

PENALTY SYSTEM OVERVIEW

Penalties have been implemented to ensure timely and accurate industry reporting. The delivery month of February 1996 is the first month in which the penalties are in effect. Legislative authority to assess penalties for APMC-600 series reports resides in the Natural Gas Marketing Act and Regulation (*the Act, the Regulation*). The following discussion provides a brief description of the penalty process. The Act and Regulation should be reviewed for specific details.

Statements containing specialized natural gas information are also required to be furnished to the Commission from time to time. When penalties are mentioned below, both report and statement penalties are contemplated.

Two terms, *person* and *report*, must be defined prior to describing the penalty system. Any references to *person* within the legislation refer to the person legally responsible for furnishing information, which is normally a company, not the individual completing the APMC-600 series report or statement. A *report* is any APMC-600 series form. The exception is the APMC-600 form, which is referred to as the transmittal document.

LATE REPORT PENALTIES

To ensure timely reporting, a late report penalty of \$1,000 per report is assessed for each month or part of a month that an APMC-600 series report is late. A report is considered late if it is not received by the Commission by the reporting deadline or it does not meet minimum reporting requirements by the reporting deadline, as specified in the *How to Complete the Forms* section of this guide. If it is discovered that a person should have been submitting a specific report for a series of months and had not previously submitted that report, that person's late report penalties up to and including the first awareness month cannot exceed \$10,000 for that report.

A person in a late reporting penalty situation may apply for a penalty waiver. The waiver application must be filed with the Commission no later than 30 days after the date of the penalty invoice.

Persons receiving penalty invoices are advised that the invoiced amount is due and owing on the date indicated on the invoice unless a waiver is processed and approved by that date.

The Commission may, upon receipt of an application, waive a late report penalty on being satisfied that the failure to file a timely report was due to the following:

- a. circumstances beyond that person's control;
- b. circumstances that the person could not have reasonably foreseen; or
- c. the person was not aware of the requirement to furnish the report;

and that the person has also furnished the required report(s) in a reasonable time after the deadline for furnishing it.

INACCURATE AND/OR INCOMPLETE REPORT PENALTIES

To ensure accurate and complete reporting, a penalty of up to \$10,000 per report per month for inaccurate and / or incomplete reporting may be imposed. A maximum of \$25,000 per month is in place for each person which limits that person's liability where more than two reports are submitted in a month. In the case of a similar inaccuracy / omission occurring over four or more months and where that person has not been advised in writing of the reporting problem, the cumulative penalty cannot exceed \$30,000 per report.

The Commission shall consider at least the following criteria in determining whether to assess a penalty and its amount:

- a. representations by that person as to the liability for or the amount of the penalty;
- b. whether that person made all reasonable efforts to comply with the reporting requirements;

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- c. magnitude of the quantities or amounts omitted or the extent of the inaccuracy of the information;
- d. impact of the unreported, omitted or inaccurate information on the monthly determination of the Gas Reference Price;
- e. number of occasions on which that person was informed of the inaccurate or incomplete report or transmittal document;
- f. number and amounts of inaccurate and / or incomplete penalties previously imposed on that person.

APPEALS

A person may appeal the levying of a late penalty to the Minister or, after the Commission's refusal to grant a waiver, may appeal that decision to the Minister. That person may also appeal the imposition or the amount of an inaccurate / incomplete penalty. Details of the appeal process are provided in APMC Information Bulletin 99-01.