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191100

Emergency Ordinance

*Amend Motor Vehicle Fuels Code to increase the minimum content requirements for biofuels and add a carbon intensity standard to ensure lowest carbon fuels are sold in the City of Portland (amend Code Chapter 16.60)

Passed

Amended by Council

The City of Portland ordains:

Section 1. The Council finds:

1. The scientific evidence is clear that human activities are the primary cause of the accelerating changes in the global climate.
2. Climate change poses a significant threat to Oregon’s forestry, fisheries, water supplies, and coastal resources; impacts are likely to include winter flooding, summer droughts, loss of shoreline, forest fires, diminished fish and wildlife habitat, retreating glaciers, decreased snowpack, and increased disease vectors and invasive species.
3. The City of Portland 1990 Energy Policy (Ordinance No. 162975), 1993 Carbon Dioxide Reduction Strategy (Resolution No. 35207), 2001 Local Action Plan on Global Warming (Resolution No. 35995), 2009 Climate Action Plan (Resolution No. 36748), and 2015 Climate Action Plan (Resolution No. 37135), 2020 Climate Emergency Declaration (Resolution No. 37494) established goals to reduce carbon emissions.
4. The City has established a goal to meet 100 percent of community-wide energy needs, including transportation fuels, with renewable energy by 2050 (Resolution No. 37289).
5. The City of Portland adopted the Renewable Fuel Standard (Ordinance No. 180313) in 2006 to regulate minimum blends of biofuels in fossil fuels sold in Portland, with the intent to reduce dependence on non-renewable fossil fuels.
6. Portland City Council directed the Bureau of Planning and Sustainability to evaluate options and bring a recommendation to

Changes

[Ordinance Number 191100](#)

December 7, 2022

[View all changes](#)

Introduced by

[Commissioner Carmen Rubio](#)

Bureau

[Planning and Sustainability](#)

Contact

Kyle Diesner

Climate Policy Analyst

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Requested Agenda Type

Time Certain

Date and Time Information

Requested Council Date
December 7, 2022
Requested Start Time
2:00 pm
Time Requested
1 hour

Changes City Code

City Council to amend Portland City Code Chapter (PCC) 16.60 to support adopted climate and energy goals. (Ordinance No. 189820)

7. Petroleum diesel and gasoline are non-renewable fossil fuels that are primary sources of local carbon emissions.
8. It is the responsibility of government to recognize the climate impacts that result from the use of nonrenewable transportation fuels and proactively reduce citizens' reliance.
9. Biodiesel, renewable diesel, and ethanol can be readily blended with petroleum diesel and gasoline to reduce the carbon emissions that result from the use of non-renewable fossil fuels and may also improve air quality and public health.
10. Biofuels – like biodiesel, renewable diesel, and ethanol – are viable alternatives to petroleum diesel and gasoline as fuel for motor vehicles and can be produced domestically in the United States and locally here in Oregon.
11. The Oregon Department of Environmental Quality (DEQ) implements the Clean Fuels program and requires annual reductions in lifecycle carbon emissions from Oregon's transportation fuels, including a 10 percent reduction in average carbon intensity from 2015 levels by 2025, followed by a 20 percent reduction by 2030 and 37 percent by 2035.
12. The Clean Fuels program approves lifecycle carbon emissions of qualifying fuels, like biodiesel, renewable diesel, and ethanol for all fuels imported into Oregon.
13. The Clean Fuels program utilizes the Oregon Greenhouse Gases, Regulated Emissions, and Energy Use in Technologies Model (OR-GREET Model), based on the GREET model developed by Argonne National Labs, to measure lifecycle carbon intensity. DEQ is committed to review and to improve carbon intensity models to better measure lifecycle carbon emissions at least every three years (Oregon Administrative Rule 340-253-0400).
14. As of March 31, 2022, the DEQ reports that its Clean Fuels program requirements have resulted in a reduction of 7.3 million tons of lifecycle greenhouse gases.
15. Bureau of Planning and Sustainability conducted more than two years of policy research and more than one year to stakeholder engagement with fossil fuel and renewable fuel industry, environmental advocates, and other impacted stakeholders to develop recommended code changes.

