



August 30, 2022

City of Vancouver  
SEPA Responsible Official  
Attn: Bryan Snodgrass, Principal Planner  
P.O. Box 1995  
Vancouver, WA 98668-1995

RE: SEPA Determination of Non-Significance -  
Vancouver Fossil Fuel Code Standards Proposal

SEPA Responsible Official,

These comments are provided on the Determination of Non-Significance (DNS) issued by the City of Vancouver (City) on August 16, 2022, under the State Environmental Policy Act (SEPA) for the Proposed Amendment to the City of Vancouver zoning code pertaining to fossil fuels. The comments are provided pursuant to Washington Administrative Code Section 197-11-340 and the City's published DNS comment period.

The Port of Vancouver, USA (the Port) reviewed the DNS, the accompanying SEPA checklist, the proposed code language, legislative history for the proposal, and the moratoriums. After reviewing this information, the Port has the following comments.

The Port supports the City's strong commitment to environmental leadership and appreciates and supports the City's interest in protecting natural resources by promoting the safe storage and use of fossil fuels and moving away from reliance on fossil fuels. This is evidenced in part by the Climate Action Plan<sup>1</sup> and Renewable/Clean Energy Policy<sup>2</sup> adopted by the Port. Furthermore, the Port's Strategic Plan establishes a vision to "build a community connected to a world of economic opportunity that supports a healthy environment, trade and living wage jobs."

The Port is fully in support of the City's proposal to permanently ban new bulk fossil fuel terminals as currently addressed by the moratorium and the allowances for addressing maintenance, repair, conversions, and expansions of existing facilities that support a pathway to use of cleaner fuels. However, the Port still has concerns that the proposed code language lacks a size threshold, lacks clarity, is too restrictive for conversions and small-scale facilities, will impact activities that pose little risk and have limited emissions and will be a disincentive for projects to take positive steps toward reducing fossil fuel use and encouraging renewable/cleaner fuels. The Port would also like the City to consider these regulations within the framework of the City's draft Climate Action Plan and the identified Early

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<sup>1</sup> Available at: [https://www.portvanusa.com/assets/Final-CAP-11-12-21\\_SCREEN.pdf](https://www.portvanusa.com/assets/Final-CAP-11-12-21_SCREEN.pdf)

<sup>2</sup> Available at: <https://www.portvanusa.com/assets/FINAL-Renewable-Energy-Policy-6-25-19.pdf>

Action Items. This regulatory action is not identified as one of the 13 Early Action Items and does not support the City's identified actions to encourage alternative fuels (draft actions 23, 26-28 and 30). The City should narrow the scope of this action to the permanent ban on bulk fossil fuel facilities and rely on existing regulations for smaller facilities and cleaner fuel facilities. Changes for these activities should be evaluated in the future once a Climate Action Plan is adopted by the City and in evaluating regulations that apply to all land uses and industries. The Port has provided specific comments should the City move forward as planned.

In order to provide input into the proposed code language, the following specific concerns have been identified by the Port:

1. The definition of "Bulk Fossil Fuel Storage" is not clear. It uses the phrases "structure, group of structures, equipment, or device" and "stores or transfers" to identify which elements that handle fossil fuels are included in the land use category. As written, this goes beyond regulating traditional bulk fossil fuel facilities as a land use to regulating individual activities or portions of activities and is not consistent with how facilities subject to the moratorium have been described. Storage and handling facilities are typically uses with these activities as their specific purpose – such as a crude oil terminal. It is unusual for this to include uses that merely use a material as part of their operations, including accessory storage such as a manufacturing facility with on-site propane storage, or diesel storage for emergency generators, a semiconductor manufacturing plant, or data center. However, the definition does not specifically exclude this while at the same time including an exclusion for finished products. The definition should specifically exclude facilities that simply use these materials such as manufacturing facilities.

The definition does not provide a size threshold, so any volume of material storage or transfer would be considered "bulk". This is contrary to typical understanding of the use type and adds uncertainty and confusion to the code. The moratorium specifically included a size threshold which is not carried forward into the permanent regulations.

The terms "stores" and "transfers" are not defined by the municipal code and could be interpreted very broadly. One example could be the small fuel tanks associated with emergency generators or fire pumps on industrial properties. These devices clearly store fossil fuels for energy purposes, yet they are vital elements for managing risk and responding to emergencies that are required by other codes. The use definition should exclude small scale storage and transfer that is part of a direct on-site use that is not otherwise considered bulk fossil fuel storage, such as use of natural gas for combustion in support of industrial processes or typical railyard activities. This is consistent with the City's decision to specifically exclude direct to consumer sales of fossil fuels from this regulation.

Fossil fuels are further defined to include those that are “used to generate energy”. It is not clear whether it is intended to define the material (fossil fuel) or whether it defines the purpose of the facility. For example, if a facility was developed to store or transfer fossil fuel that is used for a chemical feedstock and not for power generation would it be considered a “bulk fossil fuel storage and handling facility” use or a “manufacturing and production” use?

2. The requirements for a facility converting to cleaner fuels disincentivize these efforts. Requiring a Conditional Use Permit for cleaner fuel expansions would create undue uncertainty for an undertaking that should be encouraged in order to meet climate goals, especially for existing uses. Furthermore, the City’s proposed standards for conversions and expansions already establish controls and a Conditional Use Permit is not necessary.
3. The City should consider adding a provision to allow for the establishment of new bulk facilities that handle “Cleaner Fuels”. Under the current proposal a new clean fuel facility could not be established in any zone within the city. They should be allowed in the IH zone with limitations and by Conditional Use Permit in the IL zone. These allowances would encourage transition to cleaner fuels within the city consistent with climate action goals. These facilities will be necessary for clean fuel distribution in the IH and IL zones, especially for vehicles and equipment that lack viable options for or are difficult to electrify. This is especially relevant for low-income residents and small businesses in the region who may lack resources to quickly electrify their vehicles.
4. The Port supports the creation of a baseline to ensure that fossil fuel capacity is not expanded at existing bulk facilities. Facilities often may be used for multiple products based on the specific needs of the customer and nature of the facility. The port suggests removing language that restricts an existing facility’s ability move products to different storage tanks throughout the facility and limits the ability to handle a mix of cleaner and fossil fuels based on market conditions so long as the existing baseline storage capacity for fossil fuels of a facility is not exceeded.
5. The requirement for mitigation (direct) and the potential for mitigation (for indirect) emissions will be a significant disincentive for facilities to convert to cleaner fuels. A facility can avoid this expense and risk by simply maintaining the status quo and continuing to operate only with fossil fuels. The City should eliminate or narrowly define mitigation to only apply to expansion activities, only to direct emissions, and only if they are shown to result in an increase over the existing facility when considering both direct and indirect emissions.
6. The requirement for reporting will require companies to disclose sensitive product, transportation and business information and provide further disincentives to transition to cleaner fuels.

7. The new Small Fossil Fuel or Cleaner Fuel Storage and Distribution Facility use describes uses that are an “accessory facility necessary to support an onsite allowed primary use.” This indicates the City’s intent to broadly regulate storage tanks for fossil and cleaner fuels and this would apply to all uses that propose to include these facilities (except direct-to-consumer motor vehicle fuel sales). As noted above, this use could be interpreted to include small fuel tanks associated with emergency generators or fire pumps on industrial properties. These devices clearly store fossil fuels for energy purposes yet are vital elements for managing risk and responding to emergencies and are required by other codes. The use definition should exclude small scale storage and transfer that is part of a direct use on site that is not otherwise considered a bulk fossil fuel storage such as use of natural gas for combustion in support of heating and industrial processes, fuel tanks used for fueling of on-site or fleet vehicles and equipment or typical railyard facilities. This is consistent with the City’s decision to specifically exclude direct to consumer sales of fossil fuels from the provisions in these code changes.

The requirement for a conditional use permit and the limitation of the IH zone for these smaller facilities would restrict facilities for the port, require more burdensome process and add uncertainty, time, and expense for project proponents. The City should consider allowing them as a Limited use in both IH and IL zones because of the specific restrictions being proposed.

In addition to the comments noted on the proposed code language above, the SEPA checklist does not adequately address potential impacts of the non-project action. Contrary to Ecology guidance, the SEPA checklist does not consider the probable impacts of the future development that would be allowed under the proposal, but rather repeatedly states “not applicable – not a site-specific proposal” and then provides general information on the applicable environmental element with respect to the City. The SEPA checklist should have analyzed the likely impacts of the development allowed and implications of land use restrictions under the proposal within the supplemental sheet for non-project actions. The City has therefore not adequately considered the potential environmental implications of these regulatory changes.

The Port is in support of the overall policy intent behind the proposal and wants to work with the City to ensure that the proposed code revisions are clear, direct, and easy to understand so that the Port and Port tenants can make appropriate plans and investments for existing and future facilities, and City staff can apply regulatory provisions consistently. Port staff are available to support the City in review and input into revisions, both to avoid unintended consequences and to support our ongoing partnership in achieving shared climate and environmental goals.

The Port would like to thank the responsible official and City staff for considering these comments.

City of Vancouver  
SEPA Responsible Official  
c/o Bryan Snodgrass, Principal Planner  
August 30, 2022

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Please contact me at [mbomar@portvanusa.com](mailto:mbomar@portvanusa.com) or (360) 839-3577 if you have questions, or to discuss the Port's concerns further.

Regards,

A handwritten signature in black ink, appearing to read "Mike Bomar". The signature is fluid and cursive, with the first name "Mike" and last name "Bomar" clearly distinguishable.

Mike Bomar  
Director of Economic Development

Copies to: Mayor Anne McEnery-Ogle, City of Vancouver  
Eric Holmes, City Manager, City of Vancouver