

What are AMPs?

Administrative Monetary Penalties or AMPs are financial penalties the Board can impose on companies or individuals for not following any NEB requirement intended to promote safety or environmental protection. They are a powerful tool both to prevent harm and to deter future non-compliance.

The NEB is focused on preventing unsafe situations from happening in the first place. We also want to prevent a dangerous situation from happening again. Should we be required to use enforcement actions, we apply the most appropriate tool depending on the situation. Our goal is to make the situation safe as quickly and effectively as possible.

AMPs do not replace any of the Board's other enforcement tools. Instead, they give the NEB another way to keep people safe and protect the environment when voluntary or facilitated measures aren't working.

How did AMPs come to be?

In July of 2012, the Government of Canada passed the *Jobs, Growth and Long-term Prosperity Act*. As a part of this, the NEB Act was changed, requiring the NEB to establish a system of Administrative Monetary Penalties. On July 3, 2013, the AMP Regulations became law, allowing the Board to begin issuing AMPs to companies or individuals for not meeting NEB requirements that threaten safety or environmental protection.

Who do AMPs apply to?

AMPs can be applied to both companies and individuals. The NEB's enforcement policy says that AMPs could be used when other enforcement tools such as letters, orders or voluntary commitments are not working.

Farmers and landowners could be considered either as companies or individuals depending on how their business is set up. The NEB has the discretion to decide whether an AMP will be issued to a company, an individual within a company, or an individual separately.

What is the penalty range?

There are two separate penalty ranges: one for companies and one for individuals. The NEB Act sets out the maximum daily penalties for both individuals and companies.

- For individuals the daily penalty could range from \$250 to a maximum of \$25,000 per violation.
- For companies the daily penalty could range from \$1,000 to a maximum of \$100,000 per violation.

What criteria does the NEB use to calculate the penalty?

In order to calculate the penalty, the NEB considers the specific circumstances surrounding the violation. These circumstances are assigned "gravity values", which can either raise or lower the penalty. Schedule 2 of the AMP Regulations outlines all the potential gravity levels and the corresponding penalty amounts.

When considering issuing an AMP to landowners, the NEB looks at things such as:

- the nature and seriousness of the violation;
- if there was negligence or the intention to do harm;
- the company or individual's level of cooperation; and
- the safety history including if there have been repeat offences.

Anyone who receives an AMP can ask for a review if they feel the penalty was not appropriate for the violation in question. They can also appeal if they feel the facts do not support an AMP.

"The NEB will enforce regulatory requirements to obtain compliance, deter future non-compliance, and prevent harm by using the most effective tool or tools available"

NEB Enforcement Policy

National Energy Board



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Administrative Monetary Penalties

Information for Landowners

The National Energy Board works to explain NEB requirements to landowners in order to keep people, the environment and pipelines safe. This information contained in this booklet is intended to help everyone living and working near pipelines to understand their roles and responsibilities and to answer some common questions about Administrative Monetary Penalties.

What actions can I take to avoid the risk of an AMP?

There are several things landowners can do to make sure they are following the NEB's rules and avoiding any enforcement actions. These include:

- Visiting the site where you would like to do work and looking for pipeline warning signs or locate marker posts;
- Contacting the pipeline company to obtain a copy of the pipeline company's guidelines for working near their pipeline;
- Obtain the pipeline company's written approval for the activity;
- Contacting the one-call centre or the pipeline company to have the pipeline located.
- Be on site when the pipe is located to make sure you understand the meaning of the pipeline markers; and
- Give 3 working days' notice to the pipeline company prior to the start of the approved activity unless otherwise agreed on by the pipeline company and the landowner.

The NEB also requires companies to provide landowners with information on how they can keep pipelines safe. This should be done as part of a company's Public Awareness program. The NEB audits companies' Public Awareness programs periodically to confirm they are meeting this requirement.

Are there any exemptions for crossing a pipeline right-of-way for agricultural activities?

Yes. The NEB understands agricultural crossings occur frequently on your property. That is why there is an exemption in place for vehicle and mobile equipment crossing a pipeline for agricultural activities if the vehicle:

- does not disturb more than 30 cm of the top soil;
- does not remove or add soil over the buried pipe;
- soil conditions are such that minimal rutting occurs over pipeline; and
- has loaded axle weights and tire pressures that are within the manufacturer's approved limits and operating guidelines.

If any of those conditions cannot be met, you must contact the company to make sure the activity can be done safely.

Companies must advise landowners directly, if there are areas on their properties where this exemption does not apply.

If an AMP was issued, would the name of the landowner be published on the NEB's website?

As a part of its commitment to keep people informed, the NEB posts enforcement actions it takes on its external website. For AMPs, this would include information on the violation and the amount of the penalty.

The Board posts the name of any company that receives a notice of violation. The decision to disclose the name of an individual is made on a case-by-case basis. However, for most violations, the name of the individual will not be proactively shared.

What are some examples of when an AMP could be issued to a Landowner?

The NEB is committed to working with landowners to resolve any safety or environmental issues so that enforcement measures do not need to be used. However, should enforcement be required, AMPs are typically not the NEB's first course of action.

The main ways the NEB follows up on safety concerns or infractions that may be encountered on a landowner's property include:

- The landowner voluntarily correcting an identified issue; or
- The NEB facilitating the correction through a letter or a non-compliance notice.

As a last resort or in extreme cases, the NEB can facilitate a correction through the use of tools such as Orders or AMPs.

Examples of situations that could result in an AMP being used against a landowner are:

- High risk unauthorized activities within the 30 metre safety zone;
- Any reoccurrence of unauthorized crossings or activities; or
- Knowingly disobeying direction given by the NEB in any certificate, license, permit, leave or exemption under the NEB Act.

If landowners have questions about what activities are safe near pipelines, they can contact the appropriate Pipeline Company or the NEB directly for more information at 1-800-899-1265.

Can I request a review if I don't agree with an AMP I have received?

Yes. Under the AMPs process, a company or individual can request a review. In this review they can ask the Board to review the amount of the penalty, the facts of the violation or both.

The request for a review must occur within 30 days of receiving the Notice of Violation. The initial request requires only a high level account of why a review is being requested. Detailed information will be submitted later in the process.

If a review is not requested within the initial 30 day period, the recipient is required to pay the penalty amount.

Below are the key steps and timelines involved in the review process:

1. Request for review is made (within 30 days of receiving the Notice of Violation).
2. Requester receives a letter from the Board outlining process and timelines (within 21 days of review request being received).
3. Requester receives the evidence package supporting the Notice of Violation from the NEB (within 30 days of review request being received).
4. Requester files submissions to the Board supporting the Request for Review (within 30 days of receiving the evidence package from the NEB).
5. Requester receives a copy of the AMP Officer's submission to the Board (within 30 days of receiving the submission).
6. The Board reviews all submissions and makes a decision (with 30 days of receiving the final submission).

Landowners are encouraged to contact the NEB directly if they have questions or concerns about how to request a review or the timelines involved.

