



State of Oregon Department of Environmental Quality

Question and Answer

Fuel Tanks Seismic Stability 2023
Advisory Committee Meeting 3

March 3, 2023

1. How can public participate and share information about this rulemaking?

Rulemaking Advisory Committee meetings in December, March and April have time allocated to public input. Six members of the public provided input in December meeting. Formal public comment period is planned for June 2023. The public comment period will include one public hearing meeting for those who would like to provide a spoken input. DEQ will summarize and address all the comments in the EQC staff report in mid-August 2023. In addition, written input can be provided by emailing SeismicStability.2023@DEQ.oregon.gov

[DEQ's Fuel Tank Seismic Stability website](#) is up to date with the rulemaking information. Email updates are available through [GovDelivery](#).

Public participation during plan review remains to be determined by this rule.

2. Does the new program address emergency response?

While the new program will not address emergency response, DEQ has several related programs that do:

- **The Oil Spill Prevention and Contingency Planning Program** for high hazard railways, vessels, oil pipelines transporting large quantities of petroleum in bulk, and large facilities that transfer petroleum over water. This program requires oil spill planning and preparedness to ensure protection of the navigable waters of the Columbia and Willamette Rivers and Oregon's coastal zone. DEQ works with industry to develop response strategies and tactics to help mitigate the impacts to human health and the environment when spills occur. DEQ also plans, conducts and evaluates drills and exercises to ensure that plan holders in the program can respond to spills under the National Incident Management System.
- **The Emergency Response Program** responds to spills of oil and hazardous materials statewide. DEQ receives over 2,000 incident notifications from the Oregon Emergency Response System each year, representing the largest volume of OERS reports managed by any local or state agency. DEQ receives notifications of "reportable releases" 24 hours a day, seven days a week.
- **The Environmental Cleanup program** protects human health and the environment by identifying, investigating, and remediating sites contaminated with hazardous substances including petroleum. The program's objective is to improve sites to the point where no further cleanup action is necessary to return them to productive use. Contamination may occur from current or former operating practices that resulted in releases of hazardous substances discovered during environmental assessments or complaints.
- **DEQ participates in national level exercises organized by FEMA such as [Cascadia Rising](#)**

3. Will the program address fuel security so that we still have fuel available after the earthquake?

SB 1567 tasks Oregon Department of Energy with developing an energy security plan. DEQ and DOE are collaborating in this rulemaking effort.

4. Will removal or relocation be an option for regulated tanks?

If during the assessment it becomes clear an option to mitigate risk is to decommission or relocate a tank, a structure or a facility, the facilities could include that action in their risk mitigation plans.

5. Will the pipelines be affected by the new regulations?

All equipment associated with regulated facilities is in scope of SB 1567 requirements unless it is preempted by the federal Pipeline Safety Improvement Act of 2002.

6. Have any fuel storage facilities in Oregon ever conducted a seismic vulnerability assessment?

- Until SB1567 was passed, DEQ has not been involved with seismic assessment work.
- Bonneville Power Administration recently has conducted a seismic vulnerability study of their system and has had a long-term seismic mitigation program in place since 1993.
- Public Utility Commission started to require seismic studies and mitigation of all investors owned utilities in 2012.

7. Will the whistleblower protection for facility workers be addressed in the rule?

Section 5 for SB1567 has specific language about unlawful employment practices, include enforcement authority. Further DEQ rulemaking is not needed to implement those protections.

DEQ also has a Pollution Complaint reporting system that accepts anonymous and confidential reports.

8. Will Shake Alert or another warning system be required by the rule?

Advisory Committee may want to discuss the utility of a voluntary or mandatory application of a warning system as part of a mitigation plan.

9. SB 1567 refers to “other areas that may be affected as a result of damages to the facility.” How will the “other areas” be defined?

Sec 3 (1) of SB 1567 requires mitigation actions and timelines needed to protect adjacent and other areas that may be affected by damages to facilities. The goal of these new rules is to prevent significant facility failure, or contain spills, so that adjacent or any areas are not impacted. Preventing damages to facilities could result in preventing oil spills into the river and contamination to the food source from the river and industry related to the river thus protecting all areas. Where that is not viable, mitigation plans could identify impact zones and further

exposure prevention measures including potential removal, replacement and/ or relocation. These expectations are subject to ongoing Advisory Committee discussions.

10. Will there be legal review of proposed rules before they are proposed to the Environmental Quality Commission?

Yes, the Oregon Department of Justice provides advice to DEQ during rule drafting and reviews.

11. How will DEQ enforce these requirements?

DEQ has established enforcement procedures defined in DEQ rule, [OAR Chapter 340, Division 12](#). The SB1567 rule proposal will include amendments to Division 12 to specify the classification and magnitude of related rule violations.

DEQ's response to rule violations can be informal enforcement, such as issuance of a Warning Letter with Opportunity to Correct, or formal enforcement, which is usually issuance a Notice of Civil Penalty and Order. Penalty amounts are determined by applying the penalty calculation formula in Division 12. The Notice may include a compliance order. An entity that receives a penalty has a right to appeal.

12. Will there be peer review of proposed mitigation plans?

The rule concept draft includes a process for risk mitigation implementation plans to go through a public comment period and be sent to DOGAMI, ODOE and the Office of the State Fire Marshal for review before they are approved by DEQ. An engineering peer review will also be completed. Members of the public and regulated facilities may comment on other facility plans.

13. What will be the mitigation plans timeline?

SB 1567 directs the facilities to submit to DEQ the risk mitigation implementation plans outlining the actions and the implementation schedule. Rolling implementation is expected with smaller tasks implemented faster than complex projects.

14. Fires following earthquake is a known hazard? Will those be addresses by the rules?

Measures taken by facilities to prevent fire following earthquakes is a topic of this rule development.

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