



Canadian  
Transportation  
Agency

Office  
des transports  
du Canada



# Compliance Agreements: Guidance for Federal Transportation Service Providers

Canadian Transportation Agency

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**Disclaimer:** This is not a legal document. The explanations and definitions are for general guidance purposes only. For legal language, see the compliance agreement provisions set out in subsections 180.1(3) and 180.1(4) and sections 180.62 to 180.8 of the [Canada Transportation Act \(Act\)](#) and in the [Annex](#) of this guide.

In case of discrepancy between this guide and the relevant legislation or regulations, the legislation and regulations prevail.

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# Introduction

This document explains the Canadian Transportation Agency's (CTA) policy and procedures to enter into compliance agreements with federal transportation service providers (TSPs). This guide should be read in conjunction with the CTA's [Compliance and Enforcement Policy](#).

TSPs may include:

- air carriers;
- ferry, train and bus carriers that travel internationally and/or to more than one province or territory;
- terminals serving federal TSPs, such as airports, ferry terminals, train and bus stations, and ports where cruise ships dock; and
- the Canada Border Services Agency (CBSA) and the Canadian Air Transport Security Authority (CATSA).

This guide is divided in two parts.

**Part A** explains compliance agreements as one of the options for addressing a notice of violation (NOV) with an administrative monetary penalty (AMP). This includes how to request to enter into a compliance agreement with the CTA and how requests are assessed.

**Part B** explains what happens when the CTA and the TSP enter into a compliance agreement. It describes the potential terms of an agreement, how the Agency monitors progress under an agreement, and the possible outcomes, including what happens if the TSP does not fulfill the agreement.

# Part A: Agreements and how to request one

## 1. What is a compliance agreement?

A compliance agreement is an agreement between a TSP and the CTA that sets out terms for bringing the TSP into compliance with its accessibility or air passenger rights obligations. It is one of the three options<sup>1</sup> available after a TSP has been served with an NOV that contains an AMP.

The CTA can use this tool as part of a results-based approach to ensure that a TSP becomes compliant with the Act and its regulations and prevent future violations. Compliance agreements can be an efficient and effective way to correct compliance issues and to show TSPs how to prevent them.

The CTA decides whether to enter into an agreement by considering:

- the specific circumstances of the case, as described below; and
- whether an agreement would bring the TSP into compliance with its accessibility or air passenger rights obligations within the shortest possible period of time and result in no further occurrence of violation.

Compliance agreements are approved by the members of the CTA, who are independent administrative decision-makers appointed by the Governor in Council. Members also determine whether the TSP has fulfilled the terms of its agreement.

The Agency is of the view that when a TSP formally requests to enter into a compliance agreement with the CTA, the NOV with AMP cannot later be challenged before the Transportation Appeal Tribunal of Canada — even if the CTA refuses to enter into the agreement.

Once an agreement is signed, the TSP is deemed to have committed the violation. The violation remains on a TSP's CTA compliance record for four (4) years. Paying the AMP or fulfilling the terms of a compliance agreement will not remove the violation from a TSP's record.

For transparency purposes, the CTA publishes on its website a summary of signed compliance agreements, including a summary of the final outcome of the agreement.

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<sup>1</sup> The other options are the payment of the penalty or seeking a review before the Transportation Appeal Tribunal of Canada.

## 2. How to request a compliance agreement

A TSP must make a written request to enter into a compliance agreement with the CTA on or before the deadline set in the NOV.

The request must include the following:

1. A copy of the NOV;
2. A detailed proposal for the compliance action plan, which **clearly** sets out:
  - any actions the TSP has already taken to correct the compliance issue that led to the violation,
  - the measures to be taken to come into compliance and avoid future violations, including specific and measurable indicators of compliance,
  - a timeline to complete those measures, and
  - milestone dates for progress reports to the CTA, as appropriate; and
3. The estimated costs to correct the compliance issue that led to the violation.

The request must be sent to [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca). There is no template or request form.

## 3. How the request is assessed

The CTA decides whether to enter into a compliance agreement on a case-by-case basis, recognizing that an agreement may not be an appropriate tool for all situations of non-compliance.

The CTA assesses the TSP's detailed proposal for consistency with the [Compliance and Enforcement Policy](#). The CTA also ensures that the agreement brings the TSP into compliance with its obligations regarding accessibility or air passenger rights as quickly as possible and prevents further occurrence of the violation.