NOW, THEREFORE, the Council directs:

- A. Portland City Code Chapter 16.60 is amended as shown in Exhibit A.
- B. The Bureau of Planning and Sustainability (BPS) will convene a technical advisory committee (TAC) of renewable fuel producers and suppliers (both wholesale and retail) and economists to advise the Bureau Director on implementation of Exhibit A and use of interim rule authority to manage any technical or economic

issues associated with renewable fuel supply. The TAC will be established by July 31, 2023. The technical advisory group should meet quarterly, or as needed, through 2030.

- C. The TAC will issue a report to the BPS Director regarding renewable fuel market conditions, including an assessment of supply availability and costs by October 15, 2025, seven months in advance of the May 15, 2026, effective date for the 50% blending requirement, and by October 15, 2029, seven months in advance of the May 15, 2030 effective date for the 99% blending requirement.
- D. BPS shall report to the City Council, by February 15, 2026, and February 15, 2030, on the status of PCC 16.60 implementation. Reports will be based on the findings of the technical advisory committee and will include fuel supply forecasts and economic analysis, and any use of interim rule authority.
- E. The Director of the Bureau of Planning and Sustainability shall use rulemaking authority to accelerate the schedule for Minimum Biofuel Content Requirements in Exhibit A, should the supply of renewable diesel be readily available and the price similar to petroleum-based diesel fuel prior to May 15, 2030.

Section 2. The Council declares that an emergency exists to avoid undue delay in BPS's work to convene a technical advisory committee and implement this ordinance in response to the climate crisis; therefore, this ordinance shall be in full force and effect from and after its passage by the Council and all operative dates in the Exhibit A continue to apply.

Documents and Exhibits

 [Memo to Council - Approved Amendments](#) (814.93 Kb)

 [Amended Ordinance - strikethrough/underline version](#) (64.83 Kb)

 [Exhibit A](#) (153.69 Kb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed as amended by Council
December 7, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

Purpose of Proposed Legislation and Background Information

This project proposes amendments to Portland City Code Chapter 16.60, to reduce dependence on nonrenewable fossil fuels, by increasing the required percentage of renewable fuels blended with petroleum diesel. It applies only to diesel fuel sold in the city of Portland.

Burning diesel fuel in vehicles and off-road equipment is Portland's fourth largest source of carbon emissions: about 14% of total local emissions. The largest consumers of diesel fuel are businesses that use construction equipment, run large fleets, or have freight operations. However, today there are viable renewable fuel alternatives that are cost effective and available in Oregon. This project will displace dirtier diesel fuels with cleaner, renewable options.

Portland City Code Chapter 16.60 has been in effect since 2006. Since 2006, changes in policy and markets have rendered the current code out of date. In January 2020, City Council directed BPS to make recommendations to update the code to help meet the City's 100% Renewable Energy Resolution (this resolution remains one of the City's north star policies on climate).

Financial and Budgetary Impacts

This proposal does not include a budget request at this time. BPS has existing staff positions to support program development and rulemaking in 2023. In the future, BPS may prepare a request to cover the ongoing costs of implementation as part of the bureau's budget development process.

Community Impacts and Community Involvement

This update is critical to meeting the City of Portland's climate and renewable energy goals and is included in the City's 2022-2025 [Climate Emergency Workplan](#), which lists the City's priority actions over the next three years. In addition to these reductions, this policy provides immediate air quality improvements by reducing diesel particulate matter, which is a harmful pollutant directly impacting the health of Portlanders.

BPS has engaged with numerous parties since 2018 to develop the code amendment process. Initially, BPS commissioned a consultant to conduct extensive fuel research, interviews, and stakeholder engagement to guide policy development. Staff listened to suppliers, producers, and other key actors in the renewable fuels industry to develop an aggressive but feasible phase-in schedule. BPS tested the phase-in schedule with local suppliers and producers in a workshop held in September 2021 that included small local companies and global fossil fuel suppliers like BP. In addition, staff offered learning sessions with environmental advocates and other community-based organizations. These sessions provided opportunities for community and industry to offer input in policy development through

asynchronous learning and interviews. This took place during the winter of 2022. Staff also conducted one on one meetings with engaged stakeholders to review policy drafts during the spring of 2022. Once the public comment period opened, staff offered two public meetings as well as numerous “office hours” where interested parties were invited to ask questions or get clarity on the proposed changes.

