravention

Customs bonded warehouse licensee or operator failed to provide adequate space, personnel, or equipment or information required for the examination of goods.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Regulation

Customs Bonded Warehouses Regulations, sections 11 and 12

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

Non-compliance occurs when the licensee or the warehouse operator fails to provide the following services when requested to do so by the CBSA:

- the personnel and equipment necessary to ensure that the goods to be examined by an officer are made available to the officer for examination; and
- the personnel necessary to furnish information, for verification purposes, to an officer with respect to the bonded warehouse operations and inventory system.

The request to conduct verification can be made to any representative of the warehouse licensee or operator.

Applied against the operator or the licensee.

A second level penalty is not to be assessed until the first Notice of Penalty Assessment has actually been issued.

Apply a penalty per instance (i.e. per visit to the warehouse).

Retention Period

36 months

C198

Contravention

Customs bonded warehouse licensee or operator allowed unauthorized person(s) access to the bonded warehouse facility.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Instance

Regulation

Customs Bonded Warehouses Regulations, subsection 12(2)

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

Non-compliance occurs when a person, other than the licensee, an employee of the licensee or an employee of a carrier engaged in the delivery of goods to or the removal of goods from the bonded warehouse enters any place in it where goods are stored.

Non-compliance also occurs when unauthorized persons are allowed access without written authorization or the attendance of an officer.

Applied against the licensee or the warehouse operator.

Apply a penalty for each occurrence and not based on the number of persons allowed access without proper authorization.

Apply a penalty per instance (i.e. per visit to the warehouse).

For sufferance warehouse, see C049.

Retention Period

36 months

C199

Contravention

Customs bonded warehouse licensee or operator received or transferred intoxicating liquor without written approval from the appropriate, authorized provincial board, commission or agency.

Penalty

1st: $150
2nd: $225
3rd and subsequent: $450

Penalty Basis

Per Shipment

Regulation

Customs Bonded Warehouses Regulations, section 13

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

Non-compliance occurs when a customs bonded warehouse licensee or operator receives in or transfers from a bonded warehouse intoxicating liquor without written approval as authorized by the laws of that province/territory in which the customs bonded warehouse is situated.

Applied against the customs bonded warehouse licensee or operator.

During a first verification or audit, for each instance where goods are received in or transferred from, a first level penalty will be assessed.

During a second verification or audit, a second level penalty will be assessed, and the third level penalty will apply for a third or subsequent verifications or audits.

Apply a penalty per shipment, per visit.

Retention Period

36 months

C200

Contravention

Customs bonded warehouse licensee or operator received certain unauthorized domestic tobacco or alcohol products into the bonded facility.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Shipment

Regulation

Customs Bonded Warehouses Regulations, section 14

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

Non-compliance occurs when a licensee or operator receives certain unauthorized domestic tobacco or alcohol products into the bonded facility.

Applied against the customs bonded warehouse licensee or operator.

Apply a penalty per shipment, per visit.

Retention Period

36 months

C201

Contravention

Customs bonded warehouse licensee or operator received imported tobacco products or imported packaged spirits or wine into the customs bonded warehouse or removed imported tobacco products or imported packaged spirits or wine from the warehouse facility in a manner that was not prescribed.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Shipment

Regulation

Customs Bonded Warehouses Regulations, section 15

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

Applied against the customs bonded warehouse licensee or operator.

The licensee or operator shall not remove imported tobacco products or imported packaged spirits or wine unless the products are to be removed from the warehouse for the following reasons:

- sale to a foreign diplomat in Canada,
- export from Canada,
- sale to a duty free shop, or
- use as ships' stores.

During a first verification or audit, for each instance where goods are received or removed, a first level penalty will be assessed.

During a second verification or audit, for each instance where goods are received or removed, a second level penalty will be assessed and the third level penalty will apply for a third or subsequent verifications or audits.

Retention Period

36 months

C202

Contravention

Customs bonded warehouse licensee or operator received imported bulk spirits, bulk wine, or specially denatured alcohol that was not intended for export.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Customs Bonded Warehouses Regulations, section 16

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

Non-compliance occurs when a licensee or operator receives imported bulk spirits, bulk wine or specially denatured alcohol that was not intended for export.

Applied against the customs bonded warehouse licensee or operator.

During a first verification or audit, for each instance goods are received, a first level penalty will be assessed.

During a second verification or audit, for each instance goods are received, a second level penalty will be assessed and the third level penalty will apply for a third or subsequent verifications or audits.

Apply a penalty per shipment, per visit.

Retention Period

36 months

C204

Contravention

Customs bonded warehouse licensee failed to acknowledge receipt of goods in the manner prescribed in the *Bonded Warehouses Regulations*.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Customs Bonded Warehouses Regulations, section 17

D Memo

D7-4-4, Customs Bonded Warehouses

Guidelines

Non-compliance occurs when it is discovered that a licensee or operator failed to acknowledge receipt of goods in the manner prescribed in the *Customs Bonded Warehouses Regulations*.

Non-compliance also occurs when the warehouse operator refuses to accept responsibility by endorsing bill of lading, waybill or similar document presented by the carrier, and refuses to complete a Commercial Accounting Declaration to account for the shipment inventory.

Applied against the customs bonded warehouse licensee or operator.

Apply a penalty per instance of failing to acknowledge receipt of goods or refusal.

Retention Period

36 months

C207

Contravention

Master of a ship failed to place alcohol, tobacco and other goods for sale on board the ship under lock or seal and keep them there while the ship was in port.

Penalty

1st: $300*
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Instance

Regulation

Ships' Stores Regulations, section 4

D Memo

D4-2-1, Ships' Stores

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the alcohol, tobacco and other goods for sale on board are not kept under lock or seal while in port unless otherwise authorized by an officer.

Non-compliance is discovered as a result of ship examination upon its arrival in port.

Applied against master of ship or marine agent.

Retention Period

12 months

C208

Contravention

While the international aircraft was on the ground, the carrier failed to seal bar.

Penalty

1st: $300*
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Instance

Regulation

Ships' Stores Regulations, subsection 5(1)

D Memo

D4-2-1, Ships' Stores

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

"When an international aircraft is on the ground the carrier shall ensure that bar-boxes on board are sealed" (subsection 5(1) of the *Ships Stores Regulations*).

Applied against the carrier.

Non-compliance is discovered as a result of aircraft examination.

Exception: Seals on bar-boxes on an international aircraft may be broken when passengers begin boarding and, provided that no domestic passengers are carried, may remain unsealed where the aircraft is progressively boarded at more than one airport in Canada.

Apply a penalty per bar-box.

Retention Period

12 months

C210

Contravention

Person altered, manipulated or combined goods while in a bonded warehouse in a manner not prescribed.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per CBSA visit

Regulation

Customs Bonded Warehouses Regulations, section 20

D Memo

D7-4-4, Customs Bonded Warehouses

Other References

D7-4-1, Duties Relief Program
D7-4-3, NAFTA Requirements for Drawback and Duty Deferral

Guidelines

Non-compliance is discovered as a result of review of bonded warehouse operation or as a result of duty drawback or duty deferral verification.

Applied against the customs bonded warehouse operator or licensee.

Goods shall not be manipulated, altered or combined with other goods while in a bonded warehouse except for the purpose of or in the course of:

- Disassembling or reassembling goods that have been assembled or disassembled for packing, handling or transportation;
- Displaying;
- Inspecting;
- Marking, labelling, tagging or ticketing;
- Removing from the warehouse, for the sole purpose of soliciting orders for goods or services, a small quantity of material, or a portion, a piece or an individual object, that represents the goods;
- Storing;
- Testing;
- Packing, unpacking, packaging or repackaging; or
- Any of the following that do not materially alter the characteristics of the goods:

    i. Cleaning,
    ii. Complying with any applicable law of Canada or of a province,
    iii. Diluting,
    iv. Normal maintenance and servicing,
    v. Preserving,

vi. Separating defective goods from prime quality goods,
vii. Sorting or grading, and
viii. Trimming, filing, slitting or cutting.

All infractions discovered during the first visit, will be counted for one penalty and first level penalty will be assessed.

For failure to prevent the manipulation, combination or altering of goods in a sufferance warehouse, see C059.

Apply a penalty per visit.

Retention Period

36 months

C214

Contravention

Person failed within 90 days or such other period as may be prescribed to report a failure to comply with a condition of a duties relief provision or remission order.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Audit

Legislation

Customs Tariff, paragraph 118(1)*(a)*

D Memo

D7-4-1, Duties Relief Program

Other References

D7-4-2, Duty Drawback Program
D7-4-3, NAFTA Requirements for Drawback and Duty Deferral
D4-3-2 to D4-3-7, *Duty Free Shop Regulations*
D4-2-1, *Ships' Stores*

Guidelines

Non-compliance occurs when a person fails to report a failure to comply with a condition.

Non-compliance is discovered as a result of verification or audit.

Applied against the importer or licensee.

This penalty is applied whether or not there was an amount, which was repayable.

For errors discovered during a first verification or audit, the first level penalty will apply per verification or audit.

For errors discovered during a second verification or audit, a second level penalty will apply per verification or audit.

Third level penalty applies for errors discovered during a third or subsequent verifications or audits.

When person fails to pay the amount of duties, see C215.

Retention Period

36 months

C215

Contravention

Person failed within 90 days or such other period as may have been prescribed to pay the amount of duties in respect of which relief or remission was granted unless the provisions of subparagraph 118(1)(*b*)(i) or (ii) of the *Customs Tariff* were met.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Audit

Legislation

Customs Tariff, paragraph 118(1)*(b)*

D Memo

D7-4-1, Duties Relief Program

Other References

D7-4-3, NAFTA Requirements for Drawback and Duty Deferral
D7-4-2, Duty Drawback Program
D4-3-2 to D4-3-7, *Duty Free Shop Regulations*
D4-2-1, *Ships' Stores*

Guidelines

Non-compliance occurs when a person fails to pay the amount of duties in respect of which a relief or remission was granted within 90 days.

Non-compliance is discovered as a result of a verification or audit.

Applied against the importer or licensee.

For errors discovered during a first verification or audit, a first level penalty will apply per verification or audit.

For errors discovered during a second verification or audit, a second level penalty will apply per verification or audit.

Third level penalty applies for errors discovered during a third or subsequent verifications or audits.

When person fails to report failure to comply with a condition, see C214. In that case both penalties will apply.

Retention Period

36 months

C216

Contravention

Person failed within 90 days after the date of the diversion to report diverted goods to a customs officer at a customs office.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Audit

Legislation

Customs Tariff, paragraph 118(2)*(a)*

D Memo

D7-4-1, Duties Relief Program

Other References

D7-4-2, Duty Drawback Program
D7-4-3, NAFTA Requirements for Drawback and Duty Deferral
D4-3-2 to D4-3-7, *Duty Free Shop Regulations*
D4-2-1, *Ships' Stores*

Guidelines

Non-compliance occurs when a drawback has been granted by reason of a deemed exportation under subsection 89(3) of the *Customs Tariff* and the goods are not subsequently exported but are diverted to an unqualified use and the person fails to report this diversion.

Applied against the importer.

This contravention is applied whether or not there was an amount, which was repayable.

Contravention does not occur until 90 days after diversion.

For errors discovered during a first verification or audit, the first level penalty will apply per verification or audit.

For errors discovered during a second verification or audit, a second level penalty will apply per verification or audit.

Third level penalty applies for errors discovered during a third or subsequent verifications or audits.

When person fails to pay the amount of drawback and any interest granted, see C217.

Retention Period

36 months

C217

Contravention

Person failed within 90 days after the date of the diversion to pay the amount of the drawback and the amount of any interest granted.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Audit

Legislation

Customs Tariff, paragraph 118(2)*(b)*

D Memo

D7-4-2, Duty Drawback Program

Other References

D7-4-1, Duties Relief Program
D7-4-3, NAFTA Requirements for Drawback and Duty Deferral
D4-3-2 to D4-3-7, *Duty Free Shop Regulations*
D4-2-1, *Ships' Stores*

Guidelines

Non-compliance occurs when a drawback has been granted by reason of a deemed exportation and the goods are not subsequently exported but are diverted to an unqualified use and the person fails to pay the amount of the drawback and any interest granted on the drawback.

Applied against the importer.

Contravention does not occur until 90 days after diversion.

For errors discovered during a first verification or audit, a first level penalty will apply.

For errors discovered during a second verification or audit, a second level penalty will apply.

Third level penalty applies for errors discovered during a third or subsequent verifications or audits.

When person fails to report diverted goods that were deemed exported, see C216.

Retention Period

36 months

C218

Contravention

Person failed to pay within 90 days duties relieved under section 89 of the *Customs Tariff* on the goods that entered into a process which produced by-product(s) not eligible for relief.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Audit

Legislation

Customs Tariff, subsection 121(1)

D Memo

D7-4-1, Duties Relief Program

Other Reference

D7-4-2, Duty Drawback Program

Guidelines

Non-compliance occurs when a person failed to pay within 90 days, the duties relieved, under section 89 of the *Customs Tariff*, on goods that entered into a process, which produced a by-product not eligible for relief.

Applied against the importer.

For errors discovered during a first audit, review or verification, a first level penalty will apply.

For errors discovered during a second audit, review or verification, a second level penalty will apply.

Third level penalty applies for errors discovered during a third or subsequent audits, reviews or verifications.

Retention Period

36 months

C221

Contravention

Person failed to pay within 90 days duties relieved under section 89 of the *Customs Tariff*, on goods that entered into a process that produced merchantable scrap or waste that was not eligible for relief.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Verification

Legislation

Customs Tariff, subsection 122(1)

D Memo

D7-4-1, Duties Relief Program

Other Reference

D7-4-2, Duty Drawback Program

Guidelines

Non-compliance is discovered during an audit, verification or examination.

Applied against the importer.

Any scrap or waste product that has value, and remains in Canada, is liable for the amount of duties owing at the classification and rate applicable at the time the scrap or waste is produced.

For errors discovered during a first audit, review or verification, a first level penalty will apply under subsection 89(3) of the *Customs Tariff.*

For errors discovered during a second audit, review or verification, a second level penalty will apply.

Third level penalty applies for errors discovered during a third or subsequent audits, reviews or verifications.

Retention Period

36 months

C223

Contravention

Non Customs Self Assessment (CSA) importer failed to provide a detailed product description in respect of goods liable for review under the *Special Import Measures Act* (SIMA), after the importer has been notified in writing.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Document

Legislation

Customs Act, section 7.1

D Memo

D17-1-10, Coding of Customs Accounting Documents

Guidelines

Non-compliance occurs when non-CSA importer fails to provide a detailed product description in respect of goods liable for review under the *Special Import Measures Act* (SIMA) after the importer has been notified in writing.

Applied against the importer.

SIMA Compliance Officers and Senior Enforcement and Appeals Officers are authorized to apply this penalty.