The Agency may also consider the following:

- **Outcome** – The CTA may refuse a request if the proposed measures are not likely to lead to compliance with the TSP's obligations regarding accessibility or air passenger rights; if the violation is considered a “one-off”, as opposed to a systemic or chronic violation; or if the non-compliance has already been addressed or could be rectified with minimal effort from the TSP. Examples could

include missing directional signage or a communication failure affecting a particular flight.

- **Ongoing non-compliance** – Compliance agreements may be appropriate for addressing ongoing or systemic violations that require time and resources to address. Examples could include situations where achieving or maintaining compliance requires contracts with third parties to accomplish the work (such as software upgrades, construction, ordering of products) or phased implementation of measures (such as developing, amending or delivering training programs).
- **Compensation** – The CTA may consider a request for a compliance agreement that includes providing compensation to eligible passengers affected by a flight disruption, including compensation that is above or distinct from compensation required under regulation. If non-compliance with compensation provisions were the cause of the original NOV, compensating passengers could be considered an appropriate term of the agreement but not the only term of the agreement.
- **Additional investments** – The CTA may consider requests that include measures that go beyond achieving compliance with the TSP’s regulatory obligations. Examples could include a detailed proposal to remove additional barriers for persons with disabilities or a proposal that improves travelling conditions for passengers.
- **CTA orders** – Compliance agreements are not an appropriate tool for addressing violations of CTA orders.

If the CTA refuses a request for a compliance agreement, then the original terms of the NOV apply to the TSP. The payment deadline for the AMP is stated in the NOV, although the CTA may provide the TSP with a later deadline.

# Part B: Your agreement and possible outcomes

## 4. The terms of the agreement

The terms of a compliance agreement may be based, in whole or in part, on the compliance action plan proposed by the TSP in its request. The CTA may also establish other terms that it considers appropriate depending on the specific circumstances of the case. The CTA will generally require the following.

### 1) A step-by-step plan and timelines

The CTA may accept the measures proposed in the TSP's compliance action plan if they are clear and well defined and they include a reasonable timeline for achieving and maintaining compliance. Otherwise, the CTA may propose appropriate terms.

Depending on the violation, the agreement may require the TSP to put in place an ongoing compliance program to prevent future non-compliance. This could involve new policies, practices or training, for example.

### 2) How and when a TSP will provide progress updates

Progress updates demonstrate whether the TSP is on track to meet the terms of the compliance agreement. The CTA establishes the reporting requirements on a case-by-case basis. For example, the agreement may require a TSP to provide updates either at specific intervals, every time a TSP implements a key measure, or a combination of both.

### 3) Whether the TSP must provide a security deposit

The agreement may require the TSP to provide a security deposit as a guarantee that it will fulfill the agreement. If the TSP fails to fulfill the agreement, it forfeits its deposit to His Majesty in right of Canada.

The amount of the security deposit will be established having regard to the AMP specified in the NOV and the penalty that the TSP would be required to pay if it does not comply with the terms of the agreement.

#### **4) A lower AMP for meeting commitments**

In some circumstances, the CTA may agree to reduce, in whole or in part, the AMP if the TSP meets all of the commitments in the compliance agreement. The agreement would establish any new AMP and indicate when any payment would be due.

Once the TSP and the CTA sign a compliance agreement, it becomes enforceable. The TSP must carry out the measures within the agreed-upon timeline, while the CTA monitors progress.

### **5. How the CTA monitors and enforces the agreement**

The CTA verifies compliance with the terms and specified timelines of the agreement by reviewing the TSP's progress updates. If needed, the CTA will conduct on-site inspections and interviews with the TSP's employees at any time before the completion date of the agreement.

TSPs must demonstrate compliance with all the terms of the agreement and provide supporting documentation and information. The CTA may seek further information as necessary. If a TSP misses a deadline or the CTA must follow up to get the required information, the TSP risks defaulting on the agreement. The CTA could issue a notice of default at any point during the course of the agreement if it finds that the TSP has failed to comply with one or more of the terms. The outcomes of a notice of default are found below.

Where exceptional circumstances prevent the TSP from meeting a milestone on time, it must contact the CTA as soon as possible. The CTA may agree to a short extension on a case-by-case basis. A TSP that misses a deadline without prior notification risks receiving a notice of default.

### **6. The end of the compliance agreement**

#### **Outcome 1: Compliance**

If the CTA is satisfied that the TSP has complied with the agreement, including the payment of any AMP indicated in that agreement, the TSP will receive a notice of compliance.



