



Memorandum D22-1-2: Penalty Reinvestment Agreement (PRA) Policy

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Penalty Reinvestment Agreement (PRA) Policy

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Updates made to this D-memo

In summary, this memorandum has been revised to communicate changes to the Penalty Reinvestment Agreement (PRA) Policy. The principal modifications are as follows:

- **Introduction of CARM Client Portal Instructions for PRA Requests:**

New instructions have been implemented to guide applicants in submitting PRA requests through the Canada Border Services Agency (CBSA) CARM (CBSA Assessment and Revenue Management) Client Portal.

- **Elimination of the Expedited Process:**

As part of this revision, the previously existing expedited process has been eliminated. Applicants are now required to adhere to the standard procedure for submitting a PRA request, following the updated guidelines outlined in this memorandum.

Definitions

Administrative Monetary Penalty System (AMPS)

A civil penalty regime fostering compliance with legislation, regulations, and certain program requirements through the application of monetary penalties. (Régime de sanctions administratives pécuniaires – RSAP)

Client

A commercial importer, exporter, broker, carrier, freight forwarder, or warehouse operator. (Client)

Commercial Information System (CIS)

A manual or technology-based system used by a client to process information relating to the movement, storage, accounting, warehousing, sale, diversion, import, or export of goods, or the movement of persons entering, transiting, or exiting Canada. (Système de renseignements commerciaux – SRC)

Contravention

A failure to comply with legislation, regulations, and conditions of any licensing or undertaking administered by the Canada Border Services Agency (CBSA). (Infraction)

Corrective Measures

Actions taken by a client to eliminate the causes of a systematic problem affecting their CIS. (Mesures correctives)

Eligible Cost

An expense related to implementing corrective measures in a CIS deemed eligible by CBSA under the PRA policy. (For a list of all eligible and ineligible costs, see Appendix E).

Inadmissible Goods

Items not eligible for entry into Canada due to prohibition, control, or regulation under an Act or regulation of Parliament. (Marchandises inadmissibles)

Notice of Penalty Assessment (NPA)

A prescribed document given to the client containing detailed information on the contravention and penalty assessment. (Avis de cotisation de pénalité – ACP)

Penalty

The amount of money owing as a result of a penalty assessment as indicated on the client's NPA or an ascertained forfeiture where applicable. (Pénalité)

Penalty Assessment Number

A unique sequential numeric identifier assigned to all administrative monetary penalties issued under the Customs Act. (Numéro d'imposition de pénalité)

Penalty Reinvestment Agreement (PRA)

A formal agreement between the CBSA and a client, allowing for relief or reduction, under certain conditions, from penalties applied under AMPS. (Entente de réinvestissement des pénalités – ERP)

Prescribed Rate of Interest

A rate equivalent to the Treasury Bill rate set by the Bank of Canada. (For more information, refer to Memorandum D17-1-19, Interest Rate for Customs Purposes Regulations.) (Taux d'intérêt réglementaire)

Prohibited Goods

Items prohibited from importation into Canada through classification under tariff items 9897.00.00, 9898.00.00, and 9899.00.00 of the Schedule to the Customs Tariff. (For more information on prohibited goods, see Memoranda series D9.) (Marchandises prohibées)

Strategic Goods

Items subject to export controls, including arms, ammunition, implements of war, weapons-related materials, or any items whose unauthorized export might be contrary to Canadian security, political, or international interests. (For more details, refer to Memorandum D20-1-1, Export Reporting.) (Marchandises stratégiques)

Systematic Problem

An issue inherent to a system or set of interrelated processes causing contraventions and resulting in the assessment of at least one penalty. Note: factors such as human error, inadequate training, insufficient knowledge, or deficiencies affecting a client's operational work practices not specifically related to the functioning of the client's CIS do not constitute systematic problems for the purposes of this policy. (Problème systématique)

Third-Party Attestation

A corroboration by a person or body independent of and at arm's length from the client and the CBSA, conveying assurance that specified requirements relating to the client's application for a PRA have been fulfilled. (Attestation d'un tiers).

