



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

## Master Penalty Document

The Master Penalty Document lists contraventions resulting from failure to comply with requirements identified in the *Customs Act*, *Customs Tariff* and related regulations. Each contravention describes the failure to comply, the associated penalty amounts, legislative, regulatory and administrative references and guidelines for application of the contravention.

The *Designated Provisions (Customs) Regulations* outline the sections of the *Customs Act*, *Customs Tariff*, *Special Import Measures Act* (SIMA) and related regulations that relate to the AMPS program. Only obligations that are legislatively mandated 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 guidance in applying the contraventions and are not exhaustive examples of the non-compliance they are meant to cover. 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 Re-Investment Agreement (see D memorandum [D22-1-2](#)).

The Master Penalty Document is subject to periodic revisions.

Last Revision: May 2013

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## **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

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## **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: \$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 References**

[D11-6-4, Legislative Authorities and Supporting Documentation Requirements for Form B2, Canada Customs - Adjustment Request](#)  
[D17-2-1, Coding of Adjustment Request Forms](#)  
[D15, Special Import Measures Act \(SIMA\) / Investigations](#)

### **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 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.

Anti-dumping and Countervailing Directorate will notify importers of preliminary and final determinations of dumping or subsidizing concerning specific imported goods. Importers will also be notified of SIMA enforcement activities while an injury finding by the Canadian International Trade Tribunal is in effect.

Applied against the importer.

Officer must be an authorized user of the SIMA Compliance Web site to be able to apply this penalty.

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Seven days after the notification is issued the applicable SIMA code must be used on import transactions (i.e. B3).

In instances where an officer finds an importer in contravention for the first time, the officer must forward this information to Headquarters (HQ). HQ will issue the notification to the importer.

Refer to the Measures in Force in the Anti-dumping section of the CBSA Web site and the relevant D15 Memorandum to verify the goods are subject to the SIMA action.

Verify that the importer has been notified regarding the SIMA codes by referring to the case information on the SIMA Compliance Web site.

The obligation to code the B3 or B2 ends when the SIMA action is terminated by the CBSA or the CITT or the surtax expires, unless the importer has been given written notice that the coding of transactions is to continue.

The penalty will be applied per document, i.e. per B3 or B2.

### **Retention Period**

36 months

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## **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, Export 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, carrier.

When an officer gives an opportunity to provide missing information on import documentation and a client fails to comply with this request, a penalty will be applied.

Where the mandatory prescribed information provided is incorrect, a penalty will be applied and a request for the correct information will be made. Officers will specify that a penalty will be issued on the reject notice.

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.

C005 may apply to exporters and export carriers who have reported goods, but provided incorrect, incomplete or untrue information in the mandatory fields of the export declaration (export permit, licence or certificate, cargo control document, etc.)

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 B13A Export Declaration for regular goods, see C170.

For missing B13A 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

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## **C008**

### **Contravention**

Person (carrier) failed to provide a cargo control number in a bar-coded format or in the case of a Customs Self Assessment (CSA) shipment, the required data elements.

### **Penalty**

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

### **Penalty Basis**

Per Conveyance

### **Legislation**

[Customs Act, subsection 12\(1\) and \(2\)](#)

### **D Memo**

[D3-1-1, Policy Respecting the Importation and Transportation of Goods](#)

D3-1-7, Customs Self Assessment Program for Carriers

### **Other References**

[D17-1-10, Coding of Customs Accounting Documents](#)

D17-1-7, Customs Self Assessment Program for Importers

CSA Participants' Requirements Documents

### **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 carrier fails to provide a bar coded cargo control number when reporting goods to the CBSA.

In the case of a Highway CSA participant submitting paper documents (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 (BN),
- CSA carrier code,
- Secondary CSA carrier code when applicable.

If a complete Transport Document Number is provided, it must be bar coded as well.

Applied against the carrier or the transporter.

This penalty does not apply in the following situations:

a- Unreadable bar codes

The carrier must be advised that his bar codes are unreadable. The cargo control number must be input manually. Refer to D3-1-1, Appendix H for bar code specifications and testing procedures. (Contravention C005 is not applicable in these circumstances.)

b- For CSA participants

C008 does not apply in situations where the business number or carrier code provided is invalid (i.e. not CSA approved). In these situations, CSA clearance will be denied for the shipment and a non-CSA service option will be used.

c- Failed PARS

A failed Pre-Arrival Release System (PARS) is replaced by a handwritten or typed cargo control document (CCD) using the cargo control number of the original PARS document. Alternatively, carriers may use their pre-printed CCDs and cross out the existing bar coded CCN and show the CCN of the failed PARS in the "Previous cargo control number" field. In both cases, the wording "Failed PARS" must be written on the CCD to clarify why a bar code is not being used.

d- Where the Commercial Driver Registration Program (CDRP) or Fast and Secure Trade (FAST) barcode is not presented (i.e. driver forgot registration card), the information will be inputted manually. C008 does not apply.

Bar coded cargo control numbers are not required for:

Shipments being abstracted by a broker or sole importer for release purposes  
Goods moving in-transit on a "Canada - US In transit manifest"  
Air (AXX- or IATA assigned code)  
Rail (6000 series)  
Marine (9000 series)  
Mail (E14 series)

Apply a penalty per conveyance regardless of the number of shipments.

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

**Retention Period**

12 months

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## **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  
3<sup>rd</sup> 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.

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

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## **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  
3<sup>rd</sup> 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 brokers 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 brokers 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

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## **C012**

### **Contravention**

Licensed customs broker transacted business as a customs broker at a customs office not specified by the licence.

### **Penalty**

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

### **Penalty Basis**

Per Incidence

### **Legislation**

[Customs Act, subsection 9\(4\)](#)

### **D Memo**

[D1-8-1, Licensing of Customs Brokers](#)

### **Other Reference**

[Customs Brokers Licensing Regulations](#)

### **Guidelines**

Non-compliance occurs when a licensed customs broker transacts business at a customs office which has not been specified or authorized on his/her licence.

Refer to C011, for instances where a person who is not a licensed customs broker acts as one on behalf of a client.

Apply a penalty per location, per client.

### **Retention Period**

12 months

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## **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](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.

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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.

For failure to report conveyances inbound, see C023.

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.

### **Retention Period**

12 months

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## **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 post-audit carrier, except air mode, no penalty assessed if carrier provides proof, within 24 hours of arrival of the shipment, that Cargo Control Document (CCD) was prepared for goods prior to their arrival in Canada, as per D3-1-1.

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

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## **C023**

### **Contravention**

Person failed to report conveyances inbound.

### **Penalty**

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

### **Penalty Basis**

Per Conveyance

### **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 a conveyance is not reported upon arrival in Canada as prescribed, at the nearest designated customs office open for business.

Applied against the carrier.

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.

Failure to transmit Advance Commercial Information will be addressed under a different contravention code.

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

### **Retention Period**

12 months

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## **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

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## **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.

If it is determined that goods were taken out of the sufferance warehouse without authorization refer to C358.

For non-compliance 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, refer to C047 or C357.

