



September 15, 2016

Katherine Schultz, Chair
Portland Planning & Sustainability Commission
1900 SW 4th Avenue, Suite 7100
Portland, Oregon 97201

Re: Fossil Fuel Terminal Zoning Amendments – August 2016 Proposed Draft

Dear Chair Schultz:

Thank you for the opportunity to comment on the Fossil Fuel Terminal Zoning Amendments – August 2016 Proposed Draft. 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 and strikes the right balance for where our region is in the evolution beyond fossil fuels.

Port of Portland (Port) facilities play a critical role in the economic vitality of Portland and our region as a whole. From Portland International Airport to our four marine terminals – the functions of these facilities, by their very nature, depend on a predictable supply of fuel. Therefore, our comments remain focused on ensuring that existing Port facilities and operations, as well those of tenants, are not unduly negatively impacted by the proposed zoning amendments.

Building on written comments provided to the Mayor's staff on May 12, 2016, as well as written comments provided to Bureau of Planning and Sustainability staff on July 27, 2016, (both attached for your reference) we offer the following perspective from the Port.

Supporting exemptions:

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 August 2016 Proposed Draft. We also appreciate that fossil fuels, as used for inputs into products at commercial and industrial facilities, are also exempt.

The code amendments in the August 2016 Proposed Draft could adversely affect the reliability of fuel delivery to PDX into the future as well as the supply of clean and sustainable aviation, marine and fleet vehicle fuels.

In the short term, fuel supply to PDX is probably not a concern. However, in the medium to long term, we are concerned about impacts to the PDX fuel supply. Fuel farm facilities at PDX are owned and operated by the Portland Fueling Facilities Corporation (PFFC), a consortium of the airlines operating at PDX. 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. PFFC has a system of three tanks, two at 840,000 gallon capacity and one at 1.68 million gallon capacity. In addition, PFFC is in discussions to construct one additional tank. Current operating requirements assume a three-day reserve supply for redundancy purposes. Any regulatory change that would adversely affect the reliability of fuel supply from NW Portland to PDX would likely increase the reserve supply requirement, dramatically increasing the need for tank storage.

Looking beyond supply and into the transition to clean and sustainable fuels – the issue really is capacity. Both the aviation and the marine industry are putting resources behind new fuel sources, the implementation of which we want to support. Fuels for facilities and operations defined as “end users” come from bulk facilities – now proposed to be non-conforming uses, with new facilities prohibited. Because existing bulk fuel facilities are the most likely location to store clean and sustainable fuels, we are concerned that these new fuels will inadvertently be “crowded out” due to limits on expansion imposed through these code amendments.

Code amendments should be cognizant of these efforts and support the infrastructure needed for this transition. Prohibiting bulk fuel facilities in the City of Portland and establishing such facilities as non-conforming uses will make it difficult or impossible for existing fuel terminal operators to modernize, upgrade and add capacity in order to serve the needs into the future.

Recommendations:

We encourage the city to take a different approach to review and designation of fuel terminals. In preparing the initial discussion draft (July 2016) of these amendments, bureau staff recognized that a Type II review would create uncertainty and a disincentive for needed investments. Further, bureau staff understood that the designation of a non-conforming use would significantly limit future investment. This position was consistent with Resolution 37168 in a way the current draft is not. It is incumbent on the Planning and Sustainability Commission and Portland City Council to tie code amendments back to the original legislative intent.

We encourage the City to take the time necessary to get this right. The implications of the proposed code amendments are far reaching with consequences that should be fully understood, balanced and appropriately vetted.

We look forward to being part of the ongoing discussion.

Sincerely,



Susie Lahsene
Director, Policy and Planning

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Memo

To: Josh Alpert, Chief of Staff, Office of Mayor Hales
From: Emerald Bogue, Regional Affairs Manager, Port of Portland
CC: Michael Armstrong, Tom Armstrong, Tom Bouillon, Susie Lahsene, Phil Ralston
Date: May 12, 2016
Re: Feedback on Fossil Fuel Policy Development

The Port of Portland appreciates the opportunity to provide information and feedback on the anticipated code amendments related to Resolution 37168. We hope this can be an ongoing conversation, and that we can be seen as a resource on issues pertaining to our public mission, and partner on areas where our missions align. The Portland waterfront serves a critical role in the delivery and transshipment of fuels used in the city, state, and wider region. This fact should not be overlooked as the City moves forward with a fossil fuel policy that is intended, in whole or in part, to achieve goals that extend beyond its borders.