Guidelines and General Information

Introduction

- The Canada Border Services Agency (CBSA) policy is to enable a client to reinvest all or a portion of a penalty applied under the Administrative Monetary Penalty System (AMPS) through a Penalty Reinvestment Agreement (PRA) when a client has:
 - Demonstrated that a penalty was issued due to a systematic problem affecting their Commercial Information System (CIS) or related processes.
 - Invested in corrective measures to remedy the problem promptly.
 - Demonstrated that the corrective measures are effective in achieving compliance.
- A PRA allows for a penalty reinvestment of one dollar for each dollar of eligible costs incurred by the client to correct the systematic problem(s) that resulted in the issuance of administrative monetary penalties.
- A PRA is granted through the ministerial review process, initiated by the client by requesting a decision of the Minister under section 129 of the Customs Act. The completed PRA application form submitted by the client will be considered by the CBSA as a request for a decision under section 129.
- The purpose of this policy is to assist a client in becoming compliant with the Customs Act, Customs Tariff, and related regulations by providing an incentive to invest in the correction of an underlying systematic problem that resulted in the application of administrative monetary penalties.
- This policy primarily applies to clients issued administrative monetary penalties under section 109.3 of the Customs Act. However, clients who receive a Notice of Ascertained Forfeiture under section 124 of the Customs Act, either instead of or in addition to a Notice of Penalty Assessment (NPA) for commercial contraventions, may also qualify for a Penalty Reinvestment Agreement (PRA).

- Clients are not eligible for a PRA if they:
 - Have been issued penalties for contraventions involving prohibited or inadmissible goods.
 - Have been issued penalties assessed under an Act of Parliament other than the Customs Act (e.g., the Agriculture and Agri-Food Administrative Monetary Penalties Act).
 - Have any outstanding debts payable to the CBSA (other than the penalty subject to the PRA).

- Clients issued penalties for contraventions involving the export of strategic goods may not be eligible for a PRA. Applications involving penalties for contraventions involving strategic goods will be reviewed by the CBSA on a case-by-case basis.

Application

Eligibility Criteria for Applying

- A client may apply for a PRA if they:
 - Are the client against whom the penalties were issued, as identified on each NPA at issue.
 - Have been issued one or more penalties involving numerous and/or repetitive contraventions or instances of non-compliance caused by a systematic problem in their Commercial Information System (CIS.)
 - Have not been issued a Minister's decision under section 131 of the Customs Act in respect of the NPA(s) at issue.
 - Have identified the cause of the systematic problem in their CIS and are prepared to invest in corrective measures to remedy the systematic problem and demonstrate that the corrective measures are effective in achieving compliance.

- A client who has not already requested a ministerial review under section 129 of the Customs Act must apply for a PRA within 90 days of receipt of the NPA at issue.

- To apply for a PRA, the client must complete Form BSF266, Penalty Reinvestment Agreement Application Form (a sample of the form is provided in Appendix A.) The form contains instructions on how to complete the application and identifies the information required by the CBSA to initiate the review of the client's application.

- Applications submitted by clients who do not satisfy the above eligibility criteria for applying will not be accepted. The CBSA may advise clients of the reason(s) in writing for not accepting their application.
- It is the responsibility of the client to provide to the CBSA all supporting documentation with the PRA application and to ensure that the information is presented in a clear and comprehensible manner. Failure to provide the required information in the appropriate manner may result in the denial of the application.

How to Apply

CARM Client Portal

- Clients registered on a the CARM Client Portal (CCP), can apply for a Penalty Reinvestment Agreement (PRA) when appealing a Notice of Penalty Assessment through the CARM Client Portal (CCP).
- As part of the submission process on the CCP, clients will be asked whether they wish to apply for a PRA. If in the affirmative, clients will be prompted to download and complete the BSF266 Penalty Reinvestment Agreement Application Form. Upon completion, clients are required to upload the form along with their appeal submission.
- For questions related to registration in CARM or access to the CCP, refer to the CCP Guide accessible via the Onboarding documentation link into the CCP main page, provided in the “References” section of this memorandum.