**Retention Period**

12 months

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## **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](#)

### **D Memo**

N/A

### **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

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## **C032**

### **Contravention**

Owner, having received the delivery of a wreck to themselves 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:

- a. 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;
- b. cargo, stores and tackle of any vessel and of all parts of the vessel separated therefrom;
- c. the property of shipwrecked persons; and
- d. 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

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## **C033**

### **Contravention**

Person moved, delivered or exported, or caused to be moved, delivered or exported goods that have been reported but not released, without customs authorization.

### **Penalty**

1<sup>st</sup>: \$1,000  
2<sup>nd</sup>: \$2,000  
3<sup>rd</sup> and Subsequent: \$4,000

### **Penalty Basis**

Per Shipment

### **Legislation**

[Customs Act, section 31](#)

### **D Memo**

[D3-1-1, Policy Respecting the Importation and Transportation of Goods](#)

### **Guidelines**

Non-compliance occurs when carrier delivers goods without customs authorization or when an officer discovers during an audit that direct delivery has occurred prior to customs release.

This penalty is also applied in situations where goods have been reported to an officer on arrival into the country; however the release of the goods will be affected at an inland customs office. In this situation, the frontier officer authorizes the bonded carrier to move the goods to an inland location for release, but the carrier directly delivers the goods to the importer rather than reporting to the inland office.

In an audit situation, each shipment found in contravention within an audit will be assessed a penalty. For example, if five shipments were moved, a penalty of \$5,000 (5 × \$1,000) would be assessed at first level.

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

### **Retention Period**

12 months

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## **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 removed from the customs office or sufferance warehouse, see C358.

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

For situations where a direct delivery occurred prior to the goods being released, see C033.

### **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**

[Regulations Respecting the Transportation of Goods](#)

### **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

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## **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](#)  
[Transportation of 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

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## **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](#)  
[Transportation of 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

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## **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

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## **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

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## **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](#)  
[D3-1-6, Canada Border Service Agency \(CBSA\) Post Audit System](#)  
[D3-1-7, Customs Self Assessment Program for Carriers](#)  
[D3-1-8, Cargo-Export Movements](#)  
[D3-7-1, CBSA Marine Operations – Cargo Containers used in International Service](#)

[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:

- a. keep prescribed records at specified place for three years in the prescribed manner; or
- b. make prescribed records available to an officer within the time specified; or
- c. 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

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## **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

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## **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.

\*\* NB - this contravention applies to an operator of a Customs Bonded Warehouse and should NOT be confused with the other Duty Deferral programs\*\*.

For Shipments that have been removed without authority, see C033.

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

### **Retention Period**

36 months

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## **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

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## **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

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## **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

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## **C051**

### **Contravention**

Licensee of a duty free shop failed to ensure that goods are stored and marked in the manner prescribed in the *Duty Free Shop Regulations*.

### **Penalty**

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

### **Penalty Basis**

Per Instance

### **Regulation**

[\*Duty Free Shop Regulations, subsection 14\(a\)\*](#)

### **D Memo**

[D4-3-4, Duty Free Shop – Operational Responsibilities](#)

### **Other References**

[D4-3-3, Duty Free Shop - Security](#)

[D4-3-5, Duty Free Shop – Inventory Control and Sales Requirements](#)

[D4-3-7, Duty Free Shop - Contraventions and Penalties](#)

### **Guidelines**

Non-compliance occurs when goods are not properly inventoried (stored and identified). Non-compliance is discovered during a customs examination or an inventory audit.

### **Retention Period**

12 months

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## **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:

- a- imported goods received are held in a designated area until accounted for, or
- b- 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

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## **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 broker 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

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## **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

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## **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

---



## **C056**

### **Contravention**

Licensee of a duty free shop failed to immediately notify the chief officer of customs of the receipt of the goods.

### **Penalty**

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

### **Penalty Basis**

Per Shipment

### **Regulation**

[Duty Free Shop Regulations, paragraph 16\(1\)\(b\)](#)

### **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 licensee fails to immediately notify (at the very least within 24 hours) the chief of operations or delegated representative of the local CBSA office upon receipt of goods.

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

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## **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

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## **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 endorsing a bill of lading, waybill or similar document presented by carrier or endorse the customs document on which goods were reported or issuing a transfer document to the carrier.

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

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## **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 tobacco and cigars 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

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## **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  
3<sup>rd</sup> 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

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## **C061**

### **Contravention**

Licensee of a duty free shop failed to provide a summary of monthly sales in the prescribed form, not later than 15 days after the last day of the month in which the sales described on the form were made.

### **Penalty**

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

### **Penalty Basis**

Per Report

### **Regulation**

[Duty Free Shop Regulations, subsection 17\(a\)](#)

### **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 duty free shop operator fails to provide a summary of the monthly sales in the prescribed form, Form B117, not later than 15 days after the last day of the month in which the sales described on the form were made.

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

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## **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.

Prescribed substances within the meaning of the *Atomic Energy Control Act* or prescribed items within the meaning of the *Atomic Energy 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, 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

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## **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

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## **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 removal of goods from a customs office or sufferance warehouse, see C358.

### **Retention Period**

36 months

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## **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 Document](#)  
[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

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## **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

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## **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

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## **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: \$150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)  
2nd: \$225 to a maximum of \$200,000 (per occurrence)  
3rd and Subsequent: \$450 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 Self-Adjustments to Declarations of Origin, Tariff Classification, and 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 import documents.

The term "per occurrence" at the first, second, and third levels applies to each uncorrected error for which a preferential tariff treatment under a free trade agreement was incorrectly claimed per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Where customs duties and/or taxes would be owed as a result of required corrections, see C350.

Where there is a failure to correct a declaration that would result in a refund of customs duties, no penalty will apply.

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

The SOTC must record in their report each error along with a detailed explanation of what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for the next occurrence of the same error.

There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke / data entry error. This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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”

In regards to the obligation to self-correct under section 32.2 of the *Customs Act*, specific information regarding the origin that gives an importer 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 (obvious, apparent) and transparent (i.e., clear, self-explanatory). For example, proof of origin requirements under section 24 of the *Customs Tariff* and sections 35.1 of the *Customs Act*
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer 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 importer from the CBSA, such as a ruling (e.g., advance ruling issued under section 43.1 of the *Customs Act*), or a trade compliance verification final report; 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 an importer’s company.

### First Level Penalties

Penalties apply where an importer failed to correct the origin of goods subject to a free trade agreement 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

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

#### Example:

An importer 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 importer 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 importer corrects the tariff treatment errors within 90 days of receiving the trade compliance verification final report, only one penalty of \$150 for each good not covered by a certificate of origin will apply, regardless of how often the error is repeated over multiple accounting documents. If the error is not

corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of the error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) to (f) will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the reassessment period up to a maximum of \$25,000.

Example:

Where an importer 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 importer’s “reason to believe” under criterion (d).

**Second Level Penalties**

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

For the same origin errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Third Level Penalties**

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

For the same origin errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Retention Period**

36 months

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## **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: \$150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)

2nd: \$225 to a maximum of \$200,000 (per occurrence)

3rd and Subsequent: \$450 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 Self-Adjustments to Declarations of Origin, Tariff Classification, and 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 import documents.

