



Port Rules Enforcement Guidelines for Port Users

Issued By:

Abu Dhabi Ports

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Revision History

Date	Issue	Section	Description
August 2011	First Issue		
August 2014	Version 2.0	Various	Replacement of 'Part A' format. Detailed description of response to violations with focus on land-based offences.
January 2018	Version 3.0	Various	Major revision to reflect introduction of consolidated Port Rules
July 2018	Version 3.1	Table 2	Revised enforcement response for Penalty Rating 2
		Table 3	Scale of fines aligned with Tariff listing



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1. INTRODUCTION

1.1 Abu Dhabi Ports

The Abu Dhabi Ports Company (Abu Dhabi Ports) is the Ports Authority for the commercial non-petroleum ports of the Emirate of Abu Dhabi.

We are responsible for overseeing the wide range of work activities that take place in our ports, aiming to ensure health, safety, environmental risk is maintained as low as reasonably practicable (ALARP).

To achieve this goal, Abu Dhabi Ports has established a framework of policies, rules, standards and procedures – collectively, the Port Rules – which form an essential component of the Port Integrated Health Safety & Environment Management System. As a condition of port entry, each port user must comply with all requirements of the Port Rules as apply to the activity performed.

We use a wide variety of methods to encourage and support port users to manage risk in a sensible and proportionate way, and to secure compliance with the Port Rules.

1.2 Objectives

The objectives of these Enforcement Guidelines are to:

- support the objectives of the Port Rules;
- encourage maximum rule compliance through application of a co-operative regulatory approach;
- enable Abu Dhabi Ports to detect, prevent and manage rule violations, and the associated risks to port operations; and
- provide an overview of the appropriate course of action Abu Dhabi Ports may take to fulfil these objectives.

1.3 Presumption of Jurisdiction

If, in any legal proceedings, a question arises as to whether or not any vessel or person – including a body corporate - is within the provisions of the Port Rules, the vessel or person shall be taken to be within those provisions unless the contrary is proved.

1.4 Compliance with Applicable Law

These Enforcement Guidelines do not in any way reduce, extend or modify obligations contained in any legislation applicable to port activities in the Emirate of Abu Dhabi, nor prevent anyone from being prosecuted under any other written law for any act or omission which constitutes a violation of applicable law, or from being held liable under that other written law to any punishment or penalty higher or other than that provided by the Port Rules.

Further, these Guidelines are expressed in general terms. Port users should not assume that they deal with all operating conditions and circumstances, nor do they control Abu Dhabi Ports' response to an violation of the Port Rules.



In the event of any inconsistency between these guidelines and the legislation under which Abu Dhabi Ports exercises a statutory function, power or discretion, the legislation will prevail.

1.5 Reporting of Rule violations

Port users are encouraged to report any violation of the Port Rules they may observe to Abu Dhabi Ports. In the first instance, the matter should be drawn to the attention of a Ports Security patrol. Alternatively, contact Port Security on Freephone 800-112.

1.6 Coming into Force

These Enforcement Guidelines come into force on 1 January 2018 and replace the existing *ADPC Port Regulation: Compliance and Enforcement: Guidelines for Port Users Version 2.0* published in August 2014, which is withdrawn.



2. ENFORCEMENT RESPONSE

2.1 Overview

If a member of Abu Dhabi Ports' security staff or other authorised officer observes a rule violation, depending upon the severity of the incident, he may issue a verbal warning or an Enforcement Action Notice to the port user assessed to be responsible.

If a verbal warning is issued, the incident is recorded with no further action taken.

If an Enforcement Action Notice is issued, Abu Dhabi Ports will determine its enforcement response, if any, based on the violation penalty rating as described in Section 2.5.

Abu Dhabi Ports' decision will be communicated to the employer and / or port pass sponsor of the concerned individual; in the case of a tenant or licence holder, the decision will be communicated to the concerned company.

Abu Dhabi Ports will not enter into correspondence on matters related to the issue of an Enforcement Action Notice or subsequent enforcement response.

2.2 Serious Rule Violations

It is Abu Dhabi Ports' policy to take immediate and direct action against any port user who commits a serious violation. This would normally include immediate removal of the offender from the port and exclusion (ban) from re-entering for a minimum of one month, which may be extended and / or a fine imposed as a condition of granting re-entry.

Serious rule violations include, but are not limited to:

- physical or verbal assault of Abu Dhabi Ports' security staff;
- consumption of alcohol or narcotics other than prescription medicine;
- wilful breach of port security, such as the use of forged documents or using another person's pass to access secured areas;
- fighting; and
- racing of vehicles.

2.3 Penalty Rating

Abu Dhabi Ports uses a graded approach to violations, both in terms of their risk and the enforcement response (Section 2.5).

