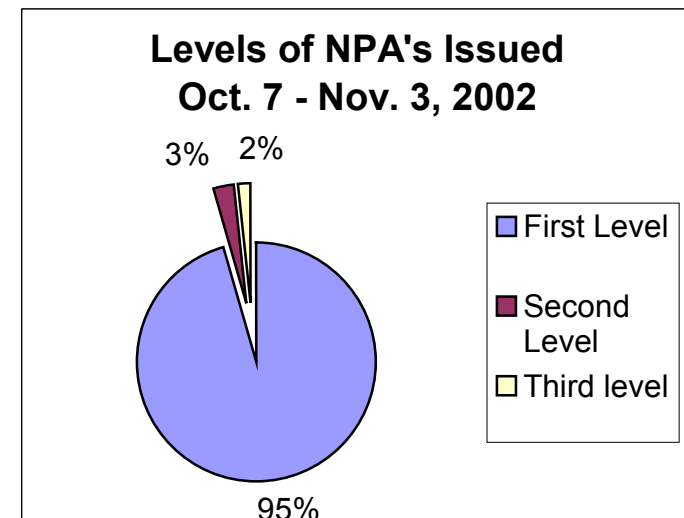




## SNAPSHOT

### NOTICE OF PENALTY ASSESSMENT (NPA) ISSUED

- A total of 942 Notices of Penalty Assessment (NPA) were issued for a total penalty amount of \$659,577.
  - ⇒ 899 were at the first level
  - ⇒ 26 were at the second level
  - ⇒ 17 were at the third or subsequent level

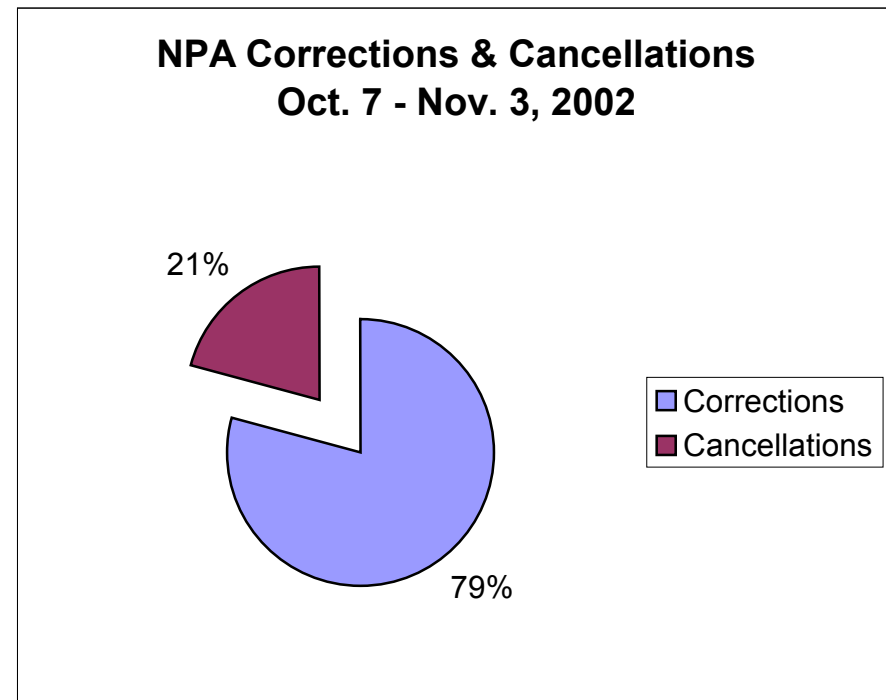




October 7 – November 3, 2002

## CORRECTIONS/REDRESS

- 61 corrections initiated/decided
- 16 NPAs cancelled by regional review
- 50% of NPAs issued were reviewed by HQ for quality assurance





October 7 – November 3, 2002

---

## FOCUS ON COMPLIANCE ISSUES

### CONTRAVENTION C274

#### Background:

Contravention C274 (goods reported as arrived prior to authorized time frames), has been raised as a concern by the Canadian Society of Customs Brokers (CSCB). The CSCB contends that there are a number of business issues respecting Customs Notice 367 that remain unresolved and as a result, importers and service providers are experiencing delays in the release of shipments due to the fact that carriers are reluctant to deliver manifests until shipments have arrived in order to avoid contravention C274.

#### Issues:

- The CSCB contends that a \$1,000 penalty at the first level for a contravention that occurs largely as a result of clerical errors is punitive; and,
- A number of the C274 penalties were issued for shipments with a value less than the \$1,000 penalty amount.

#### Status/Next Steps

- The AMPS Division is monitoring this contravention closely and each of the NPAs issued for contravention is being reviewed in an effort to determine why there has been a significant increase on a weekly basis in the issuance of this particular penalty.



# **AMPS REPORT**

***October 7 – November 3, 2002***

---

- The AMPS Division will also carry out an analysis of the NPAs issued for C274 to determine the frequency with which the penalty amount exceeds the value of the shipment.
- The findings of this review will be forwarded to the program area for their consideration. See Appendix A for a detailed breakdown of penalties issued for contravention C274.



October 7 – November 3, 2002

---

## VALUE OF SHIPMENT VERSUS AMOUNT OF PENALTY

### Background

Concerns have been raised by representatives of a number of industry sectors regarding AMPS penalties that have a “whichever is greater” component to the penalty amount, for example, a \$1,000 penalty *or 20% of the value for duty, whichever is greater*. During this period, a number of penalties were issued to couriers in circumstances wherein the value for duty of the shipment involved in the contravention was significantly less than the penalty amount assessed.

### Issues

- The value for duty of goods transported into Canada by courier mode is frequently under-declared by the shipper and/or the importer, and the goods are often misdescribed in an attempt to avoid duties and taxes as well as Customs enforcement activities such as examinations. Couriers are often reluctant to hold back shipments selected for Customs examination as the delay impacts on their delivery service standards.
- An initial review of such penalties issued during the review period, reveals that most were issued to couriers for removing goods from their warehouse prior to release by Customs. By circumventing the established process for reporting and releasing shipments, the courier effectively prevents Customs from examining shipments selected for enforcement-related activities to ensure that they do not contain illegal contraband such as drugs and firearms.
- In the past, penalties for this type of infraction became the “cost of doing business” and as a result they were of little deterrent value. With the ever-present threat of illegal contraband entering Canada, penalties that exceed the value for duty of the goods involved — especially a value that is of questionable veracity, for removing goods from a warehouse prior to release by Customs are warranted in order to achieve full compliance with this important requirement.

### Status/Next Steps

- The AMPS Division will continue to monitor these penalties to determine if there are trends developing involving specific courier companies, other transportation modes, or locations.

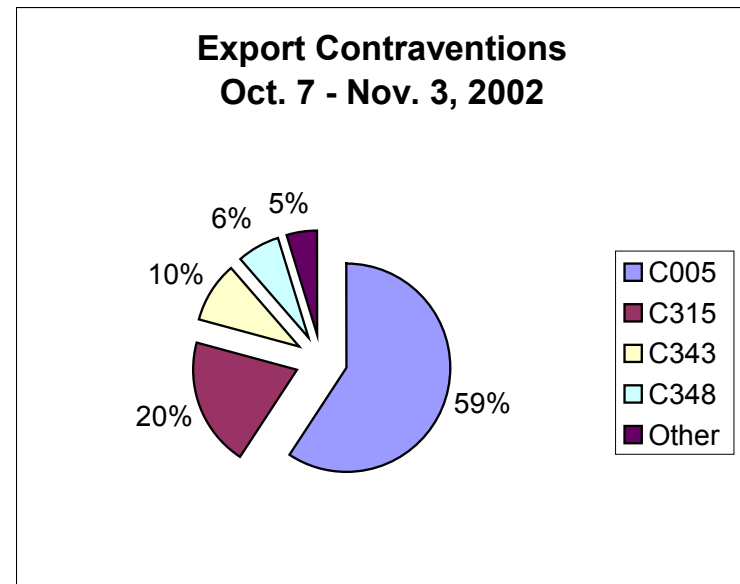


October 7 – November 3, 2002

## SIGNIFICANT PROGRAM IMPACTS

### EXPORTS

- 186 NPAs were issued for export-related contraventions for a total penalty assessment of \$117,081.
  - ⇒ 110 exporters failed to provide accurate information in permits
  - ⇒ 37 failed to provide permits entirely where required to do so
  - ⇒ 18 in bond cargo shipments were not reported to Customs outbound
  - ⇒ 12 importers intentionally failed to provide correct permit information

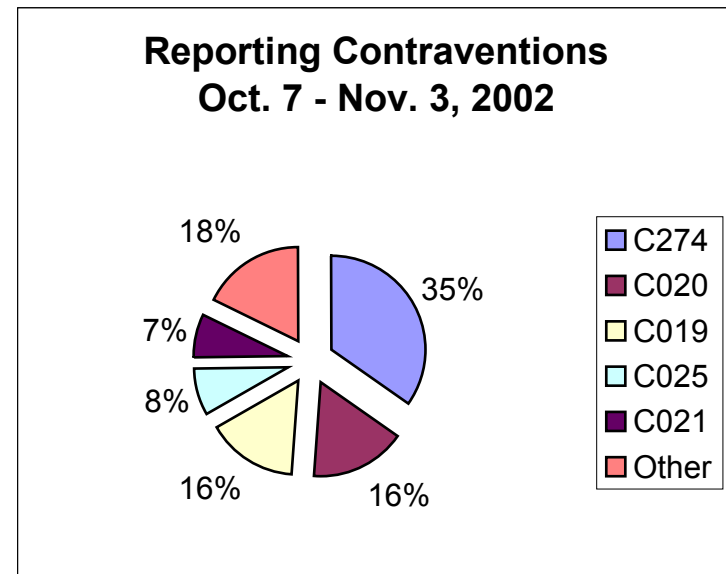




October 7 – November 3, 2002

## REPORT OF GOODS, CONVEYANCES, AND PERSONS

- 147 NPAs were issued for a total penalty assessment of \$293,094
  - ⇒ 51 shipments were reported as arrived prior to authorized time frames
  - ⇒ 24 importers failed to report goods less than \$1,600
  - ⇒ 23 importers failed to report goods greater than \$1,600
  - ⇒ 12 persons failed to answer truthfully
  - ⇒ 11 carriers failed to report goods
  - ⇒ 26 were for other contraventions

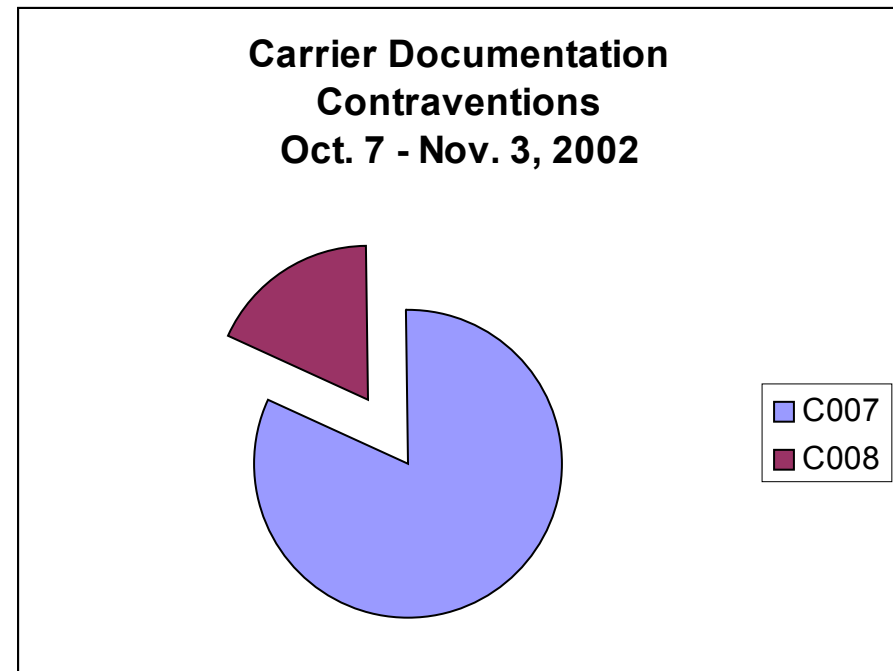




October 7 – November 3, 2002

## CARRIER DOCUMENTATION

- 414 NPAs were issued for a total penalty amount of \$117,700
  - ⇒ 338 carriers failed to include the appropriate bar code on a CCD or release request
  - ⇒ 76 carriers failed to use the correct carrier code







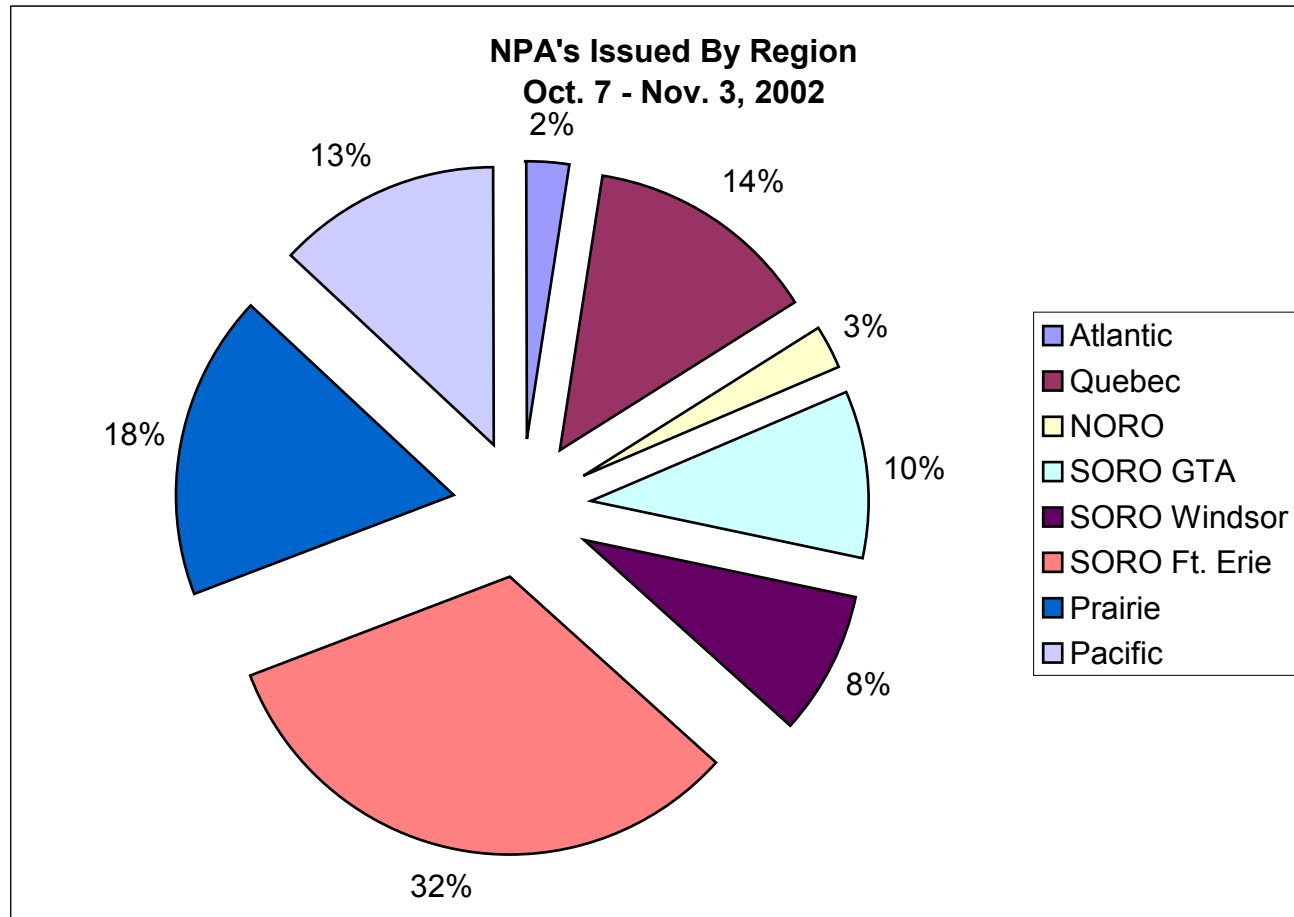
October 7 – November 3, 2002

## APPENDIX A - NUMBER OF PENALTIES/PENALTY AMOUNTS ISSUED BY REGION FROM OCTOBER 7 – NOVEMBER 3, 2002

Region	HQ	Atlantic	Quebec	Northern Ontario	Southern Ontario GTA	Southern Ontario V&S	Southern Ontario Windsor/ St Clair	Southern Ontario Niagara/ Ft Erie	Prairies	Pacific	National Total Oct 07 to Nov 03, 2002
# NPA	1	23	25	25	90	0	78	308	165	124	942
Penalty Amount	\$1,100	\$6,967	\$140,750	\$22,995	\$86,405	\$0.00	\$35,400	\$116,012	\$153,233	\$96,714	\$659,577
# level 1 NPA	1	23	127	25	84	0	75	302	149	113	942
# level 2 NPA	0	0	1	0	5	0	2	6	4	8	25
# level 3 NPA	0	0	0	0	1	0	1	0	12	3	5
Regional Total Oct 7 to Nov 3, 2002	1	23	128	25	90	0	78	308	165	124	942



October 7 – November 3, 2002





October 7 – November 3, 2002

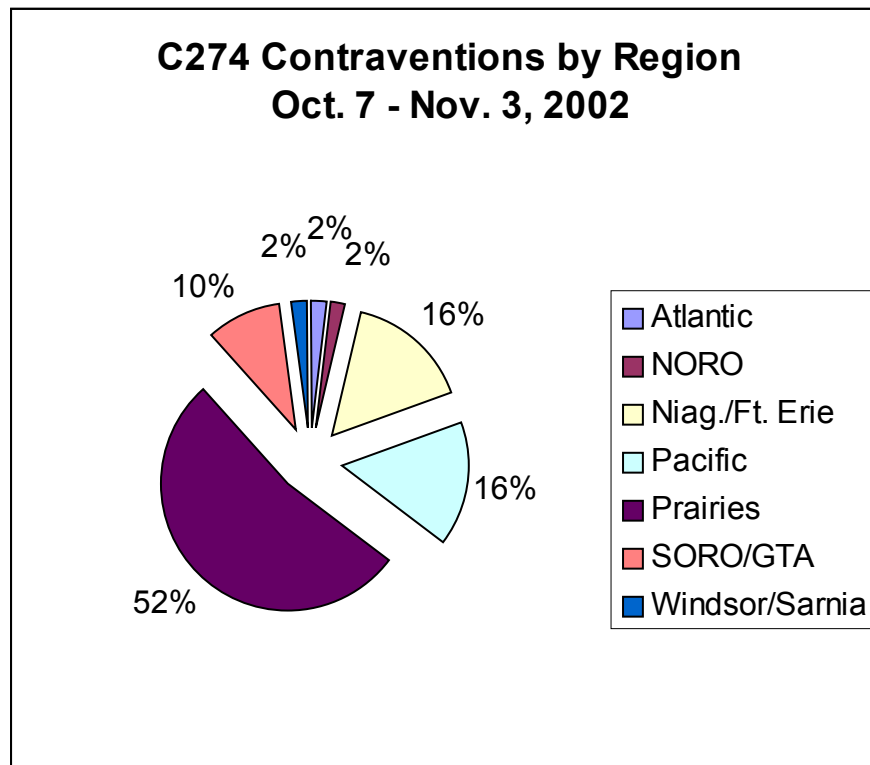
---

## APPENDIX B - ANALYSIS OF CONTRAVENTION C274 OCT. 7 – NOV. 3, 2002

- There were 51 penalties issued for C274
- 22 penalties were flat rates (73%)
- 13 penalties were percentages (25%)
- One penalty was levied at the maximum amount allowed (\$25,000)
- The client with the highest penalty amount was XXX (\$41, 626) for three penalties
- The client with the highest number of penalties was XXX (6)
- Nine NPA's had a VFD less than the penalty (18%) of these three were importers, four were carriers and 2 were warehouse operators
- Four penalties were at level 2 (7%)
- One penalty was at the 3rd level (3%)
- 16 penalties were assessed against carriers (31%)
- 32 penalties were assessed against importers (63%)
- Three penalties were assessed against carriers (6%)
- The 51 penalties assessed under C274 had a VFD of \$1.2M and totalled \$117,359.

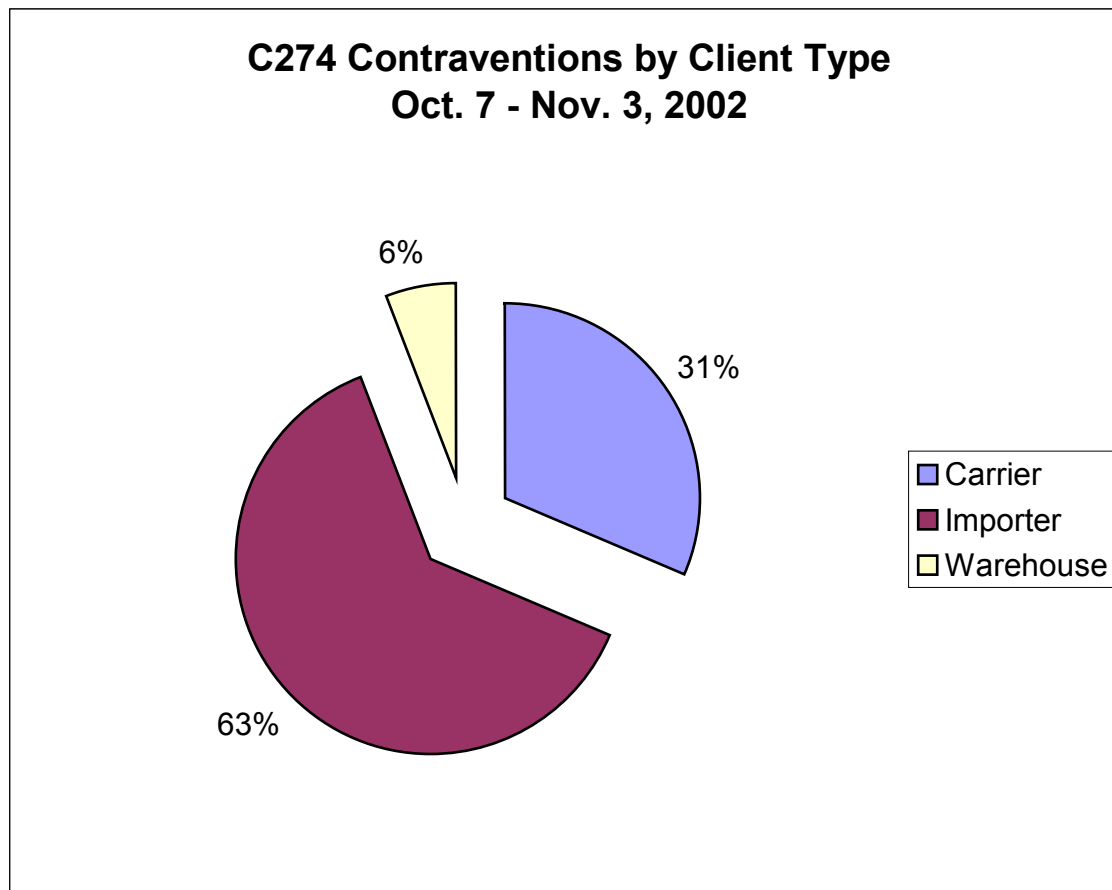


October 7 – November 3, 2002





October 7 – November 3, 2002





October 7 – November 3, 2002

---

## APPENDIX C – MITIGATING CIRCUMSTANCES AND DUE DILIGENCE DEFENCES

### Background:

In the interest of uniformity and consistency, officers have not been asked to consider mitigating circumstances and due diligence defences before taking enforcement action. The CCRA set up regional review committees to ensure that penalties were issued correctly and in the right circumstances. Once an AMPS penalty is received, a client may appeal to the Minister requesting a review of the circumstances of the case to determine whether mitigation is warranted and a contravention has occurred. The Customs Appeals Directorate may consider all defences put forward by a client during the redress process.

### Issues:

- Some members of the trading community have concerns that mitigating factors and due diligence are not being considered before penalties are applied.
- Regional disparity may begin to creep in if officers are required to consider mitigating circumstances and due diligence prior to the issuance of a penalty. This may undermine the consistency sought by the AMPS regime.
- If officers begin to mitigate penalties prior to the issuance of AMPS, the role of Adjudications may be undermined. Adjudications officers have many years of experience and the benefit of time to determine whether mitigation is warranted. Officers are often in a situation where an immediate decision is required about whether a penalty is required and do not have access to the same level of information as the Adjudicator.

### Status /Next Steps:

- The AMPS Division will continue to confer with the Customs Appeals Directorate to explore the feasibility of developing a comprehensive set of guidelines to give officers additional tools to assist them in determining whether to exercise discretion before applying a penalty.



October 7 – November 3, 2002

---

## APPENDIX D – EXPORT PENALTIES NOT BEING ISSUED BY ALL REGIONS

### Background:

During the AMPS transition period, a significant number of warnings were issued by the regions for export-related penalties. There have been few live export penalties issued since the full implementation of AMPS on October 7, 2002. Further, some regions have not yet issued any penalties for export contraventions

### Issues:

- Inconsistent enforcement of the export program is a concern because it can lead to an uneven playing field amongst exporters, where the competition is intense for market share, and can result in clients “shopping around” for locations where Customs requirements are more relaxed.
- The regions consulted, attribute the decline in penalties to a number of factors including; increased compliance, the increased scrutiny of all penalties resulting from the management review process, and an unfamiliarity with some aspects of the export program.
- Clarification was required in the area of export reporting timeframes, especially in the marine mode. This has been partially resolved through the publication of an AMPS bulletin. Increases in the issuance of contravention C170 were noted after the bulletin was released.

### Status/Next Steps:

- The AMPS Division has been in contact with the program area on this matter and they are presently conducting workshops with both officers and the exporting community across Canada in an effort to clarify all aspects of the export program.
- The AMPS Division will continue to monitor export penalty issuance and confer with the program area in this regard.