

AMENDMENTS TO FOSSIL FUEL ZONING CODE (Nov 16, 2016)

Council
Amendments
11/16/16

188142

Four alternatives for existing terminal expansions:

1. Recommendation (no change) – allow 10 percent expansion for seismic upgrades (No on amendments #6 and 7)
2. No expansion of storage tank capacity. (Yes on #6, No on #7)
3. Expansion only for fuel blending (Yes on #6 and #7)
4. Expansion allowed for seismic upgrades and fuel blending (No on #6 and Yes on #7)

Amendments	Yes/No
Title 33 code changes (Nov 10)	
<u>Amendment #1</u> – Technical Correction to Exception #4 to clarify that truck only terminals are not Bulk Fossil Fuels Terminals.	
<u>Amendment #2</u> – Changes to Exception #7 to clarify that fuel storage for airports, marine servicing facilities and rail yards are not Bulk Fossil Fuel Terminals.	
<u>Amendment #3</u> – Clarifies the definition of Fossil Fuels by specifying that non-fuel petroleum-based products, such asphalt and lubricants, are not fossil fuels.	
Amendment to Ordinance (Nov 10)	
<u>Amendment #4</u> – Provide additional direction for follow-up actions.	
Title 33 code changes (new)	
<u>Amendment #5 (new)</u> – Change description of limited use to include reference to storage <u>tank</u> capacity.	
<u>Amendment #6 (new)</u> – Delete provision that allows for up to 10% expansion for seismic replacement of storage tanks. <i>As amended to prohibit the storage of coal.</i>	
<u>Amendment #7 (new)</u> – Add provision that allows for up to 10% expansion for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program.	
Amendment to Ordinance (new)	
<u>Amendment #8 (new)</u> – Adopt revised ordinance and findings based on amendments.	

Amendments to Recommended Title 33 code changes

Amendment #1 – Technical Correction to Exception #4 to clarify that truck only terminals are not Bulk Fossil Fuels Terminals.

33.920.300 Bulk Fossil Fuel Terminal

D. Exceptions.

1. Truck or marine freight terminals that do not store, transport or distribute fossil fuels are classified as Warehouse And Freight Movement uses.
2. Truck or marine freight terminals that do not have transloading facilities and have storage capacity of 2 million gallons or less are classified as Warehouse And Freight Movement uses. However, multiple fossil fuel facilities, each with 2 million gallons of fossil fuel storage capacity or less but cumulatively having a fossil fuel storage capacity in excess of 2 million gallons, located on separate parcels of land will be classified as a Bulk Fossil Fuel Terminal when two or more of the following factors are present:
 - a. The facilities are located or will be located on one or more adjacent parcels of land. Adjacent includes separated by a shared right-of-way;
 - b. The facilities share or will share operating facilities such as driveways, parking, piping, or storage facilities; or
 - c. The facilities are owned or operated by a single parent partnership or corporation.
3. Gasoline stations and other retail sales of fossil fuels are not Bulk Fossil Fuel Terminals.
4. Distributors and wholesalers that receive and deliver fossil fuels exclusively by truck are not Bulk Fossil Fuel Terminals.
5. Industrial, commercial, institutional, and agricultural firms that exclusively store fossil fuel for use as an input are not Bulk Fossil Fuel Terminals.
6. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.

Amendment #2 – Changes to Exception #7 to clarify that fuel storage for airports, marine servicing facilities and rail yards are not Bulk Fossil Fuel Terminals.

7. The storage of fossil fuels for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, rail yard, or as part of a fleet vehicle servicing facility are not Bulk Fossil Fuel Terminals.
8. Uses that recover or reprocess used petroleum products are not Bulk Fossil Fuel Terminals.

Amendment #3 – Clarifies the definition of Fossil Fuels by specifying that non-fuel petroleum-based products, such as asphalt and lubricants, are not fossil fuels.

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Fossil Fuel. Fossil fuels are petroleum products (such as crude oil and gasoline), coal, methanol, and gaseous fuels (such as natural gas and propane) that are made from decayed plants and animals that lived millions of years ago and are used as a source of energy. Denatured ethanol and similar fuel additives with less than 5 percent fossil fuel content, biodiesel/renewable diesel with less than 5 percent fossil fuel content, and petroleum-based products used primarily for non-fuel uses (such as asphalt, plastics, lubricants, fertilizer, roofing and paints) are not fossil fuels.

Amendment to Ordinance

Amendment #4 – Provide additional direction for follow-up actions.

d. The Bureau of Planning and Sustainability shall report to City Council no later than December 31, 2019 on the implementation of this ordinance, including:

1. the number and description of any requests by existing terminal operators to replace and expand their facilities;
2. the number and description of building permits issued for fossil fuel tanks between 200,000 and 2 million gallons;
3. the trends in fossil fuel energy use and non-fossil energy use in Oregon;
4. the status of local and state regulatory proceedings that may improve seismic resilience of fossil fuel storage infrastructure; and
5. information on compliance with the Oregon Clean Fuels Program.

e. City Bureaus, including BDS, PBEM and Fire, shall work with the State of Oregon to develop policy options to require seismic upgrades of storage tanks within a firm deadline for replacement of older, unsafe tanks.

Title 33 code changes (new)

Amendment #5 – Change description of limited use to include reference to storage tank capacity.

33.140.100 Primary Uses

- A. No change
- B. Limited uses.

17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].

a. Existing Bulk Fossil Fuel Terminals. The following use limitations apply to existing Bulk Fossil Fuel Terminals:

- (1) Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date] plus 10 percent. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] plus 10 percent is prohibited; and

(2) New fossil fuel storage tanks are prohibited unless a new fossil fuel storage tank is replacing an existing fossil fuel storage tank that does not meet current building code standards for seismic safety, and in that case, the capacity of the new fossil fuel storage tank is prohibited from being greater than the storage capacity of the existing tank that is being replaced plus 10 percent.

b. New Bulk Fossil Fuel Terminals are prohibited.

Amendment #6 – Delete provision that allows for up to 10% expansion for seismic replacement of storage tanks.

33.140.100 Primary Uses

A. No change

B. Limited uses.

17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].

a. Existing Bulk Fossil Fuel Terminals. Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date]. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] is prohibited. The storage of coal is prohibited.

b. New Bulk Fossil Fuel Terminals are prohibited.

~~**Amendment #7**— Add provision that allows for up to 10% expansion for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program.~~

~~Option #1— 10% expansion for seismic replacement and fuel blending.~~

~~Option #2— 10% expansion only for fuel blending.~~

~~Option #1— 10% expansion for seismic replacement and fuel blending.~~

~~33.140.100 Primary Uses~~

~~A. No change~~

~~B. Limited uses.~~

~~17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].~~

~~a. Existing Bulk Fossil Fuel Terminals. The following use limitations apply to existing Bulk Fossil Fuel Terminals:~~

~~(1) Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date] plus 10 percent. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] plus 10 percent is prohibited; and~~

~~(2) New fossil fuel storage tanks are prohibited unless:~~

- ~~• The new fossil fuel storage tank is replacing an existing fossil fuel storage tank that does not meet current building code standards for seismic safety,~~

~~and in that case, the capacity of the new fossil fuel storage tank is prohibited from being greater than the storage capacity of the existing tank that is being replaced plus 10 percent; or~~

- ~~• The new fossil fuel storage tank is for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program administered by the Oregon Department of Environmental Quality.~~

~~b. — New Bulk Fossil Fuel Terminals are prohibited.~~

Option #2 — 10% expansion only for fuel blending.

33.140.100 Primary Uses

A. — No change

B. — Limited uses.

~~17. — Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].~~

~~a. — Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date]. An additional 10 percent of the total fossil fuel storage tank capacity that existed on [insert effective date] is allowed for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program administered by the Oregon Department of Environmental Quality. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] plus 10 percent is prohibited.~~

~~b. — New Bulk Fossil Fuel Terminals are prohibited.~~

Amendment #8 – Adopt revised ordinance and findings based on amendments.

~~Version 1 — PSC recommendation with no change to 10% for seismic and added Council direction.~~

~~Version 2 — no 10% expansion.~~

~~Version 3 — 10% expansion for clean fuel blending.~~

~~Version 4 — 10% expansion for seismic replacement and clean fuel blending.~~

Parsons, Susan

BUREAU TESTIMONY RECAP

From: Kountz, Steve
Sent: Tuesday, November 15, 2016 1:20 PM
To: Armstrong, Tom; Armstrong, Michael; Klonoski, Zach; Parsons, Susan
Subject: Nov. 15 update on fossil fuel zoning testimony

Since the last update I sent before the hearing last week, City Council has received 30 additional testimony emails on the fossil fuel terminal zoning amendments, including the 3 attached letters received on Thursday afternoon. The other 27 new emails generally followed the form-letter formats described in the examples I attached last week, calling for a "full ban" on new fossil fuel terminals and strengthened restrictions on expansion of existing terminals. Altogether, City Council has received 315 testimony emails on these zoning amendments to date.



TBL 11 10 16.pdf

Port of Portland
110916.pdf

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*Attachments are also
 filed with testimony -
 Clerk
 sp.*

Steve Kountz
 Senior Economic Planner
 Portland Bureau of Planning and Sustainability
 1900 SW 4th Ave., Ste. 7100, Portland, OR 97201-5350
 503-823-4551, steve.kountz@portlandoregon.gov

The Bureau of Planning and Sustainability is committed to providing meaningful access. For accommodations, modifications, translation, interpretation or other services, please contact 503-823-7700 or use City TTY 503-823-6868, or Oregon Relay Service 711.

503-823-7700: Traducción o interpretación | Chuyển Ngữ hoặc Phiên Dịch | 翻译或传译 | Traducere sau Interpretare |
 Письменный или устный перевод | Письмовий або усний переклад | Turjumida ama Fasiraadda | 翻訳または通訳 |
 ການແປພາສາ ຫຼື ການອະທິບາຍ | الترجمة التحريرية أو الشفهية | www.portlandoregon.gov/bps/71701

November 10, 2016

Portland City Council
c/o- Council Clerk
1221 SW Fourth Avenue, Room 130
Portland, Oregon 97204

**RE: City of Portland - Bureau of Planning and Sustainability
Recommended Draft Fossil Fuel Terminal Zoning Amendments**

Thank you for the opportunity for Tidewater Barge Lines ("Tidewater") to provide comments regarding the draft zoning amendments that would restrict development and expansion of bulk fossil fuel terminals.

Tidewater is a marine transportation and terminal company based in the Pacific Northwest that employs approximately 275 people. Tidewater has been in business since 1932 and is the largest inland marine transportation company west of the Mississippi River with 16 tugboats, 170 barges and five marine terminals. Tidewater's vessels help to move millions of tons of freight every year on Pacific Northwest waterways, reducing congestion on the state's highways and railroads while producing far fewer pollutants and carbon emissions than trucks and trains transporting equivalent tonnage. Likewise, our industry's incident statistics and safety record show that the towing industry in the Pacific Northwest has one of the best programs for moving commodities securely and safely in the nation.

We have reviewed the proposed zoning changes and are concerned that these amendments will restrict economic development in the Pacific Northwest. We feel that energy terminals can be built, expanded and operated safely in the City of Portland. Energy terminals have the ability to create a positive economic impact and support new and existing family wage jobs in our region.

In addition, we have concerns that the proposed zoning changes will have negative environmental consequences to the Pacific Northwest. The proposed zoning changes create uncertainty about the future of energy terminals. These terminals are key to a fuel distribution network that allows Tidewater to supply fuel by barge from Portland to Eastern Oregon and Washington in an efficient and environmentally friendly matter. As noted in the enclosed document, four barges pushed by a tugboat is the equivalent of 538.5 trucks or 140 railcars that travel on the highways and railroads in our region. If these terminals cease operations, fuel will have to be distributed in other modes of transportation such as truck and railcar. Therefore, if barging is no longer a viable option for transporting fuel, then every four barge tow would be potentially replaced with 538.5 trucks or 140 rail cars travelling on the highways and railroads in the Columbia River Gorge.

In conclusion, Tidewater is an advocate for environmental stewardship in the Pacific Northwest and hopes the City of Portland will consider having a constructive dialogue with Tidewater and the other stakeholders to generate an implementable fossil fuel distribution policy that addresses climate change goals, public safety and environmental protection without significantly adversely impacting the viability of Oregon's economy and its waterfront industry. Tidewater urges the Portland City Council not to adopt these proposed fossil fuel terminal zoning amendments.

Thank you for your consideration and the opportunity to comment on this important matter.

Sincerely,

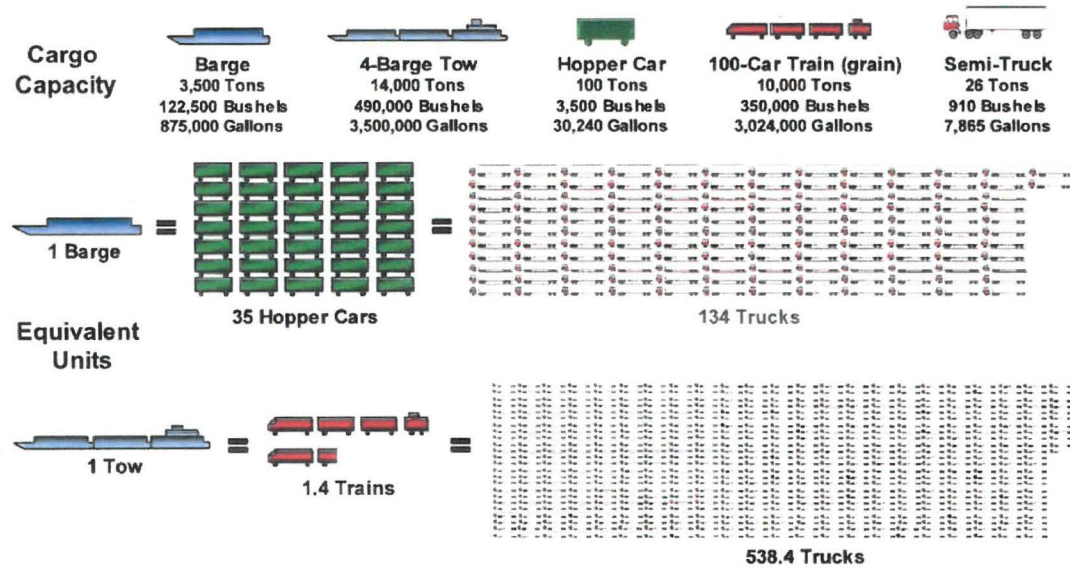


Robert A. Curcio
President & CEO

Enclosure

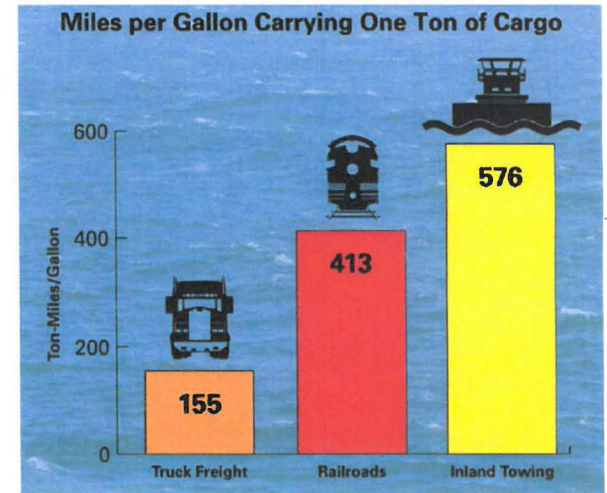
Environmental Advantages of Barging

Freight Comparison of Barges, Trains and Trucks



Source: U.S. Army Corps. of Engineers

Saving Energy



Source: Texas Transportation Institute

Ensuring Clean Air

Emissions (Grams/Ton-mile)



PM = Particulate matter • HC = Hydrocarbons • CO = Carbon monoxide • NOx = Nitrogen oxides

SOURCE: NATIONAL WATERWAYS FOUNDATION



November 9, 2016

Portland City Council
1221 SW 4th Avenue
Portland, Oregon 97204

Dear Portland City Council:

Thank you for the opportunity to comment on the Fossil Fuel Terminal Zoning Amendments. Throughout this process, we have focused largely on how the City of Portland can move forward with this policy in a manner that avoids unintended consequences for our region and state. To that end, we appreciate that fuel storage for "end users", including Portland International Airport (PDX) and marine fuel suppliers, are specifically exempt from the provisions of the proposed amendments.

In the case of PDX, it's important to note that aviation fuel isn't stored exclusively at PDX. Fuel farm facilities at PDX are owned and operated by the Portland Fueling Facilities Corporation (PFFC), a consortium of the airlines operating at PDX. PFFC tanks assume a three-day reserve. The distribution chain for aviation fuel is a long one – beginning at a refinery (where it becomes aviation fuel), then to a distributor (fuel farm in PDX), then to PFFC tanks, and finally to the air craft. Aviation fuel cannot be blended with other fuels, and is stored separate from other fuels handled by the distributor.

With growth in the aviation sector, fuel consumption is expected to increase by more than 50% by 2035 with a corresponding need for tank storage. The code amendments should make it clear that fuel storage for end users is exempt – regardless of where this fuel is stored within city limits. We understand this was the legislative intent, and appreciate Portland City Council considering an amendment that would make this clear for the sake of avoiding confusion in future scenarios.

Thank you again for this opportunity to comment on this clarifying amendment and build on our comments to date.

Sincerely,

Emerald Bogue
Regional Affairs Manager

Comments to the Portland City Council on the Fossil Fuel Terminal Zoning
Amendments Recommended by Portland Bureau of Planning and Sustainability -
November 10, 2016

I am Dr. Theodora Tsongas, an environmental health scientist, and a member of the Environmental Health Working Group of Oregon Physicians for Social Responsibility and the Multnomah County Local Emergency Planning Committee. The Fossil Fuel Terminal Zoning code changes recommended by the Portland Bureau of Planning and Sustainability are well thought out. I commend PSC's restriction of aggregation of small fossil fuel terminals, and I commend PSC for rejecting a request by NW Natural to exempt its facilities from the fossil fuel code amendments.

But the recommended code changes still raise concerns about public safety and could pose a threat to our community and neighborhoods. We can do better to more fully reflect the city's Resolutions 37168 (the Fossil Fuel Policy Resolution), 37164 (the Oil Train Resolution), and the Climate Action Plan.

Please let me remind you of the fire that resulted from a collision of an oil tanker truck with an oil train. Unfortunately, the truck driver was killed. Fortunately, the train cars burned but did not explode. It was a very close call for nearby industries, workers and residents in NW Portland. In Mosier the derailed train cars burned for days and destroyed or disabled much of the town's water and sewer infrastructure, exposed residents and visitors to noxious smoke from the oil fires as well as causing major disruption in the life of the town. Accidents happen.

Let 's not increase the likelihood of an oil fire. We need to truly "actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways." This means actively discouraging increases in demand for fossil fuel unit trains in Portland.

If we look at the ten large oil facilities listed in Figure 7 of PSC's recommendation, and apply a 10% across- the-board increase in terminal capacity, that would result in additional storage of 39 million gallons of oil – a volume equivalent to roughly 13 unit trains of explosive Bakken crude oil.

Allowing a 10% increase in capacity will not discourage the development of fossil fuel infrastructure. We must allow for seismic and safety upgrades without increasing capacity, or we defeat the purpose of the resolutions and the Climate Action Plan.








Why take chances with our neighborhoods that are on the rail corridor? And let's not take a chance with the health and safety of our Linnton neighbors who live so close to the tanks.

And, let's truly take the lead in combating climate change by accelerating the decline of fossil fuel use and by redirecting our resources to the development and implementation of sustainable, clean energy sources. Let's continue the great work that you have begun!

Thank you for considering my comments.

Theodora Tsongas, PhD, MS
Portland, OR 97215

From: Kountz, Steve
Sent: Thursday, November 10, 2016 11:08 AM
To: Armstrong, Michael; Armstrong, Tom; Klonoski, Zach; Parsons, Susan
Subject: FW: Update on fossil fuel zoning testimony

-  CNA_Fossil_Fuel...
-  Cooke_111016...
-  Your Voice
Needed to Ensur...
-  Comments on
Proposed Fossil ...
-  PFC letter fossil
fuel zoning ...
-  WWC submittal
City Council Re ...
-  Wysham_11101...
-  Norgren_11101...

Attachments are also filed with testimony. Clerk SP

As of 10:30 this morning, City Council has received emailed testimony from 285 parties. Among these emails, 8 additional letters are attached that were submitted in the last day, most coming from organizations. The other additional testimony in the last day has generally followed the form-letter format with themes described below.

From: Kountz, Steve
Sent: Tuesday, November 08, 2016 1:45 PM
To: Armstrong, Tom <Tom.Armstrong@portlandoregon.gov>; Armstrong, Michael <Michael.Armstrong@portlandoregon.gov>; Klonoski, Zach <Zach.Klonoski@portlandoregon.gov>; Parsons, Susan <Susan.Parsons@portlandoregon.gov>
Subject: Update on fossil fuel zoning testimony

As of noon today, City Council has received 232 testimony emails on the Fossil Fuel Terminal Zoning Amendments. All of this testimony generally reflects a common theme, calling for a "full ban" on new fossil fuel terminals and strengthened restrictions on expansion of existing terminals. These emails typically followed a form-letter format or a common header with brief individual comments, and I am attaching 5 examples that loosely represent the full range of what we have received so far. One letter was also submitted jointly by Columbia Riverkeeper, 350 PDX, and others, which is also attached.

Thanks,
Steve

Steve Kountz
Senior Economic Planner
Portland Bureau of Planning and Sustainability
1900 SW 4th Ave., Ste. 7100, Portland, OR 97201-5350
503-823-4551, steve.kountz@portlandoregon.gov

To help ensure equal access to City programs, services and activities, the City of Portland will provide translation, reasonably modify policies/procedures and provide auxiliary aids/services/alternative formats to persons with disabilities. For accommodations, translations, complaints, and additional information, contact me at 503-823-4551, City TTY 503-823-6868, or use Oregon Relay Service: 711.

Parsons, Susan

From: linda.stone@loveable.com
Sent: Wednesday, November 09, 2016 10:25 PM
To: BPS Fossil Fuel Zoning
Subject: Your Voice Needed to Ensure Portland Enacts Historic Fossil Fuel Terminal Ban

This link is sent to you from <http://audubonportland.org>

You are receiving this mail because someone read a page at Audubon Society of Portland and thought it might interest you.

linda.stone@loveable.com thought that the page Your Voice Needed to Ensure Portland Enacts Historic Fossil Fuel Terminal Ban (at <http://audubonportland.org/issues/take-action/your-voice-needed-to-ensure-portland-enacts-historic-fossil-fuel-terminal-ban>) might interest you.

He/she says:

"Please enact the historic fossil fuel terminal ban"

--
Audubon Portland Staff

Type size - +

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Your Voice Needed to Ensure Portland Enacts Historic Fossil Fuel Terminal Ban



Last fall Portland City Council passed a historic resolution to ban new fossil fuel facilities in the city, putting Portland at the forefront of the climate justice movement. The resolution was the result of massive grassroots advocacy and the leadership of Mayor Hales and City Council. Now, one year later we need to hold the City to their word as they work to implement this resolution into binding city code. Overall, the proposed code is a strong step forward, but it could be made stronger.

Submit Comments and Attend the November 10 Hearing:

When: November 10, 2016 from 2 to 5 p.m.

Where: City Council Chambers - 1221 SW 4th Ave, Portland OR 97204

With the proposed draft, the City is taking steps towards making last year's fossil fuel ban a reality, but they need to hear from the community that we expect the proposal to completely follow through with enacting a full ban of fossil fuel expansion, as last fall's resolution explicitly called for.

Submit Comments:

Email your comments to Portland City Council at fossilfuelzoning@portlandoregon.gov and urge them to strengthen the code proposal by:

- Enacting a full ban on all new fossil fuel terminals by removing the exception for terminals under 2 million gallons. The proposed 2-million-gallon exception would still allow new fossil fuel facilities to be built in our communities
- Eliminating the provision that allows existing fossil fuel terminals to grow by as much as 10% in exchange for seismic upgrades. These upgrades should be required, not provided in exchange for even bigger facilities.
- Directing Portland Bureau of Emergency Management to develop proposals for State building code changes to require seismic upgrades
- Rejecting Northwest Naturals request to be exempted from these regulations.

Please act now to ensure Portland fulfills the promise to its historic fossil fuel resolution!

Parsons, Susan

From: merrittregna@gmail.com on behalf of Regna Merritt <Regna@oregonpsr.org>
Sent: Wednesday, November 09, 2016 11:27 PM
To: BPS Fossil Fuel Zoning
Subject: Comments on Proposed Fossil Fuel Amendments

Kayla	Schneider-Smith		1502 SE 84th Ave	Portland	OR	97216
Adriana	Cvitkovic		1502 SE 84th Ave	Portland	OR	97216
Mike	Goren		3525 SE Taylor St	Portland	Or	97215
Sarah	Klatt-Dickerson		2135 NE 134th pl	Portland	Or	97230
Sean	Tenney		3414 NE 17th Avenue	Portland	OR	97212
Sarah	Collmer		704 W 20th St.	Vancouver	WA	98660
Alicia	Keys		10480 SW Eastridge #88	Portland	OR	97225
Helen	Hays		18553 S Ferguson Rd	Oregon City	OR	97045
Debra	Rehn		5130 SE 30th Ave Apt 9	Portland	OR	97202
Gisela	Ray		85 SE 16th Court	Gresham	Oregon	97080
Maria	Grumm		1815 SE 30th Ave	Portland	Oregon	97214
Francisco	Gadea		4110 SE Hawthorne Blvd #758	Portland	OR	97214
Maureen	O'Neal		9100 s.w. 80th ave	Portland	Or	97223
	McCuen	Mental Health	1825 Fairmount Ave s	Salem	Oregon	97302

Annie						
Sybil	Kohl	MSW	18103 NE 159th Ave	Brush Prairie	Washington	98606
Roger	Burt	MS	4035 NE Hazelfern	Portland	OR	97232
Sonia	Holdaway		5501 SE Flavel Drive	Portland	OR	97206
Benjamin	Sexton		1502 SE 84th Ave	Portland	OR	97216
Gretchen	Randolph Ph.D, PMHNP	Psychiatric Nurse Practitioner	13635 SW 115th Ave	Portland	Oregon	97223
Jack	Herbert		11935 SW Edgewood Street	Portland	OR	97225
Marilee	Dea	MSRN CPNP	4613 ne killingsworth #2	Portland	Oregon	97218
Susan	Katz	MD	726 NW 11th Ave. #306	Portland	OR	97209
Rose	Christopherson,	MD, PhD	14707 Nw Cedar St	Portland	OR	97231
Jesse	Kaminash		260 NW Pittock Dr	Portland	OR	97210
Becky	Bell-Greenstreet		1079 State St.	North Bend	Oregon	97459
Stephen	Couche		4718 SE 31st Ave.	Portland	Oregon	97202
Cheryl	Erb		1068 park ave NE	Salem	OR	97301
patricia	Carcasses		2741A Se 141 Ave	Portland	Oregon	97236
Brian	Beinlich		PO Box 1417	North Plains	OR	97133
Martha	Tocco	PhD	3180 SW Westwood Drive	Portland	Oregon	97225

Robert	Goldman, MD	Academic Physician and Surgeon	4015 SW 57th Ave	Portland	OR	97221
Frodo	Okulam	D.Min.	10019 NE Failing	Portland	OR	97220
Joseph	Snyder	4th generation Oregonian	5858 SW Riveridge Ln. #4	Portland	Oregon	97239
Tim	Swinehart	Teacher, Lincoln High School	4226 SE Pine St.	Portland	Oregon	97215
Mike	Ellison		4303 NE 14th Ave	Vancouver	WA	98663
Mary & John	Sievertsen	CPA	7705 SW Miner Way	Portland	Oregon	97225
Nicole	Staudinger		1815 NE Junior St	Portland	Oregon	97211
Thomas	Ward, MD		260 NW Pittock Dr	Portland		97210

Those listed above submit the comments below.

Dear Mayor Hales and Commissioners Fritz, Fish, Novick, and Saltzman:

Thank you to the Planning and Sustainability Commission and the Bureau of Planning and Sustainability for its work in incorporating public input into drafts of the Fossil Fuel Terminal Zoning Amendments. The current proposal is much improved, bringing it closer to the original intent of the 2015 Fossil Fuel Policy Resolution #37168. However, it still falls short of the resolution, which called for the city to "actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland."

Although this proposal prohibits new large bulk terminals, it still allows new terminals up to 2 million gallons and allows existing terminals to expand by 10%. In order to protect our immediate health and safety and play our part in stopping catastrophic climate change, we must pass an ordinance that fully prohibits new and expanded fossil fuel storage tanks.

I want the City of Portland to:

- 1) Prohibit any expansion of existing terminals. Instead, require upgrades for Seismic Safety through State building codes.
- 2) Enact a full ban on all new bulk fossil fuel terminals: 2 million gallon facilities are still too large. The language of the City's 2015 Resolution was "to actively oppose" any new fossil fuel infrastructure.

With a few simple improvements to the proposed Fossil Fuel Zoning Amendments, Portland can fully implement our historic resolution and once again be a beacon of light in addressing one of the most pressing concerns of our time.

