

# **Administrative Monetary Penalty System (AMPS)**

## **Master Penalty Document**

Backgrounder details are not meant to be all-inclusive but are examples to provide guidance in the application of the penalties. For further information, it is recommended that you refer to the appropriate legislation, regulation or other reference material.

**February 1, 2004**

## C001

<b>Contravention</b>	Person failed to keep electronic records in an electronically readable format for the prescribed period.
<b>Penalty</b>	1st: \$1,000 2nd: \$5,000 3rd: \$10,000 4th and Subsequent: \$25,000
<b>Penalty Basis</b>	Per Audit
<b>Legislation</b>	<i>Customs Act</i> , sub-section 2(1.3)
<b>D Memo</b>	D17-1-21, Maintenance of Records and Books in Canada by Importers
<b>Backgrounders</b>	Applied by an officer.  Applied as a result of an audit, verification or examination.  Applied against any importer, exporter, person who causes goods to be imported or exported, or any other designated person on behalf of said individuals.  System on which data 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 is necessary to access the information contained in those records, and must be willing to provide access to the equipment to CCRA officials for the purpose of reviewing the records.  The readable format must provide a link to relevant supporting documents.  Apply a penalty per audit.

## C004

<b>Contravention</b>	<p>Person provided information to an officer that is not true, accurate and complete.</p> <p>When a <i>Special Import Measures Act</i> (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 Customs and Revenue Agency (CCRA) or the Canadian International Trade Tribunal (CITT).</p>
<b>Penalty</b>	<p>1st: \$100 or 5% of the value for duty, whichever is greater 2nd: \$200 or 10% of the value for duty, whichever is greater 3rd and Subsequent: \$400 or 20% of the value for duty, whichever is greater</p>
<b>Penalty Basis</b>	Value for Duty
<b>Legislation</b>	<i>Customs Act</i> , section 7.1
<b>D Memo</b>	D17-1-10, Coding of Customs Accounting Documents
<b>Other Reference</b>	D11-6-4, Legislative Authorities and Supporting Documentation Requirements for Form B2, Canada Customs – Adjustment Request
<b>Backgrounders</b>	<p>Applied by an officer.</p> <p>Applied against the importer.</p> <p>Officer must be an authorized user of the SIMA Compliance website to be able to apply this penalty.</p> <p>Antidumping and Countervailing Directorate will issue a notification of a preliminary determination of dumping or subsidizing concerning specific imported goods and following an injury finding by the Canadian International Trade Tribunal or where a surtax is imposed by Order in Council.</p> <p>Seven days after the notification is issued the applicable SIMA code must be used on import transactions (i.e. B3).</p> <p>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.</p> <p>Refer to the SIMA Index and the relevant D15 Memorandum to verify the goods are subject to the SIMA action or a surtax.</p> <p>Verify that the importer has been notified regarding the SIMA codes by referring to the case information on the SIMA Compliance website.</p>

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

Apply a penalty per B3 or B2.

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.

The penalty will be applied on the total corrected value for duty.

## 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: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**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 Declaration

**Backgrounders** Applied by an officer.

The penalty can be applied against the person required to provide the information e.g. importer, exporter, carrier.

It should only be applied when the error or omission in the information required is in relation to the admissibility, report or release of the goods.

In the case of exports, the penalty will be applied against the exporter as they own the goods at the time of exportation.

This contravention applies only in cases where the incorrect information materially affects the decision respecting admissibility or release of goods and there has been an error in the documentation that appears unintentional.

For export violations, this penalty shall only apply when the export declaration, and / or export licence, permit or certificate submitted by the exporter contains errors or omissions. All mandatory fields on the B13A must be completed.

Goods may be held if documentation is incomplete and an officer requires additional clarification and or information.

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.

This penalty does not apply to certificates of origin.

For untrue or false information in documentation, see C348.

Also see:

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.

B13A fields that are not mandatory are:

- exporter reference no.;
- export permit / licence no (if no permit is required)
- vessel name (depending on mode of transport)
- if goods are not sold (if applicable)

Only the eight digit export HS number or the Canadian ten digit import HS number may be used on the manual B13A export declaration.

For Export Permit or Licence, see C315.

For Exporter failure to report a shipment on an export summary report, see C341.

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

## C007

<b>Contravention</b>	Person provided information to an officer that is not true, accurate and complete.  Cargo Control Document (CCD) or release request did not include the required bar code(s) for the report purposes or the service option requested.
<b>Penalty</b>	1 to 10: \$100 11 and over: \$500
<b>Penalty Basis</b>	Per Conveyance
<b>Legislation</b>	<i>Customs Act</i> , section 7.1
<b>D Memo</b>	D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods, paragraph 30
<b>Other Reference</b>	Customs Notice N417 (Reporting Requirements for Commercial Shipments)
<b>Backgrounders</b>	Applied by an officer.  This penalty applies: <ul style="list-style-type: none"><li>• against highway carriers or freight forwarders only.</li><li>• when the Cargo Control Document or the release request, at the time of reporting, is presented without bar codes.</li><li>• when the highway carriers do not have the appropriate documentation at the time of their arrival at PIL, the carrier should be afforded an opportunity to amend, correct or procure the appropriate documentation required for release or furtherance of the goods.</li><li>• if the carrier cannot or will not make the necessary changes, then the carrier should be issued an AMPS penalty prior to being allowed to proceed.</li></ul> The following modes of transportation are not required to have bar coded documents: <ul style="list-style-type: none"><li>• air (AXX- or IATA assigned code).</li><li>• rail (6000 series).</li><li>• marine (9000 series).</li><li>• mail (E14 series).</li></ul> This penalty does not apply for unreadable bar codes. The carrier should be notified verbally that their bar codes are unreadable and may require retesting by HQ. If required, the number should be input manually. <b>Contravention C005 is not applicable in these circumstances.</b>

Exemptions:

CCD for failed PARS

- a failed PARS is replaced by a handwritten or typed cargo control document (A8A or A8B) using the cargo control number as the original PARS document.
- alternatively, carriers may use their pre-printed CCDs and cross out the existing bar coded cargo control number and show the cargo control number of the failed PARS in the “previous cargo control number” field.
- in both cases, the wording “Failed PARS” should be written on the cargo control document, to clarify why a bar code is not being used.

For carriers / freight forwarders who improperly use carrier codes belonging to others, see C008.

## C008

<b>Contravention</b>	<p>Person provided information to an officer that is not true, accurate and complete.</p> <p>The person in charge of a conveyance arriving in Canada presented a document or documents indicating a carrier code or number other than:</p> <ol style="list-style-type: none"><li>1. the one assigned to the carrier</li><li>2. a number authorized by customs to be used by that carrier (incl. 77YY on limited basis and Canada – United States Intransit Manifest A8B number)</li><li>3. another carrier's code if authorized in writing by the other carrier.</li></ol>
<b>Penalty</b>	<p>1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000</p>
<b>Penalty Basis</b>	<p>Per Instance</p>
<b>Legislation</b>	<p><i>Customs Act</i>, section 7.1</p>
<b>D Memo</b>	<p>D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods, paragraph 30</p>
<b>Other Reference</b>	<p>D17-1-10, Coding of Customs Accounting Documents Customs Notice N402 (Use of letter of Authorization) and N417 (Reporting Requirements for Commercial Shipments)</p>
<b>Backgrounders</b>	<p>Applied by an officer.</p> <p>Per instance means per trip, regardless of the number of documents per CCDs presented.</p> <p>This penalty applies:</p> <ul style="list-style-type: none"><li>• against a carrier</li><li>• to any person that uses or attempts to use, for reporting, accounting or release purposes, a carrier code belonging to another carrier, without the appropriate authority or letter of authorization for all modes of transportation:</li><li>• to a carrier code not assigned by Customs</li><li>• to any person using an invalid carrier code 77YY</li><li>• to a carrier using another carrier's code without a letter of authorization in accordance with Customs Notice N402</li></ul> <p>This penalty <b>does not</b> apply if:</p> <ul style="list-style-type: none"><li>• the conveyance is registered to the carrier whose code is being used (Owner /operator under exclusive contract and conveyance is registered or co-registered to the primary carrier)</li></ul>

- the shipment is moving under an authorized “marine overland movement”
- the shipment is being abstracted by a broker or sole importer for release purposes
- the shipment is transferred under an interline agreement
- the goods are moving in-transit on a “Canada – US Intransit manifest”
- temporary carrier code (77YY) is authorized by HQ
- the carrier code is a 9ITN, 6ITN or ITN- code

If the highway carriers do not have the appropriate documentation at the time of their arrival at PIL, the carrier should be afforded an opportunity to amend, correct or procure the appropriate documentation required for release or furtherance of the goods.

Note: a carrier who cannot produce an acceptable letter of authorization should, in addition to be given an AMPS penalty, **NOT BE ALLOWED TO PROCEED USING THE UNAUTHORIZED CARRIER CODE.** The carrier will have to either use his own carrier code or obtain a temporary carrier code from a broker, before being allowed to proceed.

**Carrier code 77YY:**

This code is a generic highway carrier code issued by customs brokers to carriers, who:

- import goods into Canada less than six times per year, or
- have recently been assigned a new or different carrier code and are waiting for their printed bar codes (up to one calendar month from date of issue of new or revised carrier code)

The use of carrier code 77YY is monitored and administrated by HQ. The officer will **only issue the penalty when authorized by HQ.**

For missing bar code, see C007.

Note: For the purpose of this penalty, any incorrect, false or improperly formatted statement or submission made by the driver regarding the cargo or carrier code is deemed to have been made “on behalf of the carrier moving the goods” and not the carrier whose code is being used without authorization. This penalty does not apply to false statements made about personal importations by the driver (traveler’s penalty).

## C010

**Contravention** While transacting business as a customs broker, a broker failed to make available to an officer any records required to be kept under the Regulations.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Request

**Legislation** *Customs Act*, sub-section 9(3)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

This contravention occurs when an officer requests that a broker produce records and the broker fails to comply with the request within the time specified in the written request.

These records are specified in paragraphs 17(1)(a) to (d) of the *Customs Brokers Licensing Regulations*, and the length of time that the records must be maintained is specified in paragraphs 17(2)(a) to (c) of the Regulations in relation to imported goods.

Failure to produce any or all the records detailed above, when requested, shall be considered a single contravention.

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

## 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 the Regulations.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Client

**Legislation** *Customs Act*, sub-section 9(4)

**D Memo** D1-6-2, Agents Accounting for Imported Goods and Payment of Duties Regulations

**Backgrounders** Applied by an officer.

Applied against an agent for a client.

This contravention occurs when a person, who is not a broker, acts as one on behalf of a client.

The contravention will become apparent from an investigation following a complaint, usually by a licensed customs broker.

A list of licensed Customs Brokers can be found on the Broker Licensing and Account Security Website at: <http://www.cca-adrc.gc.ca/customs/business/importing/brokers/list-e.html>

All transactions completed for a particular client shall be deemed to be a single contravention.

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

For instances where the person is a licensed broker but is working in an area not designated by his licence, see C012.

## **C012**

**Contravention** Licenced customs broker transacted business as a customs broker at a customs office not specified by the licence.

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

**Penalty Basis** Per Incidence

**Legislation** *Customs Act*, sub-section 9(4)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

This contravention occurs when a person is a licensed broker but is transacting business at a customs office not authorized by their licence.

For instances where a person, who is not a broker, acts as one on behalf of a client, see C011.

Apply a penalty per location, per client.

In the first instance, all transactions having occurred at one location per client will be assessed at level one.

In the second instance, all transactions having occurred at one location per client will be assessed at level two and so on.

## C014

**Contravention** Broker failed to provide the importer or exporter with a copy of the customs accounting documents or a copy of the information transmitted by electronic means to customs for each transaction made on their behalf.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Transaction

**Regulation** *Customs Brokers Licensing Regulations*, sub-section 14(c)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

For the first level:

- Failure to furnish copies of one or several accounting documents to a single client at one time shall be deemed to be a single contravention.
- Failure to furnish accounting documents to additional clients, discovered in the same audit, will result in additional penalties, one per client, but at the same level.

For the second and subsequent levels:

- The failure to furnish accounting documents, even for the same client, will result in one penalty per document but at the appropriate level.

Apply a penalty per client at the first level and one penalty per transaction at the second and subsequent levels.

**C018**

- Contravention** Person in charge of a 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** \$100 per unreported person / passenger or crew member but no less than \$1,000.
- Penalty Basis** Per Unreported Person, Passenger or Crew
- Legislation** *Customs Act*, sub-section 11(3)
- D Memo** D2-5-6, Aircrew Reporting
- Backgrounders** Applied by an officer.  
Applied against any commercial operation that fails to report passengers or crew.  
This penalty only applies to commercial operations that are in the business of transporting people.  
Apply a penalty per unreported passenger or crew member.

## C019

**Contravention** Person (Importer) failed to report imported goods valued at \$1,600 or greater, to customs forthwith in writing at the nearest designated customs office that was open for business.

**Penalty** 1st: \$2,000 or 20% of the value for duty, whichever is greater  
2nd: \$4,000 or 40% of the value for duty, whichever is greater  
3rd and Subsequent: \$6,000 or 60% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, sub-section 12(1)

**D Memo** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods

**Backgrounders** Applied by an officer.

Applied against the importer.

This penalty applies when a person imports his own commercial goods and does not have a carrier code.

Occurs when unreported goods are found on entry or during audit.

This penalty also applies when a carrier who is not on Summary Reporting fails to report any repairs done to his own equipment.

However, if it is determined during a verification at a company's premises that repairs have not been included in the summary report this contravention does apply.

For failure to report imported goods valued at less than \$1,600, see C020.

Apply a penalty per audit or examination on the total VFD of the unreported goods.

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.

## **C020**

**Contravention** Person (Importer) failed to report imported goods valued at less than \$1,600, to customs forthwith in writing at the nearest designated customs office that was open for business.

**Penalty** 1st: \$100 or 20% of the value for duty, whichever is greater  
2nd: \$200 or 40% of the value for duty, whichever is greater  
3rd and Subsequent: \$300 or 60% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, sub-section 12(1)

**D Memo** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods

**Other** Customs Enforcement Manual

### **Reference**

**Backgrounders** Applied by an officer.

Applied against the importer.

This penalty applies when a person imports his own commercial goods and does not have a carrier code.

Occurs when unreported goods are found during an audit.

For failure to report imported goods valued at \$1,600 or greater, see C019.

If contravention involves unreported Specified Goods, automatic seizure with no terms of release (see Customs Enforcement Manual) and apply AMP may be applicable depending on the situation.

Please see reference manual for list of Specified Goods.

Apply a penalty per audit on the total VFD of the unreported goods.

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.

## 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** Flat rate: \$1,000

**Penalty Basis** Per Shipment

**Legislation** *Customs Act*, sub-section 12(1)

**D Memo** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods

**Other Reference** Customs Enforcement Manual

**Backgrounders** Applied by an officer.

Applied against the carrier.

The carrier company will be assessed a \$1,000 penalty every time they fail to report a shipment.

For post-audit carrier, no penalty assessed if carrier provides proof, within 24 hours of arrival of the shipment, that cargo control document was prepared for goods prior to their arrival in Canada, as per D3-1-1.

Proof includes presentation of original CCD, internal discrepancy report showing loading error or other evidence.

When carrier prepares new CCD to cover the unreported goods, the document must bear a reference to the original CCD number in the description of goods section of the document.

The appropriate level penalty will be applied against both carriers and couriers under this contravention, and if the carrier can prove it was a Low Value Shipment (LVS) the penalty will be assessed under C022 instead.

For failure to report imported goods valued at less than \$1,600, see C022.

For Specified Goods, seizure or ascertained forfeiture with no terms of release in addition to AMPS penalty.

Please see Reference Manual for list of Specified Goods.

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.

Apply a penalty per line or per CCD.

## C022

<b>Contravention</b>	Person (Carrier) failed to report imported goods valued at less than \$1,600, to customs forthwith in writing at the nearest designated customs office that was open for business.
<b>Penalty</b>	Flat rate: \$100
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 12(1)
<b>D Memo</b>	D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods
<b>Other Reference</b>	Customs Enforcement Manual
<b>Backgrounders</b>	<p>Applied by an officer.</p> <p>Applied against the carrier.</p> <p>For post-audit carrier, no penalty assessed if carrier provides proof, within 24 hours of arrival of the shipment, that cargo control document was prepared for goods prior to their arrival in Canada, as per D3-1-1.</p> <p>Proof includes presentation of original CCD, internal discrepancy report showing loading error or other evidence.</p> <p>When carrier prepares new CCD to cover the unreported goods, the document must bear a reference to the original CC number in the description of goods section of the document.</p> <p>For Specified Goods, seizure or ascertained forfeiture with no terms of release in addition to AMPS penalty.</p> <p>Please see Reference Manual for list of Specified Goods.</p> <p>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.</p> <p>Apply a penalty per CCD or per individual shipment ID# on a consolidated report.</p>

**C023**

<b>Contravention</b>	Person failed to report conveyances inbound.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Non-Report
<b>Legislation</b>	<i>Customs Act</i> , sub-section 12(1)
<b>D Memo</b>	N/A
<b>Other Reference</b>	D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods (Customs Cargo Control Procedures)
<b>Backgrounders</b>	Applied by an officer. Applied against the carrier. Verbal reporting of trucks allowed under Section 5 of <i>Reporting of Imported Goods Regulations</i> . Applied when conveyance is not reported upon arrival in Canada. Apply a penalty per non-report.