We trust that the City will develop fossil fuel-related code amendments that that will reflect balance in community priorities – environmental, social and economic. Our feedback in this memorandum is mostly about avoiding unintended consequences and making sure the code amendments carefully consider the real world impacts to industry and the people who rely on it, as well as various environmental initiatives. In particular, we urge the City to take a careful approach to the scope of the fossil fuel definition and the concept of export versus local consumption.

Specifically:

Code amendments should not create disincentives for companies making needed investments in safety and seismic resiliency.

As noted in the 2012 DOGAMI study “Earthquake Risk Study for Oregon’s Critical Energy Infrastructure Hub”, oil terminals in Northwest Portland have significant seismic vulnerabilities and limited redundancy. (<<http://www.oregongeology.org/sub/earthquakes/cei-hub-report.pdf>>). Strictly limiting tank sizes individually or in aggregate may have the unintended consequence making it more difficult to replace multiple obsolete tanks with a single larger but modern tank that meets current seismic and environmental standards, as well making it more difficult to provide additional redundancy recommended in the report.

Code amendments should not create a disincentive for companies to take steps toward more environmentally friendly practices and commodities.

As such, regulated commodities should not include alternative fuels such as biodiesel or inputs to manufacture biodiesel, such as methanol. Nor should they include products derived from fossil fuels such as fertilizer, chemicals and steel. In addition, strict limitation of tank size may have an unintended consequence of limiting liquid bulk commodities that *are not* fuels, such as food-grade vegetable oil, as well as biofuels manufacturing and storage.

The following fuels are defined as alternative fuels by the Federal Energy Policy Act (EPAct) of 1992: pure methanol, ethanol, and other alcohols; blends of 85% or more of alcohol with gasoline; natural gas and liquid fuels domestically produced from natural gas; liquefied petroleum gas (propane); coal-derived liquid fuels; hydrogen; electricity; pure biodiesel (B100); fuels, other than alcohol, derived from biological materials; and P-Series fuels.

Code amendments should be consistent with the goals and definitions of the Oregon Clean Fuel Program.

The Clean Fuels Program [OAR 340-253-0000] is a critical component of Oregon's plan to reduce greenhouse gases in the transportation sector such as creating cleaner cars, using cleaner fuels and reducing the amount that Oregonians drive. In addition to reducing greenhouse gases, the program has many co-benefits including reductions in other air pollutants, improvements to public health and increased energy security.

Oregon Clean Fuel Program Oregon Administrative Rules [OAR 340-253-0200] define clean fuels as a transportation fuel with a carbon intensity lower than the clean fuel standard for gasoline and their substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and their substitutes listed in Table 2 under OAR 340-253-8020, as applicable, for that calendar year, such as: (a) Bio-CNG; (b) Bio-L-CNG; (c) Bio-LNG; (d) Electricity; (e) Fossil CNG; (f) Fossil L-CNG; (g) Fossil LNG; (h) Hydrogen or a hydrogen blend; (i) LPG; and (j) Renewable diesel.

Code amendments should not frustrate international efforts to promote low-sulfur fuel in marine operations:

The International Convention for the Prevention of Pollution from Ships (MARPOL) Annex VI contains a program that applies stringent engine emission standards and fuel sulfur limits to ships that operate within 200 nm of the U.S. and in inland waterways. The 2015 fuel sulfur standard of 0.1 percent fuel sulfur (1,000 ppm) reduced diesel particulate matter by 74 percent. Marine Gas Oil distillate and LNG are the primary fuels that enable ships to meet the standards. Code amendments should be cognizant of this effort, and others that might arise in the future.

