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**Building Codes Division****Statewide Code Interpretation**

*Working with Oregonians  
to ensure safe building  
construction while  
supporting a positive  
business climate.*

**March 7, 2007****No: 2004 OSSC 101.2  
2004 Oregon Structural Specialty Code**

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**Code Section:** OSSC 101.2, ORS 455.040 and P.L. 100-678 (USC 40 Sec.619)

**Code Edition:** 2004 Oregon Structural Specialty Code (OSSC)

**Date:** Original date: 10/01/93 Updated: 3/07/06

**Subject:** Structures on State, Federal, or Other Property

**Question:** Are plan reviews, permits and inspections required for:  
a. State-owned buildings on:  
1. State-owned property.  
2. Privately owned property leased by the State.  
b. Federally owned buildings on:  
1. Federally owned property.  
2. Privately owned property leased by the federal government.  
3. Municipally owned property leased by the federal government.  
c. Buildings on Indian reservation land.  
d. Buildings on public utility property such as power companies, gas companies, etc.  
e. Private- or State-owned buildings on leased federal lands.  
f. On leased public structures built on private property.

**Answer:** a 1. Yes  
2. Yes and No  
b 1. No  
2. No  
3. No  
c. No  
d. Yes and No  
e. Yes  
f. Yes and No

**Analysis:** a. 1. Yes, under state law, Chapter 455.050.  
- AG Opinion 7378 dated 12/29/76 on building code authority to regulate state-owned buildings.  
- AG Opinion 7330 dated 9/7/76 on applicability of the State Building Code to public water reservoirs, water and sewer plants and similar structures on public lands.  
- AG Opinion 7988 dated 12/30/80 on how the State Building Code applies to hydroelectric plants on public water ways.  
Question "a." 2. Yes and No, under USC 40 § 619.  
Question "b." No. Under USC 40 § 619, federal buildings are subject

to the State Building Code regardless of where they are sited, except the state or local government cannot enforce the requirements. USC 40 § 619 requires federal agencies to comply "to the maximum extent feasible" with a nationally recognized model building code. Plans are to be submitted to the local jurisdiction, their comments incorporated, inspections allowed and compliance met by the federal agency or a finding be made by the federal administrator code compliance is not needed for that particular federal project; however, no federal agency or the contractor employed by the agency can be required to pay for these services. The state or local jurisdiction is not required to provide these services without receiving payment.

Question "c." No. Indian reservations are nations within the nation, and by treaty are exempt from any regulations other than those of the federal government. However, often the Indian nations choose to apply the state building code as a tribal law and may "contract" with other jurisdictions, such as a county or the state, to apply the regulation in their regular enforcement. It is important to remember that state or local government inspectors enter Indian land only by invitation, not by legal right.

Question "d." Yes and No. Section 103 of the State Structural Specialty Code exempts public utility towers and poles from the provisions of the Code. Therefore, the Code could not be used to restrict the construction of transmission lines in residential areas. Such a restriction is normally controlled by zoning regulations through the City Planning Department. The Structural and Mechanical Codes do not regulate public utilities on public property. Yes, structures built out of rights-of-way and owned by public utilities would be regulated and permits are required.

Question "e." Yes. Permits issued by federal agencies are primarily land use lease permits. Structures built upon such land are required to comply with the Oregon State Structural Code, Chapter 1, Section 102 and 103 and Chapter 3. Permits and inspections required for compliance with the State Structural Code are in addition to the federal agency's requirements and are the responsibility of the Building Code Administrator. (Board action June 28, 1977.)

USC 40 § 619 requires federal agencies submit plans, incorporate comments, allow inspections and to cooperate with local officials before and during a federal construction project.

Question "f." Yes and No. Structures on state-owned land are regulated by the codes. Structures built for lease on private property, such as privately-owned building to be leased as post offices, are regulated by the State Building Code. Structures built upon land leased to the federal government are subject to USC 40 § 619 and should be treated like those on federal land.

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