## 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 or 20% of the value for duty, whichever is greater  
2nd: \$4,000 or 40% of the value for duty, whichever is greater  
3rd and Subsequent: \$6,000 or 60% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, sub-section 13(a)

**D Memo** N/A

**Backgrounders** Applied by an officer.

Applied against the person reporting the goods.

Occurs when customs inspector finds evidence that person has not answered questions truthfully relating to importation of 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.

For failure to answer truthfully any questions regarding the importation of commercial goods valued at less than \$1,600, see C344.

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.

For written errors, see C005 or C348.

Apply a penalty per occurrence.

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

**Penalty Basis** Per Request

**Legislation** *Customs Act*, sub-section 13(b)

**D Memo** N/A

**Backgrounders** Applied by an officer.

Applied prior to release.

Applied to the warehouse owner / operator or the carrier.

Applied if the carrier, forwarder or agent cannot present the goods or provide proof that the goods are en route to destination as per the authorized timeframes. Proof would consist of company / transportation documents that show the arrival status of the goods.

Customs inspector must first make request to examine goods.

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 despite the carrier 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.

Applied when person failed or refused to prepare the goods for examination.

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

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

Apply a penalty once per request.

## C030

**Contravention** Person in charge of a conveyance, who has unloaded goods from the conveyance, because of safety reasons, failed to report the unloading to customs at any customs office designated for that purpose.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 14(2)

**D Memo** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods

**Backgrounders** Applied by an officer.

Applied against the carrier.

Applies when the person in charge of a conveyance failed to report goods unloaded in instances where the safety of the conveyance, the goods or persons on the conveyance is threatened by collision, fire, the stress of weather or other similar circumstances or in such other circumstances as may be prescribed.

Before applying penalty verify with client that goods not reported elsewhere.

## 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, or in respect of which duties have not been paid.

**Penalty** 1st: \$2,000 or 20% of the value for duty, whichever is greater  
2nd: \$4,000 or 40% of the value for duty, whichever is greater  
3rd and Subsequent: \$6,000 or 60% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, section 15

**D Memo** N/A

**Other Reference** Customs Enforcement Manual

**Backgrounders** Applied by an officer.

Applied against any person found in possession of imported goods.

Applies to a person who is not the importer, but who has imported goods in their possession.

Applies in instances where an officer finds non-reported dutiable goods for which duty is owing, or if controlled or prohibited goods have not been reported.

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.

Penalty applied on value for duty.

## 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: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 16(2)

**D Memo** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods

**Backgrounders** Applied by 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 there from,
- 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

Verify it has not been reported before issuing penalty.

Apply a penalty per instance.

## C033

<b>Contravention</b>	Person moved, delivered or exported, or caused to be moved, delivered or exported goods that have been reported but not released, without customs authorization.
<b>Penalty</b>	Flat rate: \$1,000
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 19(1)
<b>D Memo</b>	D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods (Customs Cargo Control Procedures)
<b>Backgrounders</b>	<p>Applied by an officer.</p> <p>Applied against the carrier.</p> <p>The penalty applies only where goods are valued at \$1,600 or greater.</p> <p>For direct delivery where goods have not been released by Customs.</p> <p>Can also be applied by an officer during an audit when direct delivery has occurred prior to customs release, or when a carrier has transported goods not yet released.</p> <p>This penalty also applies in situations where goods were delivered or caused to be delivered from a customs office to another customs office or a sufferance warehouse.</p> <p>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 x \$1,000) would be assessed.</p> <p>For transporting goods from point to point within Canada without the appropriate bond or security prior to release, see C036.</p> <p>For moving, delivering or exporting goods valued at less than \$1,600, that have been reported but not released, see C347.</p> <p>Apply a penalty per shipment.</p>

## C036

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 20(1)
<b>D Memo</b>	D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods
<b>Other Reference</b>	D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods (Customs Cargo Control Procedures, subsections 27, 28 and 29)
<b>Backgrounders</b>	Applied by an officer.  Applied against the carrier.  Occurs when goods are moved from point to point within Canada, without the appropriate bond or security, prior to having been released from the warehouse where they are held.  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 \$5,000 (5 x \$1,000) would be assessed. The same applies for the second and third level penalties.  C008 may also apply.  For situations where a direct delivery occurred prior to the goods being released, see C033.  Apply a penalty per shipment.

## C037

<b>Contravention</b>	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 by customs remained sealed until authorization from customs to break the seal was received.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Container or Conveyance
<b>Legislation</b>	<i>Customs Act</i> , sub-section 20(1)
<b>D Memo</b>	D3-1-1, Regulations respecting the importation, transportation and exportation of goods
<b>Other Reference</b>	Regulations respecting the transportation of goods, paragraph 3(1)(e)
<b>Backgrounders</b>	Applied by an officer.  Applied against the carrier.  The contravention occurs when a Customs seal number appears on the CCD but the conveyance or container is not sealed when it reaches the Customs inland release point.  The onus is on the carrier to ensure, when the conveyance or container is sealed by Customs, that the conveyance or container remains sealed until Customs' authorization to break seal is granted at the Customs inland release point.  This penalty does not apply when the Canada Customs 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.

**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: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Container or Conveyance

**Regulation** *Transportation of Goods Regulations*, sub-section 4(1)

**D Memo**

**Other Reference** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods (Customs Cargo Control Procedures)

**Backgrounders** Applied by an officer.

Applied against the carrier.

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

**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: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Container or Conveyance

**Regulation** *Transportation of Goods Regulations*, sub-section 4(1)

**D Memo** N/A

**Other Reference** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods (Customs Cargo Control Procedures)

**Backgrounders** Applied by an officer.

Applied by compliance verification officer during an audit.

Applied against the carrier.

Occurs when removal of goods from container or conveyance or transfer of goods to another container or conveyance has not been reported or for not reporting a damaged or disabled conveyance that can no longer transport goods to where they will be released.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 21

**D Memo** N/A

**Backgrounders** Applied by an officer.

Officer is deliberately prevented from entering premises or other facilities owned or operated by importer or bonded carrier.

Applied against the carrier.

Ensure that entry is prevented or refused by any person.

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 the guard or employee is 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.

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

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 21

**D Memo** N/A

**Backgrounders** Applied by an officer.  
Applied against the carrier.  
Applied when carrier refuses request by officer to open or uncover shipment.  
Customs inspector must first make request to examine goods.  
Request must have enough detail for client to understand what is expected.  
Apply a penalty per instance.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 22(1)

**D Memo** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods

**Other Reference** D3-1-7, Customs Self Assessment for Carriers (Proposed title)

**Backgrounders** Applied by an officer.

Applied against the carrier.

Applies when 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.

For situations relating to point a) above, the penalty will be applied on a per instance basis as follows:

During a first audit, a penalty of \$1,000 will be assessed for the audit period.

The same principal applies for the second and subsequent audits.

For situations relating to point b) and c) above the penalty will be applied on a per request basis.

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

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 the importer, owner, or consignee.
- 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 missing records by importer, see C159.

## 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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Request

**Legislation** *Customs Act*, section 25

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

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

Applied as a result of information (complaint) indicating that a highway sufferance warehouse operator refused 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.

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.

Apply a penalty per request.

## C046

**Contravention** When requested by an officer, operator of a sufferance warehouse, 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act, section 27*

**D Memo** D7-4-4, Customs Bonded Warehouses

**Other** D4-1-4, Customs Sufferance Warehouses

**References** D4-3-1, Duty Free Shops Regulations  
D7-4-1, Duty Deferral Program

**Backgrounders** Applied by an officer.

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

The officer must first request to enter premises.

Ensure that entry is prevented or refused by person in charge or responsible for facility.

Suspension of license should be considered and may be applied simultaneously with the AMP.

The first Notice of Penalty Assessment must actually be issued before a second penalty can be applied.

Apply a penalty per instance.

## C047

**Contravention** When requested by an officer, operator of a sufferance warehouse, 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: \$1,000  
2nd: \$2,000  
3rd and Subsequent: \$3,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 27

**D Memo** D7-4-4, Customs Bonded Warehouses

**Other** D4-1-4, *Customs Sufferance Warehouses Regulations*

**Reference** D4-3-1, Duty Free Shops Regulations  
D7-4-1, Duty Deferral Program

**Backgrounders** Applied by an officer.

Applied when operator fails or refuses to open any packages, container or remove any coverings.

Applied against operator of warehouse or duty free shop or, when approved by Duty Deferral Program, may be applied against the processor, importer or exporter.

Officer must request goods be made available for examination.

Request will detail what is expected of operator.

Suspension of license should be considered and may be applied simultaneously with the AMP.

The first Notice of Penalty Assessment must actually be issued before a second penalty can be applied.

Apply a penalty per instance.

## 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: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Customs Sufferance Warehouses Regulations*,  
sub-section 12(1)

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

This contravention refers to the goods being stored in a safe and secure manner in the area designated on the site plan in the licensee's file.

Applied against the licensee.

Applied when the goods are not stored in the designated area in the sufferance warehouse or the designated area is not secure.

## 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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Customs Sufferance Warehouses Regulations*,  
sub-section 12(2)

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee.

No 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 shall enter any place in it where goods are stored.

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.

Apply a penalty per instance.

**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: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Customs Sufferance Warehouses Regulations*,  
sub-section 12(3)

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

This contravention refers to the licensee having procedures in place to ensure employees are aware of their responsibilities in the operation of a sufferance warehouse.

Applied against the licensee of the sufferance warehouse.

Proper signage restricting access must be posted at entrance.

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

**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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Duty Free Shop Regulations*, sub-section 14(a)

**D Memo** D4-3-1, Duty Free Shop Regulations

**Other** D4-3-3, Duty Free Shop - Licensee Responsibilities

**References** D4-3-5, Duty Free Shop - Documentation Requirements

**Backgrounders** Applied by an officer.

Applied against the licensee (Duty Free Shop).

Occurs when goods are not properly inventoried (stored and identified) during a Customs examination or during an inventory audit.

Apply a penalty per audit or visit.

**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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Duty Free Shop Regulations*, sub-section 14(b)

**D Memo** D4-3-1, *Duty Free Shop Regulations*

**Backgrounders** Applied by an officer.

Applied against the licensee (Duty Free Shop).

Occurs when goods found outside designated area or entered into inventory prior to being released by Customs.

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

Apply a penalty per audit or visit

**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: \$1,000  
2nd: \$2,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Duty Free Shop Regulations*, sub-section 14(c)

**D Memo** D4-3-1, *Duty Free Shop Regulations*

**Backgrounders** Applied by an officer.

Applied against the licensee (Duty Free Shop).

Penalty applied if a licensee refuses to allow an officer to lock / seal the premises upon request.

Requirement to lock and seal a duty free shop would only apply when a complete inventory is undertaken by local customs or when a licensee fails to renew its duty free shop license, or the license has been suspended or cancelled by the Minister of National Revenue.

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

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

**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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Duty Free Shop Regulations*, sub-section 14(e)

**D Memo** D4-3-1, Duty Free Shop Regulations

**Other Reference** D4-3-4, Duty Free Shops - Report and Control of Inventory

**Backgrounders** Applied by an officer.

Applied against the licensee (Duty Free Shop).

Discovered during routine examination.

Licensee of a duty free shop failed to ensure that the premises are maintained in a manner that ensures the physical security of the inventory therein.

Apply a penalty per instance.

**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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per CCD

**Regulation** *Duty Free Shop Regulations*, sub-section 16(1)

**D Memo** D4-3-1, Duty Free Shop Regulations

**Backgrounders** Applied by an officer.

Applied against the licensee.

Licensee must acknowledge receipt of goods by endorsing bill of lading, waybill or similar document presented by carrier or endorse the document used, by licensee, to account for inventory.

Apply a penalty per Cargo Control Document.

**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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Shipment

**Regulation** *Duty Free Shop Regulations*, sub-section 16(1)

**D Memo** D4-3-1, Duty Free Shop Regulations

**Backgrounders** Applied by an officer.

Applied against the licensee.

Licensee must immediately notify the Chief Officer of Customs or delegated representative upon receipt of goods.

Chief Officer of Customs means the Manager of the customs office or customs offices that serve the area in which the duty free shop is located.

Apply a penalty per shipment.

**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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Duty Free Shop Regulations*, sub-section 16(2)

**D Memo** D4-3-1, *Duty Free Shop Regulations*

**Other** Duty Free Shop - Policy and Regulations

**References** D4-3-4, Duty Free Shops - Report and Control of Inventory

**Backgrounders** Applied by an officer.

Applied against the licensee.

Chief Officer of Customs means the manager of the customs office or customs offices that serve the area in which the duty free shop is located or a delegated representative.

Licensee fails, when requested, to present documents as required in Duty Free Shop Policy and Regulations.

Discovered during periodic inventory count by customs inspector.

**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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per CCD

**Regulation** *Customs Sufferance Warehouses Regulations*, section 14

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee.

Licensee must acknowledge receipt of 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.

Apply a penalty per Cargo Control Document.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Verification

**Regulation** *Customs Sufferance Warehouses Regulations*, section 17

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee of the sufferance warehouse.

While on the premises, it was discovered that goods 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.

All infractions discovered during a first examination will be assessed at the first level.

For example, if five different goods are found to have been altered, a single penalty of \$1,000 will be applied.

All infractions discovered during a second examination will be assessed at the second level and the same is true for the third, fourth and subsequent examinations.

**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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Regulation** *Customs Sufferance Warehouses Regulations*, sub-section 11(1)

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee of sufferance warehouse.

This contravention refers to the physical security of the sufferance warehouse including; doors, other building components, locks and signs.

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

## 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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Report

**Regulation** *Duty Free Shop Regulations*, sub-section 17(a)

**D Memo** D4-3-1, *Duty Free Shop Regulations*

**Backgrounders** Applied by an officer.

Applied against the licensee / operator of a duty free shop.

Chief Officer of Customs means the manager of the customs office or customs offices that serve the area in which the duty free shop is located or a delegated representative.

Requirement to submit fees on a monthly basis only applies to land border duty free shops.

Land border duty free shop operators are responsible for completing the licence remittal form, Summary of Monthly Sales and Remittance of Revenue, form B117.

Apply a penalty per report.

**C062**

**Contravention** Licensee of a duty free shop failed to provide to the chief officer of customs an annual report, in the prescribed form, not later than 60 days after the end of the fiscal year of the duty free shop for which the report was made.

**Penalty** 1st: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Report

**Regulation** *Duty Free Shop Regulations*, sub-section 17(b)

**D Memo** D4-3-1, *Duty Free Shop Regulations*

**Backgrounders** Applied by an officer.

Applied against the licensee / operator of a duty free shop.

Chief Officer of Customs means the manager of the customs office or customs offices that serve the area in which the duty free shop is located or a delegated representative.

Apply a penalty per report.

**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: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Shipment

**Regulation** *Customs Sufferance Warehouses Regulations*,  
sub-section 15(5)

**D Memo** D4-1-4, Customs Sufferance Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee of the sufferance warehouse.

Licensee failed to provide a list of all goods not removed from the sufferance warehouse within the prescribed time limit.

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 not 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* not 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.

Apply a penalty per shipment.

**C064**

**Contravention** Licensee of a duty free shop sold, gave or in any manner conveyed tobacco products to a person under the age of 18.

**Penalty** 1st: \$500  
2nd: \$1,000  
3rd and Subsequent: \$5,000

**Penalty Basis** Per Instance

**Regulation** *Duty Free Shop Regulations, section 19*

**D Memo** D4-3-1, *Duty Free Shop Regulations*

**Backgrounders** Applied by an officer.

Applied against the licensee of Duty Free Shop.

Chief Officer of Customs means the manager of the customs office or customs offices that serve the area in which the duty free shop is located or a delegated representative.

Apply a penalty per instance.

## C066

<b>Contravention</b>	Person removed goods from a customs office, sufferance warehouse, bonded warehouse or duty free shop prior to release by an officer.
<b>Penalty</b>	1st: \$1,000 or 5% of the value for duty, whichever is greater 2nd: \$2,000 or 10% of the value for duty, whichever is greater 3rd and Subsequent: \$3,000 or 20% of the value for duty, whichever is greater
<b>Penalty Basis</b>	Value for Duty
<b>Legislation</b>	<i>Customs Act</i> , section 31
<b>D Memo</b>	D7-4-4, Customs Bonded Warehouses
<b>Other</b>	D4-1-2, Customs Bonded Warehouse Regulations
<b>References</b>	D3-8-1, Cargo Control Contraventions D17-1-10, Coding of Customs Accounting Document
<b>Backgrounders</b>	Applied by an officer.  Applied against the person or licensed operator who physically removes goods from a customs office, sufferance warehouse, bonded warehouse or duty free shop prior to release by an officer.  This would include situations when a carrier has been directed to report to a Customs Warehouse on form Y28 and fails to do so.  In the case of partial removal of the goods, the FIFO (First In First Out) principle will apply.  For all goods, an AMP will apply, and in addition, Specified Goods shall be seized.  Specified Goods not located will be subject to an ascertained forfeiture in addition to an AMP.  Please see Reference Manual for a list of Specified Goods.

## C069

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

**Penalty** 1st: \$1,000 or 5% of the value for duty, whichever is greater  
2nd: \$3,000 or 10% of the value for duty, whichever is greater  
3rd and Subsequent: \$5,000 or 20% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, section 31

**D Memo** D17-1-5, Importing Commercial Goods

**Other References** Customs Notice N-347 - Sufferance Warehouse Operators and the Release Notification System (RNS) Participant's Requirement Document (PRD)  
D7-4-4, Customs Bonded Warehouse  
D17-1-10, Coding of Customs Accounting Document  
D4-3-1, Duty Free Shop - Regulations  
D4-3-7, Duty Free Shops - Licensee Evaluation and Monitoring System

**Backgrounders** Applied by an officer.

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

Applied when it is discovered during warehouse / duty free store exam 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.

