

Increasing Penalty Maximums (SB 105)

DEQ's role in enforcement

The Oregon Department of Environmental Quality protects the quality of Oregon's environment through administering pollution-control laws. DEQ operates primarily by informing the regulated community about its legal obligations, verifying compliance through inspection, and enforcing the laws against the few who do not comply.

To be effective in encouraging compliance and deterring future violation, penalties for violation must be sufficiently large to be taken seriously. Oregon statutes set maximum penalty amounts. The maximum administrative penalty applicable to most pollution control laws - which was set in 1973 - is currently \$10,000 per violation per day. Because of inflation, a penalty in today's dollars is only worth 20% to 25% of its original potency.

Administrative penalty maximums

DEQ proposes increases in the maximum administrative penalty amounts as follows:

- Air quality, asbestos abatements, cleanup, hazardous waste, on-site sewage, solid waste, underground storage tanks, and water quality – increase from \$10,000 to \$25,000.
- Negligent or intentional spills of hazardous materials into state waters – increase from \$10,000 to \$100,000.
- Negligent or intentional spills of oil into state waters – increase from \$20,000 to \$100,000.
- Negligent or intentional failure to clean up spills of oil or hazardous materials into state waters – increase from \$10,000 to \$100,000.
- Intentional or reckless violations that create likelihood of extreme hazard to public health or extensive environmental damage – increase from \$100,000 to \$250,000.
- Bilge water dumping violations – increase from \$5,000 to \$25,000.
- Wildlife damage penalties in Oregon Revised Statutes (ORS) 466.992 – amend to mirror identical penalties currently set in ORS 496.705.

Note that DEQ assesses penalties according to a formula in its rules. The formula considers many factors related to the violation and violator, and results in penalties that range from about 1/100th of the maximum to the full maximum. These proposed amendments would not affect most actual penalties DEQ assesses unless or

until the penalty formulas in the Oregon Administrative Rules are amended.

Criminal penalty maximums

DEQ proposes that:

- Misdemeanor fines related to air quality laws and permits, asbestos abatements, cleanup, hazardous waste, on-site sewage, solid waste, and underground storage tanks be increased from \$10,000 to \$25,000. (No change is proposed for the water quality misdemeanor, which is currently \$25,000.)
- Corporations be subject to the same maximum criminal penalties as any other person.

Housekeeping

DEQ also seeks to:

- Clarify inconsistencies and errors in the internal references in the statutes.
- Clarify that the Oregon Environmental Quality Commission must consider the violator's economic benefit in determining a civil penalty.

Funding

There is no cost to this legislative concept. It would likely increase revenues to the state's General Fund in the long term. There may also be some increases to the state's Oil and Hazardous Material Emergency Response and Remedial Action Fund and the Underground Storage Tank Compliance and Corrective Action Fund.

Alternative formats

Alternative formats (Braille, large type) of this document can be made available. Contact DEQ's Office of Communications & Outreach, Portland, at (503) 229-5696, or call toll-free in Oregon at 1-800-452-4011, ext. 5696.



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protecting, restoring and
maintaining Oregon's
environment*

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