The TSP is expected to continue to follow on its own accord any ongoing compliance program established under the agreement. Any security deposit will be returned to the TSP.

## Outcome 2: Default

If the CTA determines that the TSP has not complied with the agreement, the TSP will receive a notice of default. The notice will explain the CTA's findings and the penalty to be paid, which will be **one** of the following:

- Double the AMP set out in the NOV.

OR

- Forfeiture of the security deposit.

Once the TSP has paid the penalty, no further enforcement proceedings will be taken against the TSP in respect of the violation.

## More information

To request a compliance agreement, follow the steps in [Section 2](#) of this guide.

For more information about compliance agreements, or questions about this guide, please send an e-mail to: [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca).

TSPs may also wish to consult the CTA's [Compliance Monitoring and Enforcement Policy](#) to learn more about how the CTA promotes, verifies, and enforces compliance.

# Annex A: Legislative and Regulatory references

**Note:** “Agency” refers to the Canadian Transportation Agency

## *Canada Transportation Act*

### **Administrative Monetary Penalties**

#### **Options**

**180.1 (3)** A person who has been served with a notice of violation that identifies a violation referred to in subsection 177(3) and that sets out a penalty for the violation must

- (a) pay the amount of the penalty — or the lesser amount — specified in the notice;
- (b) file with the Tribunal a written request for a review of the facts of the alleged contravention or of the amount of the penalty; or
- (c) request, within the time and in the manner set out in the notice, to enter into a compliance agreement with the Agency for the purpose of ensuring the person’s compliance with the provision of the regulations or of the [Accessible Canada Act](#) to which the violation relates.

**180.1 (4)** A person who has been served with a notice of violation that identifies any provision of a regulation made under subsection 86.11(1) that was contravened and that sets out a penalty for the violation must

- (a) pay the amount of the penalty specified in the notice;
- (b) file with the Tribunal a written request for a review of the facts of the alleged contravention or of the amount of the penalty; or
- (c) request, within the time and in the manner set out in the notice, to enter into a compliance agreement with the Agency for the purpose of ensuring the person’s compliance with the provision of the regulations to which the violation relates.

### **Entering into compliance agreements**

**180.62 (1)** After considering a request made under paragraph 180.1(3)(c) or (4)(c), the Agency may enter into a compliance agreement, as described in that paragraph, with

the person making the request on any terms that the Agency considers appropriate. The terms may

(a) include a provision for the deposit of reasonable security, in a form and amount satisfactory to the Agency, as a guarantee that the person will comply with the compliance agreement; and

(b) provide for the reduction, in whole or in part, of the amount of the penalty.

### **Deeming**

(2) A person who enters into a compliance agreement is, on doing so, deemed to have committed the contravention in respect of which the compliance agreement was entered into.

### **Notice of compliance**

(3) If the Agency is satisfied that a person who has entered into a compliance agreement has complied with it, the Agency shall cause a notice of compliance to be provided to the person and, once it is provided,

(a) no further proceedings under this Part shall be taken against the person in respect of the contravention; and

(b) any security given under the compliance agreement shall be returned to them.

### **Notice of default**

(4) If the Agency is of the opinion that a person who has entered into a compliance agreement has not complied with it, the Agency shall cause a notice of default to be served on the person informing them of one of the following:

(a) that instead of being liable to pay the amount of the penalty specified in the notice of violation in respect of which the compliance agreement was entered into, they are liable to pay, within the time and in the manner set out in the notice of default and without taking account of the limit set out in paragraph 177(1)(b) or subsection 177(3), an amount that is twice the amount of that penalty;

(b) that the security, if any, given under the compliance agreement is forfeited to His Majesty in right of Canada.

## **Effect of notice of default**

**(5)** Once a person is served with a notice of default,

**(a)** if the notice provides that the person is liable to pay the amount specified in the notice, the person may not deduct from that amount any amount they spent under the compliance agreement and they are liable to pay the amount specified in the notice within the time and in the manner set out in it; and

**(b)** if the notice provides for the forfeiture of the security given under the compliance agreement, that security is forfeited to His Majesty in right of Canada and no further proceedings under this Part shall be taken against the person in respect of the contravention.

## **Effect of payment**

**(6)** If the person pays the amount specified in the notice of default within the time and in the manner set out in it, the Agency shall accept the amount in complete satisfaction of the amount owing in respect of the contravention and no further proceedings under this Part shall be taken against the person in respect of the contravention.