There are four ratings, 1 being the least significant violations and 4 the most significant: The rating applied to each individual violation is detailed in the Port Rules.

2.4 Repeat Violations

Unless Abu Dhabi Ports subsequently determines no further action is appropriate, a record of each violation committed is maintained for the



concerned vessel, company or individual held to be responsible. In the case of an individual, this information is retained on his or her port pass record.

For the purpose of determining the enforcement response as described further below, each violation record is retained 'on file' and remains valid for the time period shown in Table 1.

Table 1: Violation Validity Period from Date of Violation

Penalty Rating	Retained on File
1	Six Months*
2	One Year
3	Two Years
4	Five Years

* Extended to one year if four violations committed within that year

2.5 Enforcement Action in Response to Port Rule Violations

The various options for enforcement action that may be action taken in response to a Port Rule violation are described in Section 3. The specific action taken is a function of the violation penalty rating (Section 2.3) and / or the number of valid repeat violations (Section 2.4) and is summarised in Table 2 noting that Abu Dhabi Ports applies a 'three strike rule'.

For example, should a first violation with a penalty rating of one (1) be committed, the concerned individual or vessel master, as the case may be, will normally be required to attend an awareness session; the training may be delivered by the port security or other authorised officer at the time of issuing the enforcement action notice.

Subject to the subsequent violations not exceeding the lowest rating, if there is a second violation the concerned individual / vessel master will receive a formal warning; if there is a third violation within any period of one hundred and eighty (180) days, this will be escalated to temporary exclusion from the port or an equivalent sanction, e.g., transport alternative notice (driving ban), and / or a fine. Any subsequent violation within the following one hundred and eighty (180) days may result in permanent exclusion or equivalent.

Similarly, if two violations are committed within a period of one hundred and eighty (180) days followed by two further violations within the next one hundred and eighty (180) days, this will normally result in the temporary exclusion of the concerned individual.

In the case of a violation with a penalty rating of two (2), an awareness session will be followed by a sanction and / fine should the concerned vessel, company



or individual be held responsible for a second valid violation. In the case of two or more violations with differing penalty ratings, the highest penalty rating will apply to all violations. For example, if a violation of penalty rating two (2) is followed by a violation of penalty rating one (1), both will be considered to be violations of penalty rating two (2).

Table 2: Enforcement Response

Penalty Rating	No. of Valid Violations			
	First	Second	Third	Fourth
1	Awareness Session	Formal Warning	Sanction and / or Level 1 Fine	Escalated Sanction and / or Level 2 Fine
2	Sanction and / or Level 1 Fine	Sanction and / or Level 2 Fine	Escalated Sanction and / or Level 2 Fine (x2)	Permanent Sanction and / or Level 3 Fine
3	Sanction and / or Level 2 Fine	Escalated Sanction and / or Level 3 Fine	Permanent Sanction and / or Level 4 Fine	
4	Sanction and / or Level 3 Fine	Permanent Sanction and / or Level 4 Fine		

Depending on the type of violation committed and the particular circumstances, Abu Dhabi Ports may:

- (a) increase the penalty rating;
- (b) reduce the penalty rating;
- (c) allow a period of time to remedy, to its satisfaction, the violation without the imposition of a fine and / or sanction; or
- (d) discharge the violation without the imposition of a fine and / or sanction.

Further, these measures do not need to be used sequentially. It is not necessary, for example, to deliver an awareness session and / or issue a formal warning before excluding a concerned individual if such action is judged necessary and appropriate. Abu Dhabi Ports may also choose to use a combination of measures to facilitate compliance.



3. ENFORCEMENT ACTION

3.1 Introduction

This section describes the enforcement action Abu Dhabi Ports may pursue in response to a Port Rules violation.

3.2 Training and Awareness

Abu Dhabi Ports firmly believes that the prevention of a rule violation is preferable to taking action after the violation has occurred. Abu Dhabi Ports therefore places strong emphasis on engaging with port users, adopting a proactive approach to compliance through the provision of advice, education and training.

Abu Dhabi Ports also uses forums and other meetings to respond to the information requirements of port users or specific user groups such as truck operators. In addition, Abu Dhabi Ports provides targeted and general publications relating to the rules and standards applicable to port activities.

Normally attendance of Abu Dhabi Ports' training forums is voluntary. However, in response to a violation, Abu Dhabi Ports may require the concerned individual attends additional training and / or an awareness session. Failure to attend a training or awareness session when directed to do so constitutes an additional violation with a consequential escalation in enforcement response, for example issue of a formal warning.

3.3 Formal Warning

A formal warning may be issued in response to repeat or ongoing violations that are minor in nature, for example failure to wear the correct personal protective equipment.