The term "per occurrence" at the first, second, and third levels applies to each uncorrected error for which a preferential tariff treatment (not related to a free trade agreement) was incorrectly claimed per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Where customs duties and/or taxes would be owed as a result of required corrections, see C351.

Where there is a failure to correct a declaration that would result in a refund of customs duties, no penalty will apply.

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

The SOTC must record in their report each error along with a detailed explanation of what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for the next occurrence of the same error.

There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke / data entry



error. This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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”**

In regards to the obligation to self-correct under section 32.2 of the *Customs Act*, specific information regarding the origin that gives an importer 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 (obvious, apparent) and transparent (i.e., clear, self-explanatory). For example, proof of origin requirements under section 24 of the *Customs Tariff* and section 35.1 of the *Customs Act*
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer 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 importer 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, 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 an importer’s company.

**First Level Penalties**

Penalties apply where an importer failed to correct the origin of goods 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

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

Example:

An importer 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 importer 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 importer corrects the tariff treatment errors within 90 days of receiving the trade compliance verification final report, only one penalty of \$150 for each good not covered by a certificate of origin will apply, regardless of how often the error is repeated over multiple accounting documents. If the error is not corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of the error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) to (f) will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the reassessment period up to a maximum of \$25,000.

Example:

Where an importer 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 within 90 days of receipt of this notification. This would be considered an importer’s “reason to believe” under criterion (d).

**Second Level Penalties**

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

For the same origin errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Third Level Penalties**

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

For the same origin errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Retention Period**

36 months

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## **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: \$150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)

2nd: \$225 to a maximum of \$200,000 (per occurrence)

3rd and Subsequent: \$450 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 Self-Adjustments to Declarations of Origin, Tariff Classification, and Value for Duty](#)

### **Guidelines**

\* The term "per issue" applies to each uncorrected tariff classification error of a good regardless of how often the error is repeated on import documents. A "good" also includes the same and similar goods that have the same function as the goods being verified, that differ in a manner (e.g., size, colour, capacity) that does not alter the tariff classification of the goods at the tariff item level

The term "per occurrence" at the first, second, and third levels applies to each uncorrected tariff classification error of a good per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Where customs duties and/or taxes would be owed as a result of required corrections, see C352.

Where there is a failure to correct a declaration that would result in a refund of customs duties, no penalty will apply.

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

The SOTC must record in their report each error along with a detailed explanation of what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for the next occurrence of the same error.

There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke/data entry error.

This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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”**

In regards to the obligation to self-correct 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 provisions that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent), and transparent (i.e., clear, self-explanatory). For example:
  - i) Obvious classification  
0104.10.00  
- - - (Live sheep and goats) Sheep
  - ii) Involving conditional relief which is contingent upon a specific use  
0812.10.10.00  
- - -Pitted sweet cherries, with stems, provisionally preserved by sulphur dioxide gas, for use in the manufacture of maraschino cherries with stems;
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer was the appellant, respondent or intervenor;
- (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 importer from the CBSA such as a ruling (e.g., national customs ruling), an advance ruling under section 43.1 of the *Customs Act*, or a trade compliance verification final report;
- (f) a final report from an importer-initiated internal audit or review, or, from an external company conducting an audit or review of an importer’s company; or
- (g) knowledge that the goods no longer qualify or comply with a condition of relief or a restriction imposed by the concessionary tariff item declared (e.g., goods diverted to a non-qualified conditional-use or conditional-user).

**First Level Penalties**

A tariff classification error occurs when a good is not classified and accounted for in accordance with the rules and schedules of the *Customs Tariff Act*. Penalties apply where an importer failed to correct the tariff classification of the good 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

Example:

Plastic conveyor belts are classified under Chapter 84 when they are specifically excluded by virtue of Note 1(a) to Section XVI, and the error was repeated on multiple accounting documents. Only one penalty of \$150 will apply if the error is corrected within 90 days of receiving the trade compliance verification final report, regardless of how often the same error is repeated over multiple accounting documents. If the error is not corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of the error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) through (g) will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the assessment period up to a maximum of \$25,000.

**Second Level Penalties**

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

For the same tariff classification errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the tariff classification within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Third Level Penalties**

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

For the same tariff classification errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the tariff classification within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Retention Period**

36 months

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## **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: \$150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)

2nd: \$225 to a maximum of \$200,000 (per occurrence)

3rd and Subsequent: \$450 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 Self-Adjustments to Declarations of Origin, Tariff Classification, and 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 import documents.

The term "per occurrence" at the first, second, and third levels applies to each uncorrected value for duty error per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Where customs duties and/or taxes would be owed as a result of required corrections, see C353.

Where there is a failure to correct a declaration that would result in a refund of customs duties, no penalty will apply.

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

The SOTC must record in their report each error along with a detailed explanation of what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for the next occurrence of the same error.

There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke / data entry error. This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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 and Valuation Policy Unit for assistance in the assessment of penalties.

### “Reason to Believe”

In regards to the obligation to self-correct under section 32.2 of the *Customs Act*, specific information regarding the value for duty that gives an importer 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 (obvious, apparent) and transparent (i.e., clear, self-explanatory). For example, packaging or assists provisions;
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer was the appellant, respondent or intervenor;
- (d) information received from vendors, freight forwarders, exporters, suppliers, etc. (e.g. vendor's invoice indicating retroactive price increase for goods already purchased);
- (e) written communication addressed directly to the importer from the CBSA such as a national customs ruling, or a trade compliance verification final report; or
- (f) a final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of an importer'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 importer failed to correct the value for duty 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

#### Example:



An importer 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 receiving the trade compliance verification final report, only one penalty of \$150 to a maximum of \$5,000 will apply regardless of how often the error is repeated over multiple accounting documents. If the error is not corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of each error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) through (f) will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the reassessment period up to a maximum of \$25,000.

### **Second Level Penalties**

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

For the same value for duty errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the value for duty within 90 days after having “reason to believe” that the declaration was incorrect to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **Third Level Penalties**

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

For the same value for duty errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the value for duty within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **Retention Period**

36 months

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## **C152**

### **Contravention**

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

### **Penalty**

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

### **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 in respect of those goods available to an 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\(1\)](#)

### **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, already known to keep records, does not make records 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 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 their Canadian customs broker's office).

SOTCs must use discretion when deciding how much time to allow the importer 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.

## **CBSA MASTER PENALTY DOCUMENT**

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Subsequent requests for records that are not made available will be subject to the second and third level penalties.

### **Retention Period**

36 months

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## **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

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## **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 or sufferance 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

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## **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 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

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## **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  
3<sup>rd</sup> 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

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## **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

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## **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: \$150  
2nd: \$225  
3rd and Subsequent: \$450

### **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:

1. The goods subsequently failed to comply with conditions imposed under a tariff item; and
2. 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: \$150  
2nd: \$225  
3rd and Subsequent: \$450

### **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

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## **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, Export 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 (Form B13A, CAED, or G7 EDI Export Reporting) for goods that are not controlled, regulated or prohibited within the following legislative time frames prior to export:

- a. 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;
- b. if the goods are exported by vessel, not less than 48 hours before the goods are loaded onto the vessel;
- c. if the goods are exported by aircraft, not less than two hours before the goods are loaded on board the aircraft;
- d. 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
- e. 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.

## **CBSA MASTER PENALTY DOCUMENT**

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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.

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

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## **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

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## **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 customs 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

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## **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

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## **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

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## **C194**

### **Contravention**

Person who has completed and signed a certificate of origin in accordance with subsection 97.1(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

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## **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

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## **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:

- a. 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
- b. 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  
3<sup>rd</sup> 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

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## **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

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## **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:

1. sale to a foreign diplomat in Canada,
2. export from Canada,
3. sale to a duty free shop, or
4. 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

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## **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

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## **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 B3 (type 10, 13 or type 30) 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

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## **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**

[D4-2-0, Ships' Stores 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 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

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## **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**

[D4-2-0, Ships' Stores 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.

"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

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## **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:

- a. Disassembling or reassembling goods that have been assembled or disassembled for packing, handling or transportation;
- b. Displaying;
- c. Inspecting;
- d. Marking, labelling, tagging or ticketing;
- e. 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;
- f. Storing;
- g. Testing;
- h. Packing, unpacking, packaging or repackaging; or
- i. 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

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## **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: \$300  
2nd: \$450  
3rd and Subsequent: \$900

### **Penalty Basis**

Per Diversion

### **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](#)  
[D4-2-0 and D4-2-1, Ships' Stores Regulations](#)

### **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.

Applied against the importer.

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

For errors discovered during a first verification, the first level penalty will apply (per diversion).

For errors discovered during a second verification, a second level penalty will apply (per diversion).

Third level penalty applies for errors discovered during a third or subsequent verifications (per diversion).

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: \$300  
2nd: \$450  
3rd and Subsequent: \$900

### **Penalty Basis**

Per Diversion

### **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](#)

[D4-2-0 and D4-2-1, Ships' Stores Regulations](#)

### **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 review or verification.

Applied against the importer.

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

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

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

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## **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: \$300  
2nd: \$450  
3rd and Subsequent: \$900

### **Penalty Basis**

Per Diversion

### **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](#)  
[D4-2-0 and D4-2-1, Ships' Stores Regulations](#)

### **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 (per diversion), the first level penalty will apply.

For errors discovered during a second verification (per diversion), a second level penalty will apply.

Third level penalty applies for errors discovered during a third or subsequent verifications (per diversion).

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

### **Retention Period**

36 months

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## **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: \$300  
2nd: \$450  
3rd and Subsequent: \$900

### **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](#)  
[D4-2-0 and D4-2-1, Ships' Stores Regulations](#)

### **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, a first level penalty will apply.

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

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

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

### **Retention Period**

36 months

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## **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: \$300  
2nd: \$450  
3rd and Subsequent: \$900

### **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

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## **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

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## **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: \$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](#)

### **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.

Officer must be an authorized user of the SIMA Compliance Web site to be able 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 seven days after issuance of the letter, to provide the subsequent import documents requested by the SIMA officer.

More time can be negotiated, depending on the circumstances.

In instances where an officer finds an importer in contravention for the first time, the officer must forward this information to HQ. HQ will issue the notification to the importer.

The Anti-dumping and Countervailing 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 by referring to the case information on the SIMA Compliance Web site.

For the first B3, apply the first level penalty; for the second B3, apply the second level penalty; for the third and subsequent B3, apply the third level penalty.

## **CBSA MASTER PENALTY DOCUMENT**

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Apply a penalty per document, i.e. per B3 or B2.

For CSA importer, see C224.

### **Retention Period**

36 months

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## **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: \$150  
2nd: \$225  
3rd and Subsequent: \$450

### **Penalty Basis**

Per Document

### **Legislation**

[Customs Act, subsection 40\(1\)](#)

### **D Memo**

[D17-1-10, Coding of Customs Accounting Documents](#)

### **Guidelines**

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

Officer must be an authorized user of the SIMA Compliance Web site to be able 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 21 days after issuance of the letter, 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.

In instances where an officer finds an importer in contravention for the first time, the officer must forward this information to HQ. HQ will issue the notification to the importer.

Verify that the importer has been notified regarding the product description requirements by referring to the case information on the SIMA Compliance Web site.

For the first B3, apply the first level penalty; for the second B3, apply the second level penalty; for the third and subsequent B3, apply the third level penalty.

## **CBSA MASTER PENALTY DOCUMENT**

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Apply a penalty per document, i.e. per B3 or B2.

For non-CSA importer, see C223.

### **Retention Period**

36 months

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## **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.

Officer must be an authorized user of the SIMA Compliance Web site to be able to apply this penalty.

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

In instances where an officer finds an importer in contravention for the first time, the officer must forward this information to HQ.

HQ will issue the notification to the importer.

Verify that the importer has been notified regarding these requirements by referring to the case information on the SIMA Compliance Web site.

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**

[D17-1-7, Customs Self Assessment Program for Importers](#)

### **Other Reference**

[D3-1-7, 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 CSA compliance manager.

## **CBSA MASTER PENALTY DOCUMENT**

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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 CSA compliance manager.

No penalty for obvious clerical or administrative errors.

### **Retention Period**

12 months

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## **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 transactional B3's

### **Penalty Basis**

Per Transactional B3

### **Legislation**

[Customs Act, subsection 32\(3\)](#)

### **D Memo**

[D17-1-7, Customs Self Assessment \(CSA\) Program for Importers](#)

### **Other Reference**

CSA Participants' Requirements Document

### **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 make the accounting of goods in accordance with the terms and regulatory delays more than 5% during a calendar year, see C246.

Apply a penalty per transaction.

### **Retention Period**

12 months

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## **C246**

### **Contravention**

The Customs Self Assessment (CSA) approved importer failed to account for goods in the prescribed manner or within the prescribed time limit less than 95% of the time on a calendar year basis.

### **Penalty**

Flat rate: \$100

### **Penalty Basis**

Per Transactional B3

### **Legislation**

[Customs Act, subsection 32\(3\)](#)

### **D Memo**

[D17-1-7, Customs Self Assessment \(CSA\) Program for Importers](#)

### **Other Reference**

CSA Participants' Requirements Document

### **Guidelines**

Applied against the importer.

Applied by CSA Compliance Manager.

Penalties will only be issued if importer's compliance level falls below 95% on a calendar year basis.

To establish the compliance level, the total number of B3s accepted by the system for each importer will be compared to the number of late accounted B3s.

Date in the Release Date field falls outside the established accounting time frame.

For failure to account for goods, by an approved importer, in the prescribed manner or within the prescribed time limit, see C244.

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

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## **C250**

### **Contravention**

The Customs Self Assessment (CSA) approved importer failed to provide the Revenue Summary Form to customs in the prescribed manner or within the prescribed time.