The penalty cannot be issued unless the importer had been notified in writing by the Anti-dumping and Countervailing Directorate that detailed product description is required.

The importer will have 10 days after issuance of the letter or, Detailed Adjustment Statement (DAS), to provide the subsequent import documents requested by the SIMA officer.

More time can be negotiated, depending on the circumstances.

The Trade and Anti-dumping Programs Directorate will identify the information required in the notice letter to the importer and it may vary by case.

Verify that the importer has been notified regarding the product description requirements (letter or DAS) by referring to the SIMA compliance case file found in Apollo.

For the first Commercial Accounting Declaration (CAD), apply the first level penalty; for the second CAD, apply the second level penalty; for the third and subsequent CAD, apply the third level penalty.

Apply a penalty per document, i.e. per CAD.

For CSA importer, see C224.

Retention Period

36 months

C224

Contravention

Customs Self Assessment (CSA) importer failed to provide the detailed product description within the period specified in respect to goods liable to a *Special Import Measures Act* (SIMA) action.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Document

Legislation

Customs Act, subsection 40(1)

D Memo

D17-1-10, Coding of Customs Accounting Documents

Other reference

Electronic Commerce Client Requirements Document, Chapter 17: Customs Self Assessment (CSA) Importer

Guidelines

Non-compliance occurs when a CSA importer fails to provide a detailed product description in respect of goods liable for review under the Special Import Measures Act (SIMA) after the importer has been notified in writing.

SIMA Compliance Officers and Senior Enforcement and Appeals Officers are authorized to apply this penalty.

Applied against CSA importers.

Penalty cannot be issued unless the importer has been notified in writing that detailed product description is required.

The importer will have 10 days after issuance of the letter, or Detailed Adjustment Statement (DAS) to provide the records.

More time can be negotiated, depending on the circumstances.

The penalty will be applied if the information is not provided after this first request.

Type and extent of information required will be identified by the Anti-dumping and Countervailing Directorate in the notice letter to the importer.

Verify that the importer has been notified regarding the product description requirements (letter or DAS) by referring to the SIMA compliance case file found in Apollo.

For the first Commercial Accounting Declaration (CAD), apply the first level penalty; for the second CAD, apply the second level penalty; for the third and subsequent CAD, apply the third level penalty.

Apply a penalty per document, i.e. per CAD.

For non-CSA importer, see C223.

Retention Period

36 months

C225

Contravention

Importer failed to keep prescribed records for goods subject to *Special Import Measures Act* (SIMA) action.

Penalty

Flat rate: $25,000

Penalty Basis

Per Audit

Legislation

Customs Act, subsection 40(1)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Guidelines

Non-compliance occurs when the importer fails to keep prescribed records for goods subject to *Special Import Measures Act* (SIMA) action.

Applied against the importer.

SIMA Compliance Officers and Senior Enforcement and Appeals Officers are authorized to apply this penalty.

Penalty cannot be issued unless the importer has been notified in writing that prescribed records are required.

Verify that the importer has been notified regarding these requirements by referring to the SIMA compliance case file found in Apollo.

Prescribed records are:

- date of sale
- description of the goods
- date of release
- the location of release
- commercial invoice
- purchase order
- proof of payment including credits and adjustments
- any other information as requested in the written notice

Apply a penalty per audit or verification.

Retention Period

36 months

C234

Contravention

The importer or transporter failed to provide true, accurate and complete information when applying to participate in the Customs Self Assessment (CSA) program.

Penalty

Flat rate: $25,000

Penalty Basis

Per Instance

Legislation

Customs Act, section 7.1

D Memo

D23-3-1, Customs Self-Assessment Program for Importers

Other Reference

D23-2-1, Customs Self-Assessment Program for Carriers

Guidelines

Non-compliance occurs when the discovered errors or omissions relate to:

1- Information required on Part I of the CSA Application from importer or transporter which would have resulted in the application being denied, namely:

- applicant identification
- information on divisions of the company
- additional information provided for the application process, when requested

2- Importer information required for Part II of the CSA Application, which would have resulted in the application being denied namely:

- business date(s) that results in late or non-account
- accounting trigger(s) that results in non-account
- accounting option that results in late accounting (the importer is not using accounting option attested to in the CSA Undertaking)
- descriptions provided in section B - Books and Records, that result in non-compliance

3- Transporter information required for Part II of the CSA Application which would have resulted in the application being denied namely:

- descriptions provided in section B - Books and Records, that result in non-compliance

Normally applied by a Senior Trusted Trader Officer.

Applied against the importer or transporter, at the legal entity level.

Applied at time of application or subsequent to CSA approval.

Apply a penalty regardless of number of errors on application.

Any information pertaining to this contravention discovered by a Senior Officer Trade Compliance should be communicated to the Senior Trusted Trader Officer.

No penalty for obvious clerical or administrative errors.

Retention Period

12 months

C244

Contravention

The Customs Self Assessment (CSA) approved importer failed to account for goods in the prescribed manner or within the prescribed time limit.

This is a warning notice used to establish the compliance level of the importer. If your annual compliance falls below the established level, a penalty may be assessed under C246.

Penalty

Flat rate: $0.00 per transaction **Penalty Basis**

Per Transaction

Legislation

Customs Act, subsection 32(3)

D Memo

D23-3-1, Customs Self-Assessment Program for Importers

Other Reference

Electronic Commerce Client Requirements Document, Chapter 17: Customs Self Assessment (CSA) Importer

Guidelines

Applied against the importer.

This is a system generated warning.

There may be multiple contraventions listed on the Notice of Penalty Assessment (NPA).

Applied when the date in the Release Date field falls outside the established accounting time frame.

For situations where the CSA importer fails to maintain a minimum compliance level of 95% for the accounting of released goods in the prescribed manner or time, on a calendar year basis, see C246.

Apply a penalty per transaction.

Retention Period

12 months

C246

Contravention

The Customs Self Assessment (CSA) approved importer failed to account for goods in the prescribed manner or time.

Penalty

Flat rate: $100

Penalty Basis

Per Transaction

Legislation

Customs Act, subsection 32(3)

D Memo

D23-3-1, Customs Self-Assessment Program for Importers

Other Reference

Electronic Commerce Client Requirements Document, Chapter 17: Customs Self Assessment (CSA) Importer

Guidelines

Applied against the importer.

Applied by a Senior Trusted Trader Officer.

Penalties will be issued if the CSA importer failed to maintain a minimum compliance level of 95% for the accounting of released goods in the prescribed manner or time, on a calendar year basis.

To establish the compliance level, the total number of Commercial Accounting Declaration (CAD) accepted by the system for each importer will be compared to the number of late accounted CADs.

Date in the Release Date field falls outside the established accounting time frame.

See C244, for the warning notice that is generated per transaction when the CSA approved importer failed to account for released goods in the prescribed manner or time.

Apply a penalty per transaction between 95% and the lower compliance level.

There may be multiple contraventions listed on the Notice of Penalty Assessment (NPA).

Retention Period

12 months

C260

Contravention

Customs broker failed to immediately notify the Chief Officer of Customs in writing, of any change in the address of a business office at which he/she transacts business as a customs broker.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Customs Brokers Licensing Regulations, paragraph 14(*b*)(i)

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Non-compliance occurs when the customs broker fails to immediately provide the chief officer of customs with written notification of any change in the address of the business office at which he/she transacts business as a customs broker.

Prior to issuing an AMPS penalty, CBSA officers should verify the following information:

- Contact the chief officer of customs where the broker is licensed, in order to confirm if the broker immediately provided written notification of any change in his/her business address.
- Contact Brokers Licensing Unit, in Headquarters, to confirm if the broker provided written notification of any change in business address.

Apply a penalty per change of address without written notification to the chief officer of customs.

Retention Period

12 months

C261

Contravention

Customs broker failed to immediately notify the Chief Officer of Customs in writing, of changes in the legal or business name of the partnership or the corporation, where the customs broker is a partnership or corporation.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Instance

Regulation

Customs Brokers Licensing Regulations, paragraph 14*(b)*(ii)

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Non-compliance occurs when the licensed customs broker fails to immediately provide the chief officer of customs with written notification of any change in the legal or business name of the partnership or the corporation.

Prior to issuing an AMPS penalty, CBSA officers should verify the following information:

- Contact the chief officer of customs where the broker is licensed, to confirm if the broker provided written notification of any change to the legal or business name of the partnership or the corporation.
- Contact Brokers Licensing Unit, in Headquarters, to confirm if the required written notification of the change was provided.

Apply a penalty per change in business name.

Retention Period

12 months

C262

Contravention

Customs broker failed to immediately notify the Chief Officer of Customs in writing, of changes in the membership of the partnership, where the customs broker is a partnership.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Customs Brokers Licensing Regulations, paragraph 14*(b)*(iii)

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Non-compliance occurs when the customs broker fails to immediately provide the chief officer of customs with written notification of any changes in the membership of the partnership.

Prior to issuing a penalty, CBSA officers should verify the following information:

- Contact the chief officer of customs where the broker is licensed, to confirm if the broker provided immediate written notification of any change in the membership of the partnership.
- Contact Brokers Licensing Unit, in Headquarters, to confirm if the required written notification of change was provided.

Apply a penalty per change in membership of the partnership.

Retention Period

12 months

C263

Contravention

Customs broker failed to immediately notify the Chief Officer of Customs in writing, of changes in the officers or directors of the corporation, where the customs broker is a corporation.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Customs Brokers Licensing Regulations, paragraph 14*(b)*(iv)

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Non-compliance occurs when the customs broker fails to immediately provide the chief officer of customs with written notification, of any changes in the officers or directors of the corporation.

Prior to issuing an AMPS penalty, CBSA officers should verify the following information:

- Contact the chief officer of customs where the broker is licensed, to confirm if the broker immediately provided written notification of any changes in the officers or directors of the corporation.
- Contact Brokers Licensing Unit, in Headquarters, to confirm if the required written notification of change was provided.

Apply a penalty per change in the officers or directors of the corporation.

Retention Period

12 months

C265

Contravention

Customs broker failed to immediately notify the Chief Officer of Customs in writing, of any change in the ownership of the business or corporation, where the broker is an individual or corporation.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Customs Brokers Licensing Regulations, paragraph 14*(b)*(vi)

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Non-compliance occurs when a customs broker fails to immediately provide the chief officer of customs with written notification of any changes in the ownership of the business or corporation.

Prior to issuing an AMPS penalty, CBSA officers should verify the following information:

- Contact the chief officer of customs office where the broker is licensed, in order to confirm if the broker immediately supplied written notification of any changes in the ownership of the business or corporation.
- Contact Brokers Licensing Unit, in Headquarters, to confirm if the required written notification of change was provided.

Apply a penalty per change in the ownership of the business or corporation.

Retention Period

12 months

C266

Contravention

Customs broker failed to immediately notify the Chief Officer of Customs in writing, of changes in the individuals meeting the knowledge requirement determined in accordance with section 4 of the *Customs Brokers Licensing Regulations*.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Instance

Regulation

Customs Brokers Licensing Regulations, paragraph 14*(b)*(vii)

Other Reference

D1-8-1, Licensing of Customs Brokers

Guidelines

Non-compliance occurs when the customs broker fails to immediately provide the chief officer of customs with written notification of any changes in the individual(s) meeting the knowledge requirement in accordance with section 4 of the regulations, within their brokerage firm.
Brokerage firms are required to have one individual who has Professional Status and acts as the “Qualified Officer” of the firm. These individuals must meet the knowledge requirements outlined in the *Customs Brokers Licensing Regulations*.

Prior to issuing an AMPS penalty, CBSA officers should verify the following information:

- Contact the chief officer of customs where the broker is licensed to confirm if the broker immediately provided written notification of any change in the individual(s) who meet the knowledge requirement in accordance with section 4 of the regulations within their firm.
- Contact Brokers Licensing Unit, in Headquarters, to confirm if the broker immediately provided the required notification of any change in individuals who meet the knowledge requirement in accordance with the regulations.

Apply a penalty per instance of non-notification per change of qualified person.

Retention Period

12 months

C267

Contravention

Broker failed to account to a client for funds owed or refunded.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Customs Brokers Licensing Regulations, paragraph 14*(d)*(i)(ii)

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Non-compliance occurs when a broker fails to promptly account for funds received for the client from the Receiver General for Canada, or received from the client in excess of the duties and / or other charges payable in respect of the client's business with the Canada Border Services Agency.

The broker must account to the client for all funds received from the CBSA. A refund cheque (from a Commercial Accounting Declaration (CAD))should always be made out in the name of the importer and should not be cashed by the broker, unless specifically authorized by a "power of attorney".

A contravention will become apparent following either an audit or a complaint from a client and subsequent investigation by regional officials.

Each failure to account to a client shall be deemed to be a separate contravention.

This contravention will normally be applied at the local or regional level.

The Brokers Licensing unit, in Headquarters, should be advised of any penalties issued.

Retention Period

12 months

C269

Contravention

A customs broker failed to keep records and books of account indicating all financial transactions made while transacting business as a customs broker.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Audit

Regulation

Customs Brokers Licensing Regulations, paragraph 17(1)*(a)*

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Applied against the broker.

All contraventions found within the same audit, verification or examination from the sample pool, will be assessed at the same level (e.g. first level, second level, etc.).

There will be one assessment per audit, verification or examination and a penalty will be applied as per the relevant level for the identified contravention.

One or more records not kept, (per client), will be considered to be separate contravention.

Brokers who operate at more than one location may keep their records and books of account at a single location. Therefore, before applying the penalty, the officer should verify that the records are not kept at another location.

Retention Period

36 months

C270

Contravention

A customs broker failed to keep copies of each customs accounting document and supporting documents made while transacting business as a customs broker.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Audit

Regulation

Customs Brokers Licensing Regulations, paragraph 17(1)*(b)*

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Applied against the broker.

Non-compliance is discovered following a verification, audit, review, or monitoring.

One or more records not kept, (per client if applicable), will be considered to be a separate contravention.

All contraventions found within the same audit, verification, review, monitoring or examination from the sample pool, will be assessed at the same level (e.g. first level, second level, etc.).

There will be one assessment per audit, verification or examination and a penalty will be applied as per the relevant level for the identified contravention.

There will one assessment per individual claim within a CREDITS compliance review or monitoring.

Brokers who operate at more than one location may keep their records and books of account at a single location. Therefore, before applying the penalty, the officer should verify that the records are not kept at another location.

Retention Period

36 months

C271

Contravention

While transacting business as a customs broker, a broker failed to keep copies of all correspondence, bills, accounts, statements and other papers received or prepared that related to the transaction of business as a customs broker.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Audit

Regulation

Customs Brokers Licensing Regulations, paragraph 17(1)*(c)*

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Applied against the broker.

Non-compliance is discovered following a verification or audit.

One or more records not kept, (per client if applicable), will be considered to be separate contravention.