Thank you for consideration of these comments,

Regna Merritt

Regna Merritt, PA
Oregon Physicians for Social Responsibility
1020 SW Taylor St, Suite 275 Portland, OR 97205
C: 971.235.7643



Concordia Neighborhood Association
P.O. Box 11194
Portland, OR 97211
landuse@concordiapdx.org

Re: Fossil Fuel Terminal Zoning Amendments

November 7th, 2016

Portland City Council
1221 SW 4th Avenue
Portland, OR 97204

Mayor Charlie Hales, mayorcharliehales@portlandoregon.gov
Commissioner Steve Novick, novick@portlandoregon.gov
Commissioner Amanda Fritz, amanda@portlandoregon.gov
Commissioner Nick Fish, nick@portlandoregon.gov
Commissioner Dan Saltzman, dan@portlandoregon.gov

Dear Council Members,

Following the Pembina fuel terminal proposal, we support the City's actions to impose predictable, understandable regulations that will prohibit new large fossil fuel terminals in our city, while supporting our transition to a clean energy economy, and not impede important renovations of existing facilities, including those required to make them safer, replace them as they age out, and seismically upgrade them.

We have reviewed the proposed zone change language, as well as the September 9th, 2016 memo from Tom Armstrong and Steve Kountz to the Planning and Sustainability Commission outlining the proposed Fossil Fuel Terminal Zoning Amendments. Our comments below are specifically in reference to that memo.

Regarding the Fossil Fuel Terminal size threshold, we support Option A: No change to the storage capacity threshold of 5 million gallons.

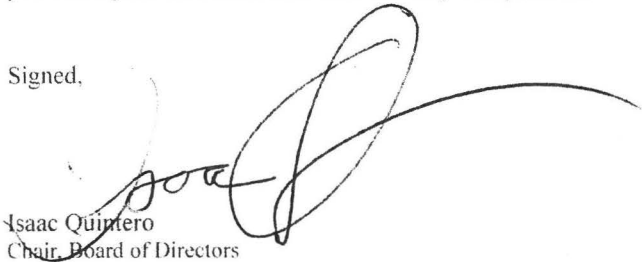
With regards to regulating existing terminal expansion, we support Option C, to prohibit new Bulk Fossil Fuel Terminals and allow expansion of existing terminals greater than 10% through a conditional use review process with special criteria for emergency backup capacity, seismic upgrades, and tanks for clean and renewable fuels. However, it is critical that these criteria are enforced via inspections, as we would not like to see additional storage capacity approved under the guise of renewable fuels, only to discover that the operator has had a change of heart and decided to store pure fossil fuels after the structure is approved and the final inspector has left the site. There needs to be a regulatory regime to ensure that any structure that is approved for renewable fuels, is actually only used for renewable fuels.

Concerning additional review criteria, we feel strongly that if existing BDS staff does not feel that they have the capacity or expertise to implement discretionary land use review criteria addressing greenhouse gas emissions or safety impacts of hazardous material storage and transportation, that they should acquire this capacity. This capacity could be acquired by hiring new staff, by forming strategic alliances with outside organizations, or by hiring consultants, but it is critical that BPS and BDS figure this out so that it can be properly regulated. This starts with being able to write clear and predictable criteria with which to judge new applications. There are many good options, such as cradle to grave analysis, well to wheel analysis, and other methodologies with which to measure the greenhouse gas emissions of any new proposal; the criteria used to pick a particular methodology should balance ease of regulation with effectiveness at meeting GHG emissions reduction goals. There are similar objective methodologies and criteria available with which to measure safety. We thus support Option B, to add conditional use criteria for expansion of existing terminals to mitigate adverse land use impacts on greenhouse gas emissions and safety impacts of hazardous materials storage and transportation.

These are certainly complicated issues, but we have within Portland some of the best and brightest in their respective fields, and we have access to national expertise as well. If the City needs to add to its capacity in order to regulate fossil fuel terminals in the manner that will be most effective at reducing GHG emissions and meeting our community goals for safety, than the City must acquire the necessary expertise. It's simply not acceptable to claim a lack of staff expertise as an excuse to not propose the most effective possible regulations. Expertise is something that can be acquired, and should be acquired when it is required.

We thank you for your close and careful examination of these critical issues, and for considering our comments as you make your decisions as to how the City will proceed.

Signed,



Isaac Quiñero
Chair, Board of Directors

Concordia Neighborhood Association
P.O. Box 11194
Portland, OR 97211
landuse@concordiapdx.org

cc: Susan Anderson, susan.anderson@portlandoregon.gov, Steve Kountz, steve.kountz@portlandoregon.gov

Fossil Fuel Terminal zoning testimony 11-10-2016

Harriet Cooke MD, MPH

3126 SW Carson St, Port. OR 97219

holisticcooke@aol.com

I am writing in full support of restricting development and expansion of bulk fossil fuel terminals, such that NO new Bulk Fossil Fuel Terminals will be allowed. I further support improvement limitations on existing Bulk Fossil fuel terminals, such that only seismic upgrades are allowable which would add no more than 10% of the capacity of replaced tanks. However, I would prefer NO increase in capacity. We need to keep the flow of oil SLOW while we continue to build capacity for and integrate renewable energy systems.

As vital as this project has been to limiting the worst of climate catastrophe, it is ever more essential with a president who is planning to lift restrictions on the production of fossil fuel reserves, and lift federal roadblocks to moving and consuming more fossil fuels.

It is up to our states, cities, and counties to move us forward in creating a more sustainable, equitable, and compassionate world.

Thank you for all the work you do in moving us toward this direction.

Harriet



PORTLAND FREIGHT COMMITTEE

November 8, 2016

The Honorable Mayor Charlie Hales and City Council
City Hall, 1221 SW Fourth Avenue
Portland, OR 97204

RE: Comments on the proposed Fossil Fuel Terminal Zoning Amendments

Dear Mayor Hales & City Commissioners,

On behalf of the Portland Freight Committee (PFC), thank you for the opportunity to comment on the proposed Fossil Fuel Terminal Zoning Amendments (FFTZA) recommended draft.

In general, the PFC supports the goals sought to be addressed by the proposed fossil fuel terminal zoning amendments including reducing carbon emissions and making seismic upgrades to infrastructure that serves our city and beyond. However, the proposed zoning code amendments are deeply flawed and not the appropriate solution. Restricting expansion at existing fuel terminals and prohibiting new terminal development may impact industrial job growth and middle-income jobs. It may also constrain the supply of fossil fuels to serve anticipated population and employment growth, which will lead to increasing fuel costs and disproportionately affect low-income households.

We are also concerned that the city of Portland is unilaterally imposing regulation that will compromise the supply of fuels to other communities throughout the state and Western U.S. Portland is a regional fossil fuel hub, located at the terminus of the Olympic pipeline. Over 90 percent of petroleum used in Oregon is handled through the Bulk Fossil Fuel Terminals in Portland. Fuels handled in and through the Portland Energy Cluster (Energy Hub) are also supplied to the state of Washington, western Idaho, and during fire-season, to locations as far away as Montana and California. The FFTZA will create a bottleneck in the distribution system. Consumers and businesses throughout this broad market area rely on the fuels that are supplied from the energy hub in Portland.

Additionally, limiting the supply of fuels to airports, the maritime industry, railroads and trucking firms, until a viable source of alternative fuels are readily available makes little or no sense. Supplying fuels by alternative means, likely by truck, from outside the city, region and state is the antithesis of smart climate action policy.

The proposed amendments may also have a negative impact on seismic resiliency improvement efforts at the bulk fossil fuel terminals in Portland. The 10 percent overall expansion cap on tank storage capacity is actually a disincentive to rebuilding tanks that meet modern-day seismic standards.

The PFC urges Portland City Council to pursue other ways to achieve climate action plan and seismic resiliency goals. For example, the city may allocate its' own resources for the purchase of electric powered or other low-carbon emitting vehicles for its' city fleet and to demonstrate its' commitment to curbing greenhouse gas emissions. Providing economic incentives and an expedited permitting process may be ways to hasten construction of new, more seismically-resilient storage tanks at the BFFTs.

We are not asking the city to be complacent about the need to address climate change or the risks associated with catastrophic seismic events; we're recommending that the city take actions that are more thoughtfully considered and which are undertaken in a more consistent and open process than that which has taken place. At a minimum, there should be more thought, consideration and analysis including of fuel supply and prices before the proposed amendments are implemented.

Thank you for your consideration of our comments.

Respectfully yours,

Handwritten signatures of Pia Welch and Raihana Ansary. Pia Welch's signature is on the left, and Raihana Ansary's signature is on the right.

Pia Welch

Raihana Ansary

Chair

Vice Chair



Mayor Charlie Hales and
Portland City Commissioners
Portland City Hall
1221 SW 4th Avenue
Portland, OR 97204

November 9, 2016

Re: Fossil Fuel Terminal Zoning Amendments (City Council Hearing, November 10, 2016, 2pm)

Dear Mayor Hales and City Commissioners,

I am writing on behalf of the Working Waterfront Coalition (WWC) in opposition to the Fossil Fuel Terminal Zoning Amendments (FFT Amendments) recommended by the Planning and Sustainability Commission, dated October 11, 2016. (PSC Recommendation). As you know, the WWC represents a wide range of waterfront businesses along the Portland Harbor including several fossil fuel terminals (FFT's).

Background and Position

The WWC has actively participated in the City's FFT amendment process and related efforts, including the enactment of Resolution 37168 and the adoption of the City's 2035 Comprehensive Plan. Throughout the FFT amendment process the WWC has opposed the City's effort to prohibit or limit the growth of multimodal terminals along the working waterfront. These multimodal fuel terminals have safely provided the City, the Region and the State with most of the liquid fuel supply for decades. The energy cluster in Linnton and Willbridge is by far Oregon's largest fuel distribution hub, providing more than 90 percent of the State's fuel supply. Because of the importance of these terminals the WWC has consistently objected to earlier versions of the City's FFT amendments, which sought to ban these multimodal terminals completely. Likewise, the WWC objects to the most recent version of the City's FFT amendments, which ban new multimodal fuel terminals and severely restrict the growth of existing FFTs.

Policy Analysis

From a policy standpoint, it may be helpful for the WWC to explain its' opposition to the PSC Recommendation relative to several of the City's recently enacted goals, including Resolution 37168 and the City's 2035 Comprehensive Plan. In that regard, City Council should reject the FFT amendments recommended by the Planning and Sustainability Commission because the PSC recommendation is inconsistent with several of the City's recently enacted goals:

- 1) As provided in Policy 4.81 and Policy 4.82 of the 2035 Comprehensive Plan, if the City's goal is to encourage disaster-resilient development and reduce natural-hazard risks to critical energy and transportation infrastructure, then City Council should reject the PSC Recommendation because it discourages firms from investing in disaster-resilient development.

Explanation: In order to economically justify the level of private investment needed to comprehensively upgrade critical energy and transportation infrastructure at existing FFTs, existing FFT's must be allowed to grow. The PSC Recommendation does the opposite. The PSC Recommendation prohibits existing FFTs from growing, except in one very limited circumstance. The only circumstance

under which an existing FFT can grow is if it replaces an existing tank with a seismically upgraded tank. However, even if an existing tank is replaced with a seismically upgraded tank, the incremental growth that can occur when a tank is replaced is limited to 10 percent of the capacity of the tank being replaced, with an overall increase limited to 10 percent of the storage capacity of the FFT facility on the date the amendments are enacted. This severe limitation on expansion discourages disaster-resilient development because the small amount of growth that is allowed to occur will not justify the massive amount of private investment needed to replace existing tanks in Portland. Even if investment does occur, the PSC recommendation will only produce a seismic upgrade of 10 percent, because no additional growth can occur once the 10 percent limit is reached. Without growth, investment in seismic upgrades will not occur. In short, the 10 percent rule creates an economic disincentive to disaster-resilient development, is shortsighted, and will be counterproductive to meaningful seismic upgrades over time.

- 2) As provided in Policy 6.48 of the 2035 Comprehensive Plan, if the City's goal is to limit fossil-fuel distribution and storage facilities to those necessary to serve the regional market, then City Council should reject the PSC Recommendation because it restricts the ability of fossil fuel infrastructure that is necessary to serve the regional market.

Explanation: All of the existing FFT's located in Portland's energy cluster are needed to serve the regional market. The PSC recommendation wrongly targets existing FFTs that serve the regional market. The WSPA alternative provides a regulatory concept and draft code language that limits extra-regional FFT's, while protecting FFT's that serve the regional market. The WSPA alternative is consistent with Policy 6.48, but the PSC recommendation is not.

- 3) As provided in Resolution 37168, if the City's goal is not to restrict the expansion of fossil fuel infrastructure that improves the safety, efficiency and seismic resilience of existing infrastructure, then City Council should reject the PSC Recommendation because it discourages firms from making improvements that increase the safety, efficiency and seismic resilience of fossil fuel facilities that primarily serve the regional market.

Explanation: For the reasons described above, the PSC Recommendation will not improve seismic resilience of existing FFT infrastructure, because it creates a long term disincentive to invest in existing FFTs and any related seismic upgrades. The associated disinvestment in existing FFT facilities that will occur as a result of the PSC recommendation will create a less efficient and potentially less safe regional fossil fuel infrastructure in Portland, as firms focus future capital investments in markets where their return on investment is justified.

- 4) As provided in the Comprehensive Plan, if the City's goal is to reduce vehicle miles traveled, then City Council should reject the PSC Recommendation because limiting multimodal storage capacity to existing tank capacity will require more trucks to move more fossil fuel into and through Portland, in order to bypass supply constraints at existing fossil fuel facilities that serve the regional market.

Explanation: By prohibiting new FFTs and limiting the capacity of existing FFTs that serve the regional market the PSC Recommendation creates a significant supply constraint for fossil fuels used by customers within the region. Over time and in times of emergency, this supply constraint will create a significant fossil fuel bottleneck in Portland. When it becomes necessary to bypass this supply constraint,

Working Waterfront



C O A L I T I O N

the only remaining option firms will have is to truck fossil fuels to and through Portland, in order to bypass the constraint. This constraint will therefore increase vehicle miles traveled and will require more fossil fuel to be transferred to and through Portland by truck.

- 5) As provided in Policy 6.5 of the 2035 Comprehensive Plan, if the City's goal is to create economic resilience, then City Council should reject the PSC recommendation because restrictions on existing fossil fuel facilities that primarily serve the regional market makes the City, the Region and the State more susceptible to impacts from climate change, natural disasters and unforeseen changes in the economy.

Explanation: The proposed ban on new FFTs that serve the regional market, along with a significant limit on growth for existing FFTs, will make the City, the Region and the State less economically resilient because the ban and its related limits creates a significant regulatory constraint that discourages firms from investing in needed infrastructure and technology that will make the Portland region less susceptible to impacts from climate change, natural disasters and unforeseen changes in the economy. For the foreseeable future, fossil fuels will continue to fill an important role in our energy economy. The Portland region and the state as a whole depends on the existing FFT's for roughly 90 percent of its petroleum supply. Even if the demand for fossil fuel in Oregon is only growing ½ percent to 1 percent annually, as estimated by the city, it is critically important for firms to continue to invest in fossil fuel facilities over the next several decades, as significant demand continues and risk of natural disasters and other unforeseen emergencies continues to exist. In short, Portland should not create significant disincentives for FFT's to invest in critical energy facilities that will continue to power Portland and the State of Oregon for decades to come.