Please see Reference Manual for a list of Specified Goods.

## C070

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

**Penalty** 1st: \$100  
2nd: \$500  
3rd and Subsequent: \$1,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 32(3)

**D Memo** D17-1-0, *Accounting for Imported Goods and Payment of Duties Regulations*

**Other Reference** D17-1-5, Importing Commercial Goods

**Backgrounders** Applied by an officer.

Applied against the importer.

Failure to Account becomes applicable if neither interim nor final accounting has been done, and thus late accounting penalties would not be appropriate.

Applied as result of a Post Audit Verification.

Each penalty imposed during a first audit will be at the first level (\$100 per invoice / document) and each penalty imposed during a second audit will be at second level (\$500 each).

The same applies for the third audit where each penalty will be assessed at \$1,000.

Apply a penalty per commercial invoice or similar document.

## C071

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

**Penalty** 1st: \$100  
2nd: \$500  
3rd and Subsequent: \$1,000

**Penalty Basis** Per Document

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

**D Memo** D17-1-0, *Accounting for Imported Goods and Payment of Duties Regulations*

**Other References** D17-1-5, Importing Commercial Goods  
D19 Series - Acts and Regulations of Other Government Departments

**Backgrounders** Applied by an officer.

Applied against the importer.

This contravention applies when a person, fails to provide a permit, licence, certificate or other document and information that is required by Customs at time of interim or final accounting, and before the goods are released.

Usually applied as a result of a post audit verification or when an officer uncovers an infraction.

Apply a penalty for each missing document.

In an audit situation, each penalty imposed during a first audit will be at the first level (\$100 each) and each penalty imposed during a second audit will be at second level (\$500 each).

The same applies for the third audit where each penalty will be assessed at \$1,000.

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.

## 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: \$100  
2nd: \$200  
3rd and Subsequent: \$400

**Penalty Basis** Per instance

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

**D Memo** D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods

**Backgrounders** Applied against the importer.

Normally applied by compliance verification officers, usually after an audit, examination or verification.

For errors discovered on a first audit / verification, a first level penalty will apply for all origin errors for goods subject to a free trade agreement.

There will be one penalty assessment of \$100 for each declaration not corrected within 90 days of having reason to believe to a maximum of \$25,000 for the reassessment period.

For errors discovered on a first audit, there will be a cap of \$1,000 for each group of identical, repeated and incorrect declarations, where the client can demonstrate to the CV officer that the errors in the declarations were caused by a single, clerical keystroke / data entry error. The maximum penalty of \$25,000 for the reassessment period will continue to apply.

Second level penalties:

For the same errors previously identified, that is failure to correct after having reason to believe, the second level penalty will apply to each accounting document not corrected to a maximum of \$200,000 for the reassessment period.

Third level penalties:

For the same errors previously identified, that is failure to correct after having reason to believe, the third level penalty will apply to each accounting document not corrected to a maximum of \$400,000 for the reassessment period.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same issue would be assessed.

Note: Maximum penalties at each level apply to the total of all contraventions C080 to C083 assessed for each verification completed.

Where Customs duties and taxes are owing as a result of required corrections in accounting documentation, see C350 to C353.

If a refund is payable, no penalty will apply.

## 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: \$100  
2nd: \$200  
3rd and Subsequent: \$400

**Penalty Basis** Per instance

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

**D Memo** D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods

**Backgrounders** Applied against the importer.

Normally applied by compliance verification officers, usually after an audit, examination or verification.

For errors discovered on a first audit / verification, a first level penalty will apply for all origin errors for goods not subject to a free trade agreement.

There will be one penalty assessment of \$100 for each declaration not corrected within 90 days of having reason to believe to a maximum of \$25,000 for the reassessment period.

For errors discovered on a first audit, there will be a cap of \$1,000 for each group of identical, repeated and incorrect declarations, where the client can demonstrate to the CV officer that the errors in the declarations were caused by a single, clerical keystroke / data entry error. The maximum penalty of \$25,000 for the reassessment period will continue to apply.

Second level penalties:

For the same errors previously identified, that is failure to correct after having reason to believe, the second level penalty will apply to each accounting document not corrected to a maximum of \$200,000 for the reassessment period.

Third level penalties:

For the same errors previously identified, that is failure to correct after having reason to believe, the third level penalty will apply to each accounting document not corrected to a maximum of \$400,000 for the reassessment period.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same issue would be assessed.

Note: Maximum penalties at each level apply to the total of all contraventions C080 to C083 assessed for each verification completed.

Where Customs duties and taxes are owing as a result of required corrections in accounting documentation, see C350 to C353.

If a refund is payable, no penalty will apply.

## C082

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 2nd: \$200 3rd and Subsequent: \$400
<b>Penalty Basis</b>	Per instance
<b>Legislation</b>	<i>Customs Act</i> , paragraph 32.2(2)(a)
<b>D Memo</b>	D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods
<b>Backgrounders</b>	<p>Applied against the importer.</p> <p>Normally applied by compliance verification officers, usually after an audit, verification or examination.</p> <p>For errors discovered on a first audit, verification or examination, a first level penalty will apply cumulatively for all tariff classification errors at the eight digit level.</p> <p>There will be one penalty assessment of \$100 for each declaration not corrected within 90 days of having reason to believe to a maximum of \$25,000 for the reassessment period.</p> <p>For errors discovered on a first audit, there will be a cap of \$1,000 for each group of identical, repeated and incorrect declarations, where the client can demonstrate to the CV officer that the errors in the declarations were caused by a single, clerical keystroke / data entry error. The maximum penalty of \$25,000 for the reassessment period will continue to apply.</p> <p>Second level penalties:</p> <p>For the same errors previously identified, that is failure to correct after having reason to believe, the second level penalty will apply to each accounting document not corrected to a maximum of \$200,000 for the reassessment period.</p> <p>Third level penalties:</p> <p>For the same errors previously identified, that is failure to correct after having reason to believe, the third level penalty will apply to each accounting document not corrected to a maximum of \$400,000 for the reassessment period.</p> <p>Second and third level penalties can only apply for errors made on the same goods that caused the first penalty.</p> <p>The term “same goods” also applies to like or similar goods with variations such as size, colour, design features, etc., provided that such variation does not have a bearing on the classification.</p>

Officers must record each error type against an individual importer in their report, in order to establish the level of penalty for the next occurrence of non-compliance involving the same or similar goods.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same issue would be assessed.

For errors to a tariff classification when conveyances or containers are classified under Tariff Heading No. 98.01, see C335.

Note: Maximum penalties at each level apply to the total of all contraventions C080 to C083 assessed for each verification completed.

Where Customs duties and taxes are owing as a result of required corrections in accounting documentation, see C350 to C353.

If a refund is payable, no penalty will apply.

## 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: \$100  
2nd: \$200  
3rd and Subsequent: \$400

**Penalty Basis** Per instance

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

**D Memo** D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods

**Backgrounders** Applied by an officer.

Applied against the importer.

Normally applied by compliance verification officers, usually after an audit, examination or verification.

There will be one penalty assessment of \$100 for each declaration not corrected within 90 days of having reason to believe to a maximum of \$25,000 for the reassessment period.

For errors discovered on a first audit, there will be a cap of \$1,000 for each group of identical, repeated and incorrect declarations, where the client can demonstrate to the CV officer that the errors in the declarations were caused by a single, clerical keystroke / data entry error. The maximum penalty of \$25,000 for the reassessment period will continue to apply.

Second level penalties:

For the same errors previously identified, for failure to correct after having reason to believe, the second level penalty will apply to each accounting document not corrected to a maximum of \$200,000 for the reassessment period.

Third level penalties:

For the same errors previously identified, for failure to correct after having reason to believe, the third level penalty will apply to each accounting document not corrected to a maximum of \$400,000 for the reassessment period.

Second and third level penalties can only apply for errors made for the same reason that caused the first level penalty.

Officers must record each error type along with a detailed explanation of what constituted reason to believe in their report, against an individual importer, in order to establish the level of penalty for the next occurrence of the "same reason to believe" error.

During the second and subsequent audit, verification or examination, a new reason to believe may arise which will incur first level penalties.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same reason to believe would be assessed.

Note: Maximum penalties at each level apply to the total of all contraventions C080 to C083 assessed for each verification completed.

Where Customs duties and taxes are owing as a result of required corrections in the accounting documentation, see C350 to C353.

If a refund is payable, no penalty will apply.

## C084 to C151

<b>Contravention</b>	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.  Good required to be marked
<b>Penalty</b>	1st: \$0.00 2nd: \$100 or 5% of the value for duty, whichever is greater 3rd: \$200 or 10% of the value for duty, whichever is greater 4th and Subsequent: \$400 or 20% of the value for duty, whichever is greater
<b>Penalty Basis</b>	Value for Duty
<b>Legislation</b>	<i>Customs Act</i> , section 35.01
<b>D Memo</b>	D11-3-1, Marking of Imported Goods
<b>Other Reference</b>	<i>Customs Tariff</i> , section 19
<b>Backgrounders</b>	Applied against the importer.  Applied by an officer or Regional Marking Expert (RME).  The marking program has three components: <ol style="list-style-type: none"><li>1. Do the goods require marking?</li><li>2. How should the goods be marked?</li><li>3. What country should be marked on the goods?</li></ol> 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.  The customs officer should issue the first level penalty, which is a warning.  The "Notice of Penalty Assessment" must be adjusted to state that the penalty is a result of the shipment not being marked and / or being marked improperly.

Any reference to the actual country to be marked on the goods should be deleted from the automated text as this would constitute a determination under section 57.01 which must be made by the RME.

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 first level penalty (Notice of Penalty Assessment).

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 first level penalty.

The officer may apply second level and subsequent penalties for identical and similar goods.

**Identical Goods:** Goods that are the same in all respects, including physical characteristics, origin, quality and reputation, except for minor differences in appearance.

**Similar Goods:** Goods that closely resemble each other in respect of their component materials and characteristics, are capable of performing the same functions, are commercially interchangeable, and were produced in the same country.

In cases where fraud is suspected, such as situations where goods are marked in a deceptive way, refer to the prosecution policy.

A penalty will be issued regardless of whether or not there will be a criminal prosecution.

**Goods required to be marked:**

**Household or Personal Goods**

- C084** Bakeware and cookware made of aluminum
- C085** Bakeware and cookware made of cast iron
- C086** Bath mats, towels and wash cloths, knitted or woven
- C087** Batteries, dry cell
- C088** Blankets
- C089** Brushes, including toothbrushes and handles thereof
- C090** Candles
- C091** 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
- C092** Chrome plated ware and utensils for use in serving food and beverage
- C093** Cigar or cigarette lighters, except for lighters for incorporation into motor vehicles
- C094** Clocks and movements, except clocks and movements for use as original equipment by motor vehicle manufacturers
- C095** Containers, thermostatic, including - carafes, flasks, jars, jugs and vacuum bottles and refills and inserts thereof
- C096** Cutlery, chrome plated or stainless steel
- C097** Dishes and ornaments made of china earthenware, ironstone, porcelain, semi-porcelain, stoneware or white granite
- C098** Electronic equipment, including - phonographs, radio-receiving sets, radio-phonograph sets, radio-phonograph-television sets, record players, tape recorders, television receiving sets
- C099** Ironing board covers and pads
- C100** 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
- C101** Knives including - jack, pen and pocket; scissors and shears
- C102** Lawn mowers (powered)
- C103** Matches in books, boxes or folders
- C104** Pencils

- C105** Pens including - ball point and fountain and nib penholders
- C106** Pillowslips and sheets made of cotton
- C107** Razor blades (safety type)
- C108** Thermometers
- C109** Tiles, glazed, unglazed and ceramic mosaic including - hearth, floor and wall
- C110** Umbrellas
- C111** Utensils, kitchen type chrome plated or stainless steel
- C112** Watch bracelets (expansion type)

**Hardware**

- C113** Caps, made of metal, lithographed or printed, for containers including - lug, screw and vacuum
- C114** Copper tubing
- C115** Drapery I-beam rails, made of aluminum, brass, steel or other metals or plastic and component parts thereof
- C116** 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
- C117** Glass in panes or sheets, including - common or colourless window, laminated, plate and sheet
- C118** Goods made of porcelain for electrical use
- C119** Files and rasps
- C120** Sink strainers (basket type)
- C121** Tubes, electronic
- C122** Twines, including - baler and binder
- C123** Wire insect screening
- C124** Iron or steel pipes and tubes

**Novelties and Sporting Goods**

- C125** Articles in the style of Indian handcrafts
- C126** Athletic gloves and mitts, including baseball and hockey gloves and mitts
- C127** Bicycles

- C128** Decorations, novelties and ornaments
- C129** 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
- C130** Gift wrappings including bindings, braids, ribbons, tapes, ties and trimmings made chiefly or wholly of textile fibres
- C131** Toys, games and athletic and sporting goods

**Paper Products**

- C132** 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
- C133** Paper matter and products, lithographed or printed

**Wearing Apparel**

- C134** Boots, shoes and slippers
- C135** Brassieres, corselettes, garter belts, girdles and lacing corsets
- C136** Fabrics, braided or woven, containing rubber yarns, not exceeding 12 inches in width; boot and shoe laces
- C137** Gloves made partially or wholly of leather
- C138** 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
- C139** Handbags and purses, except handbags and purses made of beads, metal mesh, or similar material
- C140** Hats, including berets, bonnets, caps and hats, hoods and shapes made of fur felt, wool felt, and wool-and-fur felt
- C141** Knitted garments
- C142** Raincoats and rainwear made of plastic
- C143** Wearing apparel made wholly or substantially of natural or synthetic textile fibres

**Horticultural Product**

- C144** Tubers, tuberous roots, and rhizomes, dormant, in growth or in flower of peonies
- C145** Tubers, tuberous roots, corms, crowns and rhizomes, dormant, or irises or other perennials except begonias

- C146** Tubers, tuberous roots, or rhizomes, in growth or in flower, of begonias
- C147** Bulbs, dormant or in growth, except tulip bulbs
- C148** Unrooted cuttings or slips of fruit or nut trees, shrubs, or bushes
- C149** Trees, shrubs, bushes, vines, or seedling stock, grafted or not, including those capable of bearing fruit, when in a usual container
- C150** Christmas trees, rooted or unrooted, when in a usual container
- C151** Rose bushes, grafted or not, except cut roses, when in a usual container

## **C152**

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

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Request

**Legislation** *Customs Act*, section 35.1

**D Memo** D11-4-2, Proof of Origin

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

**Backgrounders** Applied against the importer.  
Normally applied by Compliance Verification Officer.  
Officer must make request and provide reasonable amount of time for client to comply (minimum five business days).  
Apply a penalty per request, regardless of the number of transactions or documents pertaining to that request.  
This contravention would not apply when a certificate of origin is not properly completed.

## C154

<b>Contravention</b>	Person who imports commercial goods or causes commercial goods to be imported failed to keep, for six years following the importation, records relating to the origin, marking, purchase, importation, costs and value of commercial goods in the prescribed manner.  Apply a penalty per written request for records basis.
<b>Penalty</b>	1st: \$1,000 2nd: \$5,000 3rd: \$10,000 4th and Subsequent: \$25,000
<b>Penalty Basis</b>	Per Written Request
<b>Legislation</b>	<i>Customs Act</i> , sub-section 40(1)
<b>D Memo</b>	D17-1-21, Maintenance of Records and Books in Canada by Importers
<b>Other Reference</b>	Imported Goods Records Regulations, section 2
<b>Backgrounders</b>	Applied by an officer.  Applied against the importer.  This penalty is normally applied by a Compliance Verification Officer and approved by the regional Manager, Compliance Verification.  Applied when an audit, verification or examination determines that a company, already known to keep records, failed to keep specific records that were formally requested by an officer in writing.  The officer should use discretion when deciding how much time to allow the company to prove that records have been kept. 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 \$1,000 penalty.  Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.  For records concerning payment of commercial goods, see C298.

Where no records are in existence, see C155.

For records where the certificate of origin is missing, see C152.

For missing records or certificates in relation to end-use,  
see C156.

Apply a penalty per written request for records.

## C155

**Contravention** Person who imports commercial goods or causes commercial goods to be imported failed to keep, for six years following the importation, records relating to the origin, marking, purchase, importation, costs and value of commercial goods 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 Audit

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied by an officer.

Applied against the importer.

This penalty is normally applied by a Compliance Verification Officer and approved by the regional Manager, Compliance Verification.

This penalty applies when an audit, verification or examination determines that a company has kept absolutely no records for imported goods. No records exist.

Because no records have been kept or exist, the verification is unable to proceed, thus preventing a determination regarding the company's compliance with other Customs trade laws and regulations.

Consultation with regional management and headquarters personnel must occur prior to applying the penalty.

The officer should use discretion when deciding how much time to allow the company to prove that records have been kept.

Thirty days may be considered reasonable as a minimum.

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

Because the verification is stopped at the outset, due to nil record keeping, no other determination regarding other record penalties can be applied in conjunction with this penalty.

For failure or refusal to provide missing records, see C154.

For records where the certificate of origin is missing, see C152.

Apply a penalty per audit, verification or examination.

