



No. 19-01
State Building Code—Scope
Tanks

Statutory reference: Oregon Revised Statute (ORS) 455.020, 2017 Compilation

Date: January 2019

Subject: Regulation of Tanks

Question: To what extent does the *state building code* include the regulation of tanks?

Answer: The *state building code* is limited to tanks that are located in the interior of or attached to a regulated building. The single exception under the *state building code* is any tank regulated by the *Oregon Boiler and Pressure Vessel Specialty Code* (OBPVSC). The OBPVSC regulates all boilers and pressure vessels as defined by the Board of Boiler Rules, regardless of location.

Analysis:

As currently adopted, the *Oregon Structural Specialty Code* (OSSC) (based on the *International Building Code*) as well as the *ASCE Minimum Design Loads and Associated Criteria for Buildings and Other Structures* (ASCE-7) appear to grant broad latitude in the regulation of exterior tanks.

For example:

- OSSC Section 105.2, item 5, exempts “*Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons ...*” from permits
- OSSC Section 312 categorizes “tanks” as Group U occupancies
- ASCE-7 includes structural design requirements specific to tanks

However, as noted above, the division finds that regulating tanks exterior to a building in the *state building code* is inconsistent with the mandate of ORS 455.020. Per OAR 918-008-0000(1); “*When a matter is included in a specialty code or referenced publication that is in conflict with Oregon Revised Statutes or Oregon Administrative Rules, the statute or rule applies and the code or standard provision does not. All remaining parts or application of the code or standard remain in effect.*”

Accordingly, the division is taking the necessary steps to clarify the scope of the OSSC by issuing this interpretation and providing clarification in Chapter 1 of the 2019 OSSC (anticipated effective Oct. 1, 2019).

The information contained in this statewide statutory interpretation is legally binding on any party involved in activities regulated by applicable Oregon law, applicable Oregon regulations or State Building Code. If the information contained in this statewide statutory interpretation is cited as a basis for a civil infraction, a representative of the jurisdiction must cite the interpretation number found in this document.



Requisite to this analysis is the consideration of other specific tank authority in the State of Oregon. This would include but not be limited to:

- Underground tanks: *Oregon Department of Environmental Quality*
- Liquefied Petroleum Gas Program: *Oregon Office of State Fire Marshal*

The organizations listed should be contacted for questions regarding their respective programs.

Effect of ORS 455.447 on tanks:

ORS 455.447 requires that a site-specific evaluation be conducted when a tank is installed exterior to and not attached to a building in specific situations. Please consider:

- The definition of “*Essential Facility*” in ORS 455.447(1)(a)(C) includes; “*Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures.*”
- ORS 455.447(1)(b) defines “*Hazardous facility*” as “*...structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released.*”
- In turn, ORS 455.447 (2)(a) requires; “*... new building sites for essential facilities, hazardous facilities, major structures and special occupancy structures to be evaluated on a site specific basis for vulnerability to seismic geologic hazards.*”

From the plain reading of statute, sites for the following tanks require a site-specific evaluation for vulnerability to seismic-induced geologic hazards:

- Those that are containing, housing or supporting water or fire-suppression materials, or equipment required for the protection of essential or hazardous facilities, or special occupancy structures (whether interior or exterior to a building) and,
- Those that are housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released.

ORS 455.447 does not provide a minimum design standard or instructions for permit issuance for tanks, only that sites for defined tanks are subject to the site evaluation requirements. Nonetheless, the division believes that at a minimum, the evaluation should be provided to property owners and the Building Official of record and, that as a best practice recommendation, the evaluation procedures found in OSSC Section 1803 be followed.

Local Preemption – Tanks not covered by the state building code:

The division does not preempt other state or local government entities from regulating tanks not covered under the *state building code*, consistent with their own authority (See ORS 455.040). Inspections, issuance of permits, or other regulatory functions may be regulated at the local level.

Contact: Visit the division website to [contact a building code specialist](#).