All contraventions found within the same audit, verification or examination from the sample pool, will be assessed at the same level (e.g. first level, second level, etc.).

There will be one assessment per audit, verification or examination and a penalty will be applied as per the relevant level for the identified contravention.

Customs brokers who operate at more than one location may keep their records and books of account at a single location. Therefore, before applying the penalty, the officer should verify that the records are not kept at another location.

Retention Period

36 months

C272

Contravention

While transacting business as a customs broker, a broker failed to keep separately, all of the records, books of account and copies of transactions referred to in paragraphs 13(1)(*a*) to (*c*) of the *Customs Brokers Licensing Regulations* related to business transacted as a customs broker.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Audit

Regulation

Customs Brokers Licensing Regulations, paragraph 17(1)*(d)*

D Memo

D1-8-1, Licensing of Customs Brokers

Guidelines

Applied against the broker.

Non-compliance is discovered as a result of verification or audit.

A customs broker may transact business for a client directly, or through the services of a qualified sub-agent (customs broker).

Records pertaining to clients served directly, must be kept separately (or at least be distinguishable) from the records pertaining to clients served indirectly, through the services of a sub-agent.

One or more records not kept separately, (per client if applicable), will be considered to be separate contravention.

All contraventions found within the same audit, verification or examination from the sample pool, will be assessed at the same level (e.g. first level, second level, etc.).

There will be one assessment per audit, verification or examination and a penalty will be applied as per the relevant level for the identified contravention.

Brokers who operate at more than one location may keep their records and books of account at a single location. Therefore, before applying the penalty, the officer should verify that the records are not kept at another location.

Retention Period

36 months

C274

Contravention

Person provided information to an officer that is not true, accurate and complete.

Goods reported as arrived for customs processing when they are not arrived, and/or containing information that is not true, accurate and complete.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Instance

Legislation

Customs Act, section 7.1

D Memo

D3-1-1 Policy Respecting the Importation and Transportation of Goods
D3-3-1 Freight Forwarder Pre-arrival and Reporting Requirements
D3-4-2 Highway Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Other Reference

Reporting of Imported Goods Regulations

Guidelines

Non-compliance occurs when the sender of a Warehouse Arrival Certification Message (WACM) submits the WACM prior to the shipment physically arriving at the CBSA office/sufferance warehouse, or submits a WACM which contains information which is not true, accurate or complete. "Per instance" pertains to each "Cargo Control Number" that was transmitted to customs as "arrived" by the sufferance warehouse operator.

The penalty would apply **to the warehouse operator who transmitted the arrival notice.** Where a third party is used to transmit the arrival notice on behalf of a warehouse operator, the penalty would still apply to the warehouse operator.

In cases where there has been an administrative error in the documentation, see C005.

For situations where the goods are not available for examination, see C026.

If a carrier fails to report imported goods, refer to C021.

If a carrier fails to report the arrived conveyance, refer to C023.

Retention Period

12 months

C277

Contravention

Authorized person failed to notify in writing the Minister or a designated officer, within two weeks, of any change in the address of that authorized person's business office.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Persons Authorized to Account for Casual Goods Regulations, subsection 10*(a)*

D Memo

D17-4-0, Courier Low Value Shipment Program

Other Reference

Accounting for Imported Goods and Payment of Duties Regulations

Guidelines

Applied against the courier company that has been authorized to account for personal/casual goods only.

Written notification must be received by the CBSA within two weeks of change.

Confirm with HQ that a notification has not already been provided for the change of address before applying the penalty.

Apply a penalty per change of address.

Refer to D17-4-0 for a list specifying who can import casual goods.

Retention Period

12 months

C278

Contravention

Authorized person failed to notify in writing the Minister or a designated officer, within two weeks, of any change in that authorized person's legal or business name.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Persons Authorized to Account for Casual Goods Regulations, subsection 10*(b)*

D Memo

D17-4-0, Courier Low Value Shipment Program

Other Reference

Accounting for Imported Goods and Payment of Duties Regulations

Guidelines

Applied against the courier company that has been authorized to account for personal/casual goods only.

Written notification must be received by the CBSA within two weeks of change.

Confirm with HQ that a notification has not already been provided for the change of legal or business name before applying the penalty.

Apply a penalty per change in name.

Refer to D17-4-0 for a list specifying who can import casual goods.

Retention Period

12 months

C279

Contravention

Authorized person failed to notify in writing the Minister or a designated officer, within two weeks, of any change in the ownership of the business.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Persons Authorized to Account for Casual Goods Regulations, subsection 10*(c)*

D Memo

D17-4-0, Courier Low Value Shipment Program

Other Reference

Accounting for Imported Goods and Payment of Duties Regulations

Guidelines

Applied against the courier company that has been authorized to account for personal/casual goods only.

Written notification must be received by the CBSA within two weeks of change.

Confirm with HQ that a notification has not already been provided for the change of ownership before applying the penalty.

Apply a penalty per change.

Refer to D17-4-0 for a list specifying who can import casual goods.

Retention Period

12 months

C288

Contravention

Person failed to account for imported goods within five business days of their release

This is in the instance of an individual transaction.

Penalty

Flat rate: $100

Penalty Basis

Per Commercial Accounting Declaration (CAD)

Legislation

Customs Act, subsection 32(3)

D Memo

D17-1-5, Registration, Accounting and Payment for Commercial Goods

Other Reference

Accounting for Imported Goods and Payment of Duties Regulations

Guidelines

Non-compliance occurs when importer fails to present the final accounting documentation and have it accepted by the custom system within the prescribed time limit of the 5th day after the goods have been released.

Applied against the importer.

The CBSA Assessment and Revenue Management (CARM) will automatically generate a $100 late accounting penalty for each overdue CAD.

In non-automated ports, the officer would manually issue this penalty on a K23 for $100 for each overdue CAD.

The officer is not to issue a Notice of Penalty Assessment (NPA) in CARM when this non-compliance is discovered.

The five day delay begins on the next business day following the day of release; the day of release is counted as day 0. When goods are released on a Saturday, Sunday, or holiday, the accounting period starts on the first business day after release.

Where circumstances beyond a client's control (CBSA error or delay, natural or human made disaster, system failure, etc.) causes this late accounting penalty, the client can request for a waiver or cancellation under section 3.3 of the *Customs Act* by using Form E571, to the releasing office or to HQ (Brokers Licensing).

Requests for waiver or cancellation will not be approved in cases where the late accounting resulted from neglect or lack of awareness on the part of the importer or broker.

Retention Period

12 months

C298

Contravention

Person failed to provide records to an officer when requested, within the time specified by the officer.

Penalty

1st: $600
2nd: $1,200
3rd and Subsequent: $2,400

Penalty Basis

Per Written Request

Legislation

Customs Act, subsection 43(2)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Guidelines

Non-compliance occurs when a person, who has received a written request from an officer, fails to produce records, books, letters, accounts, invoices, statements or other documents or information as specified by the officer.

An officer may make a written request to any person for any purpose related to the administration or enforcement of the Customs Act, including the collection of any amount owing under the Customs Act.

This penalty is normally applied by a Senior Officer Trade Compliance (SOTC) or investigations officer and approved by the regional Manager, Trade Compliance or regional Manager, Investigations.

SOTCs must use discretion when deciding how much time to allow the company to produce the document or records at issue. Thirty days may be considered reasonable.

This contravention is subject to graduated penalties and is applied on a per request basis, which will be made in writing and may involve more than one document.

The first contravention is subject to a $600 penalty.

For failure to keep records in respect of commercial goods imported, see C299.

For failure to make records available in respect of commercial goods, see C157.

Retention Period

36 months

C299

Contravention

Person who imports commercial goods or causes commercial goods to be imported failed to keep the prescribed records at the specified place in the prescribed manner and for the prescribed period.

Penalty

Flat rate: $25,000

Penalty Basis

Per Audit

Legislation

Customs Act, subsection 40(1)

D Memo

D17-1-21, Maintenance of Records in Canada by Importers

Other Reference

Imported Goods Records Regulations, sections 2 and 4

Guidelines

Non-compliance occurs when an audit, verification, inspection or examination determines that a person has not kept all of the prescribed records in the prescribed manner in respect of an importation of commercial goods at their place of business in Canada or at a place designated by the Minister for a period of 6 years following the importation.

The prescribed records are those that are identified in section 2 of the Imported Goods Records Regulations. The regulations require the person keep, in respect of commercial goods, all records that relate to:

- origin, marking, purchase, importation, costs and value of the commercial goods;
- payment for the commercial goods;
- the sale or other disposal of the commercial goods; and
- any application for an advance ruling made under section 43.1 of the Act in respect of the commercial goods.

The prescribed manner in which these records must be kept is identified in section 4 of the Imported Goods Record Regulations. The regulations require that the records are kept in a manner that enables an officer to perform detailed audits and to obtain or verify information on which a determination of the amount of duties paid, payable, deferred, refunded, or relieved was made.

The prescribed records are to be kept at the person's place of business in Canada or at a place designated by the Minister. The place designated by the Minister is any location where the person has requested and received authorization from the Canada Border Services Agency in accordance with D17-1-21 Maintenance of Records in Canada by Importers.

This penalty is normally applied by a Senior Officer Trade Compliance (SOTC) or investigations officer and approved by the regional Manager, Trade Compliance or the regional Manager, Investigations.

SOTCs should use discretion when deciding how much time to allow the person to demonstrate that they are compliant. Thirty days may be considered reasonable.

This contravention is subject to a flat penalty amount of $25,000.

For failure to make records available in respect of commercial goods imported, see C157.

Retention Period

36 months

C315

Contravention

Exporter failed to provide to customs, according to the legislative time frames, any export permit, licence or certificate required.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Document

Legislation

Customs Act, subsection 95(1)

D Memo

D20-1-1, Exporter Reporting

Other References

D19-10-3, Administration of the *Export and Import Permit Act (Exportations)*; Appendix B, Export Control List
Reporting of Exported Goods Regulations, section 5

Guidelines

Applied against the exporter.

If the goods are prohibited, controlled or regulated, any required permits, licences and/or certificates must be made available prior to export within the legislative time frames:

(1) if the goods are exported by mail, not less than two hours before the goods are delivered to the post office where the goods are mailed;

(2) if the goods are exported by vessel, not less than 48 hours before the goods are loaded onto the vessel;

(3) if the goods are exported by aircraft, not less than two hours before the goods are loaded on board the aircraft;

(4) if the goods are exported by rail, not less than two hours before the railcar on which the goods have been loaded is assembled to form part of a train for export; and

(5) if the goods are exported by highway or any other mode of transportation, they must be reported immediately before being exported, i.e., before the conveyance transporting the goods crosses the border or leaves Canada.

Export permits are not required for softwood lumber exports destined to the United States.

Apply a penalty per missing permit, certificate or licence.

In a post export verification situation, each shipment found in contravention within the verification period should be assessed a penalty at first level to a maximum amount of $50,000.

For example, in cases where

- a required permit was not provided for the export of ten shipments, a penalty of $10,000 ($1,000 x 10) would be assessed, or
- a required permit was not provided for the export 100 shipments, a penalty of $50,000

For missing, incorrect or untrue information on a permit, licence or certificate, see C005.

For failure to submit export declarations for goods not subject to export control, see C170.

For failure to report goods subject to export control, see C345.

For false information provided on a permit, licence or certificate, see C348.

Retention Period

12 months

C317

Contravention

Exporter submitted written summary report for goods that do not qualify for the Summary Reporting Program.

Penalty

1st: $1,000
2nd: $2,000
3rd and Subsequent: $4,000

Penalty Basis

Per Shipment

Legislation

Customs Act, subsection 95(1)

D Memo

D20-1-1, Exporter Reporting

Other References

Reporting of Exported Goods Regulations, sections 4 and 8
D19-10-3, Administration of the *Export and Import Permit Act (Exportations)*; Appendix B, Export Control List

Guidelines

Non-compliance occurs when the exporter reports exported shipments that do not qualify for summary reporting on a summary declaration. To qualify for summary reporting, the shipment must meet all of the following conditions:

- all goods included in the shipment have been approved by the CBSA in writing prior to the exportation of the goods ; in the case of goods subject to export controls, the government department controlling the export of the goods must have also given written permission to the exporter.the consignee country to which the goods are intended for export was approved by the CBSA in writing in advance of the exportation of the goods
- the shipment being reported was bulk or homogenous in nature as per the definition in the *Reporting of Exported Goods Regulations*

The approvals noted above usually take the form of an application to the Summary Reporting Program that is signed by a CBSA officer. These applications are maintained by the CBSA Commercial Registration Unit. Copies can be requested by the e-mailing cbsa.export_program-programme_exportation.asfc@cbsa-asfc.gc.ca
.

If goods that were authorized on the original application subsequently become restricted (prohibited, controlled or regulated), it is the exporter's responsibility to submit an amended application to the CBSA immediately.

Applied against the exporter.

One C317 penalty will apply regardless of the number of commodities that do not qualify for summary reporting.

In a post export verification situation, each shipment found in contravention within the verification period should be assessed a penalty at first level to a maximum amount of $50,000.

For example, in cases where

- ten shipments of goods not qualified for Summary Reporting were exported without prior approval from CBSA, a penalty of $10,000 ($1,000 x 10) would be assessed, or

- 100 shipments of goods not qualified for Summary Reporting were exported without prior approval from CBSA, a penalty of $50,000 ($1,000 x 100 = $100,000) would be assessed.

For summary reports containing untrue, inaccurate and incomplete information, see C005.

For false information provided on a permit, licence or certificate, see C348.

Retention Period

12 months

C318

Contravention

Person who exported goods failed to make such records available to an officer within the time specified.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Occurrence

Legislation

Customs Act, subsection 97.2(1)

D Memo

D20-1-5, Maintenance of Records in Canada by Exporters and Producers

Other Reference

Exporters' and Producers' Records Regulations

Guidelines

Non-compliance occurs when an exporter who exported goods fails to make such records available to an officer when requested in writing, within the time specified.

Officer must request export records in writing.

The exporter will be given a minimum of 30 days to fulfill the written request and provide the records.

Additional time may be negotiated between the officer and the exporter depending on the circumstances.

Retention Period

12 months

C319

Contravention

Person who exported goods failed to truthfully answer any questions asked by an officer in respect of the records.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Occurrence

Legislation

Customs Act, subsection 97.2(1)

D Memo

D20-1-5, Maintenance of Records in Canada by Exporters and Producers

Guidelines

Non-compliance occurs when it has been determined that the exporter did not answer truthfully questions asked by an officer in respect of records for the goods being exported.

For example, officer contacts the exporter and asks for the total number of declarations submitted in the last year. Officer compares the information given by the exporter against available data and discovers that the information does not match. Penalty C319 may be applied.

Retention Period

12 months

C320

Contravention

Person failed to repay amount or portion of refund, drawback or interest to which they were not entitled.

Penalty

1st: $300
2nd: $450
3rd and Subsequent: $900

Penalty Basis

Per Audit

Legislation

Customs Tariff, subsection 114(1)

D Memo

D7-4-1, Duty Deferral Program

Other References

D7-4-2, Duty Drawback Program
D7-4-3, NAFTA Requirements for Drawback and Duty Deferral
D8-2-1, Canadian Goods Abroad Program

Guidelines

Non-compliance occurs when the person fails to repay the amount over and above the amount of the refund, drawback, or interest for which he was eligible, on the day that the refund or drawback is received.

Non-compliance is discovered as result of a review or verification.

Applied against the person who was not eligible for a refund, drawback, or interest or who has not repaid any amount over and above that for which he was eligible.

Where the overpayment is a result of a change of information from a third party about whom the client has no knowledge, the penalty will not apply.

Retention Period

36 months

C328

Contravention

A courier did not acquire the prescribed authorization from the CBSA before accounting for casual goods released under subsection 32(4) of the *Customs Act*.

Penalty

1st: $150
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 32(5)

D Memo

D17-4-0, Courier Low Value Shipment Program

Other Reference

Accounting for Imported Goods and Payment of Duties Regulations

Guidelines

Non-compliance occurs when a courier accounts for casual goods even though he is not authorized to do so under the courier program.

Prior to applying a penalty, officer must review the list of authorized Courier / LVS participants found in D17-4-0, and confirm with the regional coordinator / specialist that the courier has obtained the prescribed authorization from the CBSA before accounting for non-commercial goods.

It is important to note that this contravention only relates to the accounting function.

Apply a penalty per cargo release list, per occurrence.

Retention Period

12 months

C330

Contravention

Person failed to account for imported goods no later than the twenty-fourth day of the month following the month of their release.

This is in the instance of an individual transaction.

Penalty

Flat rate: $100

Penalty Basis

Per Transaction

Legislation

Customs Act, paragraphs 32(5)(*a*) and (*b*)

D Memo

D17-4-0, Courier Low Value Shipment Program

Other References

Accounting for Imported Goods and Payment of Duties Regulations
Persons Authorized to Account for Casual Goods Regulations

Guidelines

Non-compliance occurs when a person fails to account for imported goods no later than the 24th day of the month following the month of their release.

The officer is to issue the penalty in CARM when this non-compliance is discovered.

This is in the instance of an individual transaction.

Applied against the courier if the goods are casual which are covered by subsection 32(5)(*a*) of the Customs Act, or applied against the importer if the goods are commercial which are covered by subsection 32(5)(*b*) of the Customs Act.

In the Courier Low Value Shipment Program (CLVS), the release of the reported shipments is not system generated. The release process is completed by an officer (it is not done in ACROSS). Release occurs through the paper copy of a Cargo/Release List or through a third-party courier system), there is no automatic control check for late accounting of the F type entries presented by customs brokers.

Note:

While couriers are responsible to report and release shipments in the CLVS, that does not mean that they are responsible to account for the goods. As per 32(5) of the Customs Act, two entities could be responsible, the courier (if casual goods) or the importer (if commercial goods).

Apply a penalty per transaction

Retention Period

12 months

C331

Contravention

Person failed to account for imported goods no later than the twenty-fourth day of the month following the month of their release.

This is in the instance of consolidated entries.

Penalty

$100 per shipment ($2,000 maximum)

Penalty Basis

Per Shipment

Legislation

Customs Act, paragraphs 32(5)*(a)* and *(b)*

D Memo

D17-4-0, Courier Low Value Shipment Program

Other References

Accounting for Imported Goods and Payment of Duties Regulations
Persons Authorized to Account for Casual Goods Regulations

Guidelines

Non-compliance occurs when a person fails to account for imported goods (on consolidated declarations) no later than the 24th day of the month following the month of their release.

The officer is to issue the penalty in CARM when this non-compliance is discovered.

Applied against the courier if the shipment consists of casual goods which are covered under subsection 32(5)(*a*) of the Customs Act, or, applied against the importer if the shipment consists of commercial goods which are covered by subsection 32(5)(*b*) of the Customs Act.

Apply a penalty per shipment.

In instances of consolidated entries, apply a penalty per shipment, maximum of $2,000.

Note:

In the Courier Low Value Shipment Program, as the release of the reported shipments takes place outside of ACROSS, i.e. it occurs through the paper copy of a Cargo/Release List or through a third-party courier system, there is no automatic control check for late accounting of the ‘F’ type entries presented by customs brokers.

Retention Period

12 months

C336

Contravention

Person failed to pay duties on goods accounted for under subsections 32(2) and 32(3) of the *Customs Act*.

Penalty

Flat rate: $200

Penalty Basis

Per instance

Legislation

Customs Act, subsection 33(2)

D Memo

D17-1-5, Registration, Accounting and Payment for Commercial Goods

Other References

D11-6-5, Interest and Penalty Provisions: Determinations/ Re-determinations, Appraisals/ Re-appraisals, and Duty Relief
D17-1-8, Release Prior to payment privilege
Accounting for Imported Goods and Payment of Duties Regulations
Agents' Accounting and Imported Goods & Payment of Duties Regulations

Guidelines

Non-compliance occurs and a penalty is assessed against an Importer, including a Customs Self-Assessment (CSA) importer, or Customs Broker when they fail to pay amounts owing on Commercial Accounting Declaration (CAD) transactions posted to the account by the date specified on the monthly Statement of Account (SOA).

CAD transactions are located in the Transactions section of the SOA and the payment due date for those transactions is the due date for the SOA.

1) A penalty is assessed against an importer with account security when:
    a) The importer fails to pay the CAD transactions on the SOA, in full, by the date specified. This includes CAD transactions:
        - Filed by the Importer
        - Filed by the Broker for a client that is a participant in the Importer Direct Security Option as indicated with the letter "I" in Field 6 (Duties and all taxes)
    b) The penalty is assessed against the Importers Business Number - importer account (BN15).

2) A penalty is assessed against an importer that does not have account security when:
    a) The importer is a participant in the GST Direct Security Options and fails to pay the GST portion of CAD transactions on the SOA, in full, by the date specified on the SOA. This includes GST portion on CAD transactions filed by the Broker with the letter "G" in Field 6
    b) The penalty is assessed against the Importers Business Number - importer account (BN15).

3) A penalty is assessed against a customs broker when:
    a) The broker, working as an agent of the importer uses the customs broker account security bond to secure release of an importation prior to payment of duties and taxes and thereby posting

security for payment, fails to pay the Transactions Section on SOA in full by the date specified on the SOA. This includes CAD transactions:
    - Filed by the Broker for a client with no account security and not on the G program
    - Filed by the Broker with the letter "G" in Field 6 – for all amounts excluding the GST portion.
    - Filed by the Broker for a client with account security but is not a participant in the Importer Direct Security Option "I"

b) The penalty is assessed against the Customs Broker business number - importer account (BN15).

No penalty should be assessed in cases where:

- no interim payment (subject to late payment interest only); or
- payment made to CBSA office by last business day of month.

The following should be considered prior to issuing C336:

- verify if there was a notice issued by the Assessment Unit (HQ) to allow for late payment of the K84 without the interest or penalties in certain months of the year, and determine whether or not the procedures in the notice were followed properly;
- verify if a payment was made at another CBSA office.

Failure to remit duties, taxes, interest charges, and penalties owing to customs directly to financial institution, see C251.

Retention Period

12 months

C340

Contravention

Person who is required by subsection 22(1) of the *Customs Act* to keep records in respect of commercial goods failed to keep records for the prescribed period and in the prescribed manner.

This applies when an audit, verification or examination determines that there are no records in existence.

Penalty

Flat rate: $25,000

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 22(1)

D Memo

N/A

Other References

Reporting of Exported Goods Regulations
Reporting of Imported Goods Regulations
Transportation of Goods Regulations

Guidelines

Non-compliance occurs when an audit or verification determines that a carrier or transporter failed to keep any records whatsoever.

Applied against the carrier.

This occurs when no records exist.

Apply a penalty per instance.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

For no existing records by a warehouse or duty free shop licensee, courier, certificate holder (duty deferral) or CSA Importer, see C160.

Retention Period

12 months

C342

Contravention

Person (importer) failed to transmit release information to the correct customs office.

Penalty

1st: $250*
2nd: $375
3rd and Subsequent: $750

Penalty Basis

Per Shipment

Legislation

Customs Act, section 7.1

D Memo

N/A

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when a person (importer) transmits the release request to an office other than where goods are to be presented for entry into Canada.

An electronic release client transmits their post-arrival service option (i.e. Release on Minimum Documentation -RMD) to the Accelerated Commercial Release Operations Support System (ACROSS) with an incorrect customs office code.

For example, an importer or agent transmits the RMD release request to customs office “X” but the goods arrived at a different location. This may result in information not being available for targeting at the appropriate location.

This does not apply to pre-arrival service options.

Retention Period

12 months

C345

Contravention

Exporter failed to report goods subject to export control prior to export.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Shipment

Legislation

Customs Act, subsection 95(1)

D Memo

D20-1-1, Exporter Reporting

Other References

Reporting of Exported Goods Regulations, sections 3 and 5
D19-10-3, Administration of the *Export and Import Permits Act (Exportations)*; Export Control List, Appendix B
D19, Acts and Regulations of Other Government Departments

Guidelines

Non-compliance occurs when the exporter fails to report goods subject to export control prior to export according to legislative time frames..

For strategic goods controlled by the *Export and Import Permits Act*, follow the existing Regional Intelligence and Contraband Division's communication procedures.

This penalty applies to exported goods under section 5 of the *Reporting of Exported Goods Regulations* and any statute that controls the export of goods.

Seize goods when there is evidence that exporter avoided compliance with export requirements.

If seizure of goods is impractical, or goods are not found, an ascertained forfeiture may be served in addition to AMPS penalty.

Apply a penalty per shipment.

In a post-export verification situation, each shipment found in contravention within the verification period should be assessed a penalty at first level to a maximum amount of $100,000.

For example,

- the export of ten shipments subject to export control were not reported, a penalty of $20,000 ($2,000 x 10) would be assessed, or
- the export of 100 shipments subject to export control were not reported, a penalty of $100,000 ($2,000 x 100 = $200,000) would be assessed.

For failure to provide export permit, licence or certificate prior to export, see C315.

For failure to report the export of goods on an export declaration prior to export, see C170.

Retention Period

12 months

C346

Contravention

Person who has reported goods under subsection 95(1) of the *Customs Act* that are subject to export control, failed to answer truthfully any question asked by an officer with respect to the goods.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Occurrence

Legislation

Customs Act, paragraph 95(3)(*a*)

D Memo

N/A

Guidelines

Non-compliance occurs when a person has not answered truthfully questions relating to exportation of goods that are subject to export control.

For example, an officer reviews the information provided for a shipment, which shows that the goods were consigned to a party in a country not controlled by export regulations. However, during an examination of the goods, the officer finds the bill of sale, which shows that the goods were purchased by and consigned to a party in a controlled country. Officer contacts the exporter to confirm the final destination of goods and the exporter indicates that the final destination of the goods is the non-controlled country, which is untrue. Penalty C346 may be applied.

In addition to the AMPS penalty, if the export of the goods would pose a security risk, goods may be seized as forfeit.

If seizure of goods is impractical, or goods are not found, an ascertained forfeiture may be served in addition to AMPS penalty.

Applied against the exporter.

For failure to answer truthfully any question with respect to goods not subject to export control, see C189.

For failure to provide true, accurate and complete information on an export declaration, see C005.

Retention Period

12 months

C348

Contravention

Person provided false information in any permit, certificate, licence, document or declaration required to be provided for imported or exported goods under the *Customs Act*, the *Customs Tariff* or *Special Import Measures Act* (SIMA) or under any other Act of Parliament that prohibits, controls or regulates the importation or exportation of goods

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Instance

Legislation

Customs Act, section 7.1

D Memo

D17-1-10, Coding of Customs Accounting Documents

Other Reference

D20-1-1, Exporter Reporting

Guidelines

Non-compliance occurs when an importer, carrier or an exporter, provides false written information in relation to the admissibility of goods, the report of goods, the release of goods, or the accounting for goods.

Normally applied by an officer as a result of an audit, examination or an investigation of company books and records.

Although a penalty may be applied under this contravention all OGD admissibility requirements must be met prior to release. It is also possible that the OGD may have their own administrative monetary penalties.

In cases where a person reporting goods under section 12 of the *Customs Act* fails to answer questions truthfully, see C025.

In cases where there has been an obvious or administrative error in the documentation, see C005.

For Export Summary Reporting, see C317.

For Certificate of Origin of Goods Exported to a Free-Trade Partner, see C194.

For CSA Application, see C234.

For CERS or G7-EDI Export Declaration, see C170.

For Export Permit or Licence, see C315 and C345.

For Failure to account for imported goods at time of the release request, see C360.

Apply a penalty per document regardless of number of errors in a single document.

Retention Period

12 months

C350

Contravention

Authorized person failed to pay duties as a result of required corrections to a declaration of origin of imported goods subject to a free trade agreement within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: $500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*

Legislation

Customs Act, paragraph 32.2(1)*(b)*

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Guidelines

* The term “per issue” applies to each good for which a preferential tariff treatment under a free trade agreement was incorrectly claimed, a correction was not made and duties owing were not paid, regardless of how often the error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected errors to a declaration of origin, for which duties were not paid, per CAD and not per line on the CAD.

Non-compliance is normally discovered by a Senior Officer Trade Compliance.

(SOTC) as a result of an audit, examination, verification or subsequent monitoring activity.

Penalties are applied against the importer of record (IOR).

Contravention C350 only applies in cases where customs duties and/or taxes are owed to the Canada Border Services Agency (CBSA) as a result of the required corrections. Where customs duties and/or taxes would not be owed as a result of required corrections, refer to C080.

Contravention C080 will not be applied in conjunction with this contravention.

Errors unrelated to the first penalty assessment that are discovered during a subsequent audit, examination, verification, or monitoring activity will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted “reason to believe” for that error. This is required in order to establish the level of penalty for any subsequent occurrences of the same error.

There will be a maximum penalty amount of $1,000 applied to each group of repeated errors where the IOR can demonstrate that the errors in the CAD were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made and required duties are paid within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C080 and C350 shall not exceed the maximum penalty amount for each specific level and shall include all penalties issued at the same level as a result of an audit, examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is $5,000 (per issue basis) or $25,000 (per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a self-correction under section 32.2 of the *Customs Act*, specific information regarding the origin that gives an IOR reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions such as specific origin provisions that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent) and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in *Memorandum D11-6-6*;

(b) Formal assessment documents (e.g., statement of adjustment) issued by the Canada Border Services Agency (CBSA) to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervenor;

(d) Information received from exporters, suppliers, etc. (e.g., cancellation of certificates of origin);

(e) Written communication addressed directly to the IOR from the CBSA, such as a ruling (e.g., advance ruling issued under section 43.1 of the *Customs Act*), a trade compliance verification final report, a directed compliance letter, a final compliance validation letter or an official notification as a result of an exporter origin verification; or

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company.

