

## **AMPS and Contravention C-274**

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This is to provide our members with further information and direction regarding AMPS Penalty C274 as it relates to the Customs Notice N-367 - Timeframes for the Release of Goods, issued February 5, 2001.

As you know, with the introduction of AMPS penalty C274, clients may be issued a penalty for obtaining the release of goods prior to the authorized timeframes outlined under Customs Notice N-367. This issue has generated a significant amount of discussion since October 7, 2002.

The purpose of establishing the timeframes for the release of goods was based on customs operational requirements to have goods available for examination and to protect a level playing field for businesses when goods are subject to quotas. In the past, there have been instances where the commercial release decision was rendered well in advance of the arrival of the goods.

As a result, timeframes for the release of goods were developed through consultation with the importing community over a long period of time, taking into consideration the needs of business, importers, brokers, carriers, freight forwarders, etc. N-367 establishes the modal timeframes for presenting/ submitting a Release on Minimum Documentation (RMD) request or for transmitting an arrival certification for a Pre-arrival Review System (PARS) release request.

The Regulations Respecting the Transportation of Goods state, "Every person who transports or causes to be transported within Canada goods that have been imported but have not been released shall notify the consignee in prescribed form of the arrival of the goods". Therefore, the carrier, forwarder or agent must provide information regarding the arrival of the goods to the importer/broker in order to allow him/her to make an informed decision on which service option to use and when to present the release request.

If customs discovers that goods are not available for examination or enroute to destination (as applicable), as result of the importer/broker submitting an RMD release request or the warehouse operator transmitting an RNS arrival certification prior to the authorized timeframes, customs should allow the importer/broker or warehouse operator the opportunity to show that early submission was not contrary to information received from the carrier, freight forwarder or agent. 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 an AMPS penalty. In the case of an RNS arrival for a PARS shipment, the sufferance warehouse operator should supply the information that they received from the carrier, forwarder or agent that caused them to transmit an arrival certification. Again, if they did not disregard the arrival information provided to them, then no AMPS penalty would apply. An AMPS penalty would apply if an RMD was submitted or an RNS arrival certification was transmitted despite the fact that the carrier had clearly indicated that the goods had not arrived by means of a future ETA.

As we previously discussed, if goods are released while enroute to the sufferance warehouse (i.e. in the case of a PARS), we would expect that arrangements may be made between the forwarder/carrier and sufferance warehouse for goods to be delivered directly to the importer. However, this is not customs business. We only expect that goods that are not released would be delivered to the sufferance warehouse.

The following is a description of each mode of transport and the operational scenarios/conditions that apply to each:

## **MARINE:**

### **RMD**

Where the carrier does not transmit cargo data to customs, importers/brokers cannot submit RMD requests until the goods are available for examination at the customs office of clearance.

Where the marine carrier transmits the cargo to customs, the importer/broker can submit an RMD as early as 12:01 a.m. on the day of the arrival of the vessel at the port of report. The cargo control number will contain either an E as the fifth digit of the number or CE as the fifth and sixth digits of the number. The importer/broker should refer to the list of EDI marine carriers (attached), to identify if the carrier qualifies. For example, the importer/broker receives a cargo control number, 9016CE12343432, from ABC Marine Company. The importer /broker refers to the list and finds ABC Marine Co. This means the cargo data has been transmitted and can be viewed by the customs officer who is processing the release request. ACROSS updates the cargo data to arrived status after 12:01 a.m. of the day of the Estimated Time of Arrival (ETA) contained in the marine carrier's EDI transmission.

## **PARS**

An RNS arrival certification for a PARS shipment can be transmitted as early as 12:01 a.m. on the day of the arrival of the vessel at the port of report regardless of whether the marine carrier transmits cargo data electronically to customs. This also applies to marine containers for freight forwarder deconsolidations.

## **RAIL:**

### **RMD**

Where the carrier does not transmit cargo data to customs, importers/brokers cannot submit RMD requests until the goods are available for examination at the customs office of clearance.

Where the rail carrier transmits cargo data, the importer/broker can submit an RMD as early as when the train is one-hour from the border and non-stop to Canada. The cargo control number will contain an E as the fifth digit of the cargo control number. For example, cargo control number 6105E123232222 indicates that the cargo report is EDI. The railway transmits an arrival certification via RNS once the train is one hour

from the border and non-stop to Canada. The customs officer who is processing the release request will receive an error message if the cargo has not arrived.

## **PARS**

An RNS arrival certification for a PARS shipment can be transmitted as early as one-hour non-stop to Canada regardless of whether the rail carrier transmits cargo data electronically to customs. This also applies to rail containers for freight forwarder deconsolidations.

## **AIR:**

### **RMD**

Where the carrier does not provide customs access to pre-arrival cargo data, importers/brokers cannot submit RMD requests until the goods are available for examination at the customs office of clearance. Certain carriers make their cargo data available to customs in an electronic format. In particular, Air Canada has equipped the customs office in Toronto with access to their airway bill information. Federal Express also has provided customs with access to data within customs offices at various locations. In these situations, the RMD may be submitted once the aircraft is wheels up and non-stop to the customs office of clearance.

## **PARS**

An RNS arrival certification for a PARS shipment can be transmitted as early as wheels up and non-stop to the customs office of destination regardless of whether the air carrier provides customs access to cargo data. This also applies to shipments documented on freight forwarder deconsolidations.

## **HIGHWAY:**

### **RMD**

Importers/brokers cannot submit RMD requests until the goods are available for examination at the customs office of clearance regardless of whether the carrier transmits cargo data electronically.

## **PARS**

For frontier clearances, shipments are "arrived" by customs at the customs office of report. For inland clearances, an RNS arrival certification may be transmitted by the sufferance warehouse operators as soon as the carrier has been authorized by customs at the frontier to move in-bond for clearance. This also applies to shipments documented on freight forwarder deconsolidations."