## C156

**Contravention** Person who imported or caused to be imported commercial goods that had been released free of duty or at a reduced rate of duty because of their intended use or because they were intended to be used by a specific person failed to keep a certificate or other record indicating the use of the goods at their place of business in Canada or at a designated place.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** N/A

**Other Reference** Imported Goods Records Regulations, section 3

**Backgrounders** Applied by an officer.

Applied against the importer.

This penalty is normally applied by a Compliance Verification Officer and approved by the regional Manager, Compliance Verification.

This penalty is applied when an audit, verification or examination determines that a company already known to keep records, failed to keep specific certificates or records indicating the end-use of the imported goods and / or the end-user.

The goods must have benefited from a free or reduced rate of duty at time of customs accounting. (End-Use and Duty Deferral Programs).

The officer should use discretion when deciding how much time to allow the company to prove that records have been kept.

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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

Apply a penalty per written request basis.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied by an officer.

Applied against the importer.

This penalty is normally applied by a Compliance Verification Officer and approved by the regional Manager, Compliance Verification.

This penalty is applied 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.

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 (NRIs may undertake to keep records at their Canadian customs broker's office).

The officer 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.

The first contravention is subject to a \$1,000 penalty.

Subsequent requests for records that are not made available will be subject to the second, third and fourth level penalty to a maximum of \$25,000.

If none of the records requested by an officer are made available for review, the officer may wish to reconsider whether the records actually exist, see C155.

## **C158**

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

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied 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.

This penalty is applied when a verification, audit or examination determines that a company failed to answer questions truthfully about records requested by an officer.

Apply a penalty per instance.

## C159

**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*.

Apply a penalty per written request for records basis.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(3)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 3.1

**Backgrounders** Applied by an officer.

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

This penalty is normally applied by a Compliance Verification Officer and approved by the regional Manager, Compliance Verification.

This penalty applies when an audit, verification or examination determines that the licensee of a duty free shop or sufferance warehouse has failed to keep specific records that were formally requested by an officer in writing regarding the receipt and removal of goods to and from the duty free shop or sufferance warehouse.

The officer should use discretion when deciding how much time to allow the company to prove that records exist. The circumstances will dictate how much time is 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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

## 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 applies 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*, sub-section 40(3)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 3.1

**Backgrounders** Applied by an officer.

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

This penalty is applied 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.

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 Customs laws and regulation.

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.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(3)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 3.1

**Backgrounders** Applied by an officer.

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

This penalty is applied 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.

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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

When no records are in existence, see C162.

## C162

**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*.

This applies 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*, sub-section 40(3)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 3.1

**Backgrounders** Applied by an officer.

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

This penalty is applied when an audit, verification or examination determines that licensee of a duty free shop or bonded warehouse has kept no records regarding the sale or disposal of commercial goods that were previously received into it.

No records exist.

The officer should use discretion when deciding how much time to allow the company to prove that records have been kept at the licensee's place of business.

Thirty days may be considered reasonable as a minimum.

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

For missing records, see C161.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(3)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 3.1

**Backgrounders** Applied by an officer.

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

This penalty is applied 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.

Records can be made available on-site at the company premises or delivered directly to the verification officer's place of work.

The officer must exercise 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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

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.

## **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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 40(3)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied 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.

This penalty is applied as 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.

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

## C166

**Contravention** Person who was required by notice to provide any record at a specified place and time failed to do so.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Request

**Legislation** *Customs Act*, sub-section 43(2)

**D Memo** N/A

**Backgrounders** Applied by an officer.

Applied against the importer.

This penalty is normally applied by Compliance Verification Officer and approved by the regional Manager, Compliance Verification.

This penalty is applied when a person or company fails to produce books, letters, accounts, invoices, statements 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.

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

The officer is to 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 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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

## C168

<b>Contravention</b>	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 <i>Customs Tariff</i> .
<b>Penalty</b>	1st: \$100 2nd: \$200 3rd and Subsequent: \$400
<b>Penalty Basis</b>	Per Instance
<b>Legislation</b>	<i>Customs Act</i> , paragraph 80.2(2)(a)
<b>D Memo</b>	D6-2-3, Refund of Duties
<b>Other References</b>	D11-6-5, Interest and Penalty Provisions: Determinations / Re-Determinations, Appraisals / Re-Appraisals, and Duty Relief
<b>Backgrounders</b>	<p>Applied by an officer.</p> <p>Applied against the importer.</p> <p>Results from review or verification.</p> <p>Penalty if a person was granted a refund under paragraph 74(1)(f) of the <i>Customs Act</i> and:</p> <ol style="list-style-type: none"><li>1. The goods subsequently failed to comply with conditions imposed under a tariff item or,</li><li>2. Refund has been paid under 74(1)(f) of the Act and the goods are subsequently diverted to a non-qualifying end use.</li></ol> <p>This penalty still applies if a good is diverted from one qualifying end use to another such that no additional duties are payable or refunded, but the diversion was not reported.</p> <p>This contravention applies whether or not there was a refund, which was repayable.</p> <p>For errors discovered during a first audit, the first level flat rate penalty will apply.</p> <p>For errors discovered during a second audit, the second level penalty will apply for each contravention.</p> <p>The same applies for errors found during a third audit.</p> <p>For situations where there is a repayable refund, see C169.</p> <p>Apply a flat rate penalty per instance.</p>

## C169

<b>Contravention</b>	Person failed to repay within 90 days duties and interest refunded under paragraph 74(1)(f) of the <i>Customs Act</i> after the goods were used in a manner that failed to comply with a condition imposed under an end-use tariff item.
<b>Penalty</b>	1st: \$100 or 5% of the value of the amount not entitled to, whichever is greater 2nd: \$200 or 10% of the value of the amount not entitled to, whichever is greater 3rd and Subsequent: \$400 or 20% of the value of the amount not entitled to, whichever is greater
<b>Penalty Basis</b>	Value of Amount not entitled to
<b>Legislation</b>	<i>Customs Act</i> , paragraph 80.2(2)(b)
<b>D Memo</b>	D6-2-3, Refund of Duties
<b>Other References</b>	D11-6-5, Interest and Penalty Provisions: Determinations / Re-Determinations, Appraisals / Re-appraisals, and duty Relief
<b>Backgrounders</b>	Applied by an officer. Applied against the importer. Results from review or verification. A penalty applies when a refund has been paid under 74(1)(f) of the <i>Customs Act</i> and: <ol style="list-style-type: none"><li>1. The goods subsequently failed to comply with conditions imposed under a tariff item or,</li><li>2. Refund has been paid under 74(1)(f) of the Act and the goods are subsequently diverted to a non-qualifying end use.</li></ol> Calculated and issued on the full amount of the refund to which they are not entitled to. For errors discovered during a first visit, review or verification, a first level penalty will apply to the total amount not entitled to. For errors discovered during a second visit, review or verification, a second level penalty will apply to each contravention. The same applies for errors discovered during a third review or verification. For failure to report a failure to comply with a condition imposed under a tariff item, see C168.

## C170

<b>Contravention</b>	Exporter failed to report the export of goods on an export declaration prior to export.
<b>Penalty</b>	1st: \$0.00 2nd: \$1,000 3rd: \$2,000 4th and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 95(1)
<b>D Memo</b>	D20-1-1, Export Declaration
<b>Other References</b>	D20-1-0, Reporting of Exported Goods Regulations D19 - Acts and Regulations of Other Government Departments Export and Import Permits Act Reporting of Exported Goods Regulations, sections 3 and 5
<b>Backgrounders</b>	Applied by an officer. Applied against the exporter. Occurs when the exporter has failed to provide an export declaration on goods prior to export. For the first contravention, a first level warning penalty will be applied. For the second contravention, a \$1,000 second level monetary penalty will be applied and so on. Prior to assessing a penalty refer to monthly list of approved Canadian Automated Export Declaration (CAED) exporters and approved exporters on the Summary Reporting program. These lists are available through the regional export coordinator in your region. If an export declaration has not been filed with customs and an officer is unable to determine what the goods are, the goods should be detained until proper reporting takes place. If seizure of goods is impractical or goods not found, an ascertained forfeiture may be taken. Apply a penalty per shipment regardless of how many packages. For failure to provide export permit, licence or certificate prior to export, see C315. For failure to submit an export summary report, see C316. For failure to report goods subject to export control prior to export, see C345.

Note: An export declaration is not required when goods are destined for final consumption in the United States.

However, if the goods are prohibited controlled or regulated they must be reported and any required permits, licenses and / or certificates must be presented to Customs prior to export.

This is required regardless of the destination.

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

**Penalty Basis** Per Instance

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

**D Memo** N/A

**Backgrounders** Applied by an officer.

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

Officer finds evidence that person has not answered questions truthfully relating to exportation of goods.

Exporter, exporter's agent or person transporting the goods, makes statement that is false in material fact in order to avoid compliance with Customs requirements.

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

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.

Apply a penalty per instance.

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

**Penalty Basis** Per Instance

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

**D Memo** N/A

**Backgrounders** Applied by an officer.

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

Officer must make request to examine goods to person in possession of goods.

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

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

Apply a penalty per instance.

## **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: \$1,000  
2nd: \$2,000  
3rd and Subsequent: \$3,000

**Penalty Basis** Per Shipment

**Legislation** *Customs Act*, section 96

**D Memo** N/A

**Backgrounders** Applied by an officer.

Usually discovered during a compliance verification.

Applied against the person in control of the goods at time of export or during compliance verification. i.e. exporter or person transporting the goods.

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.

## **C193**

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

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

**Penalty Basis** Per Request

**Legislation** *Customs Act*, sub-section 97.1(2)

**D Memo** D11-4-14, Certification of Origin

**Other Reference** D20-1-5, Maintenance of Records and Books in Canada by Exporters and Producers

**Backgrounders** Applied by an officer.

Applied against producer or exporter during audit verification.

Officer must request certificate of origin.

This penalty only applies to the certificate of origin issued by an exporter or producer in Canada.

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

Apply a penalty per request.

## C194

**Contravention** Person who has completed and signed a certificate of origin in accordance with subsection 97(1) of the *Customs Act* failed to notify person to whom the certificate was given, of incorrect information.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$400

**Penalty Basis** Per Certificate

**Legislation** *Customs Act*, sub-section 97.1(3)

**D Memo** D11-4-14, Certification of Origin

**Other Reference** D20-1-5, Maintenance of Records and Books in Canada by Exporters and Producers

**Backgrounders** Applied by an officer.

Applied against exporter or producer of the goods.

Contravention applies when there is evidence during an audit verification that person who completed and signed the certificate did not notify certificate user(s) of change(s) to the certificate identified after completion that may affect its accuracy or validity.

This penalty only applies to the certificate of origin.

Apply a penalty per certificate.

**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** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Audit

**Legislation** *Customs Act*, sub-section 97.2(1)

**D Memo** D20-1-5, Maintenance of Records and Books in Canada by Exporters and Producers

**Backgrounders** Applied by an officer.  
Applied against the exporter and not the carrier.  
Apply a penalty per audit.

## 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: \$1,000  
2nd: \$2,500  
3rd: \$5,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Regulation** *Customs Bonded Warehouses Regulations*, section 11 and 12

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee.

Applied when goods not stored in designated area.

Applied when bonded area not secure.

Every licensee shall provide at the bonded warehouse in respect of which the license was issued such facilities, equipment and personnel as are sufficient to control access to the bonded warehouse premises and provide secure storage of the goods in it, including:

1. doors and other building components of sturdy construction,
2. secure locks on doors and windows,
3. signs that indicate the security requirements applicable to the premises, and
4. where the bonded warehouse will be used for the storage of designated goods, such additional facilities and equipment as may be required to ensure the secure storage of those goods.

Apply a penalty per instance.

For sufferance warehouse, see C048.

## C197

<b>Contravention</b>	Bonded warehouse licensee or operator failed to provide adequate space, personnel, or equipment or information required for the examination of goods.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,500 3rd: \$5,000 4th and Subsequent: \$25,000
<b>Penalty Basis</b>	Per Instance
<b>Regulation</b>	<i>Customs Bonded Warehouses Regulations</i> , section 11 and 12
<b>D Memo</b>	D7-4-4, Customs Bonded Warehouses
<b>Backgrounders</b>	Applied by an officer. Applied against the licensee. Results from review or verification. Results from any type of request made at any time. Request can be made to any representative of the warehouse operator. The licensee must provide: 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 audit purposes, to an officer with respect to the bonded warehouse operations and inventory system. 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).

**C198**

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

**Penalty** 1st: \$1,000  
2nd: \$2,500  
3rd: \$5,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Regulation** *Customs Bonded Warehouses Regulations*, sub-section 12(2)

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee.

No 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 shall enter any place in it where goods are stored.

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

Officer must actually see the unauthorized person or have documentary evidence in order to apply this penalty.

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

Apply a penalty per instance.

For sufferance warehouse, see C049.

## C199

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

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Shipment

**Regulation** *Customs Bonded Warehouses Regulations*, section 13

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee.

Discovered during customs examination or as result of verification of importer or warehouse records.

No licensee shall receive in or transfer from a bonded warehouse in a province intoxicating liquor unless the licensee has obtained written approval to receive or transfer the intoxicating liquor from the board, commission or agency authorized by the laws of that province to sell or authorize the sale of intoxication liquor in that province.

Seize goods in addition to applying an AMP.

If seizure of goods is impractical or goods not found, an ascertained forfeiture will be taken in addition to AMPS penalty.

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

During a second audit, for each instance goods are removed, a second level penalty will be assessed and the same principal applies for a third or subsequent audit.

Apply a penalty per shipment per visit.

## **C200**

**Contravention** Bonded warehouse licensee or operator received unauthorized imported tobacco products into the warehouse facility.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Shipment

**Regulation** *Customs Bonded Warehouses Regulations*, section 14

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Discovered during customs examination or as result of verification of importer or warehouse records.

Applied against the licensee.

No licensee shall receive imported tobacco products into a bonded warehouse unless:

a) they are to be removed from the warehouse for:

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; or

b) they are manufactured tobacco, other than cigarettes, tobacco sticks or snuff, and the licensee is a licensed tobacco or cigar manufacturer under the Excise Act.

Seize goods in addition to applying an AMP.

If seizure of goods is impractical or goods not found, an ascertained forfeiture will be taken in addition to AMPS penalty.

Apply a penalty per shipment, per visit.

## C201

**Contravention** Bonded warehouse licensee or operator removed imported tobacco products from the bonded warehouse in a manner that was not prescribed.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Box

**Regulation** *Customs Bonded Warehouses Regulations*, section 15

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Discovered during a customs examination or as a result of a verification of importer or warehouse records.

Applied against the licensee.

No licensee shall remove imported tobacco products from a bonded warehouse unless:

- a) they are removed for
  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; or
- b) they are manufactured tobacco, other than cigarettes, tobacco sticks or snuff, and the licensee is a licensed tobacco or cigar manufacturer under the Excise Act.

Seize goods in addition to applying an AMP.

If seizure impractical or goods are not found, an ascertained forfeiture will be taken in addition to the AMPS penalty.

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

During a second audit, for each instance goods are removed, a second level penalty will be assessed and the same principal applies for a third or subsequent audit.

Apply a penalty per instance per audit.

## C202

**Contravention** Licensee received domestic tobacco products in contravention of the *Customs Bonded Warehouses Regulations*.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Shipment

**Regulation** *Customs Bonded Warehouses Regulations*, sub-section 16(1)

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Discovered during customs examination or as a result of verification of importer or warehouse records.

Applied against the licensee.

Officer determines that licensee of bonded warehouse receives / accepts domestic tobacco products in contravention of Customs Bonded Warehouse Regulations.

No licensee shall receive domestic tobacco products into a bonded warehouse unless the domestic tobacco products are to be removed for use as ships' stores.

Discovered during customs examination or as result of verification of importer or warehouse records.

Seize goods in addition to applying an AMP.

If seizure of goods is impractical or goods not found, an ascertained forfeiture will be taken in addition to AMPS penalty.

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

During a second audit, for each instance goods are received, a second level penalty will be assessed and the same principal applies for a third or subsequent audit.

Apply a penalty per shipment, per visit.

## C203

**Contravention** Person removed domestic tobacco products in contravention of the *Customs Bonded Warehouses Regulations*.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Regulation** *Customs Bonded Warehouses Regulations*, sub-section 16(2)

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Discovered during customs examination or verification of importer or warehouse records.

Applied against the warehouse operator and / or other persons involved in the removal of goods.

No person shall remove domestic tobacco products from a bonded warehouse unless the domestic tobacco products are being removed for use as ships' stores.

Seize the goods in addition to applying an AMP.

If the seizure of the goods is impractical or the goods are not found, an ascertained forfeiture will be taken in addition to the AMPS penalty.

Apply a penalty per instance, per audit.

**C204**

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

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Instance

**Regulation** *Customs Bonded Warehouses Regulations*, section 17

**D Memo** D7-4-4, Customs Bonded Warehouses

**Backgrounders** Applied by an officer.

Applied against the licensee.

Applied when the warehouse operator refuses to accept responsibility by endorsing bill of lading, waybill or similar document presented by carrier, and refuses to complete a B3 (type 10 or 13) to account for inventory.

Apply a penalty per instance.

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

**Penalty Basis** Per Instance

**Regulation** *Ships' Stores Regulations*, section 4

**D Memo** D4-2-0, Ship's Stores' Regulations

**Backgrounders** Applied by an officer.

Applied against master of ship or marine agent.

Results from examination of ship upon its arrival in port.

Master must keep alcohol, tobacco and other goods for sale on board under lock or seal while in port unless otherwise authorized by an officer.

**C208**

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

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

**Penalty Basis** Per Instance

**Regulation** *Ships' Stores Regulations*, sub-section 5(1) and (2)

**D Memo** D4-2-0, Ship's Stores' Regulations

**Backgrounders** Applied by an officer.

Applied against the carrier.

Results from examination of aircraft.

"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).

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.

## C210

<b>Contravention</b>	Person altered, manipulated or combined goods while in a bonded warehouse in a manner not prescribed.
<b>Penalty</b>	1st: \$1,000 2nd: \$5,000 3rd: \$10,000 4th and Subsequent: \$25,000
<b>Penalty Basis</b>	Per Instance
<b>Regulation</b>	<i>Customs Bonded Warehouses Regulations, section 20</i>
<b>D Memo</b>	D7-4-4, Customs Bonded Warehouses
<b>Other</b>	D7-4-1, Duty Deferral Program
<b>References</b>	D7-4-3, NAFTA Requirements for Drawback and Duty Deferral
<b>Backgrounders</b>	Applied by an officer.  Applied as result of review of bonded warehouse operation or as a result of duty drawback or duty deferral verification.  Applied against the 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.

During a first audit, for each instance goods are altered, manipulated or combined, a first level penalty will be assessed.

During a second audit, for each instance goods are altered, manipulated or combined, a second level penalty will be assessed and the same principal applies for a third or subsequent audit.

Apply a penalty per instance, per visit.

## C214

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 2nd: \$200 3rd and Subsequent: \$400
<b>Penalty Basis</b>	Per Diversion
<b>Legislation</b>	<i>Customs Tariff</i> , paragraph 118(1)(a)
<b>D Memo</b>	D7-4-2, Duty Drawback Program
<b>Other References</b>	D7-4-1, Duty Deferral Program D7-4-3, NAFTA Requirements for Drawback and Duty Deferral D4-3-1 to D4-3-7, Duty Free Shops Regulations D4-2-0 and D4-2-1, Ship's Stores - Regulations
<b>Backgrounders</b>	Applied by an officer. Applied against the importer. Applied as a result of an audit. Penalty applies when person fails to report a failure to comply with a condition. This penalty applies whether or not there was an amount, which was repayable. For errors discovered during a first audit, the first level flat rate penalty will apply (per diversion). For errors discovered during a second audit, the second level flat rate penalty will apply (per diversion). The same applies for errors found during a third audit. Apply a penalty per diversion. When person fails to pay the amount of duties, see C215.

## C215

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 or 5% of the value of the relief or remission, whichever is greater 2nd: \$200 or 10% of the value of the relief or remission, whichever is greater 3rd and Subsequent: \$400 or 20% of the value of the relief or remission, whichever is greater
<b>Penalty Basis</b>	Value of Relief or Remission
<b>Legislation</b>	<i>Customs Tariff</i> , paragraph 118(1)(b)
<b>D Memo</b>	D7-4-2, Duty Drawback Program
<b>Other References</b>	D7-4-1, Duty Deferral Program D7-4-3, NAFTA Requirements for Drawback and Duty Deferral D4-3-1 to D4-3-7, Duty Free Shops Regulations D4-2-0 and D4-2-1, Ship's Stores - Regulations
<b>Backgrounders</b>	Applied by an officer. Applied against the importer. Applied as a result of a review or verification. Penalty applies when person fails to pay the amount of duties in respect of which a relief or remission was granted within 90 days. Penalty applied on the total value of the remission or relief to which it was determined the person was not entitled. For errors discovered during a first review, verification or audit, a first level penalty will apply to the total amount not entitled to. For errors discovered during a second review, verification or audit, a second level penalty will apply to the total amount not entitled to. The same principal applies for errors discovered during a third review, verification or audit. When person fails to report failure to comply with a condition, see C214. In that case both penalties will apply.

## 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: \$100  
2nd: \$200  
3rd and Subsequent: \$400

**Penalty Basis** Per Diversion

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

**D Memo** D7-4-2, Duty Drawback Program

**Other** D7-4-1, Duty Deferral Program

**References** D7-4-3, NAFTA Requirements for Drawback and Duty Deferral  
D4-3-1 to D4-3-7, Duty Free Shops Regulations  
D4-2-0 and D4-2-1, Ship's Stores - Regulations

**Backgrounders** Applied by an officer.

Applied against the importer.

Penalty applies 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.

This contravention applies 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 audit (per diversion), the first level flat rate penalty will apply to the total amount not entitled to.

For errors discovered during a second audit (per diversion), the second level flat rate penalty will apply to the total amount not entitled to.

The same applies for errors discovered during a third audit (per diversion).

Apply a penalty per diversion.

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

## 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: \$100 or 5% of the value of the drawback, whichever is greater  
2nd: \$200 or 10% of the value of the drawback, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value of the drawback, whichever is greater

**Penalty Basis** Value of Drawback

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

**D Memo** D7-4-2, Duty Drawback Program

**Other** D7-4-1, Duty Deferral Program

**References** D7-4-3, NAFTA Requirements for Drawback and Duty Deferral  
D4-3-1 to D4-3-7, Duty Free Shops Regulations  
D4-2-0 and D4-2-1, Ship's Stores - Regulations

**Backgrounders** Applied by an officer.

Applied against the importer.

Penalty applies 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.

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

Contravention does not occur until 90 days after diversion.

For errors discovered during a first audit, a first level penalty will apply to the total amount of drawback including interest not entitled to.

For errors discovered during a second audit, a second level penalty will apply to the total amount of drawback including interest not entitled to.

The same applies for errors discovered during a third audit.

Calculated and issued on the full amount of the value of the drawback interest to which they are not entitled to.

## 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: \$100 or 5% of the value of the relief or remission, whichever is greater  
2nd: \$200 or 10% of the value of the relief or remission, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value of the relief or remission, whichever is greater

**Penalty Basis** Value of Relief or Remission

**Legislation** *Customs Tariff*, sub-section 121(1)

**D Memo** D7-4-1, Duty Deferral Program

**Other Reference** D7-4-2, Duty Drawback Program

**Backgrounders** Applied by an officer.

Applied against the importer.

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.

For errors discovered during a first audit, review or verification, a first level penalty will apply to the value of relief or remission, under subsection 89(3) of the *Customs Tariff*, the person is not eligible.

For errors discovered during a second audit, review or verification, a second level penalty will apply to the value of relief or remission to which the person is not eligible.

The same applies for errors discovered during a third audit.

Applied on value of relief or remission to which the person is not eligible.

This is the amount of duty on the DAS applicable to that by-product.

## C221

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 or 5% of the value of deferred duties, whichever is greater 2nd: \$200 or 10% of the value of deferred duties, whichever is greater 3rd and Subsequent: \$400 or 20% of the value of deferred duties, whichever is greater
<b>Penalty Basis</b>	Value of Deferred Duties
<b>Legislation</b>	<i>Customs Tariff</i> , sub-section 122(1)
<b>D Memo</b>	D7-4-1, Duty Deferral Program
<b>Other Reference</b>	D7-4-2, Duty Drawback Program
<b>Backgrounders</b>	Applied by an officer. Applied against the importer. Discovered during an audit, verification, or examination. 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. Penalty applied on amount of deferred duties applying to the scrap or waste. This is the amount of duty on the DAS applicable to that scrap or waste. For errors discovered during a first audit, review or verification, a first level penalty will apply to the value of relief, under subsection 89(3) of the <i>Customs Tariff</i> , the person is not eligible. For errors discovered during a second audit, review or verification, a second level penalty will apply to the value of relief to which the person is not eligible. The same applies for errors discovered during a third audit.

## 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: \$100 or 5% of the value for duty, whichever is greater  
2nd: \$200 or 10% of the value for duty, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, section 7.1

**D Memo** D17-1-10, Coding of Customs Accounting Documents

**Backgrounders** Applied by an officer.

Applied against the importer.

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

Non-CSA importers must provide detailed product description on or with entry documents.

The penalty cannot be issued unless 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 records.

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 website.

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.

Apply a penalty per B3 on the total corrected Value for Duty.

For CSA importer, see C224.

## 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.

Assessed 21 days after detailed product description requested.

**Penalty** 1st: \$100 or 5% of the value for duty, whichever is greater  
2nd: \$200 or 10% of the value for duty, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value for duty, whichever is greater

### Penalty Basis

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-10, Coding of Customs Accounting Documents

**Backgrounders** Applied by an officer.

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

This applies for 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 website.

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.

Apply a penalty per B3 or B2 on the total corrected Value for Duty.

For non-CSA importer, see C223.

## C225

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

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Audit

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of records and books in Canada by importers, Appendix, section 2

**Backgrounders** Applied by an officer.

Applied against the importer.

Officer must be an authorized user of the SIMA Compliance website 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 website.

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.

## 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 (CSA) Program (Proposed title)

**Other Reference** D3-1-7, Customs Self-Assessment for Carriers (Proposed title)

**Backgrounders** Applied by an officer.

Normally applied by a CSA Compliance Manager.

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 the number of errors on application.

Any information pertaining to this contravention discovered by a compliance verification officer should be communicated to the CSA compliance manager.

No penalty for obvious clerical or administrative errors.

This contravention applies when errors or omissions are discovered relating to:

Information required on Part I of 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

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

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

## C235

**Contravention** Customs Self Assessment (CSA) approved transporter failed to use a driver registered in the Commercial Driver Registration Program (CDRP) to transport goods eligible into Canada under the CSA clearance option.

**Penalty** 1st: \$100  
2nd: \$500  
3rd and Subsequent: \$1,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 4.1

**D Memo** D3-1-7, Customs Self-Assessment for Carriers (Proposed title)

**Other Reference** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Backgrounders** System generated penalty.

Applied against the transporter.

Penalty is applicable only when goods transported are reported using the CSA clearance option.

Penalty is applicable when a transporter uses a driver who is not registered in “approved” status as a Commercial Driver Registration Program (CDRP) participant.

If more than one driver in the conveyance, only one driver must be registered.

If the Registered driver has forgotten the CDRP identification card, the penalty is not assessed.

ACROSS system will prompt user to enter tractor plate number with its province / state in order for system to automatically issue penalty.

Apply a penalty per instance.

If compliance level falls below 99% on a calendar year basis, see C236.

## C236

**Contravention** Customs Self Assessment (CSA) approved transporter failed to use a driver registered in the Commercial Driver Registration Program (CDRP) to transport goods eligible into Canada under the CSA clearance option.

**Penalty** Where compliance level falls below 99% on a calendar year basis.

Up to \$2,000 per occurrence retroactively between the 99% and the lower compliance level.

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 4.1

**D Memo** D3-1-7, Customs Self-Assessment for Carriers (Proposed title)

**Other Reference** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Backgrounders** Applied by an officer.

Applied by CSA Compliance Manager.

Applied against the transporter.

This penalty applies when the compliance level of Contravention C235 has fallen below 99%.

Calculation is based on total number of passages on a calendar year basis.

Penalties are assessed for those occurrences between 99% and the lower compliance level.

Penalty applicable only when goods transported are reported using a CSA clearance option.

Penalty is applicable when the transporter uses a driver who is not registered in "approved" status as a Commercial Driver Registration Program (CDRP) participant.

Apply a penalty per instance.

## C237

**Contravention** The Customs Self Assessment (CSA) approved transporter failed to report CSA goods in the prescribed manner containing the prescribed information.

**Penalty** 1 to 25: \$1,000  
26 to 50: \$2,000  
51 and over: \$3,000

**Penalty Basis** Per Bar Code Required

**Legislation** *Customs Act*, sub-section 12(1)

**D Memo** D3-1-7, Customs Self-Assessment for Carriers (Proposed title)

**Other** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**References** CSA Participants' Requirements Document

**Backgrounders** Applied by an officer.

Normally applied by customs inspectors.

Applied against the transporter.

Apply a penalty per bar code requirement.

Contravention has occurred if any of the following CSA data elements have not been provided in wand readable barcode format), in the applicable mode:

Highway paper (0497): CSA importer BN, CSA carrier code, secondary CSA carrier code when applicable. If complete Transport Document Number is provided it must be bar coded as well.

No contravention under C237 if:

- barcodes unreadable due to problems with Customs' systems or equipment
- business number or carrier code reported are invalid (i.e. not CSA approved). CSA clearance will be denied for the shipment and a non-CSA service option will be used.

Commercial Driver Registration Program (CDRP) barcode not presented (i.e. driver forgot card).

- Other contraventions such as for failure to report, C021 and C022.
- If transporter falsely reports goods as destined for a CSA importer under the CSA clearance option, and none of the goods are for the importer reported, see C025.
- When the false report is simply the result of an error, see C007.

If transporter failed to use a driver registered in the Commercial Driver Registration Program to transport CSA eligible goods into Canada under the CSA clearance option, see C235.

## C238

<b>Contravention</b>	The Customs Self Assessment (CSA) approved transporter reported non-CSA goods as CSA goods.
<b>Penalty</b>	1st: \$2,500 2nd: \$5,000 3rd: \$10,000 4th and Subsequent: \$25,000
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , section 4.1
<b>D Memo</b>	D3-1-7, Customs Self-Assessment for Carriers (Proposed Title)
<b>Other Reference</b>	D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)
<b>Backgrounders</b>	Applied by an officer. Applied against the transporter. Contravention applies if: Applied when CSA clearance is used alone or in combination with other service options, or with multiple importers, and non CSA eligible goods, which are not otherwise reported through a valid customs service option, are found in the conveyance. Non-CSA goods include: <ul style="list-style-type: none"><li>• prohibited, controlled, regulated goods;</li><li>• goods that require examination, certificates, permits, identification references, or other documentation requirements as a condition for removal beyond the first point of arrival into Canada;</li><li>• goods not having originated in or entered into the commerce of the U.S.;</li><li>• goods transshipped through the U.S. from a third country;</li><li>• goods shipped from a U.S. free trade zone unless pre-approved by Customs.</li></ul> If evidence is found that the importer instructed the transporter to report non-CSA goods as CSA goods, see C239. If non-reported CSA eligible goods are found in the conveyance, see C021 and C022 for failure to report. Apply a penalty per shipment.

## C239

**Contravention** The Customs Self Assessment (CSA) approved importer advised the CSA approved transporter to report non-CSA goods as CSA goods.

**Penalty** 1st: \$2,500  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Shipment

**Legislation** *Customs Act*, section 4.1

**D Memo** D3-1-7, Customs Self-Assessment for Carriers (Proposed Title)

**Other Reference** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Backgrounders** Applied by an officer.

Applied against the importer.

Contravention applies if:

Applies when a CSA clearance is used alone or in combination with other service options, or with multiple importers, and non CSA eligible goods, which are not otherwise reported through a valid customs service option, are found in the conveyance.

Must be evidence of written instructions from importer advising transporter to report non-CSA goods as CSA goods.

Non-CSA goods include:

- prohibited, controlled, regulated goods;
- goods that require examination, certificates, permits, identification references, or other documentation requirements as a condition for removal beyond the first point of arrival into Canada;
- goods not having originated in or entered into the commerce of the U.S.;
- goods transshipped through the U.S. from a third country;
- goods shipped from a U.S. free trade zone unless pre-approved by Customs.

If transporter reported non-CSA goods as CSA goods with no evidence of instruction from the importer to do so, see C238.

If non-reported CSA eligible goods are found in the conveyance, see C019 et C020 for failure to report.

Apply a penalty per shipment.

## C241

**Contravention** The Customs Self Assessment (CSA) approved transporter failed to provide customs with a list of all CSA goods not delivered forthwith to the place of business of the importer, owner or consignee after the goods were reported to customs.

**Penalty** 1st: \$250  
2nd: \$500  
3rd and Subsequent: \$1,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 4.1

**D Memo** D3-1-7, Customs Self-Assessment for Carriers (Proposed title)

**Other Reference** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Backgrounders** Applied by an officer.

Applied against the transporter.

Applies when evidence is found during a verification that CSA eligible goods were not delivered to the place of business (of importer, owner or consignee) within 40 days after a report was made to customs, and the CSA approved transporter did not provide customs with a list of those goods.

List should be provided to CSA compliance manager.

## C242

<b>Contravention</b>	The Customs Self Assessment (CSA) approved transporter allowed a non-approved transporter to report CSA goods to customs.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Instance
<b>Legislation</b>	<i>Customs Act</i> , section 4.1
<b>D Memo</b>	D3-1-7, Customs Self-Assessment for Carriers (Proposed title)
<b>Other Reference</b>	D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)
<b>Backgrounders</b>	Applied by an officer. Applied against the transporter. When a primary CSA carrier uses a secondary carrier to report CSA goods on their behalf, the secondary carrier must be CSA approved and must present their own carrier code in addition to the primary CSA carrier's code. Does not apply when an owner operator is used. Contravention applies to: A secondary carrier, that reports CSA goods on behalf of the primary CSA carrier, is not CSA approved. If secondary carrier code not provided in wand readable barcode format, see C237.

## 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** \$0.00 per transactional B3's

**Penalty Basis** Per Transactional B3

**Legislation** *Customs Act*, sub-section 32(3)

**D Memo** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Other Reference** CSA Participants' Requirements Document

**Backgrounders** Applied against the importer.

This is a systems generated warning.

There may be multiple contraventions listed on the NPA.

Applied when the 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 more than 0.5% of the time on a calendar year basis, see C246.

Apply a penalty per transaction.