### **Penalty**

Flat rate: \$100

### **Penalty Basis**

Per Instance

### **Legislation**

[Customs Act, subsection 32\(3\)](#)

### **D Memo**

[D17-1-7, Customs Self Assessment \(CSA\) Program for Importers](#)

### **Other Reference**

CSA Participants' Requirements Document

### **Guidelines**

Non-compliance occurs when importer fails to provide a Revenue Summary Form (RSF) in accepted status by the last business day of the month.

Non-compliance also occurs when importer fails to provide a breakout of the RSF in accepted status as prescribed.

To attain accepted status, the system will validate both paper and electronic RSFs for such things as:

- totals add up correctly;
- valid line object codes are used;
- mandatory fields are completed (e.g. header, period start and end dates).

Normally applied by CSA compliance managers.

Applied against the importer.

### **Retention Period**

12 months

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## **C251**

### **Contravention**

The Customs Self Assessment (CSA) approved importer did not remit duties, taxes, interest charges and penalties owing to Customs, directly to a financial institution, as provided in the *Customs Act*.

### **Penalty**

Flat rate: \$100

### **Penalty Basis**

Per Instance

### **Legislation**

[Customs Act, section 3.5](#)

### **D Memo**

[D17-1-7, Customs Self Assessment \(CSA\) Program for Importers](#)

### **Guidelines**

Non-compliance occurs when a CSA approved importer has not remitted payments to an institution named in section 3.5 of the *Customs Act*.

Applied by a CSA compliance manager.

If the compliance manager has not received notification from another office the payment due was received, contact CSA importer to determine if and where payment was made.

A penalty does not apply if the importer paid at a CBSA office because of an emergency that prevented payment at a financial institution.

### **Retention Period**

12 months

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## **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:

1. 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.
2. 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

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## **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:

1. 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.
2. 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

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## **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:

1. 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.
2. 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

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## **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:

1. 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.
2. 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

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## **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:

1. 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.
2. 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

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## **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:

1. 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.
2. 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

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## **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 B2) 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

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## **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

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## **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 or audit.

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 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

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## **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

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## **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

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## **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.

### **Penalty**

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

### **Penalty Basis**

Per Instance

### **Legislation**

[Customs Act, section 7.1](#)

### **D Memo**

N/A

### **Other Reference**

[D17-1-4, Release of Commercial Goods, Appendix B, Mode Specific Time Frames for the Release of Goods](#)

### **Guidelines**

Non-compliance occurs when the importer/broker submits a post arrival release request (i.e. RMD) prior to the authorized time frames for the release of goods.

- Applies if a RMD was submitted or transmitted by the importer or broker, despite the fact that the carrier had clearly indicated that the goods had not arrived by means of a future estimated time of arrival (ETA).
- In the case of a RMD, the importer / broker should supply customs with a copy of the cargo control document provided by the carrier. If the carrier did not indicate an ETA or provided an incorrect ETA for the arrival of the goods, the **importer should not** receive a penalty.
- In the case of a release request (i.e. RMD) presented prior to the arrival, "per instance" pertains to "per transaction" that is submitted to customs by the importer or broker outside of the authorized time frames regardless of the number of shipments attached to the RMD.

Non-compliance also occurs when the sender of a Release Notification System (RNS) arrival message (i.e. sufferance warehouse operator or carrier) submits the RNS prior to the authorized time frames for the release of goods.

- If a RNS arrival certification was transmitted, despite the fact that the carrier had clearly indicated that the goods have not arrived by means of a future ETA, the penalty would apply **to the person who transmitted the arrival notice** (in most cases the sufferance warehouse operator).
- In the case of an RNS "arrival" message sent prior to the arrival, "per instance" pertains to each "cargo control number" that was transmitted to customs as "arrived" outside of the authorized time frames by the carrier or sufferance warehouse operator.

## CBSA MASTER PENALTY DOCUMENT

In both situations, the importer RMD submission and the RNS arrival, the goods must either be at the customs office (i.e. sufferance warehouse) of clearance or en route to the customs office of clearance, according to the time frames for the release of goods.

The officer will use discretion as to the time frame that the goods must be made available for examination, i.e. where the goods must be on hand for a RMD, in the case of a freight forwarder deconsolidation, the sufferance warehouse operator will be given an opportunity to show that the goods are at least in the warehouse compound and will be off-loaded into the warehouse for examination within a reasonable amount of time.

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.

For situations where the goods are not available for examination, see C026.

The following table summarizes the earliest acceptable release time frames for the arrival of goods by the various modes of transport and service options:

<b>Mode</b>	<b>Carrier Document type* on RMD or PARS</b>	<b>Release Service Option</b>	<b>Condition</b>	<b>Earliest Time Frame to Report Arrival of PARS or Submit a RMD According to Conveyance Arrival</b>
Air	Primary or Secondary	PARS	PARS received and processed	Wheels up to destination customs office
	Primary	RMD	Cargo data made available to customs in an electronic format for pre-arrival review	Wheels up to destination customs office
	Primary or Secondary	RMD	Cargo data not made available to customs in an electronic format for pre-arrival review	Arrival at destination customs office
Rail	Primary or Secondary	PARS	PARS received and processed	1 hour non-stop to Canada
	Primary	RMD	Cargo data made available to customs in an electronic format for pre-arrival review	1 hour non-stop to Canada
	Primary or Secondary	RMD	Cargo data not made available to customs in an electronic format for pre-arrival review	Arrival at destination customs office
Marine	Primary or Secondary	PARS	PARS received and processed	12:01 a.m. on day of vessel arrival at customs office of cargo report
	Primary	RMD	Cargo data made available to customs in an electronic format for pre-arrival review	12:01 a.m. on day of vessel arrival at customs office of cargo report
	Primary or Secondary	RMD	Cargo data not made available to customs in an electronic format for pre-arrival review	Arrival at destination customs office
Hwy	Primary or Secondary	PARS	PARS received and processed	Arrival in Canada
	Primary or Secondary	RMD		Arrival at destination customs office

## **CBSA MASTER PENALTY DOCUMENT**

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\*Primary Document = cargo control document issued by carrier who reports the arrival of the goods at the first point of arrival in Canada.

\*Secondary Document = remanifest, housebill or abstract cargo control document issued by carrier, forwarder or agent.

### **Retention Period**

12 months

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## **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

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## **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

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## **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

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## **C288**

Contravention

Person failed to account for imported goods within five business days of their release for goods that have an estimated value for duty exceeding \$2,500.

This is in the instance of an individual transaction.

### **Penalty**

Flat rate: \$100

### **Penalty Basis**

Per B3

### **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 5<sup>th</sup> day after the goods have been released.

Applied against the importer.

Customs Commercial System (CCS) will automatically generate a \$100 late accounting penalty for each overdue B3 that is greater than \$2,500.

In non-automated ports, the officer would manually issue this penalty on a K23 for \$100 for each overdue B3.

The officer is not to issue a Notice of Penalty Assessment (NPA) in ICS 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; the first business day after release is counted as day 0.

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.

For failure to account within prescribed time frames for imported goods valued at \$2,500 or less, see C292.

**Retention Period**

12 months

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## **C292**

### **Contravention**

Person failed to account for imported goods no later than the twenty-fourth day of the month following the month of their release, for goods with an estimated value for duty not exceeding \$2,500.

This is in the instance of an individual transaction.

### **Penalty**

Flat rate: \$100

### **Penalty Basis**

Per Transactional B3

### **Legislation**

[Customs Act, subsection 32\(3\) and paragraphs 32\(5\)\(a\) and \(b\)](#)

### **D Memo**

[D17-1-5, Registration, Accounting and Payment for Commercial Goods](#)

### **Other Reference**

[Accounting for Imported Goods and Payment of Duties Regulations](#)

### **Guidelines**

Applied by the officer on a K23 for \$100 for each overdue B3.

The officer is not to issue a Notice of Penalty Assessment (NPA) in ICS when this non-compliance is discovered.

Applied against the importer.

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.

For failure to account within prescribed time frames for imported goods valued greater than \$2,500, see C288.

### **Retention Period**

12 months

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## **C298**

### **Contravention**

Person who imports commercial goods or causes commercial goods to be imported failed to provide records in respect of those goods to an officer when requested, within the time specified by the officer.

### **Penalty**

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

### **Penalty Basis**

Per Written Request

### **Legislation**

[Customs Act, subsection 43\(2\)](#)

### **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 person or company fails to produce records of imported goods or other documents as specified by the Minister and as requested by the officer to enable the officer or verification team to conduct a detailed verification.

This penalty is normally applied by a Senior Officer Trade Compliance or investigations officer and approved by the regional Manager, Trade Compliance or regional Manager, Investigations.

The records must be produced in a manner that allows the officer to review, understand and make determinations about the company's compliance with CBSA administered legislation and regulations.

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 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.

For failure to keep records in respect of commercial goods imported, see C299.

For failure to make records available, see C157.

### **Retention Period**

36 months

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## **C299**

### **Contravention**

Person who imports commercial goods or causes commercial goods to be imported failed to keep records in respect of those goods, for six years following importation, at their place of business in Canada or at a designated place, in the prescribed manner.

### **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, section 2](#)

### **Guidelines**

Non-compliance occurs when an audit, verification or examination determines that a company has kept no records regarding the importation of commercial goods.

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 company to prove that records exist. Thirty days may be considered reasonable.

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

For failure to provide records in respect of commercial goods imported, see C298.

For failure to make records available, see C157.

### **Retention Period**

36 months

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## **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, Export 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.

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

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## **C317**

### **Contravention**

Exporter submitted written summary report for goods that do not qualify for summary reporting.

### **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, Export 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 goods that have not been approved by the CBSA to be reported on a summary report or when the exporter reports goods that are controlled, regulated or prohibited, under any Act of Parliament, on a summary report without written permission from the appropriate government department controlling the goods.

Applied against the exporter.

One C317 penalty will apply regardless of the number of commodities that do not qualify for summary reporting.

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

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## **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

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## **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

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## **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 Reference**

[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

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## **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

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## **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 Transactional B3

### **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 24<sup>th</sup> day of the month following the month of their release.

The officer is to issue the penalty in ICS 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 transactional B3.

### **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 B3s) no later than the 24<sup>th</sup> day of the month following the month of their release.

The officer is to issue the penalty in ICS 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

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## **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: \$100

### **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 and Re-determinations, Appraisals and Re-appraisals, and Duty Relief](#)  
[Accounting for Imported Goods and Payment of Duties Regulations](#)

### **Guidelines**

Non-compliance occurs and a penalty is assessed against an importer when:

- the importer has their own account security and fails to pay their K84 in full by the date specified on the K84;
- their broker short-remits their K84 when the importer uses the Importer Direct Security or GST Direct Payment Options. In these situations, brokers must have provided their central payment office with the Option Agreement and HQ acknowledgment. The penalty is applied against the importer indicated on the customs broker's reconciliation sheet.

Non-compliance occurs and a penalty is assessed against a broker when:

the broker does not pay their K84 in full by the date specified on the K84;  
the broker only partially pays their K84 (i.e. short-pays, not short remits).

Penalty is applied against the broker's business number.

In addition to the penalty, a K23 is still issued as a result of a late-payment on a K84. There will not be an additional penalty for the late payment of the K23.

Non-compliance occurs and a penalty is assessed by CSA compliance manager against a CSA importer when:

- the total Revenue Summary Form (RSF) amount has not been remitted to a financial institution within the prescribed time limits.
- If RSF received, but no payment received at financial institution, the CSA compliance manager will contact importer to determine if payment has been made at a CBSA office.

## **CBSA MASTER PENALTY DOCUMENT**

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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.

Failure to remit duties, taxes, interest charges, and penalties owing to customs directly to financial institution, see C251.

Failure to provide the RSF to customs in the prescribed manner or within the prescribed time, see C250.

### **Retention Period**

12 months

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## **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.

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

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## **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

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## **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, Export 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 prior to export.

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.

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

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## **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, Export 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 B13A Export Declaration, see C170.

For Export Permit or Licence, see C315 and C345.

Apply a penalty per document regardless of number of errors in a single document.

### **Retention Period**

12 months

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## **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: \$150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)  
2nd: \$225 to a maximum of \$200,000 (per occurrence)  
3rd and Subsequent: \$450 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 Self-Adjustment to Declarations of Origin, Tariff Classification, and 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 import documents.

The term "per occurrence" at the first, second, and third levels applies to each uncorrected error for which a preferential tariff treatment under a free trade agreement was incorrectly claimed per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Contravention C350 applies only in cases where customs duties and/or taxes would be payable by the importer as a result of a required correction. Where customs duties and/or taxes would not be owed as a result of required corrections, see C080.

Contravention C080 will not be applied in addition to this contravention.

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

The SOTC must record in their report each error along with a detailed explanation of what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for the next occurrence of the same error.



There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke / data entry error. This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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”**

In regards to the obligation to self-correct under section 32.2 of the *Customs Act*, specific information regarding the origin that gives an importer 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 (obvious, apparent) and transparent (i.e., clear, self-explanatory). For example, proof of origin requirements under section 24 of the Customs Tariff, section 35.1 of the *Customs Act* and proof of origin requirements stated in Memorandum D11-4-2;
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer 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 importer 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; or
- (f) a final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of an importer’s company.

**First Level Penalties**

Penalties apply where an importer failed to correct the origin of goods subject to a free trade agreement 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

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

Example:

An importer 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 importer 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 importer corrects the tariff treatment errors within 90 days of receiving the trade compliance verification final report, only one penalty of \$150 for each good not covered by a certificate of origin will apply, regardless of how often the error is repeated over multiple accounting documents. If the error is not corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of the error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) to (f), there will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the reassessment period up to a maximum of \$25,000.

Example:

Where an importer 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 within 90 days of receipt of this notification. This would be considered an importer’s “reason to believe” under criterion (d).

### **Second Level Penalties**

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

For the same origin errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **Third Level Penalties**

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

For the same origin errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **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: 150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)

2nd: \$225 to a maximum of \$200,000 (per occurrence)

3rd and Subsequent: \$450 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 Self-Adjustment to Declarations of Origin, Tariff Classification, and 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 import documents.

The term "per occurrence" at the first, second, and third levels applies to each uncorrected error to a declaration of origin per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Contravention C351 applies only in cases where customs duties and/or taxes are payable by the importer as a result of the correction. Where customs duties and/or taxes would not be owed as a result of required corrections, see C081.

Contravention C081 will not be applied in addition to this contravention.

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

The SOTC must record in their report each error along with a detailed explanation of what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for the next occurrence of the same error.

There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke / data entry error. This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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”

In regards to the obligation to self-correct under section 32.2 of the *Customs Act*, specific information regarding the origin that gives an importer 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 (obvious, apparent) and transparent (i.e., clear, self-explanatory). For example, proof of origin requirements under section 24 of the *Customs Tariff* and section 35.1 of the *Customs Act*
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer 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 importer 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, 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 an importer’s company.

### First Level Penalties

Penalties apply where an importer failed to correct the origin of goods 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

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

#### Example:

An importer 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 importer 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 importer corrects the tariff treatment errors within 90 days of receiving the trade compliance verification final report, only one penalty of \$150 for each good not covered by a certificate of origin will apply, regardless of how often the error is repeated over multiple accounting documents. If the error is not

corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of the error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) to (f) will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the reassessment period up to a maximum of \$25,000.

Example:

Where an importer 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 within 90 days of receipt of this notification. This would be considered an importer’s “reason to believe” under criterion (d).

**Second Level Penalties**

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

For the same origin errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Third Level Penalties**

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

For the same origin errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the origin within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

**Retention Period**

36 months

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## **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: \$150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)

2nd: \$225 to a maximum of \$200,000 (per occurrence)

3rd and Subsequent: \$450 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 Self-Adjustment to Declarations of Origin, Tariff Classification, and 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 a good regardless of how often that error is repeated on import documents. A "good" also includes the same and similar goods that have the same function as the goods being verified, that differ in a manner (e.g., size, colour, capacity) that does not alter the tariff classification of the goods at the tariff item level.

The term "per occurrence" at the first, second, and third levels applies to each uncorrected tariff classification error of a good per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Contravention C352 applies only in cases where customs duties and/or taxes are payable by the importer as a result of the correction. Where customs duties and/or taxes would not be owed as a result of required corrections, see C082.

Contravention C352 also applies when importers 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 failed to correct the error 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 addition to this contravention.

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

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

There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke / data entry error. This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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”**

In regards to the obligation to self-correct 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 provisions that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent), and transparent (i.e., clear, self-explanatory). For example:
  - i) Obvious classification  
0104.10.00  
- - - (Live sheep and goats) Sheep
  - ii) Involving conditional relief which is contingent upon a specific use  
0812.10.10.00  
- - -Pitted sweet cherries, with stems, provisionally preserved by sulphur dioxide gas, for use in the manufacture of maraschino cherries with stems;
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer was the appellant, respondent or intervenor;
- (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 importer from the CBSA such as a ruling (e.g., national customs ruling), an advance ruling under section 43.1 of the *Customs Act*, or a trade compliance verification final report;
- (f) a final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of an importer’s company; or
- (g) knowledge that the goods no longer qualify or comply with a condition of relief or a restriction imposed by the concessionary tariff item declared (e.g., goods diverted to a non-qualified conditional use or conditional user).



### **First Level Penalties**

A tariff classification error occurs when a good is not classified and accounted for in accordance with the rules and schedules of the *Customs Tariff Act*. Penalties apply where an importer failed to correct the tariff classification of the good 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

Example:

Plastic conveyor belts are classified under Chapter 84 when they are specifically excluded by virtue of Note 1(a) to Section XVI, and the error was repeated on multiple accounting documents. Only one penalty of \$150 will apply if the error is corrected within 90 days of receiving the trade compliance verification final report, regardless of how often the same error is repeated over multiple accounting documents. If the error is not corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of the error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) to (g) will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the reassessment period up to a maximum of \$25,000.

### **Second Level Penalties**

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

For the same tariff classification errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the tariff classification within 90 days after having “reason to believe” that the declaration was incorrect to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **Third Level Penalties**

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

For the same tariff classification errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the tariff classification within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **Retention Period**



36 months

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## **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: \$150 to a maximum of \$5,000 (per issue) or \$25,000 (per occurrence)

2nd: \$225 to a maximum of \$200,000 (per occurrence)

3rd and Subsequent: \$450 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 Self-Adjustment to Declarations of Origin, Tariff Classification, and 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 import documents.

The term "per occurrence" at the first, second, and third levels applies to each uncorrected value for duty error per B3 accounting document and not per B3 line.

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

Applied against the importer of record.

Contravention C353 applies only in cases where customs duties and/or taxes are payable by the importer as a result of the correction. Where customs duties and/or taxes would not be owed as a result of required corrections, see C083.

Contravention C083 will not be applied in addition to this contravention.

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

The SOTC must record in their report each error along with a detailed explanation of what constituted "reason to believe" for that error. This is required in order to establish the level of penalty for the next occurrence of the same error.

There will be a cap of \$1,000 for each group of repeated and incorrect declarations where the client can demonstrate to the SOTC that the errors in the declaration were caused by a single keystroke / data entry error. This cap will apply only 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 that are issued 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) or \$25,000 (per occurrence) depending on applicable reason to believe criterion. The conditions under which either of the \$5,000 or \$25,000 maximum penalties 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 and Valuation Policy Unit through the functional guidance process for assistance in the assessment of penalties.

### “Reason to Believe”

In regards to the obligation to self-correct under section 32.2 of the *Customs Act*, specific information regarding the value for duty that gives an importer 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 (obvious, apparent) and transparent (i.e., clear, self-explanatory). For example, packaging or assists provisions;
- (b) formal assessment documents issued by the Canada Border Services Agency (CBSA) to the importer, 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 importer was the appellant, respondent or intervenor;
- (d) information received from vendors, freight forwarders, exporters, suppliers, etc. (e.g. vendor’s invoice indicating retroactive price increase for goods already purchased);
- (e) written communication addressed directly to the importer or the importer’s agent from the CBSA such as a national customs ruling, or a trade compliance verification final report; or
- (f) a final report from an importer-initiated internal audit or review, or from an external company conducting an audit or review of an importer’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 importer failed to correct the value for duty 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 that are the result of criterion (a) will be assessed on a per issue basis for each issue not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each issue up to a maximum of \$5,000. First level penalties will be assessed at \$150 for each issue regardless of how often an error is repeated during the reassessment period, provided that all occurrence 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 receiving the trade compliance verification final report will be assessed a penalty of \$150 per occurrence to a maximum of \$25,000.

#### Example:

An importer 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 receiving the trade compliance verification final report, only one penalty of \$150 to a maximum of \$5,000 will apply regardless of how often the error is repeated over multiple accounting documents. If the error is not corrected within 90 days of receiving the trade compliance verification final report, a \$150 penalty will apply for each occurrence of each error throughout the reassessment period, to a maximum of \$25,000.

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

First level penalties that are the result of criteria (b) through (f) will be assessed on a per occurrence basis for each error not corrected within 90 days of having “reason to believe”. A penalty of \$150 will be assessed for each occurrence over the reassessment period up to a maximum of \$25,000.

### **Second Level Penalties**

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

For the same value for duty errors previously assessed a penalty at the first level, a second level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the value for duty within 90 days after having “reason to believe” that the declaration was incorrect to a maximum of \$200,000 for the reassessment period.

Second level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **Third Level Penalties**

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

For the same value for duty errors previously assessed a penalty at the second level, a third level penalty will apply following all subsequent audits, examinations, verifications, or monitoring activity for each declaration (B3) where the importer failed to correct the value for duty within 90 days after having “reason to believe” that the declaration was incorrect, to a maximum of \$400,000 for the reassessment period.

Third level penalties would also apply to all adjustments made by importers where they failed to correct declarations within 90 days of having “reason to believe” that corrections are required.

### **Retention Period**

36 months

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## **C354**

### **Contravention**

A commercial carrier or charterer failed to provide, or provide access to, within the prescribed time, information on any person on board a conveyance prior to the arrival of the conveyance in Canada

### **Penalty**

Flat rate: \$3,000

### **Penalty Basis**

Per conveyance

### **Legislation**

[Customs Act, section 107.1\(1\) and \(2\)](#)

### **D Memo**

[D2-5-11, Administrative and Operational Guidelines for Commercial Carriers for the Processing of Passenger Information Pursuant to the Requirements of the Canada Border Services Agency's \(CBSA\) Advance Passenger Information/Passenger Name Record \(API/PNR\) Program](#)

### **Other References**

[Passenger Information \(Customs\) Regulations](#)  
API/PNR Reference Guide for Commercial Carriers

### **Guidelines**

Non-compliance occurs when a commercial passenger carrier or charterer fails to provide, or provide access to, information as stipulated in the *Passenger Information (Customs) Regulations*, on persons (passengers and crew) on board a conveyance prior to the arrival of the conveyance in Canada.

Applied by an API / PNR program officer at Headquarters against a commercial passenger carrier or charterer.

### **Retention Period**

12 months

## **C355**

### **Contravention**

A commercial carrier or charterer failed to provide, or provide access to, within the prescribed time, information on any person on board a conveyance prior to the arrival of the conveyance in Canada

### **Penalty**

Flat rate: \$0

### **Penalty Basis**

Per conveyance

### **Legislation**

[Customs Act, section 107.1\(1\) and \(2\)](#)

### **D Memo**

[D2-5-11, Administrative and Operational Guidelines for Commercial Carriers for the Processing of Passenger Information Pursuant to the Requirements of the Canada Border Services Agency's \(CBSA\) Advance Passenger Information/Passenger Name Record \(API/PNR\) Program](#)

### **Other References**

[Passenger Information \(Customs\) Regulations](#)  
API/PNR Reference Guide for Commercial Carriers

### **Guidelines**

Non-compliance occurs when a commercial passenger carrier or charterer, fails to provide, or provide access to, information as stipulated in the *Passenger Information (Customs) Regulations* on persons (passengers and crew) on board a conveyance prior to the arrival of the conveyance in Canada.

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 passenger carrier or charterer.

### **Retention Period**

12 months

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## **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  
3<sup>rd</sup> 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

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## **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

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## **C358**

### **Contravention**

Person removed goods from a customs office or sufferance warehouse prior to release or authorization 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**

[D4-1-4, Customs Sufferance Warehouses](#)

### **Other Reference**

[Customs Act, section 19](#)

### **Guidelines**

Non-compliance occurs when a carrier removes goods from a customs office without authorization or a sufferance warehouse operator allows the removal of goods from the warehouse prior to release or authorization by an officer.

Non-compliance also occurs when a carrier has been directed to report to a customs warehouse on form Y28 and fails to do so.

For all goods, an AMP will apply, and in addition, specified goods shall be seized.

Unauthorized movement of specified goods, not located, will be subject to an ascertained forfeiture in addition to an AMPS penalty.

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

### **Retention Period**

12 months

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## **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

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## **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, PARS, B3) that goods are not accounted for by the importer at time of interim accounting or presentation of a B3, 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

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## **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 declare all goods at time of interim accounting, 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

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## **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:

- (a) an aircraft, which offers regularly scheduled flights; and
- (b) a highway conveyance.

Applied against a carrier.

### **Retention Period**

12 months

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## **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 goods from a point outside Canada to another point outside Canada through Canada.

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

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## **C371**

### **Contravention**

Person (carrier) failed to use his authorized carrier code or failed to present a letter of authorization when using another bonded carriers' 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**

[D3-1-1, Policy Respecting the Importation and Transportation of Goods](#)

### **Other Reference**

[D3-4-2, Highway Cargo-Import Movements](#)

### **Guidelines**

Non-compliance occurs when a carrier or freight forwarder uses a carrier code belonging to a bonded carrier without a letter of authorization. The carrier should be afforded an opportunity to obtain the letter of authorization. The carrier will not be allowed to proceed inland using the unauthorized carrier code. The carrier will have to either use his own bonded carrier code or obtain a single trip bond.

Non-compliance also occurs when a highway carrier or freight forwarder has been assigned a carrier code for over a month but is still presenting pre-printed A8A 77YY cargo control documents.

If the carrier has on hand their barcodes and an opportunity is provided for correction at time of report and prior to release, C371 is not to be applied. C371 will apply if not corrected at time of report.

Monitoring sheets are required to be filled out for any carriers utilizing 77YY (who have not been assigned a carrier code), in order to prepare for eManifest. Monitoring sheets are to be faxed to 613-957-9717.

Letters of authorizations are not required for:

- 1) conveyance registered to:
  - a) the carrier whose code is being used, or
  - b) owner/operator under exclusive contract to the carrier whose code is being used, or
  - c) co-registered to the carrier whose code is being used
- 2) shipments moving under an authorized "marine overland movement" (D3-5-2)
- 3) shipments transferred under an interline agreement
- 4) transborder air shipments in highway service (flying trucks D3-2-2)

### **Retention Period**

12 months

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## **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

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## **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, Schedule I](#)  
[Determination of Country of Origin for the Purpose of Marking Goods \(Non-NAFTA Countries\) Regulations, Schedule I](#)  
[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 an officer or Regional Marking Expert (RME).

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?

Officers are responsible for making decisions with respect to components 1 and 2.

The RME is responsible for component 3 and will provide guidance on components 1 and 2.

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.

When there is confusion or disagreement as to what country should be marked on the goods, the customs officer must contact the RME for a ruling.

The RME's ruling will be a determination under section 57.01 of the *Customs Act* and therefore, the RME must issue the penalty.

The officer must ensure that the shipment is properly marked before the goods are released and provide the RME any documentation or information required for the RME to issue a determination and the penalty.

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

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**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