## **Delegation**

**(7)** The Agency may delegate its powers under subsection (1) to any person, subject to any restrictions or limitations that it may specify.

## **Certificate of delegation**

**(8)** Each person to whom powers are delegated under subsection (7) must be provided with a certificate of delegation in a form established by the Agency.

## **Refusal to enter compliance agreement**

**180.63 (1)** If the Agency refuses to enter into a compliance agreement requested under paragraph 180.1(3)(c) or (4)(c), the person who made the request is liable to pay, in the manner specified in the notice of violation and within the time specified in it or any longer period specified by the Agency, the amount of the penalty specified in the notice of violation.

## Effect of payment

(2) If the person pays the amount specified in the notice of violation,

(a) they are deemed to have committed the contravention in respect of which the amount is paid;

(b) the Agency shall accept the amount in complete satisfaction of the amount of the penalty; and

(c) no further proceedings under this Part shall be taken against the person in respect of the contravention.

## Deeming

(3) If the person does not pay the amount specified in the notice of violation within the time and in the manner set out in subsection (1), they are deemed to have committed the contravention alleged in the notice of violation.

## Certificate

**180.64 (1)** If a person to whom subsection 180.1(1) applies neither pays the amount of the penalty specified in the notice of violation in accordance with the particulars set out in the notice nor files a request for a review under subsection 180.3(1), the person is deemed to have committed the contravention alleged in the notice of violation and the Minister may obtain from the Tribunal a certificate in the form that may be established by the Governor in Council that indicates the amount of the penalty specified in that notice.

## Subsection 170(1) or [Accessible Canada Act](#)

(2) If a person to whom subsection 180.1(3) applies does not pay the amount of the penalty — or the lesser amount — specified in the notice of violation in accordance with the particulars set out in it, file a request for a review under subsection 180.3(1) or make a request to enter into a compliance agreement under paragraph 180.1(3)(c), the person is deemed to have committed the contravention alleged in the notice of violation and the Agency may obtain from the Tribunal a certificate in the form that may be established by the Governor in Council that indicates the amount of the penalty specified in that notice.

## **Regulations made under subsection 86.11(1)**

**(2.1)** If a person to whom subsection 180.1(4) applies does not pay the amount of the penalty specified in the notice of violation in accordance with the particulars set out in it, file a request for a review under subsection 180.3(1) or make a request to enter into a compliance agreement under paragraph 180.1(4)(c), the person is deemed to have committed the contravention alleged in the notice of violation and the Agency may obtain from the Tribunal a certificate in the form that may be established by the Governor in Council that indicates the amount of the penalty specified in that notice.

### **Notice of default**

**(3)** If a person who has been served with a notice of default under subsection 180.62(4) that specifies an amount does not pay the amount within the time and in the manner set out in the notice, the Agency may obtain from the Tribunal a certificate in the form that may be established by the Governor in Council that indicates the amount specified in that notice.

### **Refusal to enter into compliance agreement**

**(4)** If the Agency refuses a person's request under paragraph 180.1(3)(c) or (4)(c) to enter into a compliance agreement, and the person does not pay the amount of the penalty specified in the notice of violation within the time and in the manner required by subsection 180.63(1), the Agency may obtain from the Tribunal a certificate in the form that may be established by the Governor in Council that indicates the amount of the penalty specified in that notice.

### **Registration of certificate**

**180.7 (1)** If the time limit for the payment of the amount of a penalty specified in a notice of violation has expired, the time limit for the payment of an amount specified in a notice of default has expired, the time limit specified for payment of an amount under subsection 180.63(1) has expired, the time limit for the request for a review has expired, the time limit for an appeal has expired, or an appeal has been disposed of, as the case may be, on production in any superior court, a certificate issued under paragraph 180.5(b), subsection 180.6(4) or section 180.64 shall be registered in the court. When it is registered, a certificate has the same force and effect, and proceedings may be taken in connection with it, as if it were a judgment in that court obtained by His

Majesty in right of Canada against the person named in the certificate for a debt of the amount set out in the certificate.

### **Recovery of costs and charges**

**(2)** All reasonable costs and charges attendant on the registration of the certificate are recoverable in like manner as if they had been certified and the certificate had been registered under subsection (1).

### **Amounts received deemed public moneys**

**(3)** An amount received by the Minister or the Tribunal under this section is deemed to be public money within the meaning of the [Financial Administration Act](#).