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MEMO

DATE: October 5, 2016
TO: Planning and Sustainability Commission
FROM: Tom Armstrong, Steve Kountz, Shannon Buono
CC: Michael Armstrong, Susan Anderson, Zach Klonoski
SUBJECT: Fossil Fuel Terminal Zoning Amendments

This memo is a response to major issues raised at the September 13, 2016 PSC public hearing and includes possible amendments to the Proposed Draft for consideration at the October 11 PSC work session.

Summary of issues:

- Storage capacity size threshold and aggregation of small facilities. The 5-million-gallon terminal size threshold determines which facilities will be subject to these restrictions. Public testimony raised concern that companies would use subsidiaries to aggregate or link smaller facilities as a means to circumvent the threshold limits.
- Regulating existing terminals. Designating existing terminals as non-conforming, limited or conditional uses has different implications for replacement of existing tanks, including seismic upgrades.
- Exemption for regulated utilities. NW Natural has requested that facilities required to serve end users be exempt from the regulations.
- Regulating throughput. Public testimony raised concerns that terminals would increase activity as a response to limited capacity and that the amount of product moving through a facility should be regulated.
- Seismic safety as a building code issue.



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Balancing Competing Goals

The Portland Fossil Fuel Resolution (#37168) provides direction to actively oppose expansion of fossil fuel infrastructure, but do not restrict improvements in the safety, efficiency, seismic resilience, or operations of existing infrastructure and infrastructure that will accelerate the transition to non-fossil fuel energy sources.

BPS staff recommendations are based on three major points:

1. Even though these existing terminals are located in a moderate to high liquefaction susceptibility zone; it is impractical to assume that these facilities will move to another location in the region or Oregon. The focus should be on improving seismic resilience, which requires reinvestment and replacement of old tanks.
2. If the regulations are too restrictive, then the existing fossil fuel terminals will not make the necessary improvements to improve seismic safety. If there is a future program that requires replacement of old tanks through the building code, the zoning code should provide a clear path, without a discretionary land use review, to making these improvements.
3. Compliance with the State of Oregon's Clean Fuel Standards may generate the need for additional storage capacity for fuel additives such as ethanol. The zoning code should have a clear path, without a discretionary land use review, to provide flexibility for limited expansions to comply with the Clean Fuel Standards,

Zoning Code Options

1. Storage capacity size threshold and aggregation of sites

The Bulk Fossil Fuel Terminal use category is intended to apply to large regional gateway facilities where fossil fuels are brought into the region. The 5-million gallon capacity threshold is small compared to the existing petroleum terminals, which range from 11.6 million to 67.2 million gallons, with most facilities having more than 25 million gallons of storage capacity. Also, the recent proposals for export terminals in the Pacific Northwest 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.

The size threshold would apply to both new and existing terminals. BPS has identified 11 existing facilities that fit the description of a Bulk Fossil Fuel Terminal use. BPS involved representatives of these 11 terminals in early outreach activities for this project since May 2016, along with environmental organizations, neighborhood and equity organizations, and state and regional business associations. Smaller fossil fuel distributors that could be affected by these proposed regulations have not been involved in this process. Preliminary research to identify potential fossil fuel distributors based on NAIC codes has identified an additional 24 businesses that could be affected if the threshold is reduced below 5 million gallons (see table below).

