Ontario One Call
Administrative Penalty Policy

Effective June 2024

ADMINISTRATIVE PENALTY POLICY

KEY FEATURES:

- **The Policy creates a framework for the imposition of Administrative Penalties by Ontario One Call on Members and Excavators who Contravene the Act and Regulation(s) under the Act.**

I. Overview

1. This Policy provides guidance to Members/Excavators regarding Administrative Penalties where Administrative Penalties are permitted by the *Ontario Underground Infrastructure Notification System Act, 2022* (the "**Act**") and the Administrative Penalty Regulation[1] (the "**Regulation**").

2. Nothing in this Policy limits Ontario One Call's ability to undertake any of the actions provided in the Act or the Rules for matters that address issues other than Administrative Penalties.

3. Capitalized terms have the same meaning as in the Act or the Rules. In addition, the following terms are defined as follows:

   (i) "**Appeal Body**" means the person prescribed by the Minister or, if no person is prescribed by the Minister, the Ontario Land Tribunal (the "**Tribunal**").

   (ii) "**Appeal Deadline**" is the deadline specified in section 17.3(1) of the Act, which is 15 days after the Contravener receives the Administrative Penalty Order.

   (iii) *"***Assessor**" means a person appointed as an assessor under section 17.1 of the Act by Ontario One Call. Assessors undertake their responsibilities in accordance with the Act, the Regulation, and the Memorandum of Understanding between Ontario One Call and the Province of Ontario as represented by the Ministry.

   (iv) **"Contravention***"* means a failure to comply with a specified section of the Act that may result in an Administrative Penalty enumerated in the Administrative Penalty Regulation and Schedule "A" to this Policy.

   (v) "**Contravener**" means the Member or Excavator against which the Administrative Penality Order is issued.

[1] Ontario Regulation 87/23, which comes into force on May 1, 2024

(vi) **"Order"** means an Administrative Penalty Order imposed by an Assessor in accordance with the Act and the Regulations.

(vii) "**Payment Deadline**" means the date specified in the Order by which the Administrative Penalty must be paid in full, irrespective of an Appeal and absent a Court Order staying the Order pending appeal.

II. Purpose

4. Administrative Penalties are an important tool by which Ontario One Call can promote compliance with the Act and prevent the Contravener from deriving any economic benefit from the Contravention.

5. Administrative Penalties may be imposed on Members or Excavators in accordance with the Act and the Regulation.

III. Scope

6. This Policy applies to Members and Excavators who may be subject to an Administrative Penalty where the Assessor, in the application of their independently-exercised discretion and in accordance with the Act and Regulations, has determined that an Administrative Penalty is an appropriate outcome.

7. In accordance with the Act, the Assessor is not required to undertake a Complaint or Compliance Investigation (Parts IX and X of the Rules) before imposing an Administrative Penalty.

IV. Policy

(a) Non-Compliance that may Result in an Administrative Penalty and Quantum

8. The Assessor may, by Order, impose an Administrative Penalty against a Contravener, if the Assessor is satisfied that the Member or Excavator has contravened or is contravening a prescribed provision listed in the Regulation and in **Schedule "A"** to this Policy. Payments which are not received by Ontario One Call by the Payment Deadline will be subject to penalties and interest in accordance with the Penalty and Interest Policy.

9. The amount of an Administrative Penalty imposed on a Member or Excavator by an Assessor will be determined in accordance with the Regulation.

10. The Assessor may, in its discretion:

(i) impose daily penalties in accordance with the Regulation, where the daily penalty per Contravention is an amount not exceeding the amount specified in

Schedule “A” with the result that the total monetary penalty may not exceed $10,000 per Contravention;

(ii) in the case of multiple Contraventions, impose a penalty for each Contravention in accordance with Schedule “A” with the result that the total monetary penalty may exceed $10,000.

(b) Absolute Liability and No Hearing Required

11. An Assessor may make an Order imposing an Administrative Penalty against a Member or Excavator within two years after the day on which the Assessor became aware of the Member or Excavator’s Contravention on which the Order is based, even if:

(i) the Member or Excavator took all reasonable steps to prevent the Contravention on which the Order is based; or

(ii) at the time of the Contravention, the Member or Excavator had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the Contravention innocent.

(c) Process for Imposing an Administrative Penalty

12. An Assessor is not required to hold a hearing or to afford a Member or Excavator an opportunity for hearing before making an Order imposing an Administrative Penalty.

13. The Assessor will provide the Member or Excavator with an Order imposing an Administrative Penalty by:

(i) registered mail, in which case service is deemed to occur on the third day after the order was mailed;

(ii) email, in which case service is deemed to occur on the day the email is sent; or

(iii) personal service, in which case service is deemed to occur on the day that personal service was given

14. Where the Contravener is:

(i) a Member, the Order will be delivered to the attention of the person designated by the Member to receive Ontario One Call communications; or

(ii) an Excavator (which is not also a Member) the Order will be delivered to the attention of a person in a position of apparent authority (e.g. the Excavator’s CEO, CFO, president or vice president) or to the person whose name is listed on the Locate Request.