The intent of the formal warning is to define the seriousness of the situation so that the concerned individual, and his or her employer, takes immediate corrective action to prevent further violations. The warning will be recorded and remain on the port pass file for a minimum of six months. If further violations are committed within this period, the enforcement response will be escalated, for example the issue of a transport alternative notice – if the violation involves the use of a vehicle – or port exclusion.

3.4 Sanctions

3.4.1 Transport Alternative Notice

The transport alternative notice is primarily used in response to serious or persistent violations involving the use of a vehicle, for example exceeding the speed limit.

The issue of the notice will be recorded on the port pass file and requires the named individual to use alternative means of transportation within the port for the period defined on the notice, normally not less than one month. In other words, they are banned from driving; the issue of a transport alternative notice



has no impact on the ability of the individual to use a vehicle on roads outside the port or the validity of their port pass.

If the individual is found to be driving a vehicle within the port contrary to a transport alternative notice, or commits a further traffic violation within six months, the enforcement response will be escalated, for example port exclusion.

3.4.2 Performance Requirements Notice

A performance requirements notice may be used for a rule violation – usually by a company rather than an individual - that requires corrective action but does not present an immediate risk.

If issued, the performance requirements notice will specify the nature of the violation together with the performance requirements to be put in place, and the timescale for doing so.

A performance requirements notice ceases to have effect once Abu Dhabi Ports is satisfied that satisfactory corrective action has been taken. Failure to implement the required corrective action will result in an escalated enforcement response, for example the issue of a prohibition notice.

3.4.3 Prohibition Notice

A prohibition notice may be used where a rule violation presents a severe actual or potential risk, or if required corrective action has not been implemented. The notice may be issued verbally by an Abu Dhabi Ports' Inspector if he believes that the rule violation presents an immediate threat to the port.

A Prohibition Notice ceases to have effect when Abu Dhabi Ports gives notice that it is satisfied adequate remedial action has been taken to remove the risk and / or the risk is sufficiently controlled through issue of a Specific Performance Requirements Notice. Likewise this may be issued verbally by an Inspector.

3.4.4 Exclusion Notice

An exclusion notice is affected through withdrawal of the port pass issued to the concerned individual, or in the case of a vessel, through refusal to grant consent to enter port (except in an emergency).

An exclusion notice may be issued in response to a serious rule violation (Section 2.2) or where alternative approaches to compliance have proven to be ineffective.

Exclusions may be:

- temporary - up to one month;
- extended - up to six months; or
- permanent.

On completion of their exclusion the concerned individual may re-apply for a port pass; the restriction on vessel entry will be rescinded by the Harbour Master. Abu Dhabi Ports reserves the right to apply additional penalty charges as a condition of granting re-issue of a pass.



Any attempt by the concerned individual to secure a port pass whilst excluded will result in their permanent exclusion. If the concerned individual is already permanently excluded, he or she will be referred to the Police and / or other competent security authorities.

3.4.5 Licence Suspension

Port activities may be subject to the issue of an Abu Dhabi Ports licence, for example ships' agency and truck operators.

Abu Dhabi Ports licence holders are obliged to comply with the terms of their licence which, as a matter of course, requires compliance with the Port Rules. A serious or persistent breach of conditions may lead to licence suspension or withdrawal. However, this will normally only be used after all other compliance options have been exhausted, for example issue of a performance requirements notice.

3.4.6 Termination of Interest in Land

Abu Dhabi Ports may enter into a tenancy agreement to lease port land or a facility in its ownership. Such tenancy agreements are subject to the provisions of Abu Dhabi Law and, as a matter of course, require the tenant to ensure all activities undertaken at the facility comply with the Port Rules.

The decision to terminate a tenancy agreement in response to serious or persistent rule violation is reached by Abu Dhabi Ports after objectively considering and assessing the relevant facts and issues, including the consequences of not terminating the tenancy. However, such notice will only be issued after all other compliance options have been exhausted, and will be undertaken in accordance with the requirements of Abu Dhabi Law.

3.5 Fines

Abu Dhabi Ports reserves the right to apply fines for rule violations particularly for recurring misbehaviour. The level of fines is shown in Table 3, the level applied to a particular violation determined by the penalty rating (Section 2.2) and / or whether the violation is persistent.

Notwithstanding the above, In the event of persistent or serious violation of the Port Rules, Abu Dhabi Ports reserves the right to double the fine payable for the violation concerned.

If a fine is applied, the concerned party will receive an invoice from Abu Dhabi Ports which must be paid within thirty (30) days of receipt.



Table 3: Fines

Level of Fine	Range of Fine (UAE Dirhams)
1	1,000 to 10,000
2	2,500 to 25,000
3	5,000 to 50,000
4	10,000 to 200,000