Position, Alternative, and Clarifying Amendment

For all of the above reasons, the WWC opposes the PSC Recommendation and requests that it not be adopted by City Council.

The WWC notes that the FFT Amendment process was rushed. This fact is reflected in Appendix A of October 11, 2016, PSC Recommendation. Throughout this rushed process the WWC has supported a better alternative offered by WSPA in July, 2016, which is attached to this letter. The WSPA alternative is not mentioned in the PSC Recommendation, and was unfortunately ignored by the City throughout the rushed review process. The WWC continues to support the WSPA alternative.

If City Council is inclined to move forward with the PSC Recommendation, or something similar, the WWC requests that a significant ambiguity in the PSC recommendation be clarified. Specifically, it is not clear whether the limits on the growth relate only to fossil fuel storage tanks, or whether the limits on growth relate to pipes and other fossil fuel facilities associated with existing FFTs. It is our understanding from discussions with city staff that the City's intent is to limit growth related to existing storage tank capacity, and that it does not intend to limit growth related to pipes and other fossil fuel facilities and infrastructure. Accordingly, we offer the following clarifying amendments:

Section 33.140.100(B)(17)(a), as shown on page 49 of the October 11, 2016 PSC Recommendation, should be amended as follows:



- a. Existing Bulk Fossil Fuel Terminals. The following use limitations apply to existing Bulk Fossil Fuel Terminals:
- (1) Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in fossil fuel storage tanks, is limited to the fossil fuel storage tank capacity that existed on [insert effective date] plus 10 percent. Total fossil fuel storage tank capacity on the site in excess of the fossil fuel storage tank capacity that existed on [insert effective date] plus 10 percent is prohibited.
 - (2) New fossil fuel storage tanks are prohibited unless a new fossil fuel storage tank is replacing an existing fossil fuel storage tank that does not meet current building code standards for seismic safety, and in that case, the capacity of the new fossil fuel storage tank is prohibited from being greater than the storage capacity of the existing fossil fuel storage tank that is being replaced, plus 10 percent.
 - (3) No other use limitations shall be imposed on existing Bulk Fossil Fuel Terminals other than those set forth above.

Section 33.910.030, as shown on page 53 of the October 11, 2016 PSC Recommendation, should be amended as follows:

Fossil Fuel Storage Tank A fossil fuel storage tank is a tank affixed to the ground, within the boundaries of an existing Bulk Fossil Fuel Terminal site, which is used exclusively for fossil fuel storage.

Conclusion

For all of the reasons stated above, the WWC urges City Council to reject the PSC recommendation and reconsider its proposed regulation of multimodal FFTs along the City's working waterfront. The existing concentration of multimodal fuel terminals located along the City's working waterfront handles more than 90 percent of the State's fuel supply, and will continue to do so for the foreseeable future. Given these realities, it is critically important that the City not create a fuel bottleneck that severely affects the entire State of Oregon. Unfortunately, that is precisely what the PSC recommendation does and will do.

Sincerely,

Ellen M. Wax
Executive Director

Established in 2005, the Working Waterfront Coalition, with its extensive knowledge of harbor industry needs and active industry participation, is dedicated to working with its partners to ensure an appropriate balance between environmental concerns and the needs of river-related, river-dependent employers. Portland's Harbor is a vital employment area: home to thousands of valuable high-wage, high-benefit jobs. In addition, WWC members are conscientious stewards of the environment, making significant investments in the harbor consistent with state and federal laws.



Western States Petroleum Association
Credible Solutions • Responsive Service • Since 1907

Frank E. Holmes
Director, Northwest Region

July 25, 2016

Mr. Steve Kountz
City of Portland
1900 SW 4th Ave, Suite 7100
Portland, OR 97201

via e-mail: steve.kountz@portlandoregon.gov

Re: WSPA Comments on the City of Portland Discussion Draft

Dear Mr. Steve Kountz:

The Western States Petroleum Association (WSPA) is a non-profit trade association representing companies that explore for, produce, refine, transport, and market petroleum, petroleum products in five western states including Oregon. WSPA appreciates the opportunity to provide comments on the City of Portland Bureau of Planning and Sustainability Fossil Fuel Terminal Zoning Amendments Discussion Draft.

As you know from our June 2, 2016, meeting, several WSPA members operate petroleum terminals in Portland. These members have responsibly operated in the energy corridor along Northwest St. Helens Road for decades. This corridor provides key energy and emergency infrastructure as recognized by various city, state, and federal documents. WSPA opposes the City's push to regulate fossil fuels under Resolution No. 37166, Fossil Fuel Terminal Zoning Amendments, or otherwise, but submits these comments in an attempt to mitigate some of the unintended consequences of the contemplated zoning amendments.

The proposed zoning amendments contradict and misalign with federal and state laws pertaining to energy infrastructure, including but not limited to Oregon's low carbon fuel standards, Oregon's Renewable Fuel Standards, federal Renewable Fuel Standards, and similar laws. The Discussion Draft further appears to not follow policy direction in Resolution No. 37166 and the City's Comprehensive Plan enabling energy infrastructure to serve the region as well as transition to non-fossil fuel sources. Of particular concern to WSPA, the proposed zoning amendments would create a number of substantial unintended consequences. Specifically:

- The Discussion Draft restricts infrastructure that serves the region, in contradiction of the new City Comprehensive Plan provision governing fossil fuel infrastructure;
- The Discussion Draft fails to clearly specify how existing infrastructure can expand on existing sites, to adjacent properties, and to nearby non-adjacent properties;

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Mr. Kountz
January 4, 2016
Page 2

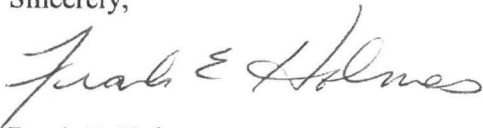
- The Discussion Draft restricts infrastructure related to Oregon's low carbon fuel standards, Oregon's Renewable Fuel Standards, federal Renewable Fuel Standards, and similar laws;
- The Discussion Draft terminal size thresholds are too small to enable expansion to serve future energy needs;
- The Discussion Draft stymies potential future technologies that do not fit within the contemplated framework;
- The Discussion Draft provides too narrow of a geographic area (currently, the IH Zone) for siting new terminals;
- The Discussion Draft generally does not align with state and federal policy regarding siting energy infrastructure;
- The Discussion Draft encourages less efficient (and potentially less safe) transportation by truck over more efficient modes of transportation;
- The Discussion Draft fails to provide for the economic impact assessment called for by Resolution No. 37166; and
- The proposed timeline for implementing the Discussion Draft is too fast to allow for thoughtful discussion and tailoring addressing the above and other concerns.

We have enclosed proposed zoning code language that would address some of the issues raised in this comment. While the proposed language does not resolve all the problems with the contemplated amendments, it addresses some of them.

Again, thank you for this opportunity to comment on the Fossil Fuel Terminal Zoning Amendments Discussion Draft. We hope the City reconsiders its push to pass regulations in this area, and if does, that it will more narrowly tailor its rules to not contradict federal and state direction and avoid unintended consequences.

Thank you for your consideration of WSPA's comments. If you have any questions, please contact me at this office at fholmes@wspa.org and (360) 352-4506.

Sincerely,



Frank E. Holmes
Director, Northwest Region
Western States Petroleum Association

Enclosure: Appendix 1, Proposed Portland Zoning Ordinance

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Appendix 1- Proposed Portland Zoning Ordinance

This appendix contains draft zoning code language from WSPA for City of Portland consideration in effectuating the City's fossil fuels policy. WSPA continues its position that the City's effort to regulate fossil fuels is misplaced and opposes those efforts. These proposed code provisions are intended to avoid some of the unintended consequences of the City's proposal and do not indicate WSPA support for City efforts to regulate fossil fuels. WSPA's draft code language contains four components:

1. Three new definitions for Portland Zoning Ordinance Chapter 33.910 (Appendix 1, page 2),
2. A use characteristics description for Bulk Fossil Fuels Terminals in Zoning Ordinance Chapter 33.920 (Appendix 1, page 2),
3. A new Energy Corridor Overlay Zone to protect existing fuel terminals in proposed new Portland Zoning Ordinance Chapter 33.490 (Appendix 1, page 4), and
4. Modifications to base industrial zones in Portland Zoning Ordinance Chapter 33.140 to recognize Bulk Fossil Fuel Terminals as a limited use (Appendix 1, page 7).

[Proposed New Definitions for Portland Zoning Ordinance Chapter 33.910]

Extra-Regional Bulk Fossil Fuel Terminal. A fossil fuel terminal that primarily serves markets outside of the Petroleum Administration for Defense District (PADD) 5 region, an area that includes the western states of California, Arizona, Nevada, Oregon, Washington, Alaska, and Hawaii.

Fossil Fuels. Fossil fuels include coal, petroleum, crude oil, refined oil, natural gas, bitumen, kerosene, propane, and other fuels made from decayed plants and animals that lived millions of years ago and are primarily used as a source of energy. Blended fuels containing a mix of fossil fuels and other fuel sources designed to address Oregon's low carbon fuel standards in Oregon Administrative Rules Chapter 340, Division 253, federal Renewable Fuel Standards, state Renewable Fuel Standards, or similar state or federal laws designed to reduce the carbon footprint of fuels are not fossil fuels.

Regional Bulk Fossil Fuel Terminal. A fossil fuel terminal that primarily serves the Petroleum Administration for Defense District (PADD) 5 region, an area that includes the western states of California, Arizona, Nevada, Oregon, Washington, Alaska, and Hawaii.

[Proposed New Use Category For Bulk Fossil Fuel Terminals]

33.920.360 Bulk Fossil Fuel Terminal

- A. Characteristics.** Bulk Fossil Fuel Terminals are characterized by having all of the following (1) marine, pipeline or railroad transport access, (2) transloading facilities for transferring a shipment between transport modes (such as from rail to ship), and (3) storage facilities for fossil fuels exceeding a storage capacity of [] million barrels for petroleum, [] million gallons for liquefied natural gas (LNG), [] million gallons for other liquefied gas fuels.
- B. Accessory Uses.** Accessory uses may include offices, pipes, industrial processing, shipping terminals, parking, storage, rail spur or lead lines, and docks.
- C. Examples.** Extra-regional liquefied natural gas (LNG) export facilities, propane export facilities, or coal export facilities.
- D. Exceptions.**
1. Improvements in the safety, or efficiency, seismic resilience, or operations of existing energy infrastructure.
 2. Terminals or firms that are end users of fossil fuels or sell directly to end users of fossil fuels such as airports, manufacturing, agricultural businesses, utilities, gas stations, and power plants.
 3. Development of emergency backup capacity.
 4. Infrastructure that enables recovery or re-processing of used petroleum products
 5. Terminals or firms that are storing, transporting or processing fuels and blended fuels containing a mix of fossil fuels and other fuel sources designed to address Oregon's low carbon fuel standards in Oregon Administrative Rules Chapter 340, Division 253, federal Renewable Fuel Standards, state Renewable Fuel Standards, or similar state or federal laws designed to reduce the carbon footprint of fuels.

[Proposed New Chapter in Zoning Ordinance]

City of Portland Planning and Zoning Ordinance - Title 33, Planning and Zoning

Chapter 33.490 Energy Corridor Overlay Zone

Sections:

- 33.490.010 Purpose
- 33.490.020 Map Symbol
- 33.490.025 Relationship to Portland Zoning Code Chapter 33.140
- 33.490.030 No Size limits
- 33.490.040 Expansion of Energy Corridor Terminals

Map 490-1 Energy Corridor Overlay Zone Boundaries

33.490.010 Purpose

The Energy Corridor Overlay Zone recognizes the historic cluster of energy terminals, including fossil fuel terminals that have served as Portland's hub for energy transport for decades. The purpose of this overlay zone is to protect this area for future energy infrastructure growth, including but not limited to expansion of energy terminals.

33.490.020 Map Symbol

The Energy Corridor Overlay zone is shown on the Official Zoning Maps with a letter "m" map symbol.

33.490.025 Relationship to Portland Zoning Code Chapter 33.140

The Energy Corridor Overlay zone provides flexibility for the sites subject to this overlay in addition to what are allowed under Portland Zoning Code Chapter 33.140. If there is a conflict between what is allowed under this Chapter 33.490 and what would be allowed Chapter 33.140, this Chapter 33.490 controls.

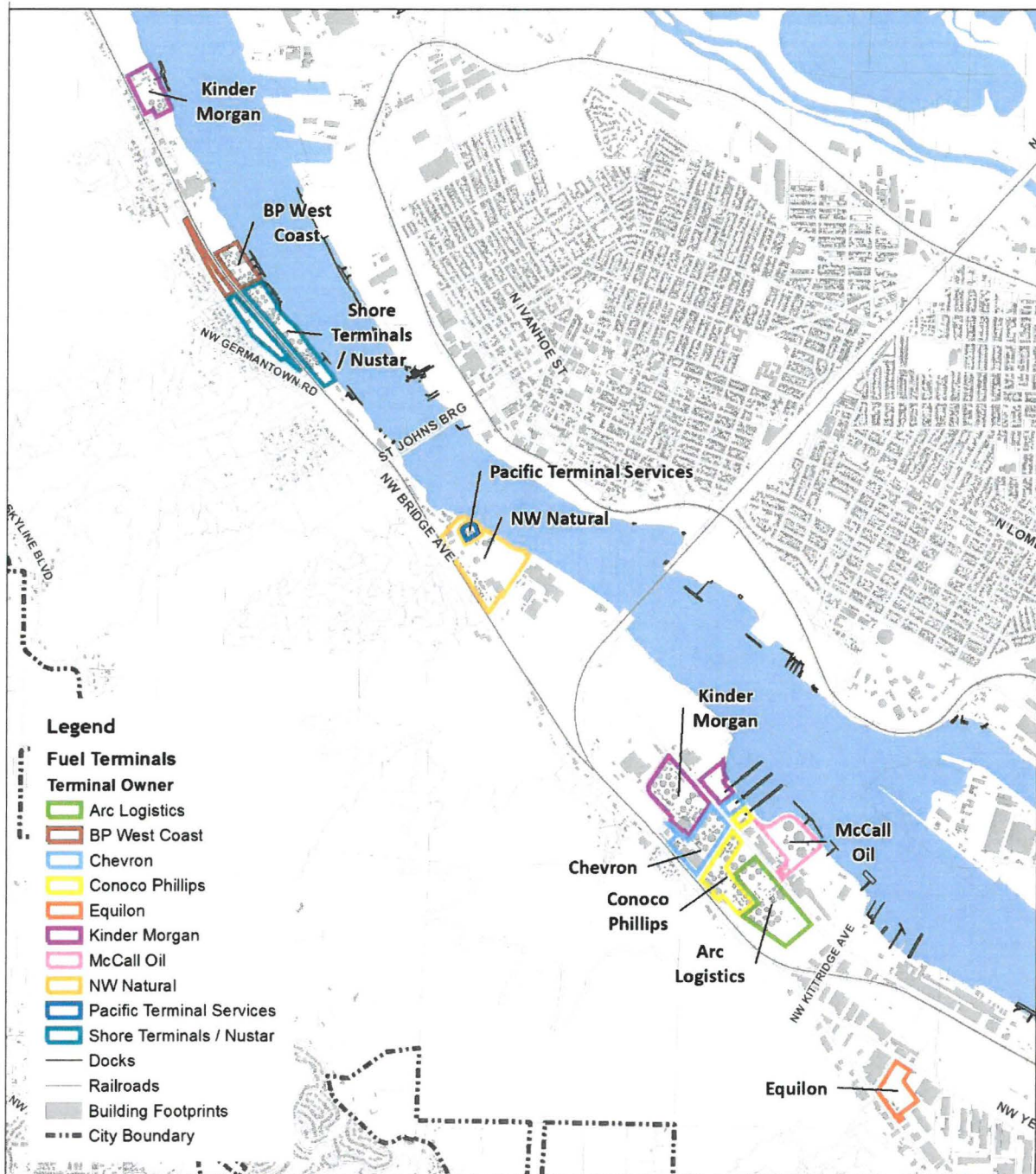
33.490.030 No Size Limits

There is no storage or other size limits for Bulk Fossil Fuel Terminals or other energy facilities located in the Energy Corridor Overlay Zone.