First Level Penalties

Penalties apply where an IOR failed to pay duties as a result of required corrections to a declaration of the origin of goods subject to a free trade agreement within 90 days after having "reason to believe" that the declaration was incorrect and duties are owed.

<u>For errors that have occurred as a result of reason to believe criterion *(a)*:</u>

First level penalties for the failure to pay duties owing due to errors that are the result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days of having reason to believe. First level penalties will be assessed at $500 for each issue on the CAD, up to a maximum amount of $5000, regardless of how often the same error occurs on a CAD during the reassessment period, provided that all occurrences of the error are corrected and all duties owing are paid within 90 days of the date of the trade compliance verification final report.

Errors that are not corrected and duties owing not paid within 90 days of the date of the trade compliance verification final report will be assessed a penalty of $500 per occurrence during the reassessment period, up to a maximum amount of $25,000.

Assessments of penalties on a "per issue" basis will not apply in circumstances where an IOR fails to furnish any proof of origin upon request.

Example:

> An IOR declares multiple goods under an FTA preferential tariff treatment (FTA PTT) and has valid multi-product or multi-page proof of origin in support of the majority of the declared goods. In the same shipment and under the same declaration, the IOR incorrectly declares an FTA PTT for one or two goods that are not certified on the multi-product or multi-page proof of origin. If the IOR corrects the tariff treatment errors and all duties owing are paid within 90 days of the date of the trade compliance verification final report, only one penalty of $500 on a per issue basis will be assessed, regardless of how often the error occurred over multiple CADs. However, if all occurrences of the error are not corrected and duties owing no paid within 90 days of the date of the trade compliance verification final report, a penalty of $500 will be assessed for each occurrence of the error throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(f)*:

First level penalties for errors that are the result of one of the reason to believe criteria *(b)* to *(f)*, there will be assessed on a per occurrence basis for errors not corrected and duties not paid within 90 days of having reason to believe. A penalty of $500 will be assessed for each occurrence during the reassessment period, up to a maximum amount of $25,000.

Example:

> Where an IOR has received information from an exporter (or producer) that informs them a certificate of origin is no longer valid or that goods no longer qualify as originating, corrections to declarations of origin must be made and all duties owing paid within 90 days of receipt of this notification. This would be considered an IOR's "reason to believe" under criterion *(d)*.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on the same goods that have previously been assessed a first level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, second level penalties will be assessed at $750 on a per occurrence basis, up to a maximum amount of $200,000 for the reassessment period.

Second level penalties will also be assessed for all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of origin within 90 days of having reason to believe that corrections are required and duties are owed.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on the same goods that have previously been assessed a second level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties will be assessed at $1500 on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of origin within 90 days of having reason to believe that corrections are required and duties are owed.

Retention Period

36 months

C351

Contravention

Authorized person failed to pay duties as a result of required corrections to a declaration of origin of imported goods within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: 500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*****

Legislation

Customs Act, paragraph 32.2(2)(*b)*

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Guidelines

***** The term “per issue” applies to each good for which a preferential tariff treatment (not related to a free trade agreement) was incorrectly claimed, a correction was not made and duties owing were not paid, regardless of how often the error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected errors to a declaration of origin, for which duties were not paid, per CAD and not per line on the CAD.

Non-compliance is normally discovered by a Senior Officer Trade Compliance.

(SOTC) as a result of an audit, examination, verification or subsequent monitoring activity.

Penalties are applied against the importer of record (IOR).

Contravention C351 only applies in cases where customs duties and/or taxes are owed to the Canada Border Services Agency (CBSA) as a result of the required corrections. Where customs duties and/or taxes would not be owed as a result of required corrections, refer to C081.

Contravention C081 will not be applied in conjunction with this contravention.

Errors unrelated to the first penalty assessment that are discovered during a subsequent audit, examination, verification, or monitoring activity will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted reason to believe for that error. This is required in order to establish the level of penalty for any subsequent occurrences of the same error.

There will be a maximum penalty amount of $1,000 applied to each group of repeated errors where the IOR can demonstrate that the errors in the CAD were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made and required duties are paid within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C081 and C351 shall not exceed the maximum penalty amount for each specific level and shall include all penalties issued at the same level as a result of an audit, examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is $5,000 (per issue basis) or $25,000 (per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a self-correction under section 32.2 of the *Customs Act*, specific information regarding the origin that gives an IOR reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions such as specific valuation provisions that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent) and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in *Memorandum D11-6-6;*

(b) Formal assessment documents (e.g., statement of adjustment) issued by the Canada Border Services Agency (CBSA) to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervenor;

(d) Information received from exporters, suppliers, etc. (e.g., cancellation of certificates of origin);

(e) Written communication addressed directly to the IOR from the CBSA, such as a ruling (e.g., advance ruling issued under section 43.1 of the *Customs Act*), a trade compliance verification final report, a directed compliance letter, a final compliance validation letter or an official notification as a result of an exporter origin verification; or

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company.

First Level Penalties

Penalties apply where an IOR failed to pay duties as a result of required corrections to a declaration of the origin of goods within 90 days after having reason to believe that the declaration was incorrect and duties are owed.

<u>For errors that have occurred as a result of reason to believe criterion *(a)*:</u>

First level penalties for the failure to pay duties owing due to errors that are the result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days of having reason to believe. First level penalties will be assessed at $500 for each issue on the CAD, up to a maximum amount of $5000, regardless of how often the same error occurs on a CAD during the reassessment period, provided that all occurrences of the error are corrected and all duties owing are paid within 90 days of the date of the trade compliance verification final report.

Errors that are not corrected and duties owing not paid within 90 days of the date of the trade compliance verification final report will be assessed a penalty of $500 per occurrence during the reassessment period, up to a maximum amount of $25,000.

Assessments of penalties on a "per issue" basis will not apply in circumstances where an IOR fails to furnish any proof of origin upon request.

Example:

> An IOR declares multiple goods under tariff treatment and has valid multi-product or multi-page proof of origin in support of the majority of the declared goods. In the same shipment and under the same declaration, the IOR incorrectly declares a tariff treatment for one or two goods that are not certified on the multi-product or multi-page proof of origin that has been provided. If the IOR corrects the tariff treatment errors and all duties owing are paid within 90 days of the date of the trade compliance verification final report, only one penalty of $500 on a per issue basis will be assessed, regardless of how often the error occurred over multiple CADs. However, if all occurrences of the error are not corrected and duties owing not paid within 90 days of the date of the trade compliance verification final report, a penalty of $500 will be assessed for each occurrence of the error throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(f)*:

First level penalties for errors that are the result of one of the reason to believe criteria *(b)* to *(f)* will be assessed on a per occurrence basis for errors not corrected and duties owing not paid within 90 days of having reason to believe. A penalty of $500 will be assessed for each occurrence during the reassessment period, up to a maximum amount of $25,000.

Example:

> Where an IOR has received information from an exporter (or producer) that advises a proof of origin provided by the exporter is no longer valid or that goods no longer qualify as originating, corrections to declarations of origin must be made and all duties owing paid within 90 days of receipt of this notification. This would be considered an IOR's "reason to believe" under criterion *(d)*.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on the same goods that have previously been assessed a first level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, second level penalties will be assessed at $750 on a per occurrence basis, up to a maximum of $200,000 for the reassessment period.

Second level penalties will also be assessed for all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of origin within 90 days of having reason to believe that corrections are required and duties are owed.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on the same goods that have previously been assessed a second level penalty within the retention period.

For the same origin errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties will be assessed at $1500 on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of origin within 90 days of having reason to believe that corrections are required and duties are owed.

Retention Period

36 months

C352

Contravention

Authorized person failed to pay duties as a result of required corrections to a declaration of tariff classification within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: $500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*

Legislation

Customs Act, paragraph 32.2(2)(*b*)

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Other References

Excise Act, 2001, Section 44
Excise Tax Act, Section 103
Excise Tax Act, Subsection 216(2)

Guidelines

The term “per issue” applies to each uncorrected tariff classification error of goods for which duties were not paid within 90 days of having reason to believe the tariff classification was incorrect, regardless of how often that error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected tariff classification errors of goods, for which duties were not paid within 90 days of having reason to believe the tariff classification was incorrect, per CAD and not per line on the CAD.

“Goods” include same and similar goods, which are identical and other models/styles of goods that have the same purpose/function as the goods being the subject of the specific information that gives reason to believe, that differ in a manner (e.g., size, colour, capacity, etc.), but that are classified under the same tariff item number at the 8-digit level.

Non-compliance is normally discovered by a Senior Officer Trade Compliance (SOTC) as a result of an audit, examination, verification or subsequent monitoring activity.

Penalties are applied against the importer of record (IOR).

Contravention C352 only applies in cases where customs duties and/or taxes are owed to the CBSA as a result of the required corrections. Where customs duties and/or taxes would not be owed as a result of required corrections, refer to C082.

Contravention C352 also applies when the IOR had “reason to believe” that declarations in respect of excise duty, excise tax and/or the goods and services tax (GST) were in error and they failed to correct the error and pay the required duties and taxes within 90 days of the date of the “reason to believe”. Errors with respect to excise duty, excise tax and/or the GST are treated as “tariff classification errors” for purposes of paragraph 32.2(2)(b) of the *Customs Act*.

Contravention C082 will not be applied in conjunction with this contravention.

Errors unrelated to the first penalty assessment, as they don't pertain to same and similar goods, that are discovered during a subsequent audit, examination, verification, or monitoring activity, will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for any subsequent occurrence of the same error.

There will be a maximum penalty amount of $1,000 applied to each group of repeated errors where the IOR can demonstrate that the errors in the CAD were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made and required duties are paid within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C082 and C352 shall not exceed the maximum penalty amount for each specific level and shall include all penalties issued at the same level as a result of an audit, examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is $5,000 (on a per issue basis) or $25,000 (on a per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a correction under section 32.2 of the *Customs Act*, specific information regarding the tariff classification or diversion of the imported goods that gives an importer reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions, such as specific tariff classification provisions, that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent), and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in *Memorandum D11-6-6*;

(b) Formal assessment documents (e.g., statement of adjustment) issued by the Canada Border Services Agency (CBSA) to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervener;

(d) Information received from exporters, suppliers, manufacturers or producers, etc. (e.g., change in production material or functionality that would impact the tariff classification);

(e) Written communication, addressed directly to the IOR from the CBSA, such as a ruling (e.g., national customs ruling, advance ruling issued under section 43.1 of the *Customs Act*), a trade compliance verification final report, a directed compliance letter, or a final compliance validation letter;

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company; or

(g) Knowledge that the goods were diverted (i.e., goods that no longer qualify or comply with a condition of relief or a restriction imposed by the concessionary tariff item declared), such as the diversion of goods to a non-qualified conditional use or conditional user.

First Level Penalties

A tariff classification error occurs when goods are not classified and accounted for in accordance with the rules and schedules of the *Customs Tariff Act*. Penalties apply where an IOR failed to pay duties as a result of required corrections to be made to a declaration of tariff classification within 90 days after having reason to believe that the declaration was incorrect and duties are owed.

<u>For errors that have occurred as a result of reason to believe criterion *(a)*</u>:

First level penalties for the failure to pay duties owing due to errors that have occurred as a result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days from the day the IOR has reason to believe. First level penalties will be assessed at $500 for each distinct issue on the

CAD, up to a maximum amount of $5,000, regardless of how often the same error occurs on the CAD during the applicable reassessment period, provided that all occurrences of the error are corrected and all duties owing are paid within 90 days of the date of issuance of the trade compliance verification final report.

Errors that are not corrected and duties owing not paid within 90 days of receiving the trade compliance verification final report will be assessed a penalty of $500 per occurrence over the reassessment period, up to a maximum amount of $25,000.

Example:

> Plastic conveyor belts have been classified and accounted for under Chapter 84, but are specifically excluded from that chapter according to Note 1(a) to Section XVI. The tariff classification error occurred on multiple CADs. Only one penalty of $500 on a per issue basis will be assessed if all occurrences of the error are corrected and duties owing are paid within 90 days of the date of the trade compliance verification final report, regardless of how often the same error occurred over multiple CADs. However, if all occurrences of the error are not corrected and duties owing are not paid within 90 days of the date of the trade compliance verification final report, a penalty of $500 on a per occurrence basis will be assessed for each occurrence of the error found throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(g)*:

First level penalties for errors that are the result of one of the criteria *(b)* through *(g)* will be assessed on a per occurrence basis for errors not corrected and duties owing not paid within 90 days of having reason to believe. A penalty of $500 will be assessed for each occurrence over the reassessment period, up to a maximum amount of $25,000.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on same and similar goods that have previously been assessed a first level penalty within the retention period.

For the same tariff classification errors previously assessed a penalty at the first level that have been identified as a result of subsequent audits, examinations, verifications or monitoring activities, second level penalties of $750 will be assessed on a per occurrence basis, up to a maximum amount of $200,000 for the reassessment period.

Second level penalties will also be assessed on all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of tariff classification within 90 days of having reason to believe that corrections are required and duties are owed.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on same and similar goods that have been previously assessed a second level penalty within the retention period.

For the same tariff classification errors previously assessed a penalty at the second level that have been identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties of $1,500 will be assessed on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of tariff classification within 90 days of having reason to believe that corrections are required and duties are owed.

Retention Period

36 months

C353

Contravention

Authorized person failed to pay duties as a result of required corrections to a declaration of value for duty within 90 days after having reason to believe that the declaration was incorrect.

Penalty

1st: $500 to a maximum of $5,000 (per issue) or $25,000 (per occurrence)
2nd: $750 to a maximum of $200,000 (per occurrence)
3rd and Subsequent: $1,500 to a maximum of $400,000 (per occurrence)

Penalty Basis

Per issue or per occurrence*

Legislation

Customs Act, paragraph 32.2(2)(*b*)

D Memo

D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

Guidelines

* The term “per issue” applies to each element of the value for duty provisions that is incorrect, and for which a correction was not made and duties owing were not paid, regardless of how often the error is repeated on commercial accounting declarations (CADs).

The term “per occurrence” applies to uncorrected value for duty errors of goods, for which duties were not paid, per CAD and not per line on the CAD.

Non-compliance is normally discovered by a Senior Officer Trade Compliance.

(SOTC) as a result of an audit, examination, verification, or subsequent monitoring activity.

Penalties are applied against the importer of record (IOR).

Contravention C353 only applies in cases where customs duties and/or taxes are owed to the CBSA as a result of the required corrections. Where customs duties and/or taxes would not be owed as a result of required corrections, refer to C083.

Contravention C083 will not be applied in conjunction with this contravention.

Errors unrelated to the first penalty assessment that are discovered during a subsequent audit, examination, verification, or monitoring activity will only incur first level penalties.

The SOTC must record each error in their report and include a detailed explanation as to what constituted reason to believe for that error. This is required in order to establish the level of penalty for any subsequent occurrences of the same error.

There will be a maximum penalty amount of $1,000 applied to each group of repeated errors where the IOR can demonstrate that the errors in the CAD were caused by a single keystroke/data entry error. This maximum penalty amount will only apply to first level penalties and only where corrections are made and required duties are paid within 90 days of the date of the trade compliance verification final report.

Any combination of penalties issued under C083 and C353 shall not exceed the maximum penalty amount for each specific level and shall include all penalties

issued at the same level as a result of an audit, examination, verification or subsequent monitoring activity. The maximum penalty amount for the first level is $5,000 (per issue basis) or $25,000 (per occurrence basis) depending on the applicable reason to believe criterion. The conditions under which either the $5,000 or $25,000 maximum penalty amount would be applied are explained in the **First Level Penalties** paragraph below. The maximum penalty amount for the second level remains unchanged at $200,000. The maximum penalty amount for the third level also remains unchanged at $400,000.

Errors in declarations of value for duty do not always lend themselves to a clear distinction on the assessment of penalties on a "per issue" or "per occurrence" basis. Where there is uncertainty over whether a penalty should be assessed on a "per issue" or "per occurrence" basis, officers are strongly encouraged to contact the Origin, Valuation and Negotiations Unit through the functional guidance process for assistance in the assessment of penalties.

"Reason to Believe"

As provided in paragraph 1 of *Memorandum D11-6-6, Reason to believe and corrections to the declaration of origin, tariff classification or value for duty*, in regards to the obligation to make a correction under section 32.2 of the *Customs Act*, specific information regarding the value for duty that gives an IOR reason to believe that a declaration is incorrect, can be found in:

(a) Legislative provisions such as specific valuation provisions that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent) and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix in *Memorandum D11-6-6*;

(b) Formal assessment documents (e.g., statement of adjustment) issued by the Canada Border Services Agency (CBSA) to the IOR, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) Final tribunal or court decisions in which the IOR was the appellant, respondent or intervenor;

(d) Information received from exporters, suppliers, etc. (e.g. vendor's invoice indicating retroactive price increase for goods already purchased, corrected invoice);

(e) Written communication addressed directly to the IOR from the CBSA, such as a national customs ruling, a trade compliance verification final report, a directed compliance letter, or a final compliance validation letter; or

(f) A final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of the IOR's company.

First Level Penalties

A value for duty error occurs when the value for duty of goods is not determined in accordance with the requirements of sections 44 to 55 of the Customs Act. A value for duty error can be, but is not limited to, the use of the wrong valuation method or its improper application, the use of the incorrect price paid or payable, or not making each of the required adjustments as required under the valuation provisions of the *Customs Act*. Each will be considered a separate error. Penalties apply where an IOR failed to pay duties as a result of required corrections to be made to a declaration of the value for duty within 90 days after having reason to believe that the declaration was incorrect and duties are owed.

<u>For errors that have occurred as a result of reason to believe criterion (*a*):</u>

First level penalties for the failure to pay duties owing due to errors that are the result of reason to believe criterion *(a)* will be assessed on a per issue basis for each issue not corrected within 90 days of having reason to believe. First level penalties will be assessed at $500 for each issue on the CAD, up to a maximum amount of $5000, regardless of how often the same error occurs on a CAD during the reassessment period, provided that all occurrences of the error are corrected and all duties owing are paid within 90 days of the date of the trade compliance verification final report.

Errors that are not corrected and duties owing not paid within 90 days of the date of the trade compliance verification final report will be assessed a penalty of $500 per occurrence during the reassessment period, up to a maximum amount of $25,000.

Example:

> An IOR failed to make an adjustment for assists, as required under the provisions of 48(5)(a)(iii) of the *Customs Act*. If the error is corrected and all duties owing are paid within 90 days of the date of the trade compliance verification final report, only one penalty of $500 on a per issue basis will be assessed regardless of how often the error occurred over multiple CADs. However, if all occurrences of the error are not corrected and duties owing not paid within 90 days of the date of the trade compliance verification final report, a penalty of $500 will be assessed for each occurrence of each error throughout the reassessment period, up to a maximum amount of $25,000.

For errors that have occurred as a result of reason to believe criteria *(b)* through *(f)*:

First level penalties for errors that are the result of one of the reason to believe criteria *(b)* through *(f)* will be assessed on a per occurrence basis for errors not corrected and duties owing not paid within 90 days of having reason to believe. A penalty of $500 will be assessed for each occurrence during the reassessment period, up to a maximum amount of $25,000.

Second Level Penalties

Second level penalties can only be applied to subsequent errors made on the same issues that have previously been assessed a first level penalty within the retention period.

For the same value for duty errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, second level penalties will be assessed at $750 on a per occurrence basis, up to a maximum amount of $200,000 for the reassessment period.

Second level penalties will also be assessed for all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of the value for duty within 90 days of having reason to believe that corrections are required and duties are owed.

Third Level Penalties

Third level penalties can only be applied to subsequent errors made on the same issues that have previously been assessed a second level penalty within the retention period.

For the same value for duty errors identified as a result of subsequent audits, examinations, verifications, or monitoring activities, third level penalties will be assessed at $1500 on a per occurrence basis, up to a maximum amount of $400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by IORs where they failed to pay duties owing as a result of required corrections to be made to a declaration of the value for duty within 90 days of having reason to believe that corrections are required and duties are owed.

Retention Period

36 months

C354

Contravention

A commercial carrier or charterer failed to provide prescribed information within the prescribed time and in the prescribed manner about any person on board or expected to be on board a conveyance coming to and/or leaving Canada.

Penalty

Flat rate: $3,000

Penalty Basis

Per conveyance

Legislation

Customs Act, sections 93(1), 107.1(1) and (2)
Exit Information Regulations, section 13
Designated Provisions (Customs) Regulations (DPCR)
Passenger Information (Customs) Regulations

D Memo

D2-5-11, Guidelines for Commercial Air-mode Carriers for the Processing of Prescribed Traveller Information

Other References

API/PNR Reference Guide for Commercial Carriers

Guidelines

Non-compliance occurs when a commercial carrier or charterer fails to provide information as stipulated in the *Customs Act* and the *Exit Information Regulations* or the *Passenger Information (Customs) Regulations* on persons (passengers and crew) on board or expected to be on board a conveyance.

Applied by an API / PNR program officer at Headquarters against a commercial carrier or charterer.

Retention Period

12 months

C355

Contravention

A commercial carrier or charterer failed to provide prescribed information within the prescribed time and in the prescribed manner, about any person on board or expected to be on board a conveyance coming to and/or leaving Canada.

Penalty

Flat rate: $0

Penalty Basis

Per conveyance

Legislation

Customs Act, sections 93(1), 107.1(1) and (2)
Exit Information Regulations, section 13
Designated Provisions (Customs) Regulations (DPCR)
Passenger Information (Customs) Regulations

D Memo

D2-5-11, Guidelines for Commercial Air-mode Carriers for the Processing of Prescribed Traveller Information

Other References

API/PNR Reference Guide for Commercial Carriers

Guidelines

Non-compliance occurs when a commercial carrier or charterer fails to provide information as stipulated in the *Customs Act* and the *Exit Information Regulations* or the *Passenger Information (Customs) Regulations* on persons (passengers and crew) on board or expected to be on board a conveyance.

This contravention is intended to be a compliance management tool to educate commercial carriers on the requirement to provide API/PNR data in accordance with customs legislation.

Applied by an API / PNR program officer at Headquarters against a commercial carrier or charterer.

Retention Period

12 months

C356

Contravention

When requested by an officer, operator of a sufferance warehouse failed to afford the officer free access to the warehouse or any premises or place under his control that is attached to or forms part of the warehouse.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, section 27

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

Non-compliance occurs when the operator of a sufferance warehouse fails to allow an officer free access to the warehouse, when requested.

The officer must first request to enter premises.

Ensure that entry is prevented or refused by a person in charge or responsible for facility.

Suspension of licence should be considered and may be applied simultaneously with the AMPS penalty.

Apply a penalty per instance.

For failure to allow access to any premises under the control of a person who transports or causes goods to be transported within Canada, see C042.

For failure to allow access to a bonded warehouse or duty free shop, see C046.

Retention Period

12 months

C357

Contravention

When requested by an officer, operator of a sufferance warehouse failed to open any package or container of goods therein or remove any covering therefrom to allow free access to the goods.

Penalty

1st: $500
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Legislation

Customs Act, section 27

D Memo

D4-1-4, Customs Sufferance Warehouses

Guidelines

Non-compliance occurs when the operator of a sufferance warehouse fails to open any package, container of goods or remove any covering.

Officer must request goods to be made available for examination.

Request will detail what is expected of the operator.

Suspension of licence should be considered and may be applied simultaneously with the AMPS penalty.

Apply a penalty per instance.

For failure to open any package or container or remove any covering to allow free access to the goods in a bonded warehouse or duty free shop, see C047.

Retention Period

12 months

C359

Contravention

Person generated or used false Release Notification System (RNS) notice to remove goods from a customs office or sufferance warehouse.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Instance

Legislation

Customs Act, section 31

D Memo

D17-1-5, Registration, Accounting and Payment for Commercial Goods

Other References

D17-1-10, Coding of Customs Accounting Documents
Release Notification System (RNS) Participant's Requirements

Guidelines

Non-compliance occurs when it is discovered during a sufferance warehouse check or examination that goods believed to be on site have been removed by the use of a false RNS.

For example, a Border Services Officer (BSO) goes to a sufferance warehouse to examine a shipment but finds that the goods have already been delivered to the importer and therefore is unable to examine the shipment. The officer determines that there had been a false RNS message presented to customs as a release. Therefore, C359 is issued.

Assessed against a sufferance warehouse operator or person who generated a false message (i.e. importer).

For specified goods, ascertained forfeiture to be applied in addition to AMPS penalty.

For use of a false RNS message for removal of goods from a customs bonded warehouse or duty free shop, see C069.

Retention Period

12 months

C360

Contravention

Person (Importer) failed to account, or failed to provide interim accounting for imported goods at time of the release request.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Shipment

Legislation

Customs Act, section 7.1

D Memo

D17-1-5, Registration, Accounting and Payment for Commercial Goods
D17-1-4, Release of Commercial Goods

Other Reference

Accounting for Imported Goods and Payment of Duties Regulations

Guidelines

Failure to account for goods upon submission of a release request significantly impairs the CBSA's ability to risk assess the admissibility of the good(s) ensuring the health, safety and security of Canadians.

Non-compliance occurs when it is found during an examination of goods based on a referral of the release request (e.g. RMD, IID, PARS, CAD) that goods are not accounted for by the importer at time of interim accounting or presentation of a CAD, prior to the release of the goods at a customs office.

Applied against the importer.

Additional paperwork presented by the carrier at time of report in accordance with subsection 12(1) of the Customs Act, does not exempt the importer from fulfilling their obligations to account for all goods under subsections 32(1) and (2) of the *Customs Act*.

In accordance with the *Broker Licensing Regulations*, carriers are not permitted to account for goods on behalf of an importer. In addition to the Regulations, Memorandum D1-6-1, Authority to Act as Agent, further stipulates an agent representing an importer for purposes of accounting for goods must be licensed to transact business with the CBSA as a licensed Customs broker OR act on behalf of the importer on a casual basis and without benefit of any compensation, fee or charge. This former requirement precludes carriers from acting on behalf of the importer unless they are a licensed custom broker.

The below scenarios are provided for purposes of properly administering C360:

Scenario 1

100 televisions are accounted for on the release request. Upon examination, the shipment is found to contain 100 televisions and 10 bicycles.

Or

100 televisions were accounted for on the release request. Upon examination, the shipment is found to contain 100 computers.

C360 would apply as the bicycles and/or computers were not accounted for at all.

Scenario 2

100 televisions were accounted for on the release request. Upon examination, the shipment is found to contain 150 televisions

C005 would be the more applicable penalty in this scenario since the commodity was accounted for (and, therefore, the CBSA is able to risk assess the commodity), but the quantity was inaccurate.

The Y50, Reject Document Control, process requesting corrected or additional information is a necessary step in order to reach a final release decision and to ensure the release request is true, accurate and complete. Issuance of a Y50 does not remove the applicability of an AMP penalty being issued as a result of the related contravention occurring.

Although a penalty may be applied under this contravention all OGD admissibility requirements must be met at time of release. OGDs may also apply their own administrative monetary penalties.

For failure to provide permits, licences, certificates, other documents or information that is required by OGDs, see C071. However, should circumstances arise where an undeclared commodity also results in failure to provide permits, licences, certificates, other documents or information that would have otherwise been required at time of release, C360 should be applied in lieu of C071.

For contraventions relating to undervaluation through false written receipts or information, see C348.

For failure by a carrier to report goods under subsection 12 (1), see C021.

For failure by a person who does not use the services of a carrier to report goods under subsections 12 (1) and (3), see C366.

For failure to account for imported goods found during a trade compliance verification or audit, see C070.

For administrative type errors, see C005.

Retention Period

12 months

C366

Contravention

Person failed to report imported goods to customs forthwith at the nearest designated customs office open for business.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Shipment

Legislation

Customs Act, subsections 12(1) and (3)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Guidelines

Non-compliance occurs when a person who does not use the services of a carrier to transport commercial goods into Canada fails to report goods, i.e. importers transporting their own commercial goods into Canada or travelers bringing commercial goods as part of their luggage fail to report.

If the importer or person transporting the goods is a non-resident, it is preferable to seize the commercial goods and offer AMPS penalty as terms of release.

If the importer does not have a client identifier and refuses to apply for a Business Number, officers should contact AMPS Help Desk Support to request a Sub-office Locator number in order to assess the penalty in AMPS system.

Do not apply against the importer in cases where the importer has used a carrier.

Occurs when unreported commercial goods are found.

For failure by a carrier to report imported goods, see C021.

For failure to account for imported goods at time of the release request, see C360.

Although a penalty may be applied under this contravention, all OGD admissibility requirements must be met prior to release. It is also possible that the OGD may have their own administrative monetary penalties.

Retention Period

12 months

C368

Contravention

Carrier failed to report the conveyance in writing, prior to export, at the export reporting office closest to each place of loading.

Penalty

1st - $150
2nd - $225
3rd and Subsequent - $450

Penalty Basis

Per Conveyance Report

Legislation

Customs Act, subsection 95(1)

D Memo

D20-1-1, Export Reporting

Other Reference

Reporting of Exported Goods Regulations, sections 9, 10, 12, 16, and 18

Guidelines

Non-compliance occurs each time a carrier fails to submit a written conveyance report, prior to export, at the CBSA export reporting office closest to each place where goods bound for export were loaded onto the conveyance.