**Retention Period** 12 months

**C245**

<b>Contravention</b>	The Customs Self Assessment (CSA) approved importer failed to account for goods in the prescribed manner or within the prescribed time limit.
<b>Penalty</b>	For consolidated B3 (\$25 per shipment, \$500 maximum)
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-7, Customs Self Assessment (CSA) Program (Proposed title)
<b>Other Reference</b>	CSA Participants' Requirements Document
<b>Backgrounders</b>	Applied against the importer.  Consolidated penalties assessed by an officer.  Applied when the date in the Release Date field falls outside the established accounting time frame.  Low value shipments may be accounted for within existing timeframes or by the same CSA accounting option used for their high value shipments.  Apply a penalty per shipment.
<b>Retention Period</b>	12 months

## C246

**Contravention** The Customs Self Assessment (CSA) approved importer failed to account for goods in the prescribed manner or within the prescribed time limit more than 0.5% of the time on a calendar year basis.

**Penalty** \$50 per transactional B3

**Penalty Basis** Per Transactional B3

**Legislation** *Customs Act*, sub-section 32(3)

**D Memo** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Other Reference** CSA Participants' Requirements Document

**Backgrounders** Applied against the importer.

Applied by CSA Compliance Manager.

Penalties will only be issued if importer's compliance level falls below 99.5% 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 99.5% and the lower compliance level.

There may be multiple contraventions listed on the NPA.

**Retention Period** 12 months

## 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** 1st: \$100  
2nd and Subsequent: \$500

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 32(3)

**D Memo** D17-1-7, Customs Self Assessment (CSA) Program (Proposed title)

**Other Reference** CSA Participants' Requirements Document

**Backgrounders** Applied by an officer.

Normally applied by CSA compliance managers.

Applied against the importer.

Contravention applies if:

- importer fails to provide an RSF in accepted status by the last business day of the month.
- importer fails to provide a breakout of the RSF in accepted status as prescribed.

No penalty if CSA approved importer submits an RSF in accepted status to non-designated area within CCRA (e.g. Tax Services Office) no later than the last business day of the month.

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).

## 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** 1st: \$250  
2nd and Subsequent: \$500

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 3.5

**D Memo** N/A

**Other Reference** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Backgrounders** Applied by an officer.

Normally applied by CSA compliance managers.

Applied against the importer.

Compliance manager receives notification that payment was remitted by CSA approved importer at customs or taxation office instead of at financial institution.

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

No penalty if importer paid at CCRA office because of an emergency situation that prevented payment at financial institution.

**C256**

**Contravention** The Customs Self Assessment (CSA) approved transporter failed to keep and provide customs with a list of authorized transporters, and terminals and warehouses owned or operated by the CSA approved transporter.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 4.1

**D Memo** D3-1-7, Customs Self-Assessment for Carriers (Proposed title)

**Backgrounders** Applied by an officer.

Normally applied by CSA compliance managers.

Applied against the transporter.

Applies when list(s) are not provided by date specified by CSA compliance manager.

**C257**

**Contravention** The Customs Self Assessment (CSA) approved importer failed to keep and provide Customs with a list of vendors and consignees.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 4.1

**D Memo** N/A

**Other Reference** D17-1-7, Customs Self-Assessment (CSA) Program (Proposed title)

**Backgrounders** Applied by an officer.

Applied against the importer.

Applied when a vendor or direct-ship consignee, identified on commercial documentation at time of report, is not on the importer's trade chain partner list when reporting the shipment under the CSA clearance option.

All contraventions discovered during one audit, verification or examination are assessed at the same level per vendor / consignee.

Apply a penalty per instance.

## **C258**

**Contravention** The Customs Self Assessment (CSA) approved importer failed to maintain the required audit trails.

**Penalty** Flat rate: \$25,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-7, Customs Self Assessment (CSA) Program (Proposed title)

**Other Reference** CSA Importer Application, Part II

**Backgrounders** Applied by an officer.

Normally applied by CSA Compliance Manager.

Applied against the importer.

Audit trails may be in hard copy or electronic form.

Apply a penalty per verification regardless of how many audit trails the importer fails to maintain.

No penalty if:

- CSA approved importer has put in place and maintained acceptable audit trails and relating internal controls other than those identified in Part II of the CSA Application; or
- Contravention occurred due to inadvertent clerical or arithmetic error; however, other penalties specific to the non-compliance may be assessed.

## **C259**

<b>Contravention</b>	The Customs Self Assessment (CSA) approved transporter failed to maintain the required audit trails.
<b>Penalty</b>	Flat rate: \$25,000
<b>Penalty Basis</b>	Per Instance
<b>Legislation</b>	<i>Customs Act</i> , sub-section 22(1)
<b>D Memo</b>	D3-1-7, Customs Self-Assessment for Carriers (Proposed title)
<b>Other Reference</b>	CSA Transporter Application, Part II
<b>Backgrounders</b>	<p>Applied by an officer.</p> <p>Normally applied by CSA Compliance Manager.</p> <p>Applied against the transporter.</p> <p>Audit trails may be in hard copy or electronic form.</p> <p>Apply a penalty per verification regardless of how many audit trails the transporter fails to maintain.</p> <p>No penalty if:</p> <ul style="list-style-type: none"><li>• CSA approved transporter has put in place and maintained acceptable audit trails and relating internal controls other than those identified in Part II of the CSA Application; or</li><li>• Contravention occurred as result of inadvertent clerical or arithmetic error; however, other penalties specific to the non-compliance may be assessed.</li></ul>

## **C260**

**Contravention** Broker failed to immediately notify customs in writing of changes in the address of a business office at which he transacts business.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 14(b)(i)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

A first call should be made to the customs office where the broker is licensed to confirm no notification of change of address has been made.

A second call should be made to Broker Licensing in Headquarters to confirm no notification of change of address has been made prior to applying penalty.

The telephone number for Broker Licensing and Account Security Programs in Ottawa is 613-941-4789.

Notification must be received by Customs within two weeks.

Apply a penalty per change of address.

## C261

**Contravention** Broker failed to immediately notify customs in writing of changes in the legal or business name of the partnership or the corporation.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 14(b)(ii)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

A first call should be made to the customs office where the broker is licensed to confirm no notification has been made.

A second call should be made to Broker Licensing in Headquarters to confirm no notification has been made prior to applying penalty.

The telephone number for Broker Licensing and Account Security Programs in Ottawa is 613-941-4789.

Notification must be received by Customs within two weeks.

Apply only a penalty per change in name.

## **C262**

**Contravention** Broker failed to immediately notify customs in writing of changes in the membership of the partnership.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 14(b)(iii)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

A first call should be made to the customs office where the broker is licensed to confirm no notification has been made.

A second call should be made to Broker Licensing in Headquarters to confirm no notification has been made prior to applying penalty.

The telephone number for Broker Licensing and Account Security Programs in Ottawa is 613-941-4789.

Notification must be received by Customs within two weeks.

Apply only a penalty per change.

**C263**

**Contravention** Broker failed to immediately notify customs in writing of changes in the officers or directors of the corporation.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 14(b)(vi)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

A first call should be made to the customs office where the broker is licensed to confirm no notification has been made.

A second call should be made to Broker Licensing in Headquarters to confirm no notification has been made prior to applying penalty.

The telephone number for Broker Licensing and Account Security Programs in Ottawa is 613-941-4789.

Notification must be received by Customs within two weeks.

Apply a penalty for each change in the officers and or directors of a corporation.

Each occurrence that happens at the same time will receive a penalty at the same level.

## **C265**

**Contravention** Broker failed to immediately notify customs in writing of changes in the ownership of the business or corporation.

**Penalty** 1st: \$100  
2nd: \$200  
3rd and Subsequent: \$300

**Penalty Basis** Per Instance

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 14(b)(vi)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

A first call should be made to the customs office where the broker is licensed to confirm no notification has been made.

A second call should be made to Broker Licensing in Headquarters to confirm no notification has been made prior to applying penalty.

The telephone number for Broker Licensing and Account Security Programs in Ottawa is 613-941-4789.

Notification must be received by Customs within two weeks.

Apply only a penalty per change.

## C266

**Contravention** Broker failed to immediately notify customs in writing of changes in the individuals meeting the knowledge requirement.

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

**Penalty Basis** Per Instance

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 14(b)(vii)

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

**Backgrounders** Applied against the broker.

A brokerage firm is 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*.

Applied by an officer.

A first call should be made to the customs office where the broker is licensed to confirm no notification has been made.

A second call should be made to Broker Licensing in Headquarters to confirm that no notification has been made prior to applying a penalty.

The telephone number for Broker Licensing and Account Security Programs in Ottawa is 613-941-4789.

Notification must be received by Customs within five days.

Apply only a penalty per change, per qualified person or qualified officer.

## C267

<b>Contravention</b>	Broker failed to account to a client for funds owed or refunded.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Instance
<b>Regulation</b>	<i>Customs Brokers Licensing Regulations</i> , paragraph 14(d)(i)(ii)
<b>D Memo</b>	D1-8-1, Licensing of Customs Brokers
<b>Other Reference</b>	Customs Brokers Licensing Regulations, subparagraphs 14(d)(i) and 14(d)(ii)
<b>Backgrounders</b>	Applied by an officer.  Applied against the broker.  This contravention will normally be applied at the local or regional level.  A contravention occurs when a broker fails to promptly account to a client 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 department of National Revenue for Customs and Excise (now the CCRA).  The broker must account to the client for all funds received from the CCRA. 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.  The Broker Licensing and Account Security Programs Section in Ottawa should be advised of any penalties issued.  Apply a penalty per occurrence.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Audit

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 17(1)(a)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

One or more records not kept, (per client), 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.

One or more records not kept, (per client if applicable), 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.

For importers who failed to keep for six years records covering the origin, marking, etc. (per missing record), see C154.

For importers who failed to keep for six years records covering the origin, marking, etc. (no records exist), see C155.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Audit

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 17(1)(b)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

Contravention would become apparent following a verification 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.

For importers who failed to keep for six years records covering the origin, marking, etc. (per missing record), see C154.

For importers who failed to keep for six years records covering the origin, marking, etc. (no records exist), see C155.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Audit

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 17(1)(c)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

The contravention becomes apparent following a verification 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.

For importers who failed to keep for six years records covering the origin, marking, etc. (per missing record), see C154.

For importers who failed to keep for six years records covering the origin, marking, etc. (no records exist), see C155.

## 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: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Audit

**Regulation** *Customs Brokers Licensing Regulations*, paragraph 17(1)(d)

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

**Backgrounders** Applied by an officer.

Applied against the broker.

Contravention results from verification 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.

## 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: \$3,000

**Penalty Basis** Per Instance

**Legislation** *Customs Act*, section 7.1

**D Memo** N/A

**Other Reference** Customs Notice N367 included in D17-1-5

**Backgrounders** Applied by an officer.

1. Applied against the importer when a post arrival release request (i.e. RMD) is submitted prior to the authorized timeframes 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 an 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 timeframes irregardless of the number of shipments attached to the RMD.
2. Applied against the sender of an RNS arrival message (i.e. sufferance warehouse operator or carrier) submitted prior to the authorized timeframes for the release of goods.
  - If an 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 timeframes by the carrier or sufferance warehouse operator.

In both the importer RMD submission and the RNS arrival situations outlined previously, 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 timeframes** for the release of goods.

The officer will use discretion as to the timeframe that the goods must be made available for examination i.e. where the goods must be on hand for an 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 customs 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:**

Mode	Carrier Document Type* on RMD or PARS	Release Service Option	Condition	Earliest Time Frame to Report Arrival of PARS or Submit a RMD According to Conveyance Arrival
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	<ul style="list-style-type: none"> <li>• PARS received and processed</li> </ul>	<ul style="list-style-type: none"> <li>• 1 hour non-stop to Canada</li> </ul>
	Primary	RMD	<ul style="list-style-type: none"> <li>• Cargo data made available to customs in an electronic format for pre-arrival review</li> </ul>	<ul style="list-style-type: none"> <li>• 1 hour non-stop to Canada</li> </ul>
	Primary or Secondary	RMD	<ul style="list-style-type: none"> <li>• Cargo data not made available to customs in an electronic format for pre-arrival review</li> </ul>	<ul style="list-style-type: none"> <li>• Arrival at destination customs office</li> </ul>
Marine	Primary or Secondary	PARS	<ul style="list-style-type: none"> <li>• PARS received and processed</li> </ul>	<ul style="list-style-type: none"> <li>• 12:01 a.m. on day of vessel arrival at customs office of cargo report</li> </ul>
	Primary	RMD	<ul style="list-style-type: none"> <li>• Cargo data made available to customs in an electronic format for pre-arrival review</li> </ul>	<ul style="list-style-type: none"> <li>• 12:01 a.m. on day of vessel arrival at customs office of cargo report</li> </ul>
	Primary or Secondary	RMD	<ul style="list-style-type: none"> <li>• Cargo data not made available to customs in an electronic format for pre-arrival review</li> </ul>	<ul style="list-style-type: none"> <li>• Arrival at destination customs office</li> </ul>
Hwy	Primary or Secondary	PARS	<ul style="list-style-type: none"> <li>• PARS received and processed</li> </ul>	<ul style="list-style-type: none"> <li>• Arrival in Canada</li> </ul>
	Primary or Secondary	RMD		<ul style="list-style-type: none"> <li>• Arrival at destination customs office</li> </ul>

\*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.

## C277

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 2nd: \$200 3rd and Subsequent: \$300
<b>Penalty Basis</b>	Per Instance
<b>Regulation</b>	<i>Persons Authorized to Account for Casual Goods Regulations</i> , section 10
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-4-0, Courier / Low Value Shipment Program Low Value Commercial Goods
<b>Backgrounders</b>	Applied by an officer.  Applied against the courier company that has been authorized to account for personal goods.  This contravention relates only to casual goods (non-commercial goods).  Confirm with HQ that a notification has not already been provided for the change of address before applying the penalty.  Information can be acquired locally or through the Postal, Courier and Casual Refund Program at (613) 954-7150.  Apply a penalty per change of address.  Refer to D17-4-0 for a list specifying who can import casual goods.

## C278

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 2nd: \$200 3rd and Subsequent: \$300
<b>Penalty Basis</b>	Per Instance
<b>Regulation</b>	<i>Persons Authorized to Account for Casual Goods Regulations</i> , sub-section 10(b)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-4-0, Courier / Low Value Shipment Program Low Value Commercial Goods
<b>Backgrounders</b>	Applied by an officer.  Applied against the courier company that has been authorized to account for personal goods.  This contravention relates only to casual goods (non-commercial goods).  Confirm with HQ that a notification has not already been provided for the change of legal or business name before applying the penalty.  Information can be acquired locally or through the Postal, Courier and Casual Refund Program at (613) 954-7150.  Apply a penalty per change in name.  Refer to D17-4-0 for a list specifying who can import casual goods.

## C279

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 2nd: \$200 3rd and Subsequent: \$300
<b>Penalty Basis</b>	Per Instance
<b>Regulation</b>	<i>Persons Authorized to Account for Casual Goods Regulations</i> , sub-section 10(c)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-4-0, Courier / Low Value Shipment Program Low Value Commercial Goods
<b>Backgrounders</b>	Applied by an officer.  Applied against the courier company that has been authorized to account for personal goods.  This contravention relates only to casual goods (non-commercial goods).  Confirm with HQ that a notification has not already been provided for the change of ownership before applying the penalty.  Information can be acquired locally or through the Postal, Courier and Casual Refund Program at (613) 954-7150.  Apply a penalty per change.  Refer to D17-4-0 for a list specifying who can import casual goods.

## C280

<b>Contravention</b>	Person failed to account for imported goods within three business days after the termination of the release period for intoxicating liquors.  This is in the instance of an individual transaction.
<b>Penalty</b>	\$25 per transactional B3
<b>Penalty Basis</b>	Per Transactional B3
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-1-5, Importing Commercial Goods
<b>Backgrounders</b>	<p>The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.</p> <p>If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.</p> <p>Applied against the importer.</p> <p>Applied for failure to account for imported goods within three business days after the termination of the release period for intoxicating liquors.</p> <p>Applied by customs officer upon discovery.</p> <p>For example, when working at a non-automated office and in the case of LVS shipments.</p> <p>Applied by compliance verification officer as result of an audit.</p> <p>For example, in instances where accounting was not done within the prescribed three business days and a K23 was not issued.</p> <p>In instances of individual transaction, apply a penalty per transactional B3s.</p>
<b>Retention Period</b>	12 months

## C281

<b>Contravention</b>	Person failed to account for imported goods within three business days after the termination of the release period for intoxicating liquors.  This is in the instance of consolidated entries.
<b>Penalty</b>	For Consolidated B3's (\$25 per shipment, \$500 maximum)
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-1-5, Importing Commercial Goods
<b>Backgrounders</b>	<p>The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.</p> <p>If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.</p> <p>Applied by an officer.</p> <p>Applied by compliance verification officer as result of an audit.</p> <p>Applied against the importer.</p> <p>Applied for failure to account for imported goods within three business days after the termination of the release period for intoxicating liquors.</p> <p>In instances of consolidated entries, apply a penalty per shipment, maximum of \$500.</p>
<b>Retention Period</b>	12 months

## C284

<b>Contravention</b>	Person failed to account for imported goods no later than the last business day of the month in which the release period ends for vehicles, automotive production goods and automotive service goods.  This is in the instance of an individual transaction.
<b>Penalty</b>	\$25 per transactional B3
<b>Penalty Basis</b>	Per Transactional B3
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-1-5, Importing Commercial Goods
<b>Backgrounders</b>	<p>The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.</p> <p>If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.</p> <p>Applied by an officer.</p> <p>Applied by compliance verification officer as result of an audit.</p> <p>Applied against the importer.</p> <p>Applied for failure to account for imported goods no later than the last business day of the month in which the release period ends for vehicles, automotive production goods and automotive service goods.</p> <p>In instances of individual transaction, apply a penalty per transactional B3s.</p>
<b>Retention Period</b>	12 months

## C285

<b>Contravention</b>	Person failed to account for imported goods no later than the last business day of the month in which the release period ends for vehicles, automotive production goods and automotive service goods.  This is in the instance of consolidated entries.
<b>Penalty</b>	For Consolidated B3's (\$25 per shipment, \$500 maximum)
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-1-5, Importing Commercial Goods
<b>Backgrounders</b>	<p>The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.</p> <p>If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.</p> <p>Applied by an officer.</p> <p>Applied by compliance verification officer as result of an audit.</p> <p>Applied against the importer.</p> <p>Applied for failure to account for imported goods no later than the last business day of the month in which the release period ends for vehicles, automotive production goods and automotive service goods.</p> <p>In instances of consolidated entries, apply a penalty per shipment, maximum of \$500.</p>
<b>Retention Period</b>	12 months

## C288

<b>Contravention</b>	Person failed to account for imported goods within five business days of their release for goods that have an estimated value for duty of \$1,600 or more.  This is in the instance of an individual transaction.
<b>Penalty</b>	\$25 per transactional B3
<b>Penalty Basis</b>	Per Transactional B3
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-1-5, Importing Commercial Goods
<b>Backgrounders</b>	<p>The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.</p> <p>If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.</p> <p>Applied against the importer.</p> <p>Applied for failure to account for imported goods within five business days of their release for goods that have an estimated value for duty of \$1,600 or more.</p> <p>Applied by customs inspector upon discovery.</p> <p>For example, when working at a non-automated office and in the case of LVS shipments.</p> <p>Applied by compliance verification officer as result of an audit.</p> <p>For example, in instances where accounting was not done within the prescribed five business days and a K23 was not issued.</p> <p>In instances of individual transaction, apply a penalty per transactional B3s.</p>
<b>Retention Period</b>	12 months

**C289**

**Contravention** Person failed to account for imported goods within five business days of their release for goods that have an estimated value for duty of \$1,600 or more.