Code amendments should support sustainable aviation fuels:

In the Northwest, according to the Sustainable Aviation Fuels Northwest Project completed in 2013, approximately 800 million gallons of aviation fuel are used per year in the Pacific Northwest, with well over 90% of that allocated to commercial aviation. The airline industry has set a goal of capping industry-wide CO2 emissions by 2020 and cutting emissions in half by 2050. Individual airlines are setting goals of using sustainable aviation biofuel at one or more of their airport locations (given economic feasibility and adequate supply). The region can support these goals in many ways, including supporting state and federal clean fuels programs that incentivize the development of a stable commercial scale clean fuel supply chain and a

Northwest market, and by ensuring that fuel delivery infrastructure can accommodate the airlines' sustainable biofuels and biofuel/conventional fuel blends in aircraft fueling at PDX.

Code amendments should not adversely affect the reliability of fuel delivery to Portland International Airport:

Fuel farm facilities at PDX are owned and operated by the Portland Fueling Facilities Corporation (PFFC), a consortium of the airlines operating at PDX, not the Port. PFFC currently has a system of 3 tanks, two at 840,000 gallons capacity and one at 1.68 million gallons. PFFC is in discussions to construct another tank. These tanks operate together as a system. For purposes of redundancy as it relates to maintenance and safety, fuel can be pumped between these tanks. 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. Current operating requirements assume a 3-day reserve supply for redundancy purposes. Any regulatory change that would adversely affect the reliability of fuel supply from NW Portland to PDX could increase the reserve supply requirement. PFFC could move toward a 5, 7 or even 10 day reserve supply requirement if supply reliability is affected. Increasing the reserve supply requirement dramatically increases the need for tank storage at PDX.

Code Amendments should not impact the existing statewide and regional market.

The City of Portland supplies over 90% of the liquid fuel used in the State of Oregon and plays a similarly important role in the larger Pacific Northwest region including SW Washington, SE Washington and Northern Idaho. For purposes of these code amendments, fuel transshipped to other portions of Oregon or the Pacific Northwest region should clearly be exempt from the restricted "export" category.

Code amendments should not create additional regulatory processes that increase uncertainty in the market.

The code amendments should not create a new discretionary review process subject to appeal. Instead, the code amendments should create a clear and objective standard that is fair, equitable and can pass legal scrutiny.

The City should follow through on process commitments made in Resolution 37168.

Meaningful stakeholder engagement: *"BE IT FURTHER RESOLVED that the City shall consult with its Tribal Government Partners, the State of Oregon, local governments, and other key stakeholder including labor, business, environment, neighborhoods and communities of color in advancing this policy..."*

- This calls on the city to not just inform, but also engage representatives from these groups in the policy development.
- The feedback from these groups should be considered equally to those of other stakeholders whose opinions have been solicited to date.

Economic impact study: *"BE IT FURTHER RESOLVED that the Bureau of Planning & Sustainability shall undertake an analysis of the economic impacts of any proposed Code changes to advance the policies set forth in this resolution, with a particular focus on potential impacts to local blue-collar jobs..."*

- This study should seek to understand the impact of these code amendments not only on local jobs, but on the broader needs of our region. Given that over 90% of Oregon's liquid fuels move through Portland, its import to ensure that infrastructure to serve this regional market is not adversely impacted.



Memo

To: Steve Kountz, Bureau of Planning and Sustainability
From: Tom Bouillion, Port of Portland
Date: July 27, 2016
Re: Port of Portland Comments on the Fossil Fuel Terminal Zoning Amendments Discussion Draft

Thank you for the opportunity to comment on the Fossil Fuel Terminal Zoning Amendments Discussion Draft June 2016 (the draft document).

In addition to our previous comments provided in a memo dated May 12, 2016, we would like to emphasize our main areas of interest related to this topic.

Primarily, we want to ensure that existing Port facilities and operations are not unduly or unintentionally negatively impacted by any regulations that may stem from this initiative. Examples include the Aircraft Fuel Farm and the CNG powered vehicle fleet at Portland International Airport (PDX).

