

What are AMPs?

Administrative Monetary Penalties or AMPs are financial penalties the Board can impose on companies or individuals for not following any NEB legislative 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. Should the NEB be required to use enforcement actions, it would apply the most appropriate enforcement tool depending on the situation. The 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 it to establish a system of Administrative Monetary Penalties. On July 3, 2013, the *AMPs Regulations* came into force, allowing the Board to begin issuing AMPs to companies or individuals not meeting NEB legislative requirements.

On February 26, 2016, changes to the *Canada Oil and Gas Operations Act* came into effect to also allow the NEB to issue AMPs for designated violations in the Canadian North.

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 *AMPs 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.

"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. The 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 avoid enforcement actions. These include:

- Visiting the work site ahead of time and looking for pipeline warning signs or marker posts;
- Contacting the pipeline company to obtain a copy of their guidelines for working near their pipeline;
- Obtaining the pipeline company's written approval for the activity;
- Contacting the one-call centre at www.clickbeforeyoudig.com or the pipeline company to have the pipeline located;
- Being on-site when the pipe is located to understand the meaning of the pipeline markers; and
- Giving three 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 audits companies' Public Awareness programs periodically to confirm they are meeting the requirements to inform landowners on how they can keep pipelines safe.

What activities are authorized when crossing a pipeline right-of-way for agricultural purposes?

Operating a vehicle or mobile equipment across a pipeline is prohibited unless the operation is authorized through the Damage Prevention Regulations or a Board order, or the vehicle or mobile equipment is operated within the travelled portion of a highway or public road.

Agricultural Activities:

The operation across the pipeline of a vehicle or mobile equipment that is used to perform an agricultural activity is authorized if the following conditions are met:

- The loaded axle weight and tire pressures of the vehicle or mobile equipment are within the manufacturer's approved limits and operating guidelines; and
- The point of crossing has not been identified by the pipeline company as being unsafe to cross or cultivate over.

Agricultural activity means the production of crops and the raising of animals and includes pasturing and cultivation activities such as tillage, plowing, disking and harrowing.

Ground Disturbance:

Ground disturbance is any activity that involves:

- the soil being disturbed or displaced to a depth of 30 cm or more;
- any reduction of the earth cover over the pipeline; or
- cultivation to depths of 45 cm or more.

Some of these activities include digging, clearing and stump removal, subsoiling and driving in fence posts.

If undertaking an activity that causes a ground disturbance, that activity must be authorized by the pipeline company.

Please refer to the Damage Prevention Regulations for more information:

www.neb-one.gc.ca/DamagePreventionRegulations

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 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?

Examples of situations that could result in an AMP being issued to a landowner are:

- Ground disturbance within the prescribed area without authorization;
- 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.

The main ways the NEB follows up on safety concerns or infractions that have been identified on a landowner's property include:

- Ensuring the landowner voluntarily corrects the identified issue; or
- Facilitating the correction through a letter; or
- Facilitating a correction through the use of tools such as orders or AMPs.

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.

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 or via email at dpinfo@neb-one.gc.ca.

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

Yes. A company or individual can request a review if they feel the penalty was not appropriate for the violation in question. 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 a high level account of why a review is being requested. Detailed information of the following key steps and timelines would be included in the review package.

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