Exceptions:

No penalty shall apply when the conveyance being exported does not contain export cargo.

The following conveyances do not have to be reported to the CBSA:

- an aircraft, which offers regularly scheduled flights; and
- a highway conveyance.

Applied against a carrier.

Retention Period

12 months

C369

Contravention

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

Penalty

1st - $500*
2nd - $750
3rd and Subsequent - $1,500

Penalty Basis

Per Export Movement

Legislation

Customs Act, subsection 95(1)

D Memo

D3-1-8, Cargo - Export Movements

Other Reference

Reporting of Exported Goods Regulations, sections 10, 11, 12, and 13

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs once per export movement when the carrier fails to report cargo by submitting the required cargo control document(s), according to legislated time frames, at the prescribed Canada Border Services Agency (CBSA) export reporting office

Applied against a carrier.

In transit Cargo:

For the purposes of C369, an In-Transit movement shall be considered as the movement of foreign goods through Canadian territory from a point outside Canada to another foreign point. This movement is different from Domestic In-Transit.

Subject to the exceptions listed below, goods originating from a place outside Canada moving in transit through Canada to a place outside Canada must be reported, in writing, by the carrier prior to export as follows:

- If the cargo is exported by mail, at the export reporting office located closest to the post office where the goods are mailed;
- If the cargo is exported by vessel, at the export reporting office located closest to the place where the cargo is loaded aboard the vessel for export;

- If the cargo is exported by aircraft, at the export reporting office located closest to the place of departure of the aircraft from Canada;
- If the cargo is exported by rail, at the export reporting office located closest to the place where the railcar on which the cargo is loaded is assembled to form part of a train for export;
- If the cargo is exported by any other means, at the export reporting office located closest to the place of exit of the cargo from Canada;
- Unless requested by an officer, the above requirement for goods exported by highway does not apply to procedures that Canada and the United States have established for documenting and controlling goods transiting through their respective countries under A8B procedures contained in D3-4-5, Highway Cargo - In Transit Movements.

All other Cargo

Subject to the exception listed below, all other cargo must be reported in writing by the carrier prior to export at the export reporting office closest to the place where the cargo was loaded on board the conveyance for export.

Exception

Memorandum of Understanding (MOU) Carriers:

Carriers approved as participants under the "Memorandum of Understanding for Carrier Export Reporting" with the CBSA are required to report cargo, in writing, according to the following time frames:

- If the cargo is exported by vessel, within three business days after the departure of the vessel from the place in Canada where it is loaded;
- If the cargo is exported by rail, within one business day after the day on which the railcar on which the cargo is loaded is assembled to form part of a train for export;
- If the cargo is exported by aircraft, within one business day after the day on which the aircraft departs from the place in Canada where it is loaded.

For a carrier failing to report the conveyance, see C368.

Retention Period

12 months

C371

Contravention

Person (carrier or freight forwarder) failed to use their authorized carrier code or failed to present a contract or letter of exclusivity when using another carrier or freight forwarder's carrier code.

Penalty

1st - $1, 000
2nd - $2,000
3rd and Subsequent - $4,000

Penalty Basis

Per Conveyance

Legislation

Customs Act, section 7.1

D Memo

D3-3-1, Freight Forwarder Pre-arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements

Guidelines

Penalty is applicable to all reporting requirements where a carrier code must be provided.

Non-compliance occurs when a conveyance operating carrier or freight forwarder fails to use their unique CBSA carrier code when providing their conveyance data, or uses the carrier code belonging to another carrier or freight forwarder without a valid contract or letter of exclusivity.

The carrier or freight forwarder should be afforded an opportunity to prove exclusivity. Refer to D3-4-2 for more information on proving exclusivity. The carrier or freight forwarder will not be allowed to perform an inland movement using the unauthorized carrier code and is required to use their own carrier code if not operating under an exclusive contract. A carrier or freight forwarder will be liable for a penalty if they move inland on their own carrier code, or leaves Canada, prior to proving exclusivity.

Retention Period

12 months

C372

Contravention

A person failed to report to an officer goods in their possession in respect of which duties have not been paid.

Penalty

1st - $300*
2nd - $450
3rd and Subsequent - $900

Penalty Basis

Per Occurrence

Legislation

Customs Act, section 15

D Memo

N/A

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs in instances where an officer finds, following a secondary examination or investigation, non-reported dutiable goods for which duty is owing.

Applied against any person found in possession of imported goods.

Normally applied to a person who is not the importer, but who has imported goods in their possession.

If the person is a non-resident, it is preferable to seize the commercial goods and offer AMPS penalty as terms of release.

If the person does not have a client identifier and refuses to apply for a Business Number, in this case, officers should contact AMPS Help Desk Support to request a Sub-office Locator number in order to assess the penalty in AMPS system.

Although a penalty may be applied under this contravention all OGD admissibility requirements must be met prior to release. It is also possible that the OGD may have their own administrative monetary penalties.

Retention Period

12 months

C377

Contravention

Person failed:

a. to mark the goods, or mark the goods with the correct country of origin, or
b. to mark the goods in the appropriate method and manner, prior to importing the goods, if arrangements were not made to mark the goods in Canada prior to requesting release.

Detailed list of goods required to be marked is provided below.

Penalty

1st: $150*
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Shipment

Legislation

Customs Act, section 35.01

D Memo

D11-3-1, Marking of Imported Goods

Other References

Customs Tariff, section 19
Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations, Schedules I and II
Determination of Country of Origin for the Purpose of Marking Goods (Non-NAFTA Countries) Regulations, Schedules I and II
NAFTA and CCFTA Verification of Origin Regulations
NAFTA Marking Determination, Re-determination and further Re-determination Regulations
NAFTA Prescribed Class of Goods Regulations

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when goods requiring marking are not marked or not marked properly.

Applied against the importer.

Applied by a Border Services Officer.

This penalty is also applied by a Senior Officer Trade Compliance (SOTC) in post release environment.

The marking program has three components:

1. Do the goods require marking?
2. How should the goods be marked?
3. What country should be marked on the goods?

Border Services Officers are responsible for determining if the goods meet the marking program requirements.

If a shipment arrives unmarked or improperly marked and there is no uncertainty as to what country should be marked on the goods, the customs officer must reject the import transaction and ensure that the shipment meets marking requirements prior to release.

In cases where fraud is suspected (see *Customs Act,* section 159.1) a penalty will be issued regardless of whether or not there will be a criminal prosecution.

There are certain types of goods or goods imported under specific conditions that may be exempt from the requirement for country of origin marking. Refer to the D-Memorandum 11-3-1 for details.

For further information as to the method of determining the country of origin, the method and manner of marking, the authorization to mark goods in Canada, the issuance of notice to mark goods, please refer to D-Memorandum 11-3-1.

Retention Period

12 months

Goods required to be marked
Household or Personal Goods

Bakeware and cookware made of aluminum

Bakeware and cookware made of cast iron

Bath mats, towels and wash cloths, knitted or woven

Batteries, dry cell

Blankets

Brushes, including toothbrushes and handles thereof

Candles

Card - credit and identification, made of any material having a diameter or side exceeding ½ inch in width and imported in sheet form or otherwise

Chrome plated ware and utensils for use in serving food and beverage

Cigar or cigarette lighters, except for lighters for incorporation into motor vehicles

Clocks and movements, except clocks and movements for use as original equipment by motor vehicle manufacturers

Containers, thermostatic, including - carafes, flasks, jars, jugs and vacuum bottles and refills and inserts thereof

Cutlery, chrome plated or stainless steel

Dishes and ornaments made of china earthenware, ironstone, porcelain, semi-porcelain, stoneware or white granite

Electronic equipment, including - phonographs, radio-receiving sets, radio-phonograph sets, radio-phonograph-television sets, record players, tape recorders, television receiving sets

Ironing board covers and pads

Kitchenware made of metal or plastic, coated, lithographed, painted or otherwise, the following: bread boxes, cake humidors, canisters, foil and paper dispensers, range sets, serving ovens and step-on waste cans

Knives including - jack, pen and pocket; scissors and shears

Lawn mowers (powered)

Matches in books, boxes or folders

Pencils

Pens including - ball point and fountain and nib penholders

Pillowslips and sheets made of cotton

Razor blades (safety type)

Thermometers

Tiles, glazed, unglazed and ceramic mosaic including - hearth, floor and wall

Umbrellas

Utensils, kitchen type chrome plated or stainless steel

Watch bracelets (expansion type)

Hardware

Caps, made of metal, lithographed or printed, for containers including - lug, screw and vacuum

Copper tubing

Drapery I-beam rails, made of aluminum, brass, steel or other metals or plastic and component parts thereof

Electrical measuring devices for panel mounting designed to indicate alternating or direct current microamperes, milliamperes or amperes, millivolts, volts or kilovolts, and such other variables as pressure, resistance, and temperature that may be translated into alternating or direct current or voltage

Glass in panes or sheets, including - common or colourless window, laminated, plate and sheet

Goods made of porcelain for electrical use

Files and rasps

Sink strainers (basket type)

Tubes, electronic

Twines, including - baler and binder

Wire insect screening

Iron or steel pipes and tubes

Novelties and Sporting Goods

Articles in the style of Indian handcrafts

Athletic gloves and mitts, including baseball and hockey gloves and mitts

Bicycles

Decorations, novelties and ornaments

Enamelled emblems and silver plated or sterling silver bracelets, brooches, pins and spoons, all designed as souvenirs of Canada, its provinces, territories, cities, towns, or other geographical locations

Gift wrappings including bindings, braids, ribbons, tapes, ties and trimmings made chiefly or wholly of textile fibres

Toys, games and athletic and sporting goods

Paper Products

Boxes and cartons, empty folding or set-up, made of paper, paper board, plain or corrugated fibre or fibre board, for use as shipping containers

Paper matter and products, lithographed or printed

Wearing Apparel

Boots, shoes and slippers

Brassieres, corselettes, garter belts, girdles and lacing corsets

Fabrics, braided or woven, containing rubber yarns, not exceeding 12 inches in width; boot and shoe laces

Gloves made partially or wholly of leather

Hair pieces, including - wigs, half wigs, switches, postiches, pony tails, toupees, and other types of hair pieces designed to be worn on the head of a person

Handbags and purses, except handbags and purses made of beads, metal mesh, or similar material

Hats, including berets, bonnets, caps and hats, hoods and shapes made of fur felt, wool felt, and wool-and-fur felt

Knitted garments

Raincoats and rainwear made of plastic

Wearing apparel made wholly or substantially of natural or synthetic textile fibres

Horticultural Product

Tubers, tuberous roots, and rhizomes, dormant, in growth or in flower of peonies

Tubers, tuberous roots, corms, crowns and rhizomes, dormant, or irises or other perennials except begonias

Tubers, tuberous roots, or rhizomes, in growth or in flower, of begonias

Bulbs, dormant or in growth, except tulip bulbs

Unrooted cuttings or slips of fruit or nut trees, shrubs, or bushes

Trees, shrubs, bushes, vines, or seedling stock, grafted or not, including those capable of bearing fruit, when in a usual container

Christmas trees, rooted or unrooted, when in a usual container

Rose bushes, grafted or not, except cut roses, when in a usual container

C378

Contravention

Person failed to submit the prescribed pre-load/pre-arrival information relating to their cargo and/or conveyance.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Instance

Regulation

Reporting of Imported Goods Regulations, section 29

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

Non-compliance occurs when the responsible party fails to provide the required pre-arrival or pre-load data.

The Commercial Program Directorate at Headquarters (HQ) is responsible for issuing this penalty against the party responsible for providing the required data.

The prescribed information must be sent in accordance with the timelines, technical requirements and specifications for electronic means, as set out in the Reporting of Imported Goods Regulations and the applicable Electronic Commerce Client Requirements Document (ECCRD).

This penalty applies when the required pre-arrival/pre-load information has not been submitted before arrival or loading, as applicable. Cargo and/or conveyance data must be accepted and validated by the CBSA within the prescribed timeframes for the relevant mode of transportation. If pre-arrival data is provided before arrival but outside of the prescribed timeframe, refer to penalty C379.

If the pre-load information is provided before loading, but outside of the prescribed timeframe, refer to penalty C379. In the event of a missing pre-arrival or pre-load cargo record, one C378 penalty will be issue for each instance. The same penalty level will be applied to all infractions identified during the same examination or monitoring period.

Cargo reports and conveyance reports are separate instances, and failure to transmit those reports are also separate. Where 5 or more pre-arrival/pre-load cargo reports and their associated conveyance reports are not transmitted, the maximum penalty amount will not exceed $12,000 for a first level infraction, $24,000 for a second level infraction, and $48,000 for any subsequent infraction.

Where an officer identifies a responsible party in contravention, they must forward this information to HQ via a Notice of Non-Compliance (NoNC).

Penalties for this violation must be assessed by HQ.

The following is examples of non-compliance under C378:

- A carrier failed to transmit an electronic pre-arrival conveyance report.
- A carrier failed to transmit an electronic pre-arrival cargo report.
- A carrier failed to transmit an electronic pre-arrival Bay Plan in the marine mode.
- A freight forwarder failed to transmit an electronic pre-arrival house bill and/or house bill close message, regardless of whether or not a paper house bill was submitted prior to arrival.
- A freight forwarder failed to transmit an electronic pre-arrival supplementary cargo report for freight remaining on board (FROB) in the air or marine modes.
- A carrier does not address a reject notice within the prescribed timeframe, and valid ACI is not on file (this is considered to be a non-transmission, as per the ECCRD).
- A carrier transmits ACI after arrival at the port of entry.

The exceptions/exemptions from transmitting pre-arrival information are listed in D-3 memorandums.

For failing to notify the CBSA of any corrections, refer to contravention C381.

Retention Period

12 months

C379

Contravention

Person failed to submit advance information in the prescribed time or prescribed manner to the Agency.

Penalty

1st: $250*
2nd: $375
3rd and Subsequent: $750

Penalty Basis

Per Instance

Regulation

Reporting of Imported Goods Regulations, sections 14, 15, 15.3, 17, 17.2, 19, 19.2, 21, 21.2, 24(3), 25(2) and 29

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the responsible party fails to transmit the prescribed information in the prescribed time or manner to the Agency.

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This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for providing the required data.

The prescribed information shall be sent or provided:

- In accordance with the established timelines, and/or
- Using an approved electronic means as described in the Electronic Commerce Client Requirements Document and set out in the Reporting of Imported Goods Regulations.

One C379 penalty will be issued per instance. The same penalty level will be assessed for all infractions discovered during the same examination or monitoring period.

Prescribed information must be transmitted in the prescribed timeframe and in the prescribed manner. These two separate obligations must be respected; a contravention against any one of the two obligations will result in the assessment of this penalty. In instances of non-compliance with timeliness and manner requirements two separate C379 penalties may be applied.