This is in the instance of consolidated entries.

**Penalty** For Consolidated B3's  
(\$25 per shipment, \$500 maximum)

**Penalty Basis** Per Shipment

**Legislation** *Customs Act*, sub-section 32(3)

**D Memo** D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations

**Other Reference** D17-1-5, Importing Commercial Goods

**Backgrounders** The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.

If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.

Applied by an officer.

Applied by compliance verification officer as result of an audit.

Applied against the importer.

Applied for failure to account for imported goods within five business days of their release for goods that have an estimated value for duty of \$1,600 or more.

In instances of consolidated entries, apply a penalty per shipment, maximum of \$500.

**Retention Period** 12 months

## C292

<b>Contravention</b>	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 of less than \$1,600.  This is in the instance of an individual transaction.
<b>Penalty</b>	\$25 per transactional B3
<b>Penalty Basis</b>	Per Transactional B3
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-1-5, Importing Commercial Goods
<b>Backgrounders</b>	<p>The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.</p> <p>If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.</p> <p>Applied by an officer.</p> <p>Applied against the importer.</p> <p>Applied for failure 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 of less than \$1,600.</p> <p>In instances of individual transaction, apply a penalty per transactional B3s.</p>
<b>Retention Period</b>	12 months

## C293

<b>Contravention</b>	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 of less than \$1,600.  This is in the instance of consolidated entries.
<b>Penalty</b>	For Consolidated B3's (\$25 per shipment, \$500 maximum)
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(3)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-1-5, Importing Commercial Goods
<b>Backgrounders</b>	The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.  If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.  Applied by an officer.  Applied against the importer.  Applied for failure 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 of less than \$1,600.  In instances of consolidated entries, apply a penalty per shipment, maximum of \$500.
<b>Retention Period</b>	12 months

## C298

**Contravention** Person who imports commercial goods or causes commercial goods to be imported failed to keep prescribed records in respect of commercial goods, for six years following importation, at the specified place in the prescribed manner.

Apply a penalty per written request for record basis.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied by an officer.

This penalty is normally applied by a Compliance Verification Officer or Investigations Officer and approved by the regional Manager, Compliance Verification or regional Manager, Investigations.

Applied against the importer.

This penalty is applied when an audit, verification or examination determines that a company, who is already known to keep records of payment for commercial goods, failed to keep specific records of payment that were formally requested by an officer in writing.

Records of payment can be used to confirm the price paid, the quantity, who the supplier and / or vendor is, and other information pertinent to the verification.

The officer should use discretion when deciding how much time to allow the company to prove that records of payment exist.

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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or that do not exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

Where no records exist, see C299.

## C299

**Contravention** Person who imports commercial goods or causes commercial goods to be imported failed to keep, for six years following importation, records covering the payment of commercial goods at their place of business in Canada or at a designated place.

This applies 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*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied by an officer.

This penalty is normally applied by a Compliance Verification Officer or Investigations Officer and approved by the regional Manager, Compliance Verification or the regional Manager, Investigations.

Applied against the importer.

This penalty is applied when an audit, verification or examination determines that a company has kept no records regarding the payment of imported commercial goods.

Records of payment can be used to confirm price paid, the quantity, who the supplier and / or vendor is, and other information pertinent to the review.

The officer should use discretion when deciding how much time to allow the company to prove that payment records exist.

Thirty days may be considered reasonable as a minimum.

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

For missing record(s) concerning the payment of commercial goods, see C298.

## C302

**Contravention** Person who imports commercial goods or causes commercial goods to be imported failed to keep, at their place of business in Canada or at a designated place, for six years following importation, records relating to the sale or the disposal of the goods in Canada.

Apply a penalty per written request for records basis.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied by an officer.

This penalty is normally applied by a Compliance Verification Officer or Investigations Officer and approved by the regional Manager, Compliance Verification or regional Manager, Investigations.

Applied against the importer.

This penalty is applied when an audit, verification or examination determines that a company, who is already known to keep records of disposal of imported goods in Canada, failed to keep specific records of disposal that were formally requested by an officer in writing. Records of disposal are used to confirm the end-use of the goods, who the goods were sold to, any scrap or destruction of the goods, and other information pertinent to the review.

The officer should use discretion when deciding how much time to allow the company to prove that records of payment exist. 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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

For instances where no records exist, see C303.

### C303

**Contravention** Person who imports commercial goods or causes commercial goods to be imported failed to keep, at their place of business in Canada or at a designated place, for six years following importation, records relating to the disposal of the goods in Canada.

This applies 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*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied an officer.

This penalty is normally applied by a Compliance Verification Officer or Investigations Officer and approved by the regional Manager, Compliance Verification or regional Manager, Investigations.

Applied against the importer.

This penalty is applied when an audit, verification or examination determines that no records exist regarding the disposal of imported commercial goods.

Records of disposal are used to confirm the end-use of the goods, who the goods were sold to, any scrap or destruction of the goods, and other information pertinent to the review.

The officer should use discretion when deciding how much time to allow the company to prove that disposal records exist.

Thirty days may be considered reasonable.

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

For missing records, see C302.

## C306

**Contravention** Person who imports commercial goods or causes commercial goods to be imported failed to keep, for six years following the importation, records relating to any application for an advance ruling made under subsection 43.1(1) of the *Customs Act*, at the place of business in Canada or at a designated place.

Apply a penalty per written request for records basis.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** D17-1-21, Maintenance of Records and Books in Canada by Importers

**Other Reference** Imported Goods Records Regulations, section 2

**Backgrounders** Applied by an officer.

This penalty is normally applied by a Compliance Verification Officer and approved by the regional Manager, Compliance Verification.

Applied against the importer.

This penalty is applied when an audit, verification or examination determines that a company, who has previously been given an advance ruling based on documents that were filed with the Agency when the application was submitted, has failed to keep and make available said documents, upon request by an officer.

The officer should use discretion when deciding how much time to allow the company to prove that records relating to the application for an advanced ruling 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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

## C310

**Contravention** Person who diverted imported commercial goods that have been released free of duty or at a reduced rate of duty because of their intended use or because they were intended to be used by a specific person failed to keep sufficient records at their place of business in Canada or at a designated place to confirm that the applicable duties have been paid.

Apply a penalty per written request for records basis.

**Penalty** 1st: \$1,000  
2nd: \$5,000  
3rd: \$10,000  
4th and Subsequent: \$25,000

**Penalty Basis** Per Written Request

**Legislation** *Customs Act*, sub-section 40(1)

**D Memo** N/A

**Other Reference** Imported Goods Records Regulations, section 3

**Backgrounders** Applied by an officer.

This penalty is normally applied by a Compliance Verification Officer and approved by the regional Manager, Compliance Verification.

Applied against the importer.

This penalty is applied when an audit, verification or examination determines that a company, who keeps records, has no record confirming that payment of duties and taxes were made for goods diverted and that had previously benefited from duty relief at time of original accounting because of the intended end-use of the goods. (For programs relating to End Use, Duty Drawback and Duty Deferral Programs).

The officer should use discretion when deciding how much time to allow the company to prove that records have been kept.

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 \$1,000 penalty.

Subsequent written requests for records later determined not to have been kept or exist will be subject to the second, third and fourth level penalties to a maximum of \$25,000.

## C315

**Contravention** Exporter failed to provide to customs prior to export any export permit, licence or certificate required.

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

**Penalty Basis** Per Document

**Regulation** *Reporting of Exported Goods Regulations*, section 5

**D Memo** D20-1-0, Reporting of Exported Goods Regulations

**Other** D20-1-1, Export Declaration

**References** Export and Import Permit Act  
Export Control List, D 19  
Reporting of Exported Goods Regulations, section 5

**Backgrounders** Applied by an officer.

Applied against the exporter.

Exporter failed to provide a permit including a General export permit (GEP), licence or certificate prior to export.

Softwood lumber permits are exempt from this requirement. (DFAIT Serial No. 136 - Monitoring Softwood Lumber Exports to the United States Reduced Permit Requirements)

For strategic goods controlled by the Export and Import Permits Act, follow existing Regional *Intelligence and Contraband* Division's communication procedures.

This penalty applies only to exported goods under section 5 of the *Reporting of Exported Goods Regulations*.

Seize when there is evidence that exporter wilfully avoided compliance with export requirements, see C345.

If seizure of goods is impractical, or goods are not found, an ascertained forfeiture may be taken in addition to AMPS penalty.

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.

Apply a penalty per permit, certificate or license.

For incorrect information on a permit, licence or certificate, see C005.

For false information intentionally provided on a permit, licence or certificate, see C348.

For failure to submit export declarations, see C170.

## **C316**

**Contravention** Exporter failed to submit an export summary report.

**Penalty** 1st: \$2,000  
2nd: \$5,000  
3rd and Subsequent: \$10,000

**Penalty Basis** Per Summary Report

**Legislation** *Customs Act*, sub-section 95(1)

**D Memo** D20-1-1, Export Declaration

**Other Reference** D20-1-0, Reporting of Exported Goods Regulations, section 8

**Backgrounders** Applied by an officer.

Applied against the exporter.

This penalty applies to the failure to submit a monthly export summary report.

Refer to list of exporters approved for summary reporting.

Consult with the Regional Export Coordinator.

Apply a penalty per summary report.

## 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: \$3,000

**Penalty Basis** Per Shipment

**Legislation** *Customs Act*, sub-section 95(1)

**D Memo** D20-1-1, Export Declaration

**Other References** D20-1-0, Reporting of Exported Goods Regulations, section 8  
Export and Import Permits Act  
Export Control List - D19

**Backgrounders** Applied by an officer.

Applied against the exporter.

This penalty applies to strategic goods controlled by the Export and Import Permits Act or any statute that controls the exportation of goods which cannot be reported on a summary report.

A first level \$1,000 penalty shall apply, second infraction \$2,000, third \$3,000 with possible revocation of summary reporting privilege.

For penalties involving summary reports, ascertained forfeiture may be taken in addition to the AMPS penalty.

Provide report to the regional Intelligence and Contraband office.

Apply a penalty per shipment which is represented by one line on the summary report.

For errors contained on Summary Reports, see C005.

**C318**

<b>Contravention</b>	Person who exported goods failed to make such records available to an officer within the time specified.
<b>Penalty</b>	1st: \$1,000 2nd: \$5,000 3rd: \$10,000 4th and Subsequent: \$25,000
<b>Penalty Basis</b>	Per Occurrence
<b>Legislation</b>	<i>Customs Act</i> , sub-section 97.2(1)
<b>D Memo</b>	D20-1-5, Maintenance of Records and Books in Canada by Exporters and Producers
<b>Backgrounders</b>	Applied by an officer.  Applied against exporter, generally during a compliance verification.  Officer must request export records in writing.  The exporter will be given a minimum of 30 days to provide the records.  Additional time may be negotiated between the officer and the exporter depending on the circumstances.  Apply a penalty per audit.

**C319**

<b>Contravention</b>	Person who exported goods failed to truthfully answer any questions asked by an officer in respect of the records.
<b>Penalty</b>	1st: \$1,000 2nd: \$5,000 3rd: \$10,000 4th and Subsequent: \$25,000
<b>Penalty Basis</b>	Per Occurrence
<b>Legislation</b>	<i>Customs Act</i> , sub-section 97.2(1)
<b>D Memo</b>	D20-1-5, Maintenance of Records and Books in Canada by Exporters and Producers
<b>Backgrounders</b>	Applied by an officer.  Applied against exporter, generally during a compliance verification.  Officer finds evidence that person has not answered questions truthfully relating to export records.  A person (verbally or in writing) makes statement that is false in material fact in order to avoid compliance with customs requirements.  Apply a penalty per occurrence.

## C320

**Contravention** Person failed to repay amount or portion of refund, drawback or interest to which they were not entitled.

**Penalty** 1st: \$100 or 5% of the value of the amount not entitled to, whichever is greater  
2nd: \$200 or 10% of the value of the amount not entitled to, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value of the amount not entitled to, whichever is greater

**Penalty Basis** Value of Amount not entitled to

**Legislation** *Customs Tariff*, sub-section 114(1)

**D Memo** D7-4-1, Duty Deferral Program

**Other** D7-4-2, Duty Drawback Program

**References** D7-4-3, NAFTA Requirements for Drawback and Duty Deferral  
D8-2-1, Canadian Goods Abroad

**Backgrounders** Applied by an officer.

Results from review or verification.

Applied against person who is not entitled to refund or drawback granted or against person who has not repaid any amount exceeding that to which they are eligible.

Where the overpayment is a result of a change of information from a third party about which the client has no knowledge, the penalty will not apply.

Calculated on the value of amount received not entitled to.

## C328

<b>Contravention</b>	A courier did not acquire the prescribed authorization from CCRA before accounting for casual goods released under subsection 32(4) of the <i>Customs Act</i> .
<b>Penalty</b>	1st: \$100 2nd: \$200 3rd and Subsequent: \$300
<b>Penalty Basis</b>	Per Instance
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(5)
<b>D Memo</b>	D17-4-0, Courier / Low Value Shipment Program Low Value Commercial Goods
<b>Other Reference</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Backgrounders</b>	Applied by an officer. Applied against the courier. This penalty applies when a courier accounts for casual goods even though he is not authorized to do so under the courier program. Review the list of authorized Courier / LVS participants found in D17-4-0, and confirm with your regional coordinator / specialist that the Courier has obtained the prescribed authorization from the CCRA before it accounted for casual goods, which are 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.

**C330**

<b>Contravention</b>	Person authorized by subsection 32(5) of the <i>Customs Act</i> to account for goods 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.
<b>Penalty</b>	\$25 per transactional B3
<b>Penalty Basis</b>	Per Transactional B3
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(5)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-4-0, Courier / Low Value Shipment Program Low Value Commercial Goods
<b>Backgrounders</b>	<p>The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.</p> <p>If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.</p> <p>Applied by an officer.</p> <p>Applied against the courier.</p> <p>Apply a penalty per transactional B3.</p>
<b>Retention Period</b>	12 months

## C331

<b>Contravention</b>	Person authorized by subsection 32(5) of the <i>Customs Act</i> to account for goods 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.
<b>Penalty</b>	For Consolidated B3's (\$25 per shipment, \$500 maximum)
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32(5)
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other Reference</b>	D17-4-0, Courier / Low Value Shipment Program Low Value Commercial Goods
<b>Backgrounders</b>	The non-CSA late accounting penalties are to be assessed as they were prior to October 7, 2002.  If the goods are valued at \$1600 or more, the penalty will automatically be assessed by the Customs Commercial System (CCS) on the K84. The only difference is that as of October 7, the penalty amount dropped to \$25. If they are issued at a non-automated port or are for an LVS shipment, they are issued on a K23 and will be for \$25 each.  Applied by an officer.  Applied against the courier.  Apply a penalty per shipment.  In instances of consolidated entries, apply a penalty per shipment, maximum of \$500.
<b>Retention Period</b>	12 months

## C335

<b>Contravention</b>	Person failed to make the required corrections to a tariff classification when conveyances or containers classified under Tariff Heading 98.01 were used for a purpose other than provided.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Container or Conveyance
<b>Legislation</b>	<i>Customs Act</i> , sub-section 32.2 (2)
<b>D Memo</b>	D3-1-5, International Commercial Transportation
<b>Backgrounders</b>	Applied by an officer. Applied during an audit or examination. Applied against the carrier or agent that diverted the conveyance. For errors discovered on a first audit, verification or examination, a first level penalty will apply against all infractions. Second and subsequent level penalties will apply progressively for each incorrect declaration following the second audit, verification or examination. Apply a penalty per conveyance.