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Company Name	NAIC Code	NAIC Category
Bulk Fossil Fuel Terminals		
1. ARC LOGISTICS	493190	Other warehousing and storage
2. BP PRODUCTS NORTH AMERICA INC	424710	Petroleum Bulk Stations and Terminals
3. CHEVRON USA INC	424720	Petroleum Products Wholesalers
4. PHILLIPS 66	424720	Petroleum Products Wholesalers
5. EQUILON ENTERPRISES (Shell)	486910	Petroleum Pipeline Transportation
6. KINDER MORGAN INC	486210	Petroleum Pipeline Transportation
7. MCCALL OIL AND CHEMICAL CORP	424720	Petroleum Products Wholesalers
8. NW NATURAL GAS STORAGE LLC	486210	Petroleum Pipeline Transportation
9. PACIFIC TERMINAL SERVICES INC	424710	Petroleum Bulk Stations and Terminals
10. SHORE TERMINALS (ExxonMobil)	424710	Petroleum Bulk Stations and Terminals
Other Businesses		
1. AIR LIQUIDE AMERICA SPECIALTY GASES	424720	Petroleum Products Wholesalers
2. AMERIGAS	454310	Fuel Dealers
3. BLUE FLAME	424720	Petroleum Products Wholesalers
4. BORING PETROLEUM INC	424720	Petroleum Products Wholesalers
5. CARSON OIL CO., INC.	424720	Petroleum Products Wholesalers
6. CASCADE PETROLEUM TRANSPORTATION INC	486910	Petroleum Pipeline Transportation
7. CHRISTENSON OIL	424720	Petroleum Products Wholesalers
8. DON THOMAS PETROLEUM INC	424720	Petroleum Products Wholesalers
9. FERRELLGAS, INC.	454310	Fuel Dealers
10. FITZ ENTERPRISES, INC.	424720	Petroleum Products Wholesalers
11. FUELMAN/FLEET 350	424720	Petroleum Products Wholesalers
12. HAJ, INC.	424720	Petroleum Products Wholesalers
13. HOUSEWARMERS OIL CO INC	424720	Petroleum Products Wholesalers
14. MERIT OIL & REFINING	424720	Petroleum Products Wholesalers
15. PENNZOIL-QUAKER STATE COMPANY	424720	Petroleum Products Wholesalers
16. POWELL DISTRIBUTING COMPANY INC	424710	Petroleum Bulk Stations and Terminals
17. R AND R PETROLEUM LLC	424720	Petroleum Products Wholesalers
18. REINHARD PETROEUM	424720	Petroleum Products Wholesalers
19. SANTA FE PACIFIC	486110	Crude Oil Pipeline Transportation
20. SEQUENTIAL-PACIFIC BIODIESEL, LLC	424720	Petroleum Products Wholesalers
21. STAR OILCO	424720	Petroleum Products Wholesalers
22. TARR ACQUISITION, LLC	424710	Petroleum Bulk Stations and Terminals
23. TYREE OIL, INC.	424720	Petroleum Products Wholesalers
24. WESTERN HYWAY OIL CO	424720	Petroleum Products Wholesalers



A change to effectively eliminate the bulk fossil fuel storage aspect of the use description may also 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. A clarification in the use description should be added to clarify that railroad yards and pipelines without transloading or storage facilities are not Bulk Fossil Fuel Terminals.

The September 16 written testimony from 350PDX, prepared by Mia Reback and Nick Caleb, indicates that the 5-million gallon threshold *probably* will be adequately restrictive on all new fossil fuel terminals, but are concerned about the potential for small terminal aggregation. Their concern is a larger parent corporation would set up different subsidiaries, each having a small lot with 5-million gallons of storage capacity, on contiguous lots as a way to circumvent the 5-million gallon limit on new facilities.

The Zoning Code (33.910.030) defines “ownership”as:

An ownership is one or more contiguous lots that are owned by the same person, partnership, association, or corporation. Ownership also includes lots that are in common ownership but are separated by a shared right-of-way.

The reference to partnerships and corporations is an inclusive term that includes subsidiaries of a larger corporation, which would prevent a larger parent corporation from using different subsidiaries on contiguous lots.

A possible amendment to the definition of Bulk Fossil Fuel Terminals could clarify that multiple fossil fuel facilities, each with less than 5 million gallons of fossil fuel storage capacity 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 tanks; or
- c. The facilities are owned or operated by a single parent partnership or corporation.

Options:

- A. No change. Retain the storage capacity threshold at 5 million gallons.
- B. Reduce the storage capacity threshold.
- C. Add language to clarify common ownership includes subsidiaries of corporations.
- D. Add language to clarify the use status of railroad yards and pipelines.
 - Regional gas and oil pipelines are classified as Rail Line and Utility Corridor uses.



- Railroad yards are classified as Railroad Yard uses.

BPS Recommendation: Retain the 5-million gallon threshold. Add clarifying language to prevent aggregation of small facilities. Add clarifying language for railyards and pipelines.

2. Regulating existing terminal expansion

To be consistent with Resolution 37168, there should be an opportunity for replacement and limited expansion of existing terminal storage capacity to allow for new tanks to meet clean fuel standards and seismic safety improvements through the replacement of existing tanks.

