



Advance Commercial Information(ACI) Update: Canadian Trucking Alliance (CTA) Webinar

Transporter Compliance Unit
Commercial Program Directorate
October, 2016

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Important Information

The Canada Border Services Agency (CBSA) does not charge a fee for this presentation. Any type of fee charged for this event is levied solely by the organizer of these sessions / seminars.

The information contained herein was accurate at the time of delivery and may be subject to change.

Please visit the CBSA website at **www.cbsa.gc.ca** for the latest eManifest updates.



AMPS Background

- The Administrative Monetary Penalty System (AMPS) is a civil penalty regime that secures compliance with customs legislation through the application of monetary penalties.
- AMPS authorizes the CBSA to assess monetary penalties for non-compliance with customs legislative, regulatory and program requirements.
- Pre-arrival requirements are based on Section 12.1 of the *Customs Act*.
- On May 6, 2015, regulatory amendments supporting the eManifest initiative were published in the Canada Gazette, Part II.



Determination of the Risk Impact

- **Level 1 = VERY LOW**
 - An impact, the consequences of which can be absorbed through normal activity
- **Level 2 = LOW**
 - An impact where consequences can be absorbed, but management effort is required to minimize impact
- **Level 3 = MODERATE**
 - A significant impact that can be managed under normal circumstances
- **Level 4 = HIGH**
 - A critical impact that, with the proper management, can be endured
- **Level 5 = VERY HIGH**
 - A major impact with the potential to lead to long-term damage



Determination of the Risk Type

- **A - International Commitments**

- May result in Canada's inability to live up to its commitments.

(Ex: Significant exportations of CITES protected animal and flora, Unlawful importations with international trade agreement frameworks, A tariff misclassification of goods subject to trade agreement)

- **B - Economic**

- May result in damage to the Canadian economy through loss of data integrity or revenue and/or market imbalance.

(Ex: Reporting inaccuracies that skews Statistics , failure to account for goods, large scale dumping, reporting inaccuracies)

- **C - Health and Safety**

- May result in endangering Canadians' food and health by introducing disease, hazardous / toxic agents and/or pests.

(Ex: Importation of large quantities of tainted produce, Introduction of pests or disease into Canada, Importation of non-approved pharmaceuticals and or illicit drugs, importation of substandard steel, importation of wrongly classified wood)

- **D - National Security**

- May pose danger to Canada's sovereignty, borders, defences and/or public and government institutions.

(Ex: Importation of illegal weapons, Importation of components used for the making of bombs, Importation of seditious, treasonous or pornographic material, Importation of hate propaganda, Importation of illicit drugs)