15. The Order imposing an Administrative Penalty will include:

(i) The name of the person against whom the order is being made.

(ii) A description of the Contravention to which the order relates.

(iii) The place where the Contravention occurred.

(iv) The date or dates on which the Contravention occurred.

(v) The amount of the Administrative Penalty.

(vi) An indication that payment is to be made to Ontario One Call in accordance with subsection 17.2(2) of the Act and an explanation of the methods by which payment may be made.

(vii) A statement that the person is required to pay the Administrative Penalty within 30 Calendar Days after the date of service.

(viii) An indication that the person may appeal the order in accordance with section 17.3 of the Act.

(d) Payment Deadlines

16. If the Contravener does not appeal the Order to the Appeal Body by the Appeal Deadline, the Order is final and binding on the Member or Excavator and its legal successors or assigns, and it must be paid by the Payment Deadline provided for in the Administrative Penalty Order.

(e) Appeal of an Administrative Penalty Order

17. In accordance with section 17.3(1) of the Act, the Appeal Deadline is on or before 15 Calendar Days of receiving the Administrative Penalty Order from Ontario One Call.

18. A Contravener may appeal the Order to the Appeal Body by delivering a written notice of appeal within 15 Calendar Days of receiving the Administrative Penalty Order to:

(i) Ontario One Call at Dispute@OntarioOneCall.ca; and

(ii) the Appeal Body by following the appeal procedure provided for by the Land Tribunal.[2]

19. The Appeal Body is the sole route of appeal or review for a Member or Excavator to challenge the Administrative Penalty.

20. The parties to the appeal are the Assessor, the appealing Excavator or Member, and any other person specified by the Appeal Body.

(f) Effect of Paying the Administrative Penalty and Enforcement

[2] https://olt.gov.on.ca/appeals-process/

21. If the Contravener pays the Administrative Penalty in accordance with the Administrative Penalty Order, or if the Administrative Penalty Order is varied on appeal, and the Contravener pays in accordance with the terms of the variation, the Contravener cannot be charged with an offence under the Act in respect of the same contravention on which the Administrative Penalty Order is based.
22. If the Contravener does not pay the Administrative Penalty in accordance with the Administrative Penalty Order, or if the Administrative Penalty Order is varied on appeal, and the Contravener does not pay in accordance with the terms of the variation, the Administrative Penalty Order may be:
    (a) filed with the Superior Court of Justice and enforced as if it were an order of the Court; and/or
    (b) referred to a collection agency registered pursuant to the *Collection and Debt Settlement Services Act*.

(g) Annual Report on Quantum and Use of the Proceeds Generated from Administrative Penalties

(c) In addition to any other requirements to publish Ontario One Call's use of Administrative Penalties or the names of Members/Excavators who have received Administrative Penalties, Ontario One Call shall, in its Annual Report, in respect of the applicable fiscal year, identify:

(i) the number of Administrative Penalties issued during the fiscal year, with reference to the type of Contravention in Table 1 of the Administrative Penalty Regulation;

(ii) the number of Administrative Penalty Orders that were appealed to the Appeal Body, with reference to the type of Contravention in Table 1 of the Administrative Penalty Regulation;

(iii) the aggregate monetary amount of all Administrative Penalties issued during the fiscal year;

(iv) the aggregate monetary amount of all Administrative Penalties collected during the fiscal year; and

(v) such other reporting requirements as may be stipulated in the Memorandum of Understanding between Ontario One Call and the Ministry.

(d) Ontario One Call's Annual Report will include a description of the manner in which it expended the proceeds generated from Administrative Penalties in a manner consistent with the Administrative Penalty Regulation.

Schedule "A" – Contravention and Penalty Amount[3]

Item	Column 1: Provision of the Act (with Headnote)	Column 2: Amount
1.	Subsection 6 (3) (Time limit for response, standard locate request)	$ 300
2.	Subsection 6 (4) (Same, emergency locate request)	$ 1,000
3.	Subsection 7 (5) (Notice to include information)	$ 200
4.	Clause 7 (7) (a) or (b) (Selection of dedicated locator)	$ 250
5.	Paragraph 1 or 2 if subsection 9 (1) (Change in information after locate)	$ 250
6.	Subsection 10 (1) (Commencement of excavation or dig)	$10,000
7.	Subsection 10 (2) (Continuation after expiry of validity period)	$8,000
8.	Section 11 (Sharing locate information)	$200
9.	Subsection 12 (1) (Standard locate request)	$ 250
10.	Subsection 14 (1) (Confirmation of response to locate request)	$ 250
11.	Subsection 6(2)(a) (time limit for response to a specified request)	$300

[3] This information is taken from the Regulation, Table 1