Situations where the information is provided upon or after arrival should be considered as if no pre-arrival/pre-load information was provided. In this instance, apply penalty C378.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Examples of non-compliance under C379:

- A carrier failed to submit an electronic conveyance report within the prescribed timeframes.
- A carrier failed to submit an electronic pre-arrival cargo report within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.
- A carrier failed to submit an electronic pre-arrival conveyance report within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.
- A carrier failed to submit an electronic pre-arrival Bay Plan in the marine mode, within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.
- A freight forwarder failed to submit an electronic pre-arrival house bill report and/or house bill close message within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.
- A freight forwarder failed to submit an electronic pre-arrival supplementary data report for FROB in the air or marine modes, within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.

Exceptions/exemptions from transmitting pre-arrival information are listed in D-3.

For failure to notify CBSA of any correction see C381.

Retention Period

12 months

C380

Contravention

Person failed to comply with a notification issued by the CBSA regarding the goods on board or expected to be on board the conveyance.

Penalty

1st: $2,000
2nd: $4,000
3rd and Subsequent: $8,000

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 12.1(7)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

Non-compliance occurs when the responsible party fails to comply with a notification issued by the CBSA regarding the goods on board or expected to be on board the conveyance.

This penalty to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for complying with CBSA notification

One C380 penalty will be issued per infraction.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

.Examples of non-compliance under C380:

- A carrier proceeded to load cargo on a conveyance bound for Canada despite receiving an electronic notice to the contrary.
- A carrier failed to provide or clarify information as specified in an electronic notice.
- A freight forwarder failed to provide or clarify information as specified in an electronic notice.

Retention Period

12 months

C381

Contravention

Person failed to notify the Agency within prescribed timeframes and without delay of any correction to any pre-arrival or pre-load information sent to the CBSA.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Submission

Regulation

Reporting of Imported Goods Regulations, section 30

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the responsible party fails to **correct** advance commercial information that was true, accurate, or complete at the time of initial submission but was subsequently changed.

This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for notifying of any correction to ACI data.

The prescribed information shall be sent in accordance with the timelines, technical requirements, specifications and procedures for electronic means as set out in the *Reporting of Imported Goods Regulations* and the applicable *Electronic Commerce Client Requirements Document*.

One C381 penalty will be issued per pre-load/pre-arrival submission regardless of the number of data elements not corrected. The same penalty level will be assessed for all infractions discovered during the same examination or monitoring period.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Examples of non-compliance under C381:

- A carrier failed to correct conveyance routing information upon being made aware of an itinerary change which occurred after having submitted pre-arrival conveyance information.
- A freight forwarder failed to immediately notify the Agency of a change in the consignee data element while the goods were en-route to Canada.
- A carrier failed to notify the Agency of a change to the ETA/EDTA within the required timeframe.
- A vessel operating carrier failed to immediately notify the Agency of a change to the Bay Plan while the goods were en-route to Canada.

Retention Period

12 months

C382

Contravention

Person submitted information prescribed by the *Reporting of Imported Goods Regulations* that was not true, accurate and complete.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Submission

Legislation

Customs Act, section 7.1

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when the responsible party submits pre-arrival or pre-load information prescribed by the Reporting of Imported Goods Regulations that is not true, accurate and complete as indicated by primary source documents (bill of lading, contract of carriage) at the time of submission.

In some cases, non-compliance may be discovered through examination of goods or review of books and records and in other cases, non-compliance may be discovered through review of transmission alone.

For situations, where the responsible party becomes aware of a change to the information, following submission, a change must be provided to the agency in accordance with the required timeframe (see C381).

This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for providing the required data.

The prescribed information shall be sent in accordance with the timelines, technical requirements, specifications and procedures for electronic means as set out in the *Reporting of Imported Goods Regulations* and the *Electronic Commerce Client Requirements Document*.

One C382 penalty will be issued per submission regardless of the number of data elements which were not true, accurate, and complete.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Examples of non-compliance under C382:

- A carrier transmits information on a pre-arrival conveyance report that is not true, accurate and complete.
- A carrier transmits information on a pre-arrival cargo report that is not true, accurate and complete.
- A carrier fails to use plain, clear and concise language for commodity descriptions when cargo is not consolidated.
- A carrier transmits information on a pre-arrival Bay Plan that is not true, accurate and complete.
- A freight forwarder transmits information on a pre-arrival house bill and/or house bill close message that is not true, accurate and complete.
- A freight forwarder transmits information on a pre-arrival supplementary report that is not true, accurate and complete.

Exceptions/exemptions from transmitting pre-arrival information are listed in D-3.

Retention Period

12 months

C383

Contravention

Person failed to submit the prescribed pre-load/pre-arrival information relating to their cargo and/or conveyance.

Penalty

Flat Rate: $0

Penalty Basis

Per Instance

Regulation

Reporting of Imported Goods Regulations, section 29

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

This contravention is to be issued during the 6-month grace period following the introduction of new pre-arrival or pre-load submission type requirements. Upon expiry of the informed compliance period, penalty C378 will apply.

Non-compliance occurs when the responsible party fails to provide required pre-arrival or pre-load data.

This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for providing the required data.

This penalty applies when the pre-load/pre-arrival information is not provided prior to arrival in Canada. In situations where the pre-load/pre-arrival information is provided upon or after arrival, the pre-arrival information is deemed to be not provided as opposed of being provided, but not in a timely manner (see penalty C384).

The prescribed information shall be sent in accordance with the timelines, technical requirements, specifications and procedures for electronic means as set out in the *Reporting of Imported Goods Regulations* and the applicable *Electronic Commerce Client Requirements Document*.

One C383 penalty will be issued per instance.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Example of non-compliance under C383:

- A carrier failed to transmit an electronic pre-arrival Bay Plan in the marine mode.
- A freight forwarder failed to transmit an electronic pre-arrival house bill and/or house bill close message, regardless of whether or not a paper house bill was submitted prior to arrival.
- A freight forwarder failed to transmit an electronic pre-arrival supplementary cargo report for FROB in the air or marine modes.

Exceptions/exemptions from transmitting pre-arrival information are listed in D-3.

For failure to notify CBSA of any correction see C386.

Retention Period

12 months

C384

Contravention

Person failed to submit advance information in the prescribed time or prescribed manner to the Agency.

Penalty

Flat Rate: $0

Penalty Basis

Per Instance

Regulation

Reporting of Imported Goods Regulations, sections 14, 15, 15.3, 17, 17.2, 19, 19.2, 21, 21.2, 24(3), 25(2) and 29

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

This contravention is to be issued during the 6-month grace period following the introduction of new pre-arrival and pre-load submission type requirements. Upon expiry of the informed compliance period, penalty C379 will apply.

Non-compliance occurs when the responsible party fails to transmit the prescribed information in the prescribed time or manner to the Agency.

This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for providing the required data.

The prescribed information shall be sent or provided:

- In accordance with the established timelines, and/or
- Using an approved electronic means as described in the *Electronic Commerce Client Requirements Document* and set out in the *Reporting of Imported Goods Regulations.*

Prescribed information must be transmitted in the prescribed timeframe and in the prescribed manner. These two separate obligations must be respected; a contravention against any one of the two obligations will result in the assessment of this penalty. In instances of non-compliance with timeliness and manner requirements two separate C384 penalties may be applied.

Situations where the information is provided upon or after arrival should be considered as if no pre-arrival/pre-load information was provided. In this instance, apply penalty C383.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Examples of non-compliance under C384:

- A carrier failed to submit an electronic pre-arrival Bay Plan in the marine mode, within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.
- A freight forwarder failed to submit an electronic pre-arrival house bill report and/or house bill close message within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.
- A freight forwarder failed to submit an electronic pre-arrival supplementary data report for FROB in the air or marine modes, within the prescribed timeframes, regardless of whether or not the information was faxed to the appropriate customs office, within the appropriate timeframes.

Exceptions/exemptions from transmitting pre-arrival information are listed in D-3.

For failure to notify CBSA of any correction see C386.

Retention Period

12 months

C385

Contravention

Person failed to comply with a notification issued by the CBSA regarding the goods on board or expected to be on board the conveyance.

Penalty

Flat Rate: $0

Penalty Basis

Per Instance

Legislation

Customs Act, subsection 12.1(7)

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

This contravention is to be issued during the 6-month grace period following the introduction of new pre-arrival and pre-load submission type requirements. Upon expiry of the informed compliance period, penalty C380 will apply.

Non-compliance occurs when the responsible party fails to comply with a notification issued by the CBSA regarding the goods on board or expected to be on board the conveyance.

This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for complying with CBSA notification.

One C385 penalty will be issued per infraction.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Examples of non-compliance under C385:

- A carrier proceeded to load cargo on a conveyance bound for Canada despite receiving an electronic notice to the contrary.
- A freight forwarder failed to provide or clarify information as specified in an electronic notice.

Retention Period

12 months

C386

Contravention

Person failed to notify the Agency within prescribed timeframes and without delay of any correction to any pre-arrival or pre-load information sent to the Agency.

Penalty

Flat Rate: $0

Penalty Basis

Per Submission

Regulation

Reporting of Imported Goods Regulations, section 30

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

This contravention is to be issued during the 6-month grace period following the introduction of new pre-arrival or pre-load submission type requirements. Upon expiry of the informed compliance period, penalty C381 will apply

Non-compliance occurs when the responsible party fails to correct advance information that was true, accurate, or complete at the time of initial submission but subsequently changed.

This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for notifying of any correction to ACI data.

The prescribed information shall be sent in accordance with the timelines, technical requirements, specifications and procedures for electronic means as set out in the *Reporting of Imported Goods Regulations* and the applicable *Electronic Commerce Client Requirements Document*.

One C386 penalty will be issued per pre-load/pre-arrival submission regardless of the number of data elements not corrected.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Examples of non-compliance under C386:

- A freight forwarder failed to immediately notify the Agency of a change in the consignee data element while the goods were en-route to Canada.
- A vessel operating carrier failed to immediately notify the Agency of a change to the Bay Plan while the goods were en-route to Canada.

Retention Period

12 months

C387

Contravention

Person submitted information prescribed by the *Reporting of Imported Goods Regulations* that was not true, accurate and complete.

Penalty

Flat Rate: $0

Penalty Basis

Per Submission

Legislation

Customs Act, section 7.1

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods
D3-2-1, Air Pre-arrival and Reporting Requirements
D3-3-1, Freight Forwarder Pre-Arrival and Reporting Requirements
D3-4-2, Highway Pre-arrival and Reporting Requirements
D3-5-1, Marine Pre-load/Pre-arrival and Reporting Requirements
D3-6-6, Rail Pre-arrival and Reporting Requirements

Guidelines

This contravention is to be issued during the 6-month grace period following the introduction of new pre-arrival and pre-load submission type requirements. Upon expiry of the informed compliance period, penalty C382 will apply.

Non-compliance occurs when the responsible party submits pre-arrival or pre-load information prescribed by the *Reporting of Imported Goods Regulations* that is not true, accurate and complete as indicated by primary source documents (bill of lading, contract of carriage) at the time of submission.

In some cases, non-compliance may be discovered through examination of goods or review of books and records and in other cases, non-compliance may be discovered through review of transmission alone.

For situations, where the responsible party becomes aware of a change to the information, following submission, a change must be provided to the agency in accordance with the required timeframe (see C386).

This penalty is to be issued by the Commercial Program Directorate at Headquarters (HQ), against the party responsible for providing the required data.

The prescribed information shall be sent in accordance with the timelines, technical requirements, specifications and procedures for electronic means as set out in the *Reporting of Imported Goods Regulations* and the *Electronic Commerce Client Requirements Document.*

One C387 penalty will be issued per submission regardless of the number of data elements which were not true, accurate, and complete.

In cases where an officer finds a responsible party in contravention, the officer must forward this information to HQ though the Notice of Non-Compliance (NoNC) form.

Penalties associated with this violation will be assessed by HQ.

Examples of non-compliance under C387:

- A carrier transmits information on a pre-arrival Bay Plan that is not true, accurate and complete.
- A freight forwarder transmits information on a pre-arrival house bill and/or house bill close message that is not true, accurate and complete.
- A freight forwarder transmits information on a pre-arrival supplementary report that is not true, accurate and complete.

Exceptions/exemptions from transmitting pre-arrival information are listed in D-3.

Retention Period

12 months

C388

Contravention

Person to whom a carrier code is issued failed to immediately notify the CBSA of any change(s) in the legal or business name, merger/amalgamation or cessation of business.

Penalty

1st: $500*
2nd: $750
3rd and Subsequent: $1,500

Penalty Basis

Per Instance

Regulation

Reporting of Imported Goods Regulations, section 32

D Memo

D3-1-1, Policy Respecting the Importation and Transportation of Goods

Guidelines

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when a person, including a freight forwarder to whom a carrier code is issued fails to immediately notify the CBSA of any change(s) in the legal or business name, merger/amalgamation or cessation of business that was initially provided in the application for their carrier code.

For purposes of this penalty, the term “immediately” is defined as the point in time in which the CBSA determines the legal or business name submitted by the carrier code holder is not accurate or up to date.

Non-compliance may occur:

- during an examination;
- as a result of a review of information provided by the carrier code holder during the import process; or
- during an audit of the carrier code holder’s books and records.

For failure to immediately notify CBSA of change(s) to the address, contact information (including email address) please refer to penalty C389.

Retention Period

12 months

C389

Contravention

Person to whom a carrier code is issued failed to immediately notify the CBSA of any change(s) to address and/or contact information (including e-mail address) that was initially provided in the application for their carrier code.

Penalty

1st: $150*
2nd: $225
3rd and Subsequent: $450

Penalty Basis

Per Instance

Regulation

Reporting of Imported Goods Regulations, section 32

D Memo

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A flat rate penalty of $0 will apply during the grace period, which is from July 10, 2015 to January 10, 2016. Following the grace period, monetary penalty will be issued at level 1.

* A 30-day delay in the escalation of penalty levels from the first to the second will apply to this contravention. Should a second penalty with the same contravention be issued against the same client, the system will not escalate the penalty level to level two unless 30 days have transpired from when the first Notice of Penalty Assessment (NPA) was issued or the infraction occurred. The non-escalation rule applies from the first level to the second level only; it does not apply from the second to the third level.

Non-compliance occurs when a person, including a freight forwarder to whom a carrier code is issued fails to immediately notify the CBSA of any change(s) to the address and/or contact information(including e-mail address), that was initially provided in the application for their carrier code.

For purposes of this penalty, the term “immediately” is defined as the point in time in which the CBSA determines the address submitted by the carrier code holder is not accurate or up to date.

Non-compliance may occur:

- during an examination;
- as a result of a review of information provided by the carrier code holder during the import process; or
- during an audit of the carrier code holder’s books and records.

For failure to immediately notify CBSA of change(s) in legal or business name, please refer to penalty C388.

Retention Period

12 months