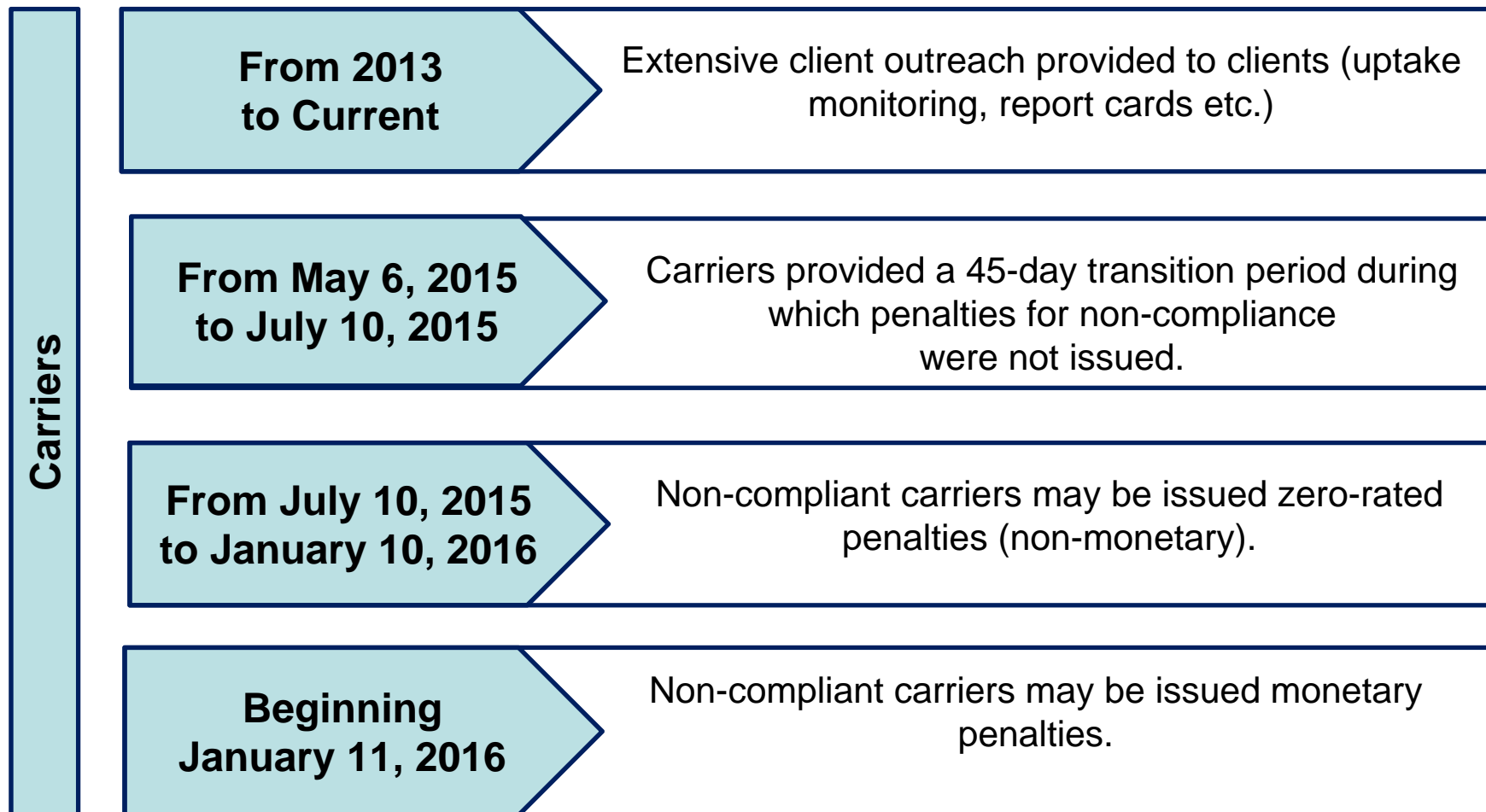


Determination of Penalty Amounts – The AMPS Penalty Grid

IMPACT SCALE	Very High 5	5A	5B	5C	5D
		\$3,200	\$4,800	\$6,400	\$8,000
		\$1,600	\$2,400	\$3,200	\$4,000
	High 4	4A	4B	4C	4D
		\$800	\$1,200	\$1,600	\$2,000
		\$400	\$600	\$800	\$1,000
Moderate 3	3A	3B	3C	3D	
	\$600	\$900	\$1,200	\$1,500	
	\$300	\$450	\$600	\$750	
Low 2	2A	2B	2C	2D	
	\$200	\$300	\$400	\$500	
	\$100	\$150	\$200	\$250	
Very Low 1	1A	1B	1C	1D	
	Warning	Warning	Warning	Warning	
	\$0	\$0	\$0	\$0	
		International Commitments A	Economic B	Health and Safety C	National Security D
CRITERIA					



Transition to Mandatory Compliance





Failure to Provide Data

C378 - Person failed to submit the prescribed pre-load/pre-arrival information relating to their cargo and/or conveyance.

- Example of non-compliance under C378:
 - A carrier failed to transmit an electronic conveyance report.

- Risk Level: 5D
 - Very High/National Security:
A major impact with the potential to lead to long-term damage which may pose danger to Canada's sovereignty, borders, defences and/or public and government institutions.

 - No risk assessment can be performed and the CBSA may be unaware of the pending arrival of cargo or conveyance if no information is submitted pre-arrival, effective management of this risk is challenging without prior notification.



Timeliness or Manner

C379 - Person failed to submit advance information in the prescribed time or prescribed manner to the Agency.

- Examples of non-compliance under C379:
 - A carrier failed to submit an electronic conveyance report within the prescribed timeframes.