BPS hired a consultant, ERG, to conduct modeling on the air quality benefits of the policy based on the data available about the on and off-road vehicle fleet in Portland and the potential benefits of increased use of biofuels. Modeling showed that renewable fuels provide significant air quality benefits, including up to a 40% reduction in diesel particulate matter and a 22% reduction in volatile organic compounds. These air quality improvements especially benefit communities who live close to highways, freight corridors and construction site, especially vulnerable communities like low-income populations, communities of color, outdoor workers, and those who work with diesel equipment.

Some uncertainty exists, primarily in the supply of renewable diesel (RD), whether that will materialize on the projected schedule and what the price will be. To manage the uncertainty, BPS proposes to convene a technical advisory committee of fuel producers and suppliers to weigh in on the phase-in schedule. In addition, BPS will work with economic advisors to gain a clearer line of sight into fuel forecasts. In the event of technical or economic circumstances that could impact supply or price, City code grants Bureau of Planning and Sustainability (BPS) interim rule authority to temporarily amend the code and adjust renewable fuel blends.

BPS received comments from 35 parties during public comment. Comments centered around the following issues and claims:

- Aggressive phase-in schedule.
- Availability of renewable fuel supply locally in Portland.
- Cost of renewable fuels.
- Carbon intensity (CI) standard.
 - Conversion of food crops to fuel crops and deforestation.
 - Distrust of state methodology for calculating carbon intensities of fuels.
- Concerns about labeling and reporting.
- Upstream impacts of renewable diesel production on surrounding communities and environment.
- Fuel combustion of any kind in communities.
- RFS delays electrification.
- City needs stronger commitments to phase out fossil fuels.
- Risks
 - Transportation of fuels to Portland/spill risk.
 - Seismic risks from storage in CEI hub.
- Increase enforcement and penalties, including right of civil action for public to sue those in violation.

BPS addressed concerns around phase-in schedule and availability of supply at reasonable costs in both the code and the ordinance. Fuel retailers are concerned about their ability to obtain renewable fuels at a competitive price. The ordinance directly addresses this by establishing the technical advisory committee that will inform BPS. The code allows the BPS Director to use interim rule authority to temporarily suspend or alter the code in response to market conditions.

BPS concluded that the proposed CI standard of 40 (gCO₂e/MJ) remains appropriate. Many of the concerns raised are valid but outside the scope of PCC 16.60.

Expected testimony:

- Oregon Fuels Association
- Oregon Truckers Association
- Western States Petroleum Association
- Jubitz
- Oregon Business and Industry
- Portland Business Alliance
- Oregon Environmental Council
- Climate Solutions
- 350pdx
- Extinction Rebellion
- Sunrise Movement
- Breach Collective
- Columbia Riverkeeper

100% Renewable Goal

This action does not change the City's total energy use. It does increase the City's use of renewable energy by replacing fossil diesel fuel with renewable biofuels, in direct response to the City's 100% renewable energy goal.

Budget Office Financial Impact Analysis

No present financial impact. If adopted, BPS may request future resources to fully implement the code changes.

Agenda Items

978 Time Certain in [November 16-17, 2022 Council Agenda](#)

Continued As Amended

Motion to approve technical amendments to the Ordinance to update dates in Directives B, C, and D: Moved by Rubio and seconded by Hardesty.
(Y-5)

Continued to December 7, 2022 at 2:00 p.m. Time Certain as amended

1033 Time Certain in [December 7, 2022 Council Agenda](#)

Passed As Amended

Motion to add an emergency clause to allow the Bureau of Planning and Sustainability to start on implementation, and in particular to get the technical advisory committee up and running to respond to stakeholders' urgency and concerns: Moved by Rubio and seconded by Hardesty. (Y-5)

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea