

MEMO



DATE: January 28, 2021

TO: Senate Energy and Environment Committee

FROM: Lori Koho, Administrator, Safety, Reliability, & Security Division

SUBJECT: SB 117 – Pipeline Safety, Civil Penalties

SB 117 provides the PUC with the authority to set by rule the state of Oregon’s maximum civil penalties related to the enforcement of pipeline safety regulations found under ORS 757.991 for the purpose of aligning them with federal maximum civil penalties found in Title 49 CFR part 190.223 “Maximum Penalties”.

The federal government is primarily responsible for developing, issuing and enforcing pipeline safety regulations. Oregon is certified by the US Department of Transportation Pipeline and Hazardous Material Safety Administration to assume responsibility for certain aspects of intrastate natural gas pipeline regulatory, inspection and enforcement activities with annual certification. To ensure the state maintains its certification and continues to receive federal monies, it must provide for enforcement sanctions substantially the same as those authorized by the federal pipeline safety statutes.

The federal maximum penalties were last updated for inflation and published in the federal registry on January 11, 2021. A person found in violation of a provision is currently subject to an administrative civil penalty up to \$222,504 for each violation and for each day the violation continues, not to exceed a maximum of \$2,225,034 for any related series of violations.

Currently, maximum civil penalties allowed by Oregon under ORS 757.991 are lower and do not align with federal maximum penalties found under Title 49 CFR part 190.223 “Maximum Penalties”. They are set in statute at \$200,000 and \$2,000,000 respectively.

PHMSA periodically increases the maximum civil penalties, and when a state’s civil penalty isn’t in alignment with the federal maximum the state could face a loss of revenue, or in a worst case scenario the USDOT could revoke the state’s certification.

The Public Utility Commission is asking for your support on SB 117, which authorizes the Commission to adopt by rule, the maximum civil penalties that have been adopted under Title 49 CFR part 190.223 “Maximum Penalties”.