- Risk Level: 2D
 - Low/National Security
 - An impact where consequences can be absorbed, but management effort is required to minimize impact. May pose danger to Canada's sovereignty, borders, defences and/or public and government institutions.

 - Insufficient review time or submission in an unprescribed manner present a threat to national security due to impacts on pre-arrival risk assessment processes. These risks can be absorbed through work flow management or data entry into appropriate systems.



Corrections

C381 - Person failed to notify the Agency within prescribed timeframes and without delay of any correction to any pre-arrival or pre-load information sent to the Agency.

- Example of non-compliance under C381:
 - A carrier failed to correct conveyance routing information upon being made aware of an itinerary change which occurred after having submitted pre-arrival conveyance information.

- Risk Level: 3D
 - Moderate/National Security:
 - A significant impact that can be managed under normal circumstances which may pose danger to Canada's sovereignty, borders, defences and/or public and government institutions.

 - Failure to correct submitted information results in flawed and incomplete risk assessment. This can be managed through reference to related cargo or conveyance information, or through additional customs intervention upon arrival since the CBSA will be aware that the goods are destined for Canada.



True, Accurate and Complete

C382 - Person submitted information prescribed by the *Reporting of Imported Goods Regulations* that was not true, accurate and complete.

- Example of non-compliance under C382:
 - A carrier transmits untrue information on a pre-arrival conveyance report/pre-arrival cargo report.

- Risk Level: 3D
 - Moderate/National Security:
 - A significant impact that can be managed under normal circumstances which may pose danger to Canada's sovereignty, borders, defences and/or public and government institutions.

 - Submission of information which is not true, accurate, and complete results in flawed and incomplete risk assessment. This can be managed through reference to related cargo, conveyance, or importer information, or through additional customs intervention upon arrival since the CBSA will be aware that the goods are destined for Canada.



Mitigation Results of Sample

- 96% issued AMPS were mitigated in some capacity.
- 88% carriers issued AMPS had received previous outreach and/or zero-rated penalty from the TCU.
- 26 carriers accounted for 221 referrals; only 34 AMPS issued.



ACI Compliance Update

- Penalties for ACI contraventions range from \$250 to \$8,000. The CBSA recognized the potential impact to clients and therefore mitigated penalty levels to just Level 1 regardless of repeated non-compliance. This was done in an effort to provide additional time for carriers to make appropriate changes to their processes and training requirements. As this approach has been in effect for over eight months, the CBSA is now moving forward with graduated, ACI penalties.
- Carriers are reminded that they are required to transmit both cargo and conveyance data electronically to the CBSA prior to arrival. Failure to do so may result in penalties assessed on each non-compliant element.



Graduated ACI Penalties - Timelines

- **Effective November 1, 2016,**
 - Carriers who have never received a penalty will receive a penalty at level 1 if non-compliant.
 - Carriers who have received a penalty at level 1 will receive a penalty at level 2 for repeated non-compliance
- **Effective December 1, 2016,**
 - Carriers who have not received a penalty will receive a penalty at level 1 if non-compliant.
 - Carriers who have received a penalty at level 1 will receive a penalty at level 2 for repeated non-compliance.
 - Carriers who have received a penalty at level 2 will receive a penalty at level 3 for continued non-compliance.



Common Issues

- No ACI
- Timeliness
- Cancelled
- Rejected
- Issues with Service Providers



Appeals

Correction

- Contact the issuing CBSA office within 90 days from the date of the Notice.
- Errors must be evident to both parties and would include, but are not limited to;
 - Errors in calculation,
 - Errors in contravention,
 - Type of penalty,
 - Amount of penalty.

Redress

- If the penalty has been applied inappropriately, you may request a decision of the Minister.
- The request must be submitted directly to the Recourse Directorate. OR online at E-Appeals
- Must be submitted within 90 days from the date of the Notice of Penalty Assessment.

Penalty Reinvestment Agreement (PRA)

- If penalty resulted from a systemic problem affecting your systems/processes and you are prepared to invest in corrective measures to remedy the problem, you may be eligible for a PRA.
- The request must be submitted in writing to the CBSA Recourse Directorate, within 90 days from the date of the Penalty.
- Only be granted under certain conditions.
- CBSA to verify the corrective measures are effective in achieving compliance.



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