Secondarily, we want to ensure that current and future Port tenants are also not unduly or unintentionally impacted by any regulations that may stem from this initiative. Given these two primary areas of concern, we have a number of specific questions and comments:

Bulk Fossil Fuels Terminal Definition

Bulk fossil fuel terminals are not well defined relative to other liquid bulk storage facilities. We believe that an existing liquid bulk storage facility that has handled in the past and/or has the capability of handling fossil fuels proposed to be regulated in this draft document should be considered an existing bulk fossil fuel terminal.

End Use Exemption

While we appreciate efforts to clarify that end users are not subject to regulations contained in the draft document, we believe some of the specific examples could be clarified or refined to say:

- Aviation fuel facilities (rather than “jet fuel facilities at the PDX Airport”)
- Marine vessel fuel facilities (rather than “vessel fuel facilities on Portland Harbor”)
- Fleet vehicle fuel facilities
- Railroad fuel facilities
- Industrial and commercial uses (rather than simply “manufacturers”)

We also remain concerned that “end user” is not well defined, leaving the potential for confusion and misunderstanding in the future. “End user” should also acknowledge the regional fuel market served by Portland, extending well beyond the metropolitan area and Oregon.

Site Definition

The draft document on page 23 suggests that off-site (non-contiguous) expansion of an existing terminal would be subject to limitations as if it were a new bulk fossil fuel terminal. Yet, the immediately following point notes that some existing bulk fossil fuel terminals are separated by public street rights-of-way and should be recognized as a single facility. These two contradictory statements need to be reconciled and clarified. In addition, the document should clarify that existing bulk fossil fuels terminals within an existing ground lease are allowed to expand their ground lease boundary and associated facility improvements.

Definition of Fossil Fuels

While we agree that petrochemicals used primarily for non-fuel products should be excluded from this code concept, we believe it is inconsistent that methanol would be regulated as a fossil fuel even when used as a petrochemical in a manufacturing process (such as refining biodiesel), as is proposed on page 21 of the draft document.

We are also concerned that the definition of regulated fossil fuels also includes some fuels defined under the Oregon Clean Fuel Program, including CNG and propane. Since these fuels are used extensively for vehicle fleets by the Port of Portland and many other government and commercial entities in Portland, we believe the draft document may unduly limit access to these important fuels.

Regulation of Tanks Suitable for Multiple Purposes

It is unclear if and how the tank size threshold described on page 24 of the draft document will be calculated for new liquid bulk storage facilities, when those tanks could be used to store a fossil fuel proposed for regulation, a non-regulated biofuel or other non-regulated liquid bulk commodity (such as vegetable oil) .

Ambiguity in how new tanks are regulated could undermine efforts of the Sustainable Aviation Fuels Northwest Project, described in more detail in our May 12, 2016 memo, as well as other efforts to meet the goals contained in the Oregon Clean Fuel Program.

Analysis concerns:

The analysis of economic impact only looks at jobs, rather than what the impact would be to the entire region if access to fuels is limited. The analysis does not take into account the forecasted demand for low carbon fuels – thereby undermining transition requirements. Also, the forecast of need is based on old data that was used to predict export driven growth specific to marine terminals, not overall demand.

The proposed size limits for new Bulk Fossil Fuel Facilities described on page 24 of the draft document seem unsubstantiated, and the size limit is confusing depending on the specific commodity. “Barrel” is typically only used as a volume measure for crude oil, whereas refined petroleum products are defined in gallons or liters. As an example, refining a barrel of crude oil may result in 20 gallons of gasoline, 4 gallons of jet fuel, or any number of other volume ratios depending on the refined petroleum product in question. (<<http://aoghs.org/news/history-of-the-42-gallon-barrel/>>)

Given that tanks may be used for a variety of fossil fuels (or other non-regulated liquid bulk commodities), expressing limits in barrels is confusing and may be unduly limiting depending on the commodity. As an example, we are concerned about limits this may place on the wholesale supply of jet and other aviation fuels to Port of Portland operated airports in Portland and the metropolitan region.

Thank you for the opportunity to comment on the discussion draft and we look forward to further discussion of this concept.