



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

MEMO

DATE: September 9, 2016
TO: Planning and Sustainability Commission
FROM: Tom Armstrong, Steve Kountz
CC: Michael Armstrong, Susan Anderson, Zach Klonoski
SUBJECT: Fossil Fuel Terminal Zoning Amendments

Many comments have been received in last couple weeks on the Proposed Draft of Fossil Fuel Terminal Zoning Amendments. This memo is intended to summarize and discuss themes of comments for major changes to the Proposed Draft.

Summary themes of comments received through September 8th:

- Emailed testimony has been received from about 300 people generally calling for a full ban. While their comments varied, predominant recommendations included removing the 5-million-gallon terminal size threshold and adding expansion criteria on climate and safety impacts.
- BPS convened a meeting on August 31st to review the Proposed Draft with environmental organization representatives who commented on the Discussion Draft. Their recommendations similarly included adding expansion criteria on climate and safety impacts and substantially reducing or removing the 5-million-gallon terminal size threshold.
- BPS convened another meeting on August 31st with business organization representatives and on September 6th with fuel terminal representatives who commented on the Discussion Draft. Their recommendations included allowing 10-20% terminal expansion for seismic upgrades and clean fuel standard compliance without a non-conforming situation review, exempting regulated utilities, expanding the analysis of statewide economic impacts, and clarifying that pipelines are not inadvertently categorized as transloading facilities.



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandoregon.gov/bps
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

Printed on 100% post-consumer waste recycled paper.

- A September 7th letter from Bureau of Development Services (BDS) commented that approval of expansions of existing terminals may not be possible through a non-conforming situation review. Instead they recommend an alternative approach that provides specific limits on expansions with specific review criteria.

Zoning Code Options

1. Fossil Fuel Terminal size threshold

The 5-million-gallon threshold in the Proposed Draft is intended to represent and focus on regional gateway facilities where fossil fuels are brought into the region. The purpose of the threshold is to implement 2035 Comprehensive Plan Policy 6.48 Fossil Fuel Distribution, which is to limit fossil fuel distribution and storage facilities to those necessary to serve the regional market. In comparison, recent proposals for export terminals are many times larger than the proposed 5 million gallon threshold. For example, the recent crude oil terminal proposal in Vancouver (Washington) was for 91 million gallons of storage capacity and the Pembina propane terminal proposal in Portland was for 34 million gallons of storage capacity. Existing petroleum terminals in Portland are generally supplied by the Olympic Pipeline and tankers or barges rather than unit trains, along with relatively small railcar deliveries of ethanol from Oregon producers. The NW Natural GasCo facility is supplied by a natural gas pipeline.

A size threshold of a use category in the Zoning Code would apply to both new and existing terminals. Staff have not attempted to inventory or reach out to the smaller fossil fuel distributors that could be affected. For example, a recent Yellow Pages listing of oil distributors in Portland found 130 entries. In comparison, BPS identified 11 facilities shown in Figure 3 of the Proposed Draft that fit the draft description of Bulk Fossil Fuel Terminals. BPS involved representatives of these 11 terminals in early outreach activities for this project in May 2016, along with environmental organizations, neighborhood and equity organizations, and state and regional business associations.

A change to effectively eliminate the bulk fossil fuel storage aspect of the use description may also appear to inadvertently expand the use category to include general freight transportation facilities, such as rail yards and barge lines that handle fossil fuels and other commodities. This change would substantially expand the policy scope, resulting in additional economic impacts. A clarification in the use description could be added to exclude railroad yards and freight movement uses that handle fossil fuels among other commodities.

Options:

- A. No change. The storage capacity threshold is 5 million gallons.
- B. Reduce the storage capacity threshold.
- C. Eliminate the storage capacity threshold and exclude general-commodity railroad yards and freight movement facilities.

BPS Recommendation: No change.



2. Regulating existing terminal expansion

The Proposed Draft assumes some opportunity to approve expansion of existing terminal storage capacity that would allow the existing terminals to expand for new fuel additive tanks to meet clean and renewable fuel standards, seismic upgrades of existing tanks, and emergency backup capacity, consistent with Resolution 37168. However, comments from BDS clarify that such expansion would be difficult to approve through a non-conforming situation review. BDS recommends considering an alternative approach to set limitations on expansion - with or without a land use review.

One option would be to allow no more than 10-20 percent expansion of total storage capacity at existing terminals. New tanks would automatically be required to meet current building code standards for seismic safety. Another approach could allow specific types of expansion, such as emergency backup capacity, seismic upgrades, and tanks for clean and renewable fuels. For example, seismic upgrade limitations could allow for tank replacement projects that include removal of tanks which do not meet current seismic standards and installation of new tanks that do not exceed the capacity of removed tanks by 10-20 percent. This second approach could accommodate long-term flexibility to meet clean and renewable fuel standards.

Options:

- A. No change. Prohibit new Bulk Fossil Fuel Terminals and existing terminals become non-conforming uses and any expansion must go through a non-conforming situation review.
- B. Prohibit new Bulk Fossil Fuel Terminals and allow limited expansion of existing terminals to not exceed 10 percent of the total terminal capacity on the effective date of the code changes.
- C. Prohibit new Bulk Fossil Fuel Terminals and allow expansion of existing terminals greater than 10 percent through a conditional use review process with special criteria for emergency backup capacity, seismic upgrades, and tanks for clean and renewable fuels.

BPS recommendation: Option B - a clear and simple approach.

3. Additional review criteria

A large number of comments support stronger restrictions on expansions at existing terminals through adding binding limits as well as criteria for safety and climate impacts.

The Zoning Code includes multiple sets of review criteria for conditional use reviews that are specific to particular uses and zones.

BDS staff have commented that they do not have staff expertise to implement discretionary land use review criteria addressing greenhouse gas emissions or safety impacts of hazardous material storage and transportation. If new conditional use criteria are added to limit or

3



require no net increase of greenhouse gas emissions or safety impacts of hazardous material storage and transportation facilities, applicants would be required to hire specialized consultants to show compliance of the particular criterion, which would affect the complexity, predictability, and cost of land use reviews in new ways. This change would be inconsistent with 2035 Comprehensive Plan Policy 6.16 Regulatory Climate, which calls for improving development review processes and regulations to encourage predictability and support local and equitable employment growth and encourage business retention.

Options:

- A. No change.
- B. 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.

BPS and BDS recommendation: No change.