CBSA Website – E-Appeal

- Clients have the option to request a Penalty Reinvestment Agreement (PRA) when appealing a Notice of Penalty Assessment through the online CBSA Appeal Form, available on the CBSA website . The link to this form can be found in the "References" section of this memorandum.
- As part of the submission process, clients can specify their intention to apply for a PRA in the Details section of the E-Appeal form.

- Once the appeal is submitted, CBSA will reach out to the client, providing guidance on how to submit their completed BSF266 Penalty Reinvestment Agreement Application Form and any supporting documentation.

Mail

- To apply for a PRA, clients are required to fill out Form BSF266, the Penalty Reinvestment Agreement Application Form. A sample of the form is provided in Appendix A for reference. The BSF266 form provides detailed instructions on completing the application and outlines the information necessary for the CBSA to begin reviewing the client's application. Clients must submit the fully completed application form, along with any supporting documentation, to the following address:

Recourse Directorate
Canada Border Services Agency
333 North River Rd, 11th floor Tower A Ottawa,
ON K1A 0L8

Additional Time to submit a PRA application or Documentation

- If a client is unable to complete the PRA application form within the 90-day period after receiving the NPA, they can submit a letter of intent to apply for a PRA before this deadline expires. In the letter, clients must provide:
 - The reason for requesting a PRA.
 - The penalty assessment number(s) of the NPAs in question.
- The letter of intent can be submitted through the CARM Client Portal by attaching it as part of the NPA appeal submission. Alternatively, clients can mail the letter of intent to the address provided in this memorandum. If the mail option is chosen, clients must ensure that the letter is registered or postmarked on or before the 90th day from receiving the NPA.
- Throughout the application review, the CBSA may request additional information from the client to support the application. Should additional documentation be required once an application has been received, a request will be made to the applicant in writing, with a specified timeframe for submitting the required

information. If the additional information requested by the CBSA is not received within the specified timeframe, the application may be rejected.

- Clients requiring more time to submit the application form or other necessary documentation should promptly inform the CBSA. The CBSA will grant additional time to clients only in exceptional circumstances for completing their application or submitting requested documentation.

Requesting Inclusion of Subsequent Penalties in PRA Application

- Clients who have previously submitted a PRA application can now request the addition of penalties issued after the initial submission. To be eligible for inclusion, two conditions must be met:
 - The systematic issue within their Client Information System (CIS), leading to subsequent penalties, must align with the problem described in the original application.
 - The CBSA must not have completed its review of the initial PRA application.

How to Request Inclusion of Subsequent Penalties

- Clients wishing to add subsequent penalties to a previously submitted PRA application must inform the CBSA within 90 days from the service date of the subsequent Notice(s) of Penalty Assessment (NPA). This notification can be made either via the CARM Client Portal or by mail.

CARM Client Portal

- If using the CARM Client Portal, clients should appeal the relevant NPAs and, in the "Basis for Appeal" field, they must:
 - Indicate the appeal case linked to their PRA application.
 - Describe how the subsequent penalties were caused by the same systematic problem outlined in the initial PRA application.

Electronic Communication (E-mail)

- In the written request sent by e-mail, clients must:
 - Indicate the appeal case linked to their PRA application.
 - Specify the penalty assessment number(s) of the subsequent NPA(s).
 - Describe how the subsequent penalties were caused by the same systematic problem detailed in the original PRA application.

Mail

- In the written request sent by mail, clients must:
 - Indicate the appeal case linked to their PRA application.
 - Specify the penalty assessment number(s) of the subsequent NPA(s).
 - Describe how the subsequent penalties were caused by the same systematic problem detailed in the original PRA application.

Numerous Systematic Problems

- Clients who believe that multiple systematic problems are causing instances of non-compliance resulting in the issuance of one or more penalties involving numerous and/or repetitive contraventions may apply for a PRA, provided that each of the systematic problems identified in the client's application contributed in part to the non-compliance.
- The cost of remedying a systematic problem identified in the client's application that, according to the CBSA, is found not to have contributed to the non-compliance during the review of the application will not be considered by the CBSA as an eligible cost resulting in a penalty reinvestment under this policy.

Payment of Penalties and Interest

- To avoid incurring any interest, the penalty **must** be paid within the specified timeframe outlined in the NPA. The payment of the penalty may be deferred until a decision is made. However, it's important to note that opting to defer the payment until a decision is rendered may result in additional financial implications. If the penalty is determined to be correctly issued and not entirely relieved by a successful PRA, interest will accrue at the prescribed rate. The interest accrual will

commence from the day after the NPA's service date and continue until the full amount is paid in accordance with the decision under section 133 of the Customs Act.

- In cases where a PRA is granted for an amount less than the assessed penalty, and the penalty remains unpaid within the specified timeframe indicated in the NPA, interest at the prescribed rate will be applied to the remaining penalty amount. The interest will accumulate from the day after the NPA's service date until the date when the outstanding amount is paid in full.

Review and Decision

Review of application

- The CBSA will review each allegation of non-compliance mentioned in the application, in accordance with sections 130 and 131 of the Customs Act, to ensure the correctness of the penalty assessments. Any penalty associated with an allegation deemed incorrectly applied will be promptly canceled. Additionally, CBSA may adjust the demanded amount based on specific relevant circumstances in each case.
- Throughout the review of PRA, the CBSA will assess the applicant's compliance history and the timeliness of corrective actions taken following the identification of a systematic problem in their Customs Information System (CIS).
- Following the review, the CBSA will inform the applicant of the outcome, specifying the total amount of penalties eligible for reinvestment. The notification will include the deadline for implementing the proposed corrective measures outlined in the application

Third-Party Attestation

- In certain instances, applicants may be required to secure a third-party attestation to assure the CBSA of the eligibility of costs incurred in rectifying the systematic problem.

- Applicants will receive information about the qualifications of a third party for the purpose of this policy during the application review process.

Substantiating Costs

- After implementing corrective measures, applicants must provide documented evidence, such as receipts, invoices, and proof of payment, to substantiate all eligible costs incurred in addressing the systematic problem in their CIS. Eligibility criteria for costs are detailed in Appendix B.
- Costs covered by government assistance are not eligible under this policy.
- A principal and/or others in the applicant's firm may be required to sign an affidavit to support costs and attest to the nature of the work done, affirming its eligibility under CBSA policy.

Verification and Decision

- Once eligible costs are substantiated, the CBSA will verify that the applicant's corrective measures are in place and effective. Approximately six months after implementation, compliance will be verified to determine if full compliance has been achieved.
- If the corrective measures are deemed effective, the PRA will be granted, allowing the client to reinvest the amount of penalties by the total eligible costs incurred. If the measures are found ineffective, the PRA will be denied, and the CBSA will request payment of outstanding penalty amounts with applicable interest.
- The CBSA will communicate the decision to grant or deny a PRA, along with the applicable penalty reinvestment amount, in writing. This decision falls under section 133 of the Customs Act.
- Any decision or communication from the CBSA under this policy does not constitute "reason to believe" for purposes related to the accounting and payment of duties on imported goods. For more information on what constitutes "reason to believe", refer to Memorandum D11-6-6, Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty, and Diversion of Goods.

Appendix A – Sample of Form [BSF266](#), Penalty Reinvestment Agreement (PRA) Application Form



Canada Border Services Agency
Agence des services frontaliers du Canada

Restore

Help

PROTECTED **B** when completed

PENALTY REINVESTMENT AGREEMENT (PRA) APPLICATION FORM

Attach additional pages to any part of the application, if necessary.

Please complete all parts of the form

Part 1 – Applicant Identification

Client Customs Account Name (as indicated on the Notice(s) of Penalty Assessment)		Business Number(s) (BN)	Carrier Code(s)
Sub-Office Work Location (or Warehouse) Code(s)			Language of Correspondence <input type="checkbox"/> English <input type="checkbox"/> French
Address			
City	Province/Territory/State	Country	Postal Code or Zip Code
Mailing Address (if different from address above)			
City	Province/Territory/State	Country	Postal Code or Zip Code
Contact Name		Telephone Number	
Contact Title		Email address	

Part 2 – Identification of Penalties

List the Penalty Assessment Number of each Notice of Penalty Assessment (NPA) that you believe was/were issued as a result of the systematic problem in your internal commercial information system (CIS). It is your responsibility to advise the Canada Border Services Agency (CBSA) of any subsequent NPA(s) that you wish to add to your application.

Penalty Assessment Number Example - 9412345678	Contravention number Example - (C021, C006, C348)	Quantity	Penalty Amount per Instance	Total Penalty Amount
Total				

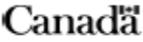
Part 3 – Identification of CIS Problem

1. Describe in detail the nature of the systematic problem(s) and how it/they resulted in the non-compliance and in the issuance of the NPA(s).
2. Include supporting documentation.

BSF266 E (24)

(Ce formulaire existe aussi en français)

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Part 6 – Certification

I certify that all information given on this application, and in support of this application, was provided voluntarily and is true and complete.

Name (print)

Title


Signature of applicant

Date

Privacy Statement

The information you provide on this form, including supporting documentation, is collected under the Customs Act and is protected under the Privacy Act. The information will be used to make a determination of your application. The information will be retained in Personal Information Bank CBSA PPU 005 and is registered with Treasury Board Secretariat number 000011. For instructions on obtaining information consult InfoSource (or the InfoSource publication) which is available at public libraries, Government public reading rooms, and on the Internet at <http://infosource.gc.ca>

Appendix B – List of eligible and ineligible costs

Eligible costs:

- Costs associated with the purchase or implementation of a new system or upgrades to the existing commercial information system that will correct the identified systematic problem.
- Costs of purchasing supplies, hardware or equipment used to repair or modify an automated system.
- Costs of purchasing software required for an automated system.
- Costs of technical assistance used to implement and test and/or verify the effectiveness of the system upgrades, including the cost of obtaining a third party attestation.
- Costs of training employees to perform activities specifically related to the implementation of the corrective measures.

Ineligible costs:

- Ongoing costs for training employees
- Overhead or administrative costs
- Renovation costs
- Salaries for hiring employees to perform day-to-day operations

References

Consult these resources for further information.

Applicable legislation

Sections 129 to 133 of the [Customs Act](#), and section 18.1 of the Federal Courts Act are applicable to the following policy. For more information about the Customs Act, the Federal Courts Act, and any regulations under these Acts visit the [Department of Justice Canada Website](#).

Issuing office

Trade Appeals, Processing and Policy Unit
Recourse Directorate
Canada Border Services Agency
Ottawa, ON
K1A 0L8

Contact us

- For assistance, on the CARM Client Portal contact the CARM Client Support Helpdesk (CCSH) through the web form: [Client Support: CBSA Assessment and Revenue Management](#).
- For any other information, contact the Border Information Service (BIS):
 - Toll-free within Canada: 1-800-461-9999.
 - Outside Canada: 1-204-983-3550 or 1-506-636-5064 (long-distance charges may apply).
 - TTY available within Canada: 1-866-335-3237.

Related links

[CARM Client Support Help Desk \(CCSH\) Web form](#)
[CBSA Assessment and Revenue Management \(CARM\)](#)
[CBSA Appeal Form](#)
[Learn how to write metadata](#)