33.490.040 Expansion of Energy Corridor Terminals

A Bulk Fossil Fuel Terminal in the Energy Corridor Overlay may expand to new lots and parcels outside of the Energy Corridor Overlay zone as provided in this Section 33.490.040. A Bulk Fossil Fuel Terminal may only expand onto parcels or lots that are all or partially within one half of a mile from a property line of the lot or parcel containing the Bulk Fossil Fuel Terminal. A Bulk Fossil Fuel Terminal that is expanded outside of the Energy Corridor Overlay will be treated as if it were entirely within the Energy Corridor Overlay for purposes of land use and all other city approvals. If an expansion of an energy facility to a new lot or parcel pursuant to this Section 33.490.040 includes proposed development that would qualify the combined energy facility as a Bulk fossil Fuel Terminal, the combined energy facility will be treated as if it were entirely within the Energy Corridor Overlay for purposes of land use and all other city approvals.

Map 490-1 Energy Corridor Overlay Zone Boundaries [designate noted sites with "m" map symbol]



[Proposed Changes to Chapter 33.140 are shown in RED]

City of Portland Planning and Zoning Ordinance - Title 33, Planning and Zoning

Chapter 33.140 Employment and Industrial Zones

Sections:

General

- 33.140.010 General Purpose of the Zones
- 33.140.020 List of the Employment and Industrial Zones
- 33.140.030 Characteristics of the Zones
- 33.140.040 Other Zoning Regulations

Use Regulations

- 33.140.100 Primary Uses
- 33.140.110 Accessory Uses
- 33.140.130 Nuisance-Related Impacts
- 33.140.140 On-Site Waste Disposal

Site Development Standards

- 33.140.200 Lot Size
- 33.140.205 Floor Area Ratio
- 33.140.210 Height
- 33.140.215 Setbacks
- 33.140.220 Building Coverage
- 33.140.225 Landscaped Areas
- 33.140.227 Trees
- 33.140.230 Ground Floor Windows in the EX Zones
- 33.140.235 Screening
- 33.140.240 Pedestrian Standards
- 33.140.242 Transit Street Main Entrance
- 33.140.245 Exterior Display, Storage, and Work Activities
- 33.140.250 Trucks and Equipment
- 33.140.255 Drive-Through Facilities
- 33.140.265 Residential Development
- 33.140.270 Detached Accessory Structures
- 33.140.275 Fences
- 33.140.280 Demolitions

- 33.140.290 Nonconforming Development
- 33.140.295 Parking and Loading
- 33.140.300 Signs
- 33.140.310 Superblock Requirements
- 33.140.315 Recycling Areas

General

33.140.010 General Purpose of the Zones

The employment and industrial zones are for areas of the City that are reserved for industrial uses and for areas that have a mix of uses with a strong industrial orientation. The zones reflect the diversity of industrial and business areas in the City. The zones differ in the mix of allowed uses, the allowed intensity of development, and the development standards. The regulations promote areas which consist of uses and developments which will support the economic viability of the specific zoning district and of the City. The regulations protect the health, safety and welfare of the public, address area character, and address environmental concerns. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.

33.140.020 List of the Employment and Industrial Zones

The full and short names of the employment and industrial zones and their map symbols are listed below. When this Title refers to the employment or E zones it is referring to the first three listed. When this Title refers to the industrial or I zones, it is referring to the last three listed.

Full Name	Short Name	/	Map Symbol
General Employment 1			EG1
General Employment 2			EG2
Central Employment			EX
General Industrial 1			IG1
General Industrial 2			IG2
Heavy Industrial			IH

33.140.030 Characteristics of the Zones

A. General Employment. The General Employment zones implement the Mixed Employment map designation of the Comprehensive Plan. The zones allow a wide range of employment

opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial and industrially-related uses. Other commercial uses are allowed to support a wide range of services and employment opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas.

1. General Employment 1. EG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. EG1 zoned lands will tend to be on strips or small areas.
2. General Employment 2. EG2 areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. EG2 zoned lands will generally be on larger areas than those zoned EG1.

B. Central Employment. This zone implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development.

C. General Industrial. The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial areas.

1. General Industrial 1. IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.
2. General Industrial 2. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.

D. Heavy Industrial. This zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development.

33.140.040 Other Zoning Regulations

The regulations in this chapter state the allowed uses and the development standards for the base zones. Sites in overlay zones or plan districts and designated historical landmarks are subject to additional regulations which supersede those of this Chapter. The Official Zoning Maps indicated which sites are subject to the additional regulations. Specific uses or development types may also be subject to regulations in the 200s series of chapters.

Use Regulations

33.140.100 Primary Uses

A. Allowed uses. Uses allowed in the employment and industrial zones are listed in Table 140-1 with a "Y". These uses are allowed if they comply with the development standards and other regulations of this Title. Being listed as an allowed use does not mean that a proposed development will be granted an adjustment or other exception to the regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters.

B. Limited uses. Uses allowed that are subject to limitations are listed in Table 140-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 140-1.

1. Household Living uses in I zones. This regulation applies to all parts of Table 140-1 that have a [1]. Household Living in houseboats and houseboat moorages in I zones are regulated by Chapter 33.236, Floating Structures. Household Living in other structures is prohibited.
2. Group Living. This regulation applies to all parts of Table 140-1 that have a [2].

a. General regulations. All Group Living uses except for alternative or post incarceration facilities, are allowed by right subject to the regulations of Chapter 33.239, Group Living.

b. Alternative or post incarceration facilities. Group Living uses which consist of alternative or post incarceration facilities are conditional uses. They are also subject to the regulations of Chapter 33.239, Group Living.

3. EG commercial limitation. This regulation applies to all parts of Table 140-1 that have a [3].

a. Limited uses.

(1) Office uses. Except for sites with historic landmarks, the net building area for Office uses is limited to the square footage of the site area. On sites with historic landmarks, the net building area for Office uses may be up to twice the total square footage of the site area. Exceptions to these size limits are prohibited.

(2) Retail Sales And Service uses. Except for sites with historic landmarks, the net building area plus any exterior display or storage area for Retail Sales And Service uses is limited to 60,000 square feet or the square footage of the site area, whichever is less. On sites with historic landmarks, the net building area plus any exterior display or storage area for Retail Sales And Service uses is limited to 60,000 square feet or twice the total square footage of the site area, whichever is less.

b. Conditional uses.

(1) Retail Sales And Service uses that exceed the area limits in 3.a(2) are a conditional use.

4. IG1 commercial limitation. This regulation applies to all parts of Table 140-1 that have a [4].

a. Limited uses. One Retail Sales And Service or Office use is allowed per site. The square footage of net building area plus the exterior display and storage area may be up to 3,000 square feet.

b. Conditional uses.

(1) More than one Retail Sales And Service or Office Use on a site is a conditional use.

(2) Any Retail Sales And Service or Office Use where the net building area plus the exterior display and storage area is more than 3,000 square feet is a conditional use.

c. Prohibited uses.

(1) Except for sites with a historic landmark, the net building area of all the Retail Sales And Service and Office uses on a site plus the exterior display and storage area, taken together, may not exceed 20,000 square feet or the square footage of the site area, whichever is less. Retail Sales And Service and Office uses that exceed these area limits are prohibited.

(2) For sites with a historic landmark, the net building area of all the Retail Sales And Service and Office uses on a site plus the exterior display and storage area, taken together, may not exceed 60,000 square feet or twice the square footage of the site area, whichever is less. Retail Sales And Service and Office uses that exceed these area limits are prohibited.

5. IG2 commercial limitation. This regulation applies to all parts of Table 140-1 that have a [5].

a. Limited uses. Up to four Retail Sales And Service or Office uses are allowed per site. The square footage of the net building area plus the exterior display and storage area may be up to 3,000 square feet per use.

b. Conditional uses.

(1) More than four Retail Sales And Service or Office uses on a site is a conditional use.

(2) Any Retail Sales And Service or Office use where the net building area plus the exterior display and storage area is more than 3,000 square feet is a conditional use.

c. Prohibited uses.

(1) Except for sites with a historic landmark, the net building area of all the Retail Sales And Service and Office uses on a site plus the exterior display and storage area, taken together, may not exceed 20,000 square feet or the square footage of the site area, whichever is less. Retail Sales And Service and Office uses that exceed these area limits are prohibited.

(2) For sites with a historic landmark, the net building area of all the Retail Sales And Service and Office uses on a site plus the exterior display and storage area, taken together, may not exceed 60,000 square feet or twice the square footage of site area, whichever is less. Retail Sales And Service and Office uses that exceed these area limits are prohibited.

6. IH commercial limitation. This regulation applies to all parts of Table 140-1 that have a [6].

a. Limited uses. Up to four Retail Sales And Service or Office uses are allowed per site. The square footage of the net building area plus the exterior display and storage area may be up to 3,000 square feet per use.

b. Conditional uses.

(1) More than four Retail Sales And Service or Office use on a site is a conditional use.

(2) Any Retail Sales And Service or Office use where the net building area plus the exterior display and storage area is more than 3,000 square feet is a conditional use.

c. Prohibited uses.

(1) Except for sites with a historic landmark, the net building area of all the Retail Sales And Service and Office uses on a site plus the exterior display and storage area, taken together, may not exceed 12,000 square feet or the square footage of the site area, whichever is less. Retail Sales And Service and Office uses that exceed these area limits are prohibited.

(2) For sites with a historic landmark, the net building area of all the Retail Sales And Service and Office uses on a site plus the exterior display and storage area, taken together, may not exceed 25,000 square feet or twice the square footage of site area, whichever is less. Retail Sales And Service

and Office uses that exceed these area limits are prohibited.

7. Self-Service Storage limitation. This regulation applies to all parts of Table 140-1 that have a [7]. The limitations are stated with the special regulations for these uses in Chapter 33.284, Self-Service Storage.

8. Waste-Related limitation. This regulation applies to all parts of Table 140-1 that have a [8]. All Waste-Related uses are conditional uses, unless they meet all of the following conditions in which case they are allowed by right.

a. The use must be approved by Metro under their authority as prescribed in ORS 268.317;

b. Metro's approval of the use must include a mitigation plan. The requirements for the mitigation plan must be approved by the City Council through an intergovernmental agreement with Metro, adopted prior to Metro's approval of the use; and

c. The location of the use must be in conformance with Metro's Regional Solid Waste Management Plan.

9. Community Service uses in EG zones. This regulation applies to all parts of Table 140-1 that have a [9]. Most Community Service uses are allowed by right. Short term housing may be allowed by right if it meets certain standards. See Chapter 33.285, Short Term Housing and Mass Shelters. Mass shelters are prohibited.

**Table 140-1
Employment and Industrial Zone Primary Uses**

Use Categories	EG1	EG2	EX	IG1	IG2	IH
Residential Categories						
Household Living	CU	CU	Y	CU [1]	CU [1]	CU [1]
Group Living	CU	CU	L/CU [2]	N	N	N
Commercial Categories						
Retail Sales And Service	L/CU [3]	L/CU [3]	Y	L/CU [4]	L/CU [5]	L/CU [6]
Office	L [3]	L [3]	Y	L/CU [4]	L/CU [5]	L/CU [6]
Quick Vehicle Servicing	Y	Y	N	Y	Y	Y
Vehicle Repair	Y	Y	Y	Y	Y	Y
Commercial Parking	CU [15]	CU [15]	CU [15]	CU [15]	CU [15]	CU [15]
Self-Service Storage	Y	Y	L [7]	Y	Y	Y
Commercial Outdoor Recreation	Y	Y	Y	CU	CU	CU
Major Event Entertainment	CU	CU	CU	CU	CU	CU
Industrial Categories						
Manufacturing And Production	Y	Y	Y	Y	Y	Y
Warehouse And Freight Movement	Y	Y	Y	Y	Y	Y
Wholesale Sales	Y	Y	Y	Y	Y	Y
Industrial Service	Y	Y	Y	Y	Y	Y
Railroad Yards	N	N	N	Y	Y	Y
Waste-Related	N	N	N	L/CU [8]	L/CU [8]	L/CU [8]
Bulk Fossil Fuels Terminal	L [17]	L [17]	L [17]	L [17]	L [17]	L [17]
Institutional Categories						
Basic Utilities	Y/CU [12]	Y/CU [12]	Y/CU [12]	Y/CU [13]	Y/CU [13]	Y/CU [13]
Community Service	L [9]	L [9]	L [10]	L/CU [11]	L/CU [11]	L/CU [11]
Parks And Open Areas	Y	Y	Y	Y	Y	Y
Schools	Y	Y	Y	N	N	N
Colleges	Y	Y	Y	N	N	N
Medical Centers	Y	Y	Y	N	N	N
Religious Institutions	Y	Y	Y	N	N	N
Daycare	Y	Y	Y	L/CU [11]	L/CU [11]	L/CU [11]
Other Categories						
Agriculture	L [16]	L [16]	L [16]	L [16]	L [16]	L [16]
Aviation And Passenger Terminals	CU	CU	CU	CU	CU	CU
Detention Facilities	CU	CU	CU	CU	CU	CU
Mining	N	N	N	CU	CU	CU
Radio Transmission Facilities	L/CU [14]	L/CU [14]	L/CU [14]	L/CU [14]	L/CU [14]	L/CU [14]
Rail Lines And Utility Corridors	Y	Y	Y	Y	Y	Y

Y = Yes, Allowed

CU = Conditional Use Review Required

L = Allowed, But Special Limitations

N = No, Prohibited

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [] are stated in 33.140.100.B.

- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

10. Community Service in the EX zone. This regulation applies to all parts of Table 140-1 that have a [10]. Most Community Service uses are allowed by right. Short term housing and mass shelters may be allowed by right if they meet certain standards, or may be a conditional use. See Chapter 33.285, Short Term Housing and Mass Shelters.