## C336

<b>Contravention</b>	Person failed to pay duties on goods accounted for under subsections 32(2) and 32(3) of the <i>Customs Act</i> .
<b>Penalty</b>	1st: \$100 2nd: \$500 3rd and Subsequent: \$1,000
<b>Penalty Basis</b>	Per instance
<b>Legislation</b>	<i>Customs Act</i> , sub-section 33
<b>D Memo</b>	D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations
<b>Other References</b>	Administrative Order determining the Amount of Security required for the Release of Commercial Goods Prior to the Payment of Duties D17-1-5, Importing Commercial Goods D17-1-7, Customs Self Assessment (CSA) Program (Proposed title) D11-6-5, Interest and Penalty Provisions: Determinations / Re-determinations, Appraisal / Re-appraisals, and Duty Relief
<b>Backgrounders</b>	Applied by an officer.  Applied against the importer or the broker.  Applied against an importer if: <ul style="list-style-type: none"><li>• the importer has their own account security and fails to pay their K84 in full by the date specified on the K84;</li><li>• 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.</li></ul> Applied against a broker if: <ul style="list-style-type: none"><li>• the broker does not pay their K84 in full by the date specified on the K84;</li><li>• the broker only partially pays their K84 (i.e. short-pays, not short remits). Penalty is applied against the broker's business number.</li></ul> 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.

In the case of CSA importers:

- Applied by CSA compliance managers 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 CCRA office.
- No penalty in cases where:
  - no interim payment (subject to late payment interest only); or
  - payment made to CCRA 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.

## **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*, sub-section 22(1)

**D Memo** D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods

**Backgrounders** Applied by an officer.

Applied against the carrier.

This occurs when no records exist.

Applies when owner, operator or person in charge of company fails to keep any records in the prescribed manner.

Apply a penalty per instance.

For no existing records by importer, see C160.

### **C341**

<b>Contravention</b>	Exporter failed to report a shipment on an export summary report.
<b>Penalty</b>	1st: \$1,000 2nd: \$2,000 3rd and Subsequent: \$3,000
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 95(1)
<b>D Memo</b>	D20-1-1, Export Declaration
<b>Other References</b>	D20-1-0, Reporting of Exported Goods Regulations, section 8 Export and Import Permits Act Export Control List D19
<b>Backgrounders</b>	Applied by an officer. Applied against the exporter. This penalty applies to the failure to report a shipment on an export summary report. Each line on the summary report is or should have been an individual export shipment. For penalties involving summary reports, ascertained forfeiture may be taken in addition to the AMPS penalty. For serious infractions, provide report to the regional Intelligence and Contraband office. For errors contained on Summary Reports, see C005.

## C342

**Contravention** Person (importer) failed to transmit release information to the correct customs office.

**Penalty** 1st: \$250  
2nd: \$500  
3rd and Subsequent: \$1,000

**Penalty Basis** Per Shipment

**Legislation** *Customs Act*, sub-section 32(3)

**D Memo** N/A

**Backgrounders** Applied by an officer.

Applied against person who transmits the release request unless they can provide documentation to support the release request being transmitted to the incorrect office.

An electronic release client transmits their post-arrival service option (i.e. RMD) to the Accelerated Commercial Release Operations Support System (ACROSS) with an incorrect customs office code.

This may result in information not being available for targeting at the appropriate location.

This does not apply to pre-arrival service options.

**C343**

**Contravention** Person failed to report in bond cargo to customs outbound.

**Penalty** Flat rate: \$1,000

**Penalty Basis** Per Shipment or Manifest

**Legislation** *Customs Act*, sub-section 95(1)

**D Memo** D20-1-1, Export Declaration

**Other** D3 series depending on mode of export

**Reference**

**Backgrounders** Applied by an officer.

Applied against the carrier that fails to report in bond goods outward.

The carrier company will be assessed a flat rate penalty of \$1,000 every time they fail to report outward.

Seizure or ascertained forfeiture can be applied for controlled, regulated, prohibited or specified goods.

Apply a penalty per shipment or manifest.

## C344

**Contravention** Person reporting goods valued at less than \$1,600 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: \$100 or 20% of the value for duty, whichever is greater  
2nd: \$200 or 40% of the value for duty, whichever is greater  
3rd and Subsequent: \$300 or 60% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, sub-section 13(a)

**D Memo** N/A

**Backgrounders** Applied by an officer.

Applied against the person reporting the goods.

Occurs when the customs inspector finds evidence that the person has not answered questions truthfully relating to importation of goods valued at less than \$1,600.

This penalty applies to commercial goods only.

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

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.

Apply a penalty per occurrence.

For failure to answer truthfully any questions regarding the importation of commercial goods valued at more than \$1,600, see C025.

## C345

**Contravention** Exporter failed to report goods subject to export control prior to export.

**Penalty** 1st: \$2,000 or 20% of the value of goods, whichever is greater  
2nd: \$4,000 or 40% of the value of goods, whichever is greater  
3rd and Subsequent: \$6,000 or 60% of the value of goods, whichever is greater

**Penalty Basis** Value of Goods

**Legislation** *Customs Act*, sub-section 95(1)

**D Memo** D20-1-1, Export Declaration

**Other** Export and Import Permits Act

**References** Reporting of Exported Goods Regulations, sections 3 and 5  
D20-1-0, Reporting of Exported Goods Regulations  
D19 Acts and Regulations of Other Government Departments

**Backgrounders** Applied by an officer.

Applied against the exporter.

Occurs when the exporter has failed to report goods subject to export control 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* or any statute that controls the export of goods.

Seize when there is evidence that exporter wilfully avoided compliance with export requirements.

If seizure of goods is impractical, or goods are not found, an ascertained forfeiture may be taken in addition to AMPS penalty.

Apply a penalty per permit, certificate or license.

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.

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

For failure to submit an export summary report, see C316.

For failure to report the export of goods on an export declaration prior to export, see C170.

## C346

<b>Contravention</b>	Person who has reported goods under subsection 95(1) of the <i>Customs Act</i> that are subject to export control, failed to answer truthfully any question asked by an officer with respect to the goods.
<b>Penalty</b>	1st: \$2,000 or 20% of the value of goods, whichever is greater 2nd: \$4,000 or 40% of the value of goods, whichever is greater 3rd and Subsequent: \$6,000 or 60% of the value of goods, whichever is greater
<b>Penalty Basis</b>	Value of Goods
<b>Legislation</b>	<i>Customs Act</i> , sub-section 95(3)(a)
<b>D Memo</b>	N/A
<b>Backgrounders</b>	Applied by an officer.  Applied against exporter, exporter's agent or person transporting goods.  Officer finds evidence that person has not answered questions truthfully relating to exportation of goods that are subject to export control.  Exporter, exporter's agent or person transporting goods (verbally or in writing) makes statement that is false in material fact in order to avoid compliance with Customs requirements.  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.  Apply a penalty per incident.  For failure to answer truthfully any question with respect to goods not subject to export control, see C189.

## C347

<b>Contravention</b>	Person moved, delivered or exported, or caused to be moved, delivered or exported goods valued at less than \$1,600 that have been reported but not released without customs authorization.
<b>Penalty</b>	Flat rate: \$100
<b>Penalty Basis</b>	Per Shipment
<b>Legislation</b>	<i>Customs Act</i> , sub-section 19(1)
<b>D Memo</b>	D3-1-1, Regulations Respecting the Importation, Transportation and Exportation of Goods (Customs Cargo Control Procedures)
<b>Backgrounders</b>	<p>Applied by an officer for direct delivery when goods have not been released by Customs.</p> <p>Can also be applied by an officer during an audit when direct delivery has occurred prior to customs release, or when a carrier has transported goods not yet released.</p> <p>Applied against the carrier.</p> <p>This penalty applies only where goods are valued at less than \$1,600.</p> <p>This penalty also applies in situations where goods were delivered or caused to be delivered from a customs office to another customs office or a sufferance warehouse.</p> <p>In an audit situation, each shipment found in contravention within an audit will be assessed a penalty of \$100.</p> <p>For example, if five shipments were moved, a penalty of \$500 (5 x \$100) would be assessed.</p> <p>For situations where goods, valued at more than \$1,600, have been moved, delivered or exported, or caused to be moved, delivered or exported, that have been reported but not released, see C033.</p> <p>For transporting goods from point to point within Canada without the appropriate bond or security prior to release, see C036.</p> <p>Apply a penalty per shipment.</p>

## C348

**Contravention** Person intentionally 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 or 20% of the value for duty or value of goods, whichever is greater  
2nd: \$4,000 or 40% of the value for duty or value of goods, whichever is greater  
3rd and Subsequent: \$6,000 or 60% of the value for duty or value of goods, whichever is greater

**Penalty Basis** Value for Duty or Value of Goods

**Legislation** *Customs Act*, section 7.1

**D Memo** D17-1-10, Coding of Customs Accounting Documents

**Other Reference** D20-1-1, Export Declaration

**Backgrounders** Normally applied by an officer as a result of an audit, examination or an investigation of company books and records.

The contravention is normally applied against the person required to provide the information e.g. the importer, exporter, carrier.

This contravention only applies where there is evidence of intent to provide false written information in relation to the admissibility of goods, the report of goods, the release of goods, or the accounting for goods.

Assessed on value for duty for imported goods and value of goods for exported goods.

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 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.

For Exporter failure to report a shipment on an export summary report, see C341.

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

## 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: \$100 or 5% of the value for duty, whichever is greater  
2nd: \$200 or 10% of the value for duty, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, paragraph 32.2(1)(b)

**D Memo** D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods

**Backgrounders** Applied against the importer.

Normally applied by compliance verification officers, usually after an audit, examination or verification.

For errors discovered on a first audit / verification, a first level penalty will apply for all origin errors for goods subject to a free trade agreement.

There will be one penalty assessment of \$100 or 5% of the value for duty of the incorrect declarations, whichever is greater, to a maximum of \$25,000 for the reassessment period.

Second level penalties:

For the same errors previously identified, that is failure to correct after having reason to believe, a second level penalty will apply for each incorrect declaration identified in the verification / audit.

Third level and subsequent penalties:

For the same errors previously identified, that is failure to correct after having reason to believe, a third level penalty will apply for each incorrect declaration identified in the verification / audit.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same issue would be assessed.

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

For revenue neutral situations, see C080 to C083.

## 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: \$100 or 5% of the value for duty, whichever is greater  
2nd: \$200 or 10% of the value for duty, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, paragraph 32.2(2)(b)

**D Memo** D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods

**Backgrounders** Applied against the importer.

Normally applied by compliance verification officers, usually after an audit, examination or verification of a client.

For errors discovered on a first audit / verification, a first level penalty will apply for all origin errors for goods not subject to a free trade agreement.

There will be one penalty assessment of \$100 or 5% of the value for duty, whichever is greater, to a maximum of \$25,000 for the reassessment period.

Second level penalties:

For the same errors previously identified, that is failure to pay duties on required corrections after having reason to believe, a second level penalty will apply for each contravention identified in the verification / audit.

Third level and subsequent penalties:

For the same errors previously identified, that is failure to pay duties on required corrections after having reason to believe, a third level penalty will apply for each contravention identified in the verification / audit.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same issue would be assessed.

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

For revenue neutral situations, see C080 to C083.

## 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: \$100 or 5% of the value for duty, whichever is greater  
2nd: \$200 or 10% of the value for duty, whichever is greater  
3rd and Subsequent: \$400 or 20% of the value for duty, whichever is greater

**Penalty Basis** Value for Duty

**Legislation** *Customs Act*, paragraph 32.2(2)(b)

**D Memo** D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods

**Backgrounders** Applied against the importer.

Normally applied by compliance verification officers, usually after an audit, verification or examination.

For errors discovered on a first audit, verification or examination, a first level penalty will apply cumulatively for all tariff classification errors at the eight digit level.

The penalty will be calculated on the total value for duty of all contraventions on all accounting documents under review.

There will be one penalty assessment of \$100 or 5% of the value for duty of the incorrect declarations, whichever is greater, to a maximum of \$25,000 for the reassessment period.

Second level penalties:

For the same errors previously identified, that is failure to pay duties on required corrections after having reason to believe, a second level penalty will apply for each incorrect declaration.

Third level and subsequent penalties:

For the same errors previously identified, that is failure to pay duties on required corrections after having reason to believe, a third level penalty will apply for each incorrect declaration.

Second and third level penalties can only apply for errors made on the same goods that caused the first level penalty.

The term "same goods" also applies to like or similar goods with variations such as size, colour, design features, etc., provided that such variation does not have a bearing on the classification.

Officers must record each error type against an individual importer in their report, in order to establish the level of penalty for the next occurrence of non-compliance involving the same or similar goods.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same goods and same issue would be assessed.

For errors to a tariff classification when conveyances or containers are classified under Tariff Heading No. 98.01, see C335.

Contravention C082 will not be applied in addition to this contravention.

For revenue neutral situations, see C080 to C083.

## C353

<b>Contravention</b>	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.
<b>Penalty</b>	1st: \$100 or 5% of the undeclared portion of the value for duty, whichever is greater 2nd: \$200 or 10% of the undeclared portion of the value for duty, whichever is greater 3rd and Subsequent: \$400 or 20% of the undeclared portion of the value for duty, whichever is greater
<b>Penalty Basis</b>	Undeclared Portion of the Value for Duty
<b>Legislation</b>	<i>Customs Act</i> , paragraph 32.2(2)(b)
<b>D Memo</b>	D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods
<b>Backgrounders</b>	<p>Applied against the importer.</p> <p>Normally applied by compliance verification officers, usually after an audit, examination or verification.</p> <p>For errors discovered on a first audit, verification or examination, a first level penalty will apply cumulatively for all valuation errors.</p> <p>Penalties are assessed on the difference between the incorrect value originally declared and the corrected value, that is on the “error” portion of the value for duty only.</p> <p>That is, the AMP will apply on the difference between the correct value for duty and the declared value for all contraventions on all accounting documents under review.</p> <p>There will be one penalty assessment of \$100 or 5% of the undeclared portion of the value for duty of the incorrect declarations, whichever is greater, to a maximum of \$25,000 for the reassessment period.</p> <p>Second and third level penalties will be handled differently from first level penalties in that there will be no maximum penalty for the audit period for the same errors (i.e. same reason to believe).</p> <p>Each accounting document on which an error occurs will be treated as a separate contravention.</p> <p>Officers must record each error type along with a detailed explanation of what constituted reason to believe in their report, against an individual importer, in order to establish the level of penalty for the next occurrence of the “same reason to believe” error.</p>

During the second and subsequent audit, verification or examination, a new reason to believe may arise which will incur first level penalties.

The importer has 90 days on subsequent transactions to achieve compliance before additional penalties for the same issue would be assessed.

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

For revenue neutral situations, see C080 to C083.

**C354** (effective May 1, 2004)

**Contravention** A commercial air carrier or charterer failed to provide, within the prescribed time, information on any person on board an air conveyance prior to the arrival of the conveyance in Canada.

**Penalty** Flat rate: \$3,000

**Penalty Basis** Per conveyance

**Legislation** *Customs Act*, sub-section 107.1(1) and (2)

**D Memo** N/A

**Other References** Customs Notice N472 - Proposed Regulations in Support of the Advance Passenger Information (API) / Passenger Name Record (PNR) Initiative  
Passenger Information (Customs) Regulations

**Backgrounders** Applied by an API / PNR Account Manager.

Applied against a commercial air carrier or charterer. Penalty applies when a commercial air carrier or charterer, fails to provide information on persons on board a conveyance prior to the arrival of the conveyance in Canada.

The information to be provided is as follows:

- (a) their surname, first name and any middle names;
- (b) their date of birth;
- (c) their gender;
- (d) their citizenship or nationality; and
- (e) the type of travel document that identifies them, the name of the country in which the travel document was issued and the number on the travel document.

No penalty is applied when data is not available due to failure of Customs equipment or systems.

No penalty is applied when data is not available due to failure of carrier or charterer equipment or systems if CCRA is notified of the problem immediately. This does not remove the requirement to provide the information.

**C354 comes into effect May 1, 2004.**

**C355** **(expires April 30, 2004)**

**Contravention** A commercial air carrier or charterer failed to provide, within the prescribed time, information on any person on board an air conveyance prior to the arrival of the conveyance in Canada.

**Penalty** Flat rate: \$0

**Penalty Basis** Per conveyance

**Legislation** *Customs Act*, sub-section 107.1(1) and (2)

**D Memo** N/A

**Other References** Customs Notice N472 - Proposed Regulations in Support of the Advance Passenger Information (API) / Passenger Name Record (PNR) Initiative  
Passenger Information (Customs) Regulations

**Backgrounders** Applied by an API / PNR Account Manager.

Applied against a commercial air carrier or charterer. Penalty applies when a commercial air carrier or charterer, fails to provide information on persons on board a conveyance prior to the arrival of the conveyance in Canada.

The information to be provided is as follows:

- (a) their surname, first name and any middle names;
- (b) their date of birth;
- (c) their gender;
- (d) their citizenship or nationality; and
- (e) the type of travel document that identifies them, the name of the country in which the travel document was issued and the number on the travel document;

No penalty is applied when data is not available due to failure of Customs equipment or systems.

No penalty is applied when data is not available due to failure of carrier or charterer equipment or systems if CCRA is notified of the problem immediately. This does not remove the requirement to provide the information.

**C355 expires April 30, 2004. (see C354)**