The Proposed Draft establishes the existing terminals as legal non-conforming uses that will require all improvements to go through a non-conforming situation review. Comments from BDS clarify that even one-for-one replacement of existing tanks (without expansion) would be difficult to approve through a non-conforming situation review. In addition, the terminal operators raised concerns about being designated as a non-conforming use in terms of financing improvements and the uncertainty created by the land use review process. At the same time, 350PDX and many others expressed support for designating terminals as a non-conforming use and requiring improvements to go through a land use review.

Other options are to make the existing terminals a limited use or conditional use with land use review approval criteria to ensure that the expanded capacity will improve safety (replace old tanks) and is need for compliance with clean renewable fuel standards (reduce GHG emissions).

BDS recommends designating the existing terminals as a limited use with a limit on expansions to be no more than 10 percent of the existing total storage capacity on the site. Alterations, replacement of existing tanks, and expansions within the limit would be allowed without a land use review. Expansion of storage capacity would need to be done in conjunction with the seismic upgrade of at least one existing tank, so that there is an increase in the overall seismic safety of the terminal. New or replacement tanks would automatically be required to meet current building code standards for seismic safety.

Another approach would be to allow for expansion up to the 10 percent limit through a conditional use review. Approval criteria could to ensure that the added capacity will improve safety (replace old tanks) and is needed for compliance with clean renewable fuel standards (reduce GHG emissions). Alterations to the terminal that do not increase the fossil fuel storage capacity would not be subject to a conditional use review.

There was a lot of public testimony on whether or not to require a discretionary land use review as part of a limited expansion. Land use reviews require public notice and opportunities for public comment and appeals. Land use reviews also introduce an element of uncertainty and time delay that could be a deterrent to undertaking an improvement project that would otherwise help meet seismic resilience or clean fuel goals. BDS has expressed concerns that they do not have the 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 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.

An alternative to a land use review is a public notice and meeting requirement, similar to the requirement for multi-dwelling residential development. The terminal operators would be required to send notice to the adjacent neighborhood association and hold a public meeting to explain the elements of the project prior to filing a development permit application. This notice and meeting would create public awareness about the project and serve to discuss a proposal in an informal basis.

BPS recommends designating the existing terminals as a limited use, capping the amount of expansion to 10 percent of the current storage capacity in order to provide flexibility to comply with clean fuel standards and as an incentive to make seismic upgrades. With a strict cap a land use review would not be necessary because all new improvements are required to comply with current building codes, so by their nature will be safer than the existing facilities. Also, given the past trends of flat gasoline consumption and other policy initiatives (increasing fuel efficiency standards, electric vehicles) that are expected to reduce the demand for fossil fuels, the most likely need for additional storage capacity is to comply with the clean fuel standards, which further helps reduce our GHG emissions.

Options:

- A. No change. Existing terminals become non-conforming uses and any expansion must go through a non-conforming situation review. Variation: create review criteria that is specific to Bulk Fossil Fuel Terminals that addresses the need to comply with Clean Fuel Program and seismic safety standards.
- B. Limited use. Existing terminals are designated as a limited use and expansion of storage capacity is not to exceed 10 percent of the current terminal capacity. No land use review required. Variation: require a public meeting prior to filing development application.
- C. Conditional use. Replacement of storage tanks is allowed. Expansion of storage capacity is allowed (up to a 10 percent limit) through a conditional use review process with approval criteria for seismic upgrades and compliance with clean fuel standard.

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



3. Exemption for regulated utilities.

NW Natural, the natural gas utility that serves western Oregon and parts of southwest Washington, has suggested that its facilities should not be subject to new zoning restrictions because its distribution facilities provide service to end users. The November 2015 City Council resolution included a provision that the resolution “does not restrict. . .the provision of service directly to end users.”

NW Natural’s service to end users in Oregon is regulated by the Oregon Public Utility Commission. The company periodically prepares an integrated resources plan (IRP) to document its forecast for natural gas use by its customers that takes into consideration changes in number of customers, gas usage per customer, and anticipated economic trends. The IRP also details how NW Natural proposes to meet changes in natural gas demand and is statutorily obligated to do so in ways that result in the “least cost” to customers, while managing risk and complying with all applicable environmental and workplace regulations. The PUC conducts a public review process of the IRP and ultimately either “acknowledges” the IRP or identifies shortcomings the company must address in a revised IRP.

NW Natural has suggested that, because of the regulatory authority of the PUC and existing review process, any proposed facilities would be thoroughly vetted as necessary to meet the needs of end users.

This approach would apply only to facilities NW Natural constructs that fall within its PUC-regulated operations. If NW Natural established an unregulated subsidiary to supply wholesale liquefied natural gas (LNG), for example, any infrastructure associated with these operations would still be subject to the Fossil Fuel Code.

Option: Add the following under “Exceptions that are not Bulk Fossil Fuel Terminals.”

Proposed Language Facility operated by a public utility and regulated by the Oregon Public Utility Commission under ORS Chapters 756 and 757 for the purposes of ensuring fuel reliability to direct users through an interconnected system are not Bulk Fossil Fuel Terminals.

5. Regulating throughput.

Public testimony raised concerns that terminals would ramp up activity as a response to limited capacity and that the amount of product moving through a facility should be regulated.

Regulating throughput of a specific use is not something that the City of Portland does, especially through the Zoning Code. This type of regulation represents a new direction with a set of issues regarding reporting, monitoring, enforcement, and staffing that are beyond the scope of this project.



6. Seismic safety as a building code issue.

Improving seismic safety is a major issue. It also is a building code issue that is beyond the scope of the zoning code. As a future step, the City of Portland should explore options to require seismic safety upgrades through a program similar to un-reinforced masonry buildings (URMs) program that is in process or a property maintenance code.



1. Draft code for regulating existing terminals as a limited use (2 options—no expansion; 10% expansion):

33.140.100 Primary Uses

A. No change

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. – 16. No change

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] and are shown on Map 140-1 are allowed but the total amount of fossil fuel that can be stored within the boundaries of each terminal is limited to the amount shown in Table 140-7. Fossil fuel storage capacity in excess of the amount specified in Table 140-7 is prohibited.;

b. New Bulk Fossil Fuel Terminals are prohibited.

Table 140-7 for Option 1—Base (company names will not appear in the Zoning Code)

Table 140-7	
Total Allowed Fossil Fuel Storage Capacity	
Terminal	Total allowed fossil fuel storage capacity
Terminal #1 (<i>Kinder Morgan Linnton</i>)	17,640,000 gallons
Terminal #2 (<i>BP West Coast</i>)	25,263,000 gallons
Terminal #3 (<i>Shore Terminals/Nustar</i>)	50,022,000 gallons
Terminal #4 (<i>Pacific Terminal Services</i>)	11,678,000 gallons
Terminal #5 (<i>NW Natural</i>)	7,500,000 gallons
Terminal #6 (<i>Kinder Morgan Willbridge</i>)	65,142,000 gallons
Terminal #7 (<i>Chevron</i>)	67,200,000 gallons
Terminal #8 (<i>Phillips 66</i>)	31,920,000 gallons
Terminal #9 (<i>Arc Terminals</i>)	66,524,200 gallons
Terminal #10 (<i>McCall Oil</i>)	39,060,000 gallons
Terminal #11 (<i>Equilion Shell</i>)	16,800,000 gallons

Table 140-7 for Option 2—Base plus 10% (company names will not appear in the Zoning Code)

Table 140-8	
Total Allowed Fossil Fuel Storage Capacity	
Terminal	Total allowed fossil fuel storage capacity
Terminal #1 (<i>Kinder Morgan Linnton</i>)	19,404,000 gallons
Terminal #2 (<i>BP West Coast</i>)	27,789,300 gallons
Terminal #3 (<i>Shore Terminals/Nustar</i>)	55,024,200 gallons
Terminal #4 (<i>Pacific Terminal Services</i>)	12,845,800 gallons
Terminal #5 (<i>NW Natural</i>)	8,250,000 gallons

Terminal #6 (<i>Kinder Morgan Willbridge</i>)	71,656,200 gallons
Terminal #7 (<i>Chevron</i>)	73,920,000 gallons
Terminal #8 (<i>Phillips 66</i>)	35,112,000 gallons
Terminal #9 (<i>Arc Logistics</i>)	73,176,600 gallons
Terminal #10 (<i>McCall Oil</i>)	42,966,000 gallons
Terminal #11 (<i>Equilon Shell</i>)	18,480,000 gallons

Table 140-1 Employment and Industrial Zone Primary Uses						
Industrial Categories	EG1	EG2	EX	IG1	IG2	IH
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
<u>Bulk Fossil Fuel Terminal</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>L [17]</u>
Railroad Yards	N	N	N	Y	Y	Y
Waste-Related	N	N	N	L/CU [8]	L/CU [8]	L/CU [8]

2. Draft code for regulating existing terminal expansion (up to 10%) as a limited use in exchange for upgrading one existing tank:

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] and are shown on Map 140-1 are allowed but the total amount of fossil fuel that can be stored within the boundaries of each terminal is limited to the amount shown in Table 140-7. Additional fossil fuel storage capacity can be added within the terminal boundaries up to the amount specified in Table 140-8 if at least one fossil fuel storage facility that existed on the terminal site on [insert effective date] is brought into conformance with current seismic standards. Fossil fuel storage capacity in excess of the combined amounts specified in Tables 140-7 and 140-8 is prohibited.
- b. New Bulk Fossil Fuel Terminals are prohibited.

Table 140-7 Total Allowed Fossil Fuel Storage Capacity	
Terminal	Total allowed fossil fuel storage capacity
Terminal #1	67,200,000 gallons
Terminal #2	65,142,000 gallons
etc...	

Table 140-8 Additional Fossil Fuel Storage Capacity	
Terminal	Additional fossil fuel storage capacity
Terminal #1	6,720,000 gallons
Terminal #2	6,514,200 gallons
etc...	

Table 140-1 Employment and Industrial Zone Primary Uses						
Industrial Categories	EG1	EG2	EX	IG1	IG2	IH
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
<u>Bulk Fossil Fuel Terminal</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>L [17]</u>
Railroad Yards	N	N	N	Y	Y	Y
Waste-Related	N	N	N	L/CU [8]	L/CU [8]	L/CU [8]

3. Draft code for regulating existing terminal expansion (up to 10%) as a CU:

33.140.100 Primary Uses

A. No change

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. – 16. No change

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] and are shown on Map 140-1 are allowed but the total amount of fossil fuel that can be stored within the boundaries of each terminal is limited to the amount shown in Table 140-7. Adding additional fossil fuel storage capacity up to the amount shown in Table 140-8 can be allowed through a conditional use review. Alterations to the terminal that do not increase the fossil fuel storage capacity are not subject to a conditional use review. Fossil fuel storage capacity in excess of the combined amounts specified in Tables 140-7 and 140-8 is prohibited.

b. New Bulk Fossil Fuel Terminals are prohibited.

Table 140-7 Fossil Fuel Storage Capacity	
Terminal	Total allowed fossil fuel storage capacity
Terminal #1	67,200,000 gallons
Terminal #2	65,142,000 gallons
etc...	

Table 140-8 Additional Fossil Fuel Storage Capacity	
Terminal	Additional fossil fuel storage capacity allowed as a conditional use
Terminal #1	6,720,000 gallons
Terminal #2	6,514,200 gallons
etc...	

Table 140-1 Employment and Industrial Zone Primary Uses						
Industrial Categories	EG1	EG2	EX	IG1	IG2	IH
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

<u>Bulk Fossil Fuel Terminal</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>L/CU/N</u> <u>[17]</u>
Railroad Yards	N	N	N	Y	Y	Y
Waste-Related	N	N	N	L/CU [8]	L/CU [8]	L/CU [8]

33.815.320 Bulk Fossil Fuel Terminals.

These approval criteria apply to Bulk Fossil Fuel Terminals. The approval criteria are:

- A. The proposed development meets all *applicable seismic standards*; and
- B. The proposed development is necessary to comply with *the clean fuel standards*.

4. Draft code for adding Neighborhood Contact:

33.140.050 Neighborhood Contact

- A. Purpose.** Neighborhood contact is required for changes to the storage capacity of Bulk Fossil Fuel Terminals in the IH zone because of the impacts that fossil fuel projects can have on the surrounding community. The neighborhood contact requirement provides an opportunity for community input on the design of the project by providing a setting for the applicant and neighborhood residents to discuss a proposal in an informal manner. By sharing information and concerns early, all involved have the opportunity to identify ways to improve a proposal and to resolve conflicts.
- B. Neighborhood contact requirement.** Proposals meeting the following conditions are subject to the neighborhood contact requirement as specified in Section 33.700.025, Neighborhood Contact. All of the steps in 33.700.025 must be completed before a building permit is requested.
1. The proposed development has not been subject to a land use review; and
 2. Development for the storage of fossil fuels is proposed.

5. Draft Code to Ensure that the Olympic Pipeline and Rail Yards are not considered a Bulk Fossil Fuel Terminal, and ensure that the NW Natural LNG site is not a Bulk Fossil Fuel Terminal, plus a few changes for clarity purposes:

33.920.300 Bulk Fossil Fuel Terminal

- A. Characteristics.** Bulk Fossil Fuel Terminals are establishments primarily engaged in the transport and bulk storage of fossil fuels. Terminal activities may also include fuel blending, regional distribution, and wholesaling. The firms rely on access by marine, railroad or regional pipeline to transport fuels to or from the site, and either have transloading facilities for transferring fossil fuel between transport modes, or have fossil fuel storage capacity on the site exceeding 5 million gallons. There is minimal on-site sales activity with the customer present.
- B. Accessory uses.** Accessory uses may include retail sales of petroleum products, offices, food membership distribution, parking, storage, truck fleet parking and maintenance areas, rail spur or lead lines, and docks.
- C. Examples.** Examples include crude oil terminals, petroleum products terminals, natural gas terminals, propane terminals, and coal terminals.
- 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 fossil fuel transloading facilities and do not have fossil fuel storage capacity in excess of 5 million gallons are classified as Warehouse and Freight Movement uses.
 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 classified as Warehouse and Freight Movement uses.
 5. Industrial, commercial, institutional, and agricultural firms that exclusively store fossil fuels 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.
 7. The storage of fossil fuels for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, rail yard, or as part of a fleet vehicle servicing facility are accessory to their use.
 8. Uses that recover or reprocess used petroleum products are not Bulk Fossil Fuel Terminals.
 9. Regional gas and oil pipelines are classified as Rail Line and Utility Corridor uses.
 10. Railroad yards are classified as Railroad Yard uses.
 11. Facilities operated by a public utility and regulated by the Oregon Public Utility Commission under ORS Chapter 756 and 757 for the purposes of ensuring fuel reliability to direct users through an interconnected system are not Bulk Fossil Fuel Terminals.

6. Additional code language to address the potential for small site aggregation:

33.920.300 Bulk Fossil Fuel Terminal

- A. Characteristics.** Bulk Fossil Fuel Terminals are establishments primarily engaged in the transport and bulk storage of fossil fuels. Terminal activities may also include fuel blending, regional distribution, and wholesaling. The firms rely on access by marine, railroad or regional pipeline to transport fuels to or from the site, and either have transloading facilities for transferring fossil fuel between transport modes, or have fossil fuel storage capacity on the site exceeding 5 million gallons (or equivalent volume). There is minimal on-site sales activity with the customer present.
- B. Accessory uses.** Accessory uses may include retail sales of petroleum products, offices, food membership distribution, parking, storage, truck fleet parking and maintenance areas, rail spur or lead lines, and docks.
- C. Examples.** Examples include crude oil terminals, petroleum products terminals, natural gas terminals, propane terminals, and coal terminals.
- 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 fossil fuel transloading facilities and do not have fossil fuel storage capacity in excess of 5 million gallons are classified as Warehouse and Freight Movement uses. However, multiple fossil fuel facilities, each with less than 5 million gallons of fossil fuel storage capacity but cumulatively having a fossil fuel storage capacity in excess of 5 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 tanks; 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 classified as Warehouse and Freight Movement uses.
 5. Industrial, commercial, institutional, and agricultural firms that exclusively store fossil fuels 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.
 7. The storage of fossil fuels for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, rail yard, or as part of a fleet vehicle servicing facility are accessory to their use.

8. Uses that recover or reprocess used petroleum products are not Bulk Fossil Fuel Terminals.