11. Community Service and Daycare limitations in I zones. This regulation applies to all parts of Table 140-1 that have a [11]. Community Service uses or Daycare uses up to 3,000 square feet of net building area are allowed. Community Service uses or Daycare uses larger than 3,000 square feet of net building area are a conditional use. Short term housing and mass shelters of any size are prohibited.

12. Basic Utilities in E zones. This regulation applies to all parts of Table 140-1 that have a [12]. Public safety facilities that include Radio Frequency Transmission Facilities are subject to the regulations of Chapter 33.274. All other Basic Utilities are allowed.

13. Basic Utilities in I zones. This regulation applies to all parts of Table 140-1 that have a [13]. Public safety facilities that include Radio Frequency Transmission Facilities are subject to the regulations of Chapter 33.274. Public safety facilities which have more than 3,000 square feet of floor area are a conditional use. The approval criteria are in Section 33.815.223. All other Basic Utilities are allowed.

14. Radio Frequency Transmission Facilities. This regulation applies to all parts of Table 140-1 that have a [14]. Some Radio Frequency Transmission Facilities are allowed by right. See Chapter 33.274.

15. Commercial Parking. This regulation applies to all parts of Table 140-1 that have a [15]. Except where plan district provisions supersede these regulations, Commercial Parking is a conditional use in the E and I zones. Within plan districts, there may be special regulations.

16. Agriculture. This regulation applies to all parts of Table 140-1 that have a [16]. Agriculture is an allowed use. Where the use and site meet the regulations of Chapter 33.237, Food Production and Distribution, the applicant may choose whether it is allowed as a Market Garden.

17. Bulk Fossil Fuels Terminals. Regional Bulk Fossil Fuel Terminals of any size are allowed. Extra-Regional Bulk Fossil Fuel Terminals may not exceed a storage capacity of [] million barrels for petroleum, [] million gallons for liquefied natural gas

(LNG), [] million gallons for other liquefied gas fuels, except as may be allowed pursuant to the Portland Energy Corridor Overlay Zone. Coal terminals may not exceed a storage capacity of one ton of coal.

C. Conditional uses. Uses which are allowed if approved through the conditional use review process are listed in Table 140-1 with a "CU". These uses are allowed provided they comply with the conditional use approval criteria for that use, the development standards, and other regulations of this Title. Uses listed with a "CU" that also have a footnote number in the table are subject to the regulations cited in the footnote. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The conditional use review process and approval criteria are stated in Chapter 33.815, Conditional Uses.

D. Prohibited uses. Uses listed in Table 140-1 with an "N" are prohibited. Existing uses in categories listed as prohibited may be subject to the regulations of Chapter 33.258, Nonconforming Uses and Development.

33.140.110 Accessory Uses. Uses that are accessory to a primary use are allowed if they comply with specific regulations for the accessory uses and all development standards.

33.140.130 Nuisance-Related Impacts

A. Off-site impacts. All nonresidential uses including their accessory uses must comply with the standards of Chapter 33.262, Off-Site Impacts.

B. Other nuisances. Other nuisances are regulated by Title 29, Property and Maintenance Regulations.

33.140.140 On-Site Waste Disposal

On-site disposal of solid wastes generated by a use is subject to the same regulations as for uses in the Waste-Related use category. See Table 140-1.

Development Standards

[NO REVISIONS PROPOSED TO DEVELOPMENT STANDARDS]

Dear City Commissioners,

I wrote the following op-ed which will get carried in papers around the country, urging other cities to follow our lead as the first city in the country to act on the Paris Agreement. I hope my op-ed helps support you in knowing that you are acting on behalf of all of us in Portland in passing the strongest possible ordinance, and, more importantly, future generations in other cities and states around the world. I will be taking the message of your groundbreaking work to COP22 in Marrakech, tomorrow. I hope you won't let us down.

Thank you for your leadership!

Sincerely,

Daphne Wysham

Paris, Follow Portland

by Daphne Wysham

A few days before voters went to the polls in the U.S., the Eiffel Tower and Arc de Triomphe glowed green in Paris.

The reason? France was celebrating the Paris Climate Agreement, which came into force on November 4.

It was a remarkable achievement. Less than a year after 196 countries signed the climate agreement, over two-thirds of the world's countries — including the two biggest greenhouse gas emitters, the U.S. and China — ratified it, agreeing to an upper limit of 2 degrees Celsius in atmospheric warming.

But it might be a bit early to break out the champagne. For starters, the Paris Agreement is toothless.

There are no timetables for ratcheting down consumption of fossil fuels, and no sanctions for countries that fail to meet targets. The deal promises a small amount of assistance to developing countries fighting climate change, but most of that is merely repackaged development aid.

More frighteningly still, the world's existing fossil fuel infrastructure and proven wells and mines will sail us right past the 2 degree upper limit if they're all exploited.

Meanwhile, the clear-eyed citizens of Portland, Oregon, are pioneering a more proactive way forward. A year ago, Portland's city council unanimously voted to "actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways."

Portland's city leaders took this step as much out of a desire to protect their own health and safety as out of a desire to act on climate change.

Much of Portland's fossil fuel infrastructure lies in an industrial zone that, should an earthquake come to pass, would rapidly turn to jello. And oil train derailments — like the one earlier this year in nearby Mosier, Oregon — can cause out-of-control blazes, bringing near fears to the fore.

Respect for indigenous communities is another factor. The Standing Rock Sioux's protest against the Dakota Access Pipeline encampment is a reminder that Native American treaty rights are routinely flouted by fossil fuel industries wanting to push their export projects on impoverished communities. It happens here in the Northwest, too.

But climate science is the central piece. A recent study found that if we are to maintain a mere 66 percent chance of avoiding surpassing 2 degrees Celsius of warming, no more new major fossil fuel infrastructure can be built.

In fact, we must actually leave many proven reserves untapped and begin to dismantle existing fossil fuel infrastructure.

President Obama did the right thing in signing the Paris Agreement. He also took a bold step in issuing guidelines for federal agencies to disclose greenhouse gas emissions associated with major infrastructure projects, like the Dakota Access Pipeline, and consider alternatives should the impact be significant.

But at this moment in time, neither the Paris Agreement nor Obama's proposed "climate test" is sufficient.

Portland Mayor Charlie Hales is showing the world what a first step toward meaningful action on the Paris Accords might look like. On November 17, Portland's city council will vote on what is likely the strongest land use code language in the country prohibiting all new fossil fuel export infrastructure.

Should it pass and become binding law, we'll know who the real world leaders are. Paris — and the rest of the Paris Agreement signatories — would do well to follow Portland's lead.

And if you do, back home in our evergreen city, we'll raise a glass of microbrew in your honor.

From: Daphne Wysham
daphne.wysham@gmail.com
1294 14th St
West Linn 97068

Hi, I'm Tim Norgren, member of Laborers' Local 737. I live in the Gorge and often work in Portland. Our house is within sight of the railroad when the leaves thin out, which means we're squarely in the "blast zone" and if we should be as unfortunate as Mosier we would have to evacuate our house after being rocked by a cataclysmic explosion and inhaling vast quantities of carcinogens. Next we would have to see if the volunteer fire dept. (even closer to the tracks, near the Port office) was still standing and hope the equipment wasn't destroyed or the volunteers killed so that we'd have some help in stopping the house and forest fires that often accompany such events. There's a good chance the fracking chemicals and oil spilled would end up in rock creek, feeding into the Columbia, or if a train derailed across from the fairgrounds on the thin isthmus between the Columbia and Rock Cove, then it's likely it would end up on both sides, and perhaps claim the lives of those traveling alongside it on Hwy 14 as well. Our water treatment plant sits nestled between town and the fairgrounds and it's pretty much a given our water would be poisoned. So would our fish, otters, waterbirds, raccoons and the others.

Health effects just from the psychological trauma of such events can last for years, especially in children. There's now enough evidence for us to know that traumatic events during childhood often lead to a prolonged "fight, flight or freeze" reaction, affecting ALL of our biological systems and leading to health problems from heart and breathing issues, to digestive issues, to "unexplained" nerve pain. My partner endured a barn fire as a child and though she wasn't burned she was forced to watch helplessly and smell her animal friends being cooked alive while they screamed. To this day she is plagued by night terrors related to it in various ways. She also developed fibromyalgia, a debilitating nerve disease which is directly linked to childhood trauma and sometimes triggers later in life. Trauma can also linger for generations. It's rampant in places like Lac Megantic, and will surely linger with the residents and former residents of Mosier and the other "sacrifice zones" for years as well. I don't want to see more of this in our communities and we are standing at the threshold of an opportunity to turn back the tide on this type of tragedy.

That being said I encourage you to improve on the PSC's recommendation by sticking to the full intentions of the oil train resolution the council adopted last year. That resolution made it clear that no new infrastructure would be built to encourage an increase in oil train traffic through Portland and the Gorge. Allowing a 10% increase in volume to current fuel storage facilities would do just that. There are other ways to encourage seismic upgrades, including simply calling it as it is, a public safety issue, and making upgrades a requirement for staying in business here. If that isn't acceptable to them I guarantee that I and other workers in the building trades will be more than willing to do the demolition work and ready the space for a more sustainable business!

In line with the above I have no wish to build NEW structures either, no matter how "small" they are, which would increase fuel traffic through Portland, by train, truck, or pipeline. Again, we all live here in the area, and no one wants to see their community destroyed. Nor does any worker want to look at such a tragedy and know that we "built" it. Because the fact is we construction folks do tend to look back at projects a few years later and say "I built that". It's always preferable to have some pride in what you're saying, and increasingly the fossil fuel industry brings nothing but shame.

Finally, let there be no exemption for NW Natural. As we find we can meet our needs with sustainable energy there'll likely be LESS demand for fracked gas, (which from extraction to burning is often more carbon intensive than coal) in the Portland area, especially as we become more and more aware of the earthquakes and poisoned water (including water used to irrigate crops..disgusting!) which are the additional consequence of fracking.

Please let there be no more tragedy and no more trauma caused by our actions or inactions. Let the will of the people be law!

Thanks. Sincerely,

Tim Norgren

Farsons, Susan

Bureau testimony recap

188142

From: Parsons, Susan
Sent: Tuesday, November 08, 2016 2:06 PM
To: Commissioner Fish; Fritz, Amanda; Hales, Charlie; Novick, Steve; Saltzman, Dan; Brewster, Stacy; Broughal, Justine; Gleason, Megan; Quitugua, Betsy; Salazar, Goldann; Wiggins, Rachael
Cc: Kountz, Steve; Armstrong, Tom; Armstrong, Michael; Klonoski, Zach; Moore-Love, Karla
Subject: FW: 1259 Update on fossil fuel zoning testimony

Commissioners,
Please see email from BPS below.

*Attachments are also filed with testimony.
Clerk 30*

Susan Parsons
 Assistant Council Clerk
 City of Portland
susan.parsons@portlandoregon.gov
 503.823.4085

From: Kountz, Steve
Sent: Tuesday, November 08, 2016 1:46 PM
To: Armstrong, Tom <Tom.Armstrong@portlandoregon.gov>; Armstrong, Michael <Michael.Armstrong@portlandoregon.gov>; Klonoski, Zach <Zach.Klonoski@portlandoregon.gov>; Parsons, Susan <Susan.Parsons@portlandoregon.gov>
Subject: Update on fossil fuel zoning testimony



Fossil Fuels code | I support fossil fuel zoning a... | Let's Put Portland's Fossil... | Pass a full ban on please ban all new new or expa... | fossil fuel... | 2016.11.7 Columbia Riverk...

As of noon today, City Council has received 232 testimony emails on the Fossil Fuel Terminal Zoning Amendments. All of this testimony generally reflects a common theme, calling for a "full ban" on new fossil fuel terminals and strengthened restrictions on expansion of existing terminals. These emails typically followed a form-letter format or a common header with brief individual comments, and I am attaching 5 examples that loosely represent the full range of what we have received so far. One letter was also submitted jointly by Columbia Riverkeeper, 350 PDX, and others, which is also attached.

Thanks,
Steve

Steve Kountz
 Senior Economic Planner
 Portland Bureau of Planning and Sustainability
 1900 SW 4th Ave., Ste. 7100, Portland, OR 97201-5350
 503-823-4551, steve.kountz@portlandoregon.gov

To help ensure equal access to City programs, services and activities, the City of Portland will provide translation, reasonably modify policies/procedures and provide auxiliary aids/services/alternative formats to persons with disabilities. For accommodations, translations, complaints, and additional information, contact me at 503-823-4551, City TTY 503-823-6868, or use Oregon Relay Service: 711.

Parsons, Susan

From: Liza Burney <lizaburney@yahoo.com>
Sent: Thursday, October 27, 2016 3:56 PM
To: BPS Fossil Fuel Zoning
Subject: Fossil Fuels code

I urge you to strengthen the code proposal by:

- Enacting a full ban on all new fossil fuel terminals by removing the exception for terminals under 2 million gallons. The proposed 2-million-gallon exception would still allow new fossil fuel facilities to be built in our communities
- Eliminating the provision that allows existing fossil fuel terminals to grow by as much as 10% in exchange for seismic upgrades. These upgrades should be required, not provided in exchange for even bigger facilities
- Directing Portland Bureau of Emergency Management to develop proposals for State building code changes to require seismic upgrades
- Rejecting Northwest Naturals request to be exempted from these regulations

Liza

Parsons, Susan

From: Mary Davis <cysliders@aol.com>
Sent: Monday, November 07, 2016 8:29 PM
To: BPS Fossil Fuel Zoning
Subject: I support fossil fuel zoning amendments

Mary Davis
8049 SE Ogden St
Portland, OR 97206

November 7, 2016

Dear Staff City of Portland,

Dear Mayor Hales, Members of the Council, and Staff:

Thank you for your diligent work in bringing forward a new set of land use rules that could establish Portland as a global leader in transitioning away from fossil fuels. In November 2015, you voted unanimously to “actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways.” Portland’s resolution was an important step towards reducing the climate, safety, and environmental risks of oil trains, coal trains, and fossil fuel storage.

In translating Portland’s landmark resolution into binding city rules, I ask that you take the strongest stand possible for our climate and safety. First, I ask that you do not allow existing terminals to expand. Allowing a 10% or greater expansion at existing terminals could increase the number of dangerous oil and coal trains coming through Portland and its uprill neighbors like Mosier, OR, where an oil train derailed, spilled, causing a dramatic fire in the Gorge.

Secondly, I ask that you prohibit all new fossil fuel infrastructure. The language of your resolution was clear: “to actively oppose new fossil fuel infrastructure.” Terminals of two million gallons or less are an unnecessary give-away to the fossil fuel industry. The proposed zoning code already has an exception for fuels that contain non-fossil energy.

Third, I ask that you resist pressure from the fossil fuel industry to exempt any fossil fuels or to weaken the proposed code language. Portland is poised to lead on climate, but we need you to stand firm and make sure the final fossil fuel code reflects the intent of your November 2015 vote.

Thank you for your effort, and I look forward to living in a city and a region that is determined to reduce its reliance on dangerous, polluting fossil fuels like oil and coal.

Sincerely,

Sincerely,
Mary Davis

Parsons, Susan

From: Dianne Ensign <roughskinnednewt@hotmail.com>
Sent: Tuesday, November 08, 2016 12:06 PM
To: BPS Fossil Fuel Zoning
Subject: Let's Put Portland's Fossil Fuel Ban Into Practice!

Dianne Ensign
11600 SW Lancaster Rd
Portland, OR 97219

November 8, 2016

Dear Staff City of Portland,

Dear Mayor Hales, Members of the Council, and Staff:

Thank you for your diligent work in bringing forward a new set of land use rules that could establish Portland as a global leader in transitioning away from fossil fuels. In November 2015, you voted unanimously to "actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways." Portland's resolution was an important step towards reducing the climate, safety, and environmental risks of oil trains, coal trains, and fossil fuel storage.

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Third, I ask that you resist pressure from the fossil fuel industry to exempt any fossil fuels or to weaken the proposed code language. Portland is poised to lead on climate, but we need you to stand firm and make sure the final fossil fuel code reflects the intent of your November 2015 vote.

Thank you for your effort, and I look forward to living in a city and a region that is determined to reduce its reliance on dangerous, polluting fossil fuels like oil and coal.

Sincerely,

Sincerely,
Dianne Ensign

Parsons, Susan

From: Joseph Stenger MD <Joseph.stenger@gmail.com>
Sent: Tuesday, November 08, 2016 6:30 AM
To: BPS Fossil Fuel Zoning
Subject: Pass a full ban on new or expanded fossil fuel terminals!

Thanks for the improved Fossil Fuel Terminal Zoning Amendments. But we need a full ban on new terminals of any size. It is not a matter of balancing financial interests and environmental interests. We must follow the 2015 resolution and actively oppose expansion in any form. This is crucial for the future for my children and grandchildren and for those of all of us!

Do not exempt smaller terminals.
Do not allow expansion of current facilities.
Do not make an exemption for NW Natural.

We must develop a new economy focusing on renewables. That is difficult, but climate chaos is worsening daily. This is our responsibility. Please do the right thing.

Thank you!

From: Joseph Stenger MD
Joseph.stenger@gmail.com
4420 NE 36th Ave
Portland 97211

Parsons, Susan

From: Dena Turner <denaturn62@gmail.com>
Sent: Monday, November 07, 2016 7:30 AM
To: BPS Fossil Fuel Zoning
Subject: please ban all new fossil fuel terminals

To Portland City Councilors:

Last fall Portland City Council passed a historic resolution to ban new fossil fuel facilities in the city, putting Portland at the forefront of the climate justice movement. The resolution was the result of massive grassroots advocacy and the leadership of Mayor Hales and City Council. Now, one year later we need to hold the City to their word as they work to implement this resolution into binding city code.

Please make this a strong and binding portion of the city code by implementing the following:

- Enacting a full ban on all new fossil fuel terminals by removing the exception for terminals under 2 million gallons. The proposed 2-million-gallon exception would still allow new fossil fuel facilities to be built in our communities
- Eliminating the provision that allows existing fossil fuel terminals to grow by as much as 10% in exchange for seismic upgrades. These upgrades should be required, not provided in exchange for even bigger facilities
- Directing Portland Bureau of Emergency Management to develop proposals for State building code changes to require seismic upgrades
- Rejecting Northwest Naturals request to be exempted from these regulations

Thank you

Dena Turner

1122 SE 60th Avenue

Portland, Oregon 97215

denaturn62@gmail.com

November 7, 2016

Portland City Council
1221 SW Fourth Avenue, Room 130
Portland, Oregon 97204.

Sent via email to: fossilfuelzoning@portlandoregon.gov

Re: Comments in Support of Strong Fossil Fuel Zoning Code Amendments

Dear Mayor Hales and Portland City Council Commissioners,

Thank you for the opportunity to offer our comments on the recommended draft of the City of Portland's Fossil Fuel Terminal Zoning Amendments ("amendments"). We appreciate and support several of the revisions put forward by the Planning and Sustainability Commission (PSC). Still, the City must make further adjustments to the proposed code amendments in order to fully implement Portland's Fossil Fuel Policy Resolution #37168 ("resolution"). The resolution stated that the City would "**actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways.**" The bold intent and plain language of the resolution provide clear guidance to the City Council as it considers proposals to further strengthen – or further weaken – the City's proposed fossil fuel zoning code amendments.

The City Council made a landmark statement in November 2015, and it should honor this statement by ensuring existing fossil fuel terminals do not expand; prohibiting all new fossil fuel terminals; and, resisting pressure to exempt certain fossil fuel companies such as NW Natural.

On behalf of Columbia Riverkeeper, 350 PDX, Sierra Club, Friends of the Columbia Gorge, Center for Sustainable Economy, Oregon Physicians for Social Responsibility, Climate Action Coalition and Portland Audubon Society we offer the following suggestions to improve rather than weaken the proposed fossil fuel zoning code amendments.

I. Prohibit Expansion of Existing Fossil Fuel Terminals

Public testimony overwhelmingly supports prohibiting the expansion of existing fossil fuel terminals. In contrast, PSC recommends allowing for a 10 percent expansion of capacity for replaced tanks. The PSC recommendation was driven by a desire to streamline seismic upgrades. Notably, a revision to remove the "plus 10 percent"¹ allowable expansion in the recommended

¹ See Recommended Draft Fossil Fuel Zoning Code Amendments. October 2016. P. 49.

draft failed narrowly during the PSC's discussion. The PSC's recommendation conflicts with the City's fossil fuel resolution, and it conflicts with the City's oil train ordinance. We urge the City to improve the proposed fossil fuel code amendments.

- City Council should amend PSC's recommendation by removing the proposed allowance for a 10 percent expansion of existing fossil fuel terminals. City Council should simply remove the words "plus 10 percent" in Sections 33.140.100-B.17.a-(1)-(2), on page 49 of PSC's recommendation. This change would still allow seismic improvements of fossil fuel tanks to move forward in a streamlined fashion without a discretionary land use process.
- The following code concepts are slightly amended from the PSC's recommendation, and they could accomplish the City's goal of allowing seismic safety upgrades in fossil fuel terminals by allowing a straightforward limited review process for existing terminals, while not incentivizing new fossil fuel infrastructure:
 - Identify "Fossil Fuel Terminals" as a regulated land use, characterized by (a) marine, railroad, or pipeline transport access and (b) either transloading facilities for transferring a shipment between transport modes (such as from rail to ship) or facilities that store fossil fuels.
 - Prohibit Fossil Fuel Terminals in all base zones.
 - Classify existing Fossil Fuel Terminals in industrial and general employment zones as "limited uses" that can continue to operate. Expansion of fossil fuel storage at these existing terminals is prohibited.
 - The following use limitations apply to existing Fossil Fuel Terminals:
 - 1] Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site is limited to the fossil fuel storage capacity that existed on [insert effective date]. Total fossil fuel storage capacity on the site in excess of the capacity that existed on [insert effective date] is prohibited; and
 - 2] New fossil fuel storage structures are prohibited unless a new fossil fuel storage structure is replacing an existing fossil fuel storage structure that does not meet current building codes standards for seismic safety, and in that case, the capacity of the

new fossil fuel storage structure is prohibited from being greater than the storage capacity of the existing structure that is being replaced.²

- Allowing expanded fossil fuel infrastructure could create more demand for unit trains in Portland, conflicting with the City's Oil Train Resolution # 37164. Unfortunately, PSC recommended allowing a 10 percent expansion of existing terminals as a limited use. For the ten facilities capable of handling oil that are listed on p. 17, Figure 7 of PSC's recommended draft, a 10 percent across-the-board increase in terminal capacity would result in additional storage of 38,848,740 gallons of oil – a volume equivalent to 13 unit trains of explosive Bakken crude oil.³ The City Council should disallow expansions at existing facilities to bring the code language into alignment with the City's original fossil fuel policy and oil train resolution.
- For large terminals such as the Chevron, Kinder Morgan, and NuStar facilities, a 10 percent increase would exceed the volume of a single unit train, 2.5 to 3 million gallons of oil. Portland's Resolution # 37164 called for the City to oppose any project that would increase oil train traffic through Portland, a standard that conflicts with new 10 percent increases in oil terminals with large existing capacities.
- The PSC's recommendation is very likely to result in a 10 percent increase in fossil fuel storage in Portland because Portland is beginning a parallel process to increase seismic safety of its fossil fuel tanks. When coupled with a requirement for seismic upgrades, PSC's recommendation to allow a 10 percent increase is very likely to spur additional fossil fuel infrastructure in Portland. Specifically, if the City requires facilities to upgrade (as it should) for seismic safety and simultaneously allows for expansion, the City will likely see expanded fossil fuel infrastructure. As a result, the City Council should amend the resolution to remove the words "plus 10 percent," thereby not promoting over 38 million gallons of new crude oil storage infrastructure.



Oil train derails, punctures, spills, and burns in Mosier on June 3, 2016.

² This second use limitation may be redundant, because replacement structures will automatically be required to meet new updated seismic standards. It's included for clarity to parallel the PSC's recommended draft.

³ Assumes roughly 3 million gallons of oil per unit train. Unit trains typically carry 2.5 to 3 million gallons of crude oil, depending on the length of the train and size of the cars in the train.

- The PSC’s recommended amendments correctly acknowledge that “derailment risks to natural resources, especially along rivers, and to rural communities appear to be significant.” Oregonians learned first-hand during the June 3, 2016, derailment in Mosier that oil trains are dangerous, and the City Council should use its fossil fuel zoning code amendments to diminish their use rather than create space for many more. The City of Mosier is still dealing with groundwater and surface water pollution from the derailment, evidence that Portland’s fossil fuel zoning code amendments should be sculpted to reduce oil train risks however possible.
- A proposal to expand rail traffic through the Columbia River Gorge shows that Portland should make its fossil fuel zoning code amendments as restrictive as possible on future oil or coal unit trains. The Port of Portland recently supported a proposal by Union Pacific to dramatically expand its rail capacity through the town of Mosier – the same location as the oil train derailment, spill, and fire on June 3rd, 2016. In supporting the Mosier rail expansion, the Port of Portland stated that the rail expansion could increase unit train delivery of bulk goods to Portland, which could include the bulk shipment of oil. In November, the Wasco County Commission voted to deny the rail expansion in large part because of the impacts of increased train traffic on treaty-protected tribal fishing resources, a decision that may be appealed by Union Pacific. The Mosier rail expansion controversy shows that the City of Portland should take clear steps to restrict any future developments that could increase oil train traffic through the Columbia River Gorge.

II. Prohibit New Fossil Fuel Facilities

The Planning Commission recommended prohibiting new bulk fossil fuel facilities, consistent with the resolution’s direction to “**actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways.**” However, the PSC included an exception that would allow new fossil fuel facilities with a storage capacity of up to 2 million gallons. PSC opted for 2 million gallons as a lower threshold for defining a bulk fossil fuel terminal because it was less than the volume of a single unit train of oil. We urge City Council to eliminate or reduce any allowance for new fossil fuel terminals that may create increased use or shipment of polluting, dangerous fossil fuels through Portland.

- Staff explained that fossil fuel use may be flat or declining, negating the need for new or expanded fossil fuel terminals. The City’s landmark resolution directs Portland to “actively oppose” fossil fuel expansion and thereby curb demand – not perpetuate it. Portland must accelerate the trend of declining fossil fuel use in order to meet its 2050

carbon reduction goals. Globally, climate science is clear that we must keep fossil fuels in the ground to avoid catastrophe.⁴

- City Council should eliminate or reduce the 2 million gallon threshold for a “bulk fossil fuel terminal.” By defining a bulk fossil fuel terminal as a facility with storage capacity greater than 2 million gallons, the amendments leave open the possibility of facilities that can accept additional shipments of crude oil or other dangerous fuels.⁵ The amendments should be improved by eliminating or lowering the 2 million gallon threshold and preventing additional risks for Portland and uprail residents.
- City Council should reject the idea that new or expanded fossil fuel infrastructure is necessary to protect the health and safety of Portland residents and downstream communities. In the Council’s September 20th work session, BPS staff suggested that the City should offer the possibility of new or expanded infrastructure as a “sweetener” to encourage seismic and safety upgrades. The promise of expanded infrastructure, on its own, has not been adequate to induce the fossil fuel industry to improve the seismic readiness of tank infrastructure in the past. Looking forward, City Council should support other expected and recommended processes that will encourage seismic upgrades rather than weakening the City’s proposed amendments.

Encouraging Seismic Safety

PSC’s recommended draft works to address how the City of Portland can address seismic safety at existing fossil fuel terminals. We agree with staff that the City should explore options to require seismic safety upgrades through a program similar to the un-reinforced masonry buildings (URMs) program that is in process, or a property maintenance code. The City will more effectively enhance seismic safety through this Portland Bureau of Emergency Management (PBEM) process than through a clumsy, broad-brush incentive to build new fossil fuel infrastructure.

- The City should “develop proposals for State building code changes to improve seismic resilience and require seismic upgrades comparable to proposed requirements on unreinforced masonry buildings,” as stated on page 62 of the PSC’s recommendation.
- The Council should reject the idea that new or expanded fossil fuel infrastructure is necessary to protect the health and safety of Portland residents and downstream communities. As noted above, the historic availability of opportunities to expand or build

⁴ “The Sky Is the Limit: Why the Paris Climate Goals Require a Managed Decline of Fossil Fuel Production.” 2016. Oil Change International. http://priceofoil.org/content/uploads/2016/09/OCI_the_skys_limit_2016_FINAL_2.pdf.

⁵ Unit trains typically carry 2.5 to 3 million gallons each and are usually 90 cars and 1 mile or more in length.

new fossil fuel infrastructure has not been an adequate inducement for establishing safe, seismically-ready facilities.

- City Council should support Portland Bureau of Emergency Management's (PBEM) expected and recommended process that will encourage seismic upgrades rather than weakening the City's proposed amendments.

III. Include Regulated Utilities and NW Natural in Portland's Fossil Fuel Policy

NW Natural has requested an exemption from Portland's fossil fuel amendments. BPS' October 5, 2016, memo offered potential language for this option, but it did not recommend for or against an exemption for NW Natural and other regulated utilities. Despite receiving additional testimony directly from NW Natural during its hearing in October, not a single member of the PSC recommended altering the fossil fuel zoning code amendments to exempt NW Natural. We urge City Council to adopt PSC's approach to regulated utilities and reject NW Natural's requested exemption.

- NW Natural should not receive special treatment. It is appropriate for large, potentially hazardous energy facilities to be regulated by multiple layers of government. The Planning Commission was comfortable with NW Natural receiving scrutiny from multiple layers of government. NW Natural's role as a public utility should not afford it a special status with respect to meeting the City's goal of prohibiting new fossil fuel infrastructure. Indeed, natural gas is specifically included as a carbon-intensive, dangerous fossil fuel in Portland's 2015 resolution. NW Natural must be included because natural gas - primarily methane - is a powerful greenhouse gas and its combustion releases significant carbon pollution.
- NW Natural already owns and operates adequate storage facilities in the Pacific Northwest to meet its Portland load growth needs.⁶ At present, NW Natural is undergoing a seismic review of its existing Portland Gasco LNG facility. The City's proposed amendments would allow NW Natural to improve the seismic readiness of its existing storage through a limited use review.
- New LNG infrastructure could serve non-utility and utility purposes, complicating the impact of NW Natural's requested exemption. NW Natural seeks an exemption for facilities that fall within PUC-regulated operations. Staff's October 5 memo stated, "If

⁶ See NW Natural Integrated Resource Plan. September 2016. See Section 7.2 - Gas storage relies on Mist, only new LNG storage considered is in Clark County. P. 3.35.

NW Natural established an unregulated subsidiary to supply wholesale LNG, for example, any infrastructure associated with these operations would still be subject to the Fossil Fuel Code.” In reality, gas utilities often mix the utility and non-utility purposes of gas storage facilities. For instance, NW Natural’s Mist Storage facility has undergone multiple site certificate changes, and now it is planned to operate both as storage for NW Natural’s gas utility customers, as well as a source of firm supplies to PGE’s gas-fired power plants at Port Westward.⁷ Additionally, Puget Sound Energy proposes a new LNG facility in Tacoma that may be used both as storage for its regulated utility customers and as a fueling station for LNG ships and trucks. Hence, the exemption NW Natural seeks may allow facilities that engage in both PUC-regulated and non-PUC-regulated activities.

- NW Natural’s Integrated Resource Plan (IRP) does not specify the need for new major LNG storage in Portland. In its long-range plans, NW Natural’s IRP discusses the potential for possible LNG storage to meet load growth in Clark County – not Portland. As a result, NW Natural does not appear to need new LNG storage in Portland to meet its core utility needs, and so the exemption it seeks is unnecessary.

IV. Take Bold Action for a Clean, Safe Energy Economy and a Stable Climate

Portland’s City Council will benefit Portland’s clean energy economy by undertaking the proposed amendments with the suggestions we have outlined. Just as importantly, the City can make significant strides towards improving the safety of neighborhoods by using the right tools to mandate seismic improvements for fossil fuel storage tanks in highly liquefiable soils near the Willamette and Columbia Rivers. Furthermore, the City’s fossil fuel code amendments need not impinge on the expansion of cleaner, non-fossil fuels: facilities handling 95% or greater non-fossil fuels are already exempted. And while the amendments should restrict fossil fuel terminals from expanding or building new facilities, they leave open the potential for Portland to continue to serve as a hub for fuels using existing infrastructure until the region moves further towards a managed decline of fossil fuel use.

Importantly, the PSC’s recommendation offers City staff both direction and flexibility in implementing the fossil fuel zoning code amendments. Specifically, Portland Bureau of Planning and Sustainability is directed to periodically monitor the effectiveness of these zoning code amendments “to implement underlying policies and consider code adjustments in response to regional fuel demand and market changes, product innovation, safety and climate action considerations, and related regulatory changes.” By directing BPS to evaluate the impacts of the

⁷ See recent story from Argus Media highlighting new PGE-NW Natural gas storage collaboration. <http://www.argusmedia.com/news/article/?id=1323500>.

policy, BPS is given a pathway to recommend new fossil fuel infrastructure on an “as-needed” basis if unforeseen conflicts arise.

A 2016 study from the Labor Network for Sustainability provides more detail on how Portland and the region will benefit from a transition to clean energy.⁸ Additionally, there is growing support for a renewable energy agenda in the City of Portland. Indeed, new fossil fuel infrastructure could be stranded assets in the foreseeable future.

Lastly, yet another new study from Oil Change International shows that time is of the essence to address climate change through reducing our use of fossil fuels.⁹ The study shows that, if we are to avoid a temperature rise of 2 degrees Celsius, we can build no new fossil fuel infrastructure. Indeed, much of our currently proven oil, gas, and coal reserves must go untapped. The Pacific Northwest – with Portland as its guiding light – can begin a managed decline of fossil fuel use, even as the region continues to grow its economy. Portland earned national praise for its 2015 Fossil Fuel Resolution, and the rest of the world is counting on cities like Portland to show how a managed decline of fossil fuel use can respond to the urgent challenge of reducing our dependence on climate-changing fossil fuels.

We look forward to the City Council voting to establish a code that reflects the bold, practical steps outlined in Portland’s landmark fossil fuel policy.

Sincerely,

Dan Serres
Conservation Director
Columbia Riverkeeper

Mia Reback
350 PDX

Also submitted on behalf of: Friends of the Columbia Gorge, Center for Sustainable Economy, Portland Audobon Society, Sierra Club, Oregon Physicians for Social Responsibility, Climate Action Coalition

⁸ The Economic Impact of Clean Energy Investments in the Pacific Northwest: Alternatives to Fossil Fuel Exports. 2016. Labor Network For Sustainability. Link to study: http://www.labor4sustainability.org/files/NorthPacific_final_03032016_.pdf

⁹ “The Sky Is the Limit: Why the Paris Climate Goals Require a Managed Decline of Fossil Fuel Production.” 2016. Oil Change International. http://priceofoil.org/content/uploads/2016/09/OCI_the_skys_limit_2016_FINAL_2.pdf.

IMPACT STATEMENT

Legislation title: Restrict bulk fossil fuel terminals. (Ordinance; Amend Title 33, Planning and Zoning)

Contact name: Tom Armstrong, Bureau of Planning and Sustainability

Contact phone: 503-823-3527

Presenter name: Tom Armstrong and Michael Armstrong

Purpose of proposed legislation and background information:

The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals. These amendments create a new land use category and impose prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The amendments will prohibit new terminals and limit the expansion of existing terminals to no more than 10 percent of the current storage capacity.

In 2012, the Council expressed opposition to coal trains traveling through Portland until a programmatic, comprehensive and area-wide Environmental Impact Statement and comprehensive Health Impact Assessment are completed (Resolutions 36959 and 36962). The 2015 Climate Action Plan commits the City to continue to advance policy and programs to reduce local fossil fuel use both in the City's own operations and through community-wide initiatives.

Resolution 37168, adopted November 12, 2015, expressed the City Council's opposition to the "expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways," and also expressing the intent not to restrict improvements in safety, efficiency, or seismic resilience; the provision of service directly to end users; or infrastructure that will accelerate the transition to non-fossil fuel energy sources.

The 2035 Comprehensive Plan sets policy direction (4.75 and 4.76) to encourage disaster-resilient development and specifically to reduce natural hazard risks to critical energy and transportation infrastructure in Portland Harbor. Most of Portland's employment and industrial zones are located in areas with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management's Critical Energy Infrastructure Hub Study (2016).

Financial and budgetary impacts:

The proposed zoning code amendments do not authorize additional spending on a new or existing City project, do not amend the City budget, and do not affect current or future staffing levels.

Community impacts and community involvement:

The amendments promote major benefits to human health and safety, environmental health and resilience, with minor impacts to economic prosperity and equity.

The amendments will restrict development of fossil fuel terminals consistent with City and State objectives on climate change and public safety. While fossil fuels like natural gas and propane have the potential to replace higher-carbon fuels, substituting these fuels for higher-carbon fuels does not begin to approach the goal of an 80% reduction in carbon emissions by 2050 established in Portland's Climate Action Plan or the State's 75% goal.

The amendments will reduce the scale of low, but potentially catastrophic, safety risks associated with the growth of fossil fuel infrastructure, including oil train derailments, explosive accidents at liquefied natural gas (LNG) and liquefied petroleum gas (LPG) facilities, and seismic risks of tank farms.

The amendments will restrict expansion at existing fuel terminals and prohibit new terminal development, potentially impacting associated job growth and tax revenue. However, in 2014, the 11 existing terminals in Portland only accounted for 280 jobs, out of more than 85,000 jobs in Portland's industrial areas. At the same time, the code restrictions on fossil fuel terminal development would also limit potential financial risks from a major accident involving fossil fuel infrastructure.

The potential impact of the code amendments on constraining the fossil fuel supply to meet regional demand is uncertain. Fossil fuel demand in this growing region has been relatively flat over the last 15 years. At best, the demand for fossil fuel may increase moderately, as indicated by forecasts based on long-term historic trends, or may plateau and decline with a continued shift to other modes of transportation, more fuel efficient vehicles, electric vehicles, and other carbon reduction strategies. Restricting potential increases in regional supply of fossil fuels could have a negative economic impact by increasing fuel costs. However, these potential impacts are mitigated by allowing the existing terminals to expand their storage capacity by 10 percent, which provides insurance against any uncertainty in the future demand for fossil fuels.

In Resolution 37168, the City Council expressed support for accelerating the transition to non-fossil fuel energy sources. As part of that transition, the Oregon Department of Environmental Quality (ODEQ) is implementing the Oregon Clean Fuels Program, which requires a 10 percent reduction in average carbon intensity by 2025. Fuels that could be used to achieve the standards include ethanol, biodiesel, electricity, hydrogen, natural gas, propane, and biogas, which may require additional storage capacity. In order to facilitate implementation of the Clean Fuels Program, non-fossil fuel storage tanks are not subject to the capacity limits.

Public involvement in concept development for the project consisted primarily of four stakeholder focus groups, which were held in June 2016 to review preliminary code concepts and help identify and understand potential implementation issues. The focus groups highlighted the range of stakeholder perspectives and interests concerning proposed zoning changes. Figure 4 summarizes the themes of issues raised in the focus groups. Other outreach activities have

included meetings with interagency partners, terminal operators, and other interested stakeholders.

Extensive public comments were received on the Discussion Draft and influenced substantial changes between the Discussion and Proposed Drafts. Over 700 people sent emails asking for a “full ban” on new and expanded fossil fuel terminals. Their comments included three generally consistent recommendations: a ban on new bulk fossil fuel terminals; tight limits on expansion at existing facilities; and provisions to improve the safety and resilience of existing terminals. Similar comments for further restrictions on terminal growth and seismic improvements were also made in letters from 350PDX, Portland Audubon, Center for Sustainable Economy, Columbia Riverkeeper, Oregon Sierra Club, Climate Solutions, members of a City Club seismic safety subcommittee, Linnton Neighborhood Association, League of Women Voters and other residents. Examples of other concerns raised in those letters include that code changes serve as a bold model for other jurisdictions; to partner with Portland Bureau of Emergency Management on seismic safety; and to clarify forecast growth methodologies relative to climate policies.

Themes of comments on the Discussion Draft from business and labor organizations included opposition to proposed code changes, requests for more time and analysis, and clarifications to address practical considerations. Letters were received from NW Natural, Port of Portland, Columbia Pacific Building and Construction Trades Council, Kinder Morgan, Arc Terminals, and Western States Petroleum Association (WSPA). Some examples of comments included that growth rates will change over time, that fuels meeting Oregon’s Clean Fuel Standard should be excluded, inclusion of non-fuel methanol is inconsistent, and the economic analysis is cursory.

The PSC held a public hearing on September 13, 2016. Thirty-six people gave oral testimony and another 715 pieces of written and email testimony was submitted. While comments varied, predominant recommendations included removing the 5-million-gallon terminal size threshold; support for a nonconforming use designation on fossil fuel terminals and adding discretionary review criteria for expansions. Other comments focused on preventing ownership aggregation to prevent circumvention of the terminal size threshold, and support for additional building code requirements to improve seismic safety.

Figure 1. Summary themes of stakeholder focus group comments

TOPIC	FUEL TERMINAL REPRESENTATIVES	ENVIRONMENTAL AND HEALTH ORGANIZATIONS	STATE AND REGIONAL BUSINESS ORGANIZATIONS	NEIGHBORHOOD AND EQUITY ORGANIZATIONS
Key issues	<ul style="list-style-type: none"> ▶ We've operated safely for decades. We meet the federal/state low-carbon fuel standards. ▶ Difficult to participate: very quick process; emotionally driven; antitrust restrictions. ▶ Unintended impacts: harder to meet clean fuel standards; more trucks on road; costs to rest of the state. 	<ul style="list-style-type: none"> ▶ Looking for strong, model code. Expect community backlash if expectations not met. ▶ Safety needs to be integral with climate - Mosier oil train wreck; terminals in liquefaction soils. ▶ Include disaster risks in economic analysis. Bonding or insurance for worst case. 	<ul style="list-style-type: none"> ▶ Resolution requires more research on economic impacts, etc. ▶ How will the code hold up in 5 years? ▶ What is the goal? If climate or safety, zoning tool is not the right fit. ▶ Portland is not an economic island. Statewide impact. ▶ Big political decision. Don't rush it. 	<ul style="list-style-type: none"> ▶ Safety and pollution are our priority. Look closely at seismic and explosion risks. ▶ A reasonable expectation for growth is smart. ▶ This is aggressive. Without LNG, won't China burn more coal? ▶ Rail safety in the Gorge is also a key issue that this can't resolve.
New land use category	<ul style="list-style-type: none"> ▶ If unclear, permit staff could be pressured - unpredictable results. ▶ Use federal West Coast PADD 5 "region." 	<ul style="list-style-type: none"> ▶ Regulate both existing and new facilities. ▶ New code must effectively implement the policy. 	<ul style="list-style-type: none"> ▶ Need clear definitions: region, export, end user. ▶ Do not make terminals non-conforming or an ambiguous limited use. 	<ul style="list-style-type: none"> ▶ Why allow it in IG2? ▶ A new export terminal in contaminated harbor is unlikely.
Definition of fossil fuels	<ul style="list-style-type: none"> ▶ Natural gas considered a low carbon fuel by State, so why included here? ▶ Tomorrow's cleaner fuels won't meet today's definitions. 	<ul style="list-style-type: none"> ▶ Excluding methanol undermines policy. ▶ If end use is mostly fuel, then limit it. ▶ One new LNG tank is a big risk. So is coal. 	<ul style="list-style-type: none"> ▶ Federal and state are going a different direction, requiring cleaner fossil fuels. Why restrict cleaner fuels at cross purposes? 	<ul style="list-style-type: none"> ▶ Make way for bio-diesel as a cleaner fuel. ▶ Methanol not a fuel in Oregon - overreaching. ▶ Fuels are okay if they have no emissions.
Terminal development restrictions	<ul style="list-style-type: none"> ▶ Some sites are already built-out. ▶ Our non-contiguous sites are connected by pipelines. ▶ Can't comment on size. 	<ul style="list-style-type: none"> ▶ Most prefer Option A. ▶ Caution about Commerce Clause. ▶ 1% annual growth metric is too high. 	<ul style="list-style-type: none"> ▶ Don't come at sideways. Unclear rationales will lead to appeals. ▶ Size limits would put region on "import diet." ▶ Dated, low forecast. 	<ul style="list-style-type: none"> ▶ Option C preferred. ▶ Allow for modest growth of LNG and oil; not coal. ▶ Review size limits every few years.

Budgetary Impact Worksheet

Does this action change appropriations?

YES: Please complete the information below.

NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount