

January 26th, 2021

Ms. Diane Glenn, Council Chair
Washington State Building Code Council
1500 Jefferson Ave. SE
Post Office Box 41449
Olympia, WA 98504-1449

RE: ESHB 2783 - Streamlined On-Demand Mobile Fueling Permitting

Dear Chairwoman Glenn,

Thank you for your leadership at the WA State Building Code Council (SBCC). It has been a pleasure working with your team, regulators and industry leaders on ESHB 2783. I am writing this letter to describe the intent of the permitting process set forth in ESHB 2783 to ensure that the intent of the Legislature is understood by those involved in the SBCC rule making process. The Legislature worked with industry leaders and regulators earlier this year to lay the foundations for statewide operational permits and a two-tiered site permitting system in an effort to streamline the permitting process for industry and to ease the burden of permitting at the local level. It has come to my attention that the proposed language that has made it through the SBCC Fire Code TAG does not accurately reflect the intention of the Legislature.

The intent of ESHB 2783 is to aid local authorities having jurisdiction in establishing timely and consistent permitting structures. A bona fide operational or vehicle permit issued by any jurisdiction ("Jurisdiction 1") in Washington State demonstrates Code compliance, and it is the direction of the Legislature that every other jurisdiction in Washington State ("Jurisdiction 2") accept such permits, notwithstanding the ability of Jurisdiction 2 to require an application for permit in Jurisdiction 2, should they offer such permits. So long as the above requirements are satisfied, it is the intent of the Legislature that mobile fuelers be allowed to operate in Jurisdiction 2, even if the local operational or truck permits are under review by Jurisdiction 2.

Regarding site permits, the Legislature understands that not every jurisdiction requires site permits, but they have the option to. The SBCC has been tasked with developing a criteria by which any site can be placed into one of two tiers--Tier 1 or Tier 2--by creating a list of site conditions and the presence of specific elements of concern to deem it a Tier 2 site. All other sites therefore would be a Tier 1 site. In other words, the intent of the bill was to allow operations to begin more promptly at locations such as the typical parking lot with no unusual safety or environmental concerns without affecting the traditional site permitting process for locations

that involve atypical safety or environmental issues. The process we legislated and that I have detailed above allows jurisdictions to maintain local control without getting bogged down in unnecessary paperwork.

It has been my privilege and honor to work with your team, regulators, and industry to pass this historic bill. My hope is that the intent of the language is accurately reflected through the rulemaking process. Should you have any questions, please reach out to my office.

Sincerely,

A handwritten signature in black ink that reads "Dan Griffey". The signature is written in a cursive, flowing style.

403 John L. O'Brien Bldg.

360-786-7966

Dan.Griffey@leg.wa.gov

cc: Members of the Council
Richard Brown, Managing Director, SBCC



Booster Fuels, Inc.
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January 29, 2021

Ms. Diane Glenn
Council Chair
Washington State Building Code Council
1500 Jefferson Ave. SE
Post Office Box 41449
Olympia, WA 98504-1449

RE: ESHB 2783 - On-Demand Mobile Fueling Permitting

Dear Chairwoman Glenn,

Thank you for your leadership and work on ESHB 2783. On behalf of Booster Fuels, Inc. (Booster), I am writing this letter to urge the council to consider amendments to ESHB 2783 that are reflective of the original intent as adopted by the legislature. As the sponsors of ESHB 2783, our industry worked hand in hand with regulators and stakeholders to develop language that was mutually beneficial and reduced the duplication of work for local jurisdictions. The intent of ESHB 2783 was to create a process that eased the burden of paperwork for regulators, streamlined the permitting process, while still maintaining strict safety standards and allowing regulators to maintain local control. Unfortunately, the intent of the bill has not been preserved through the SBCC Fire Code TAG process.

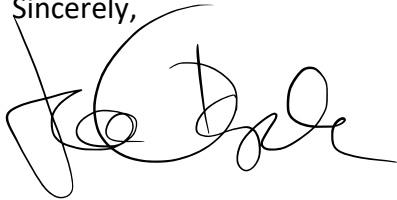
The language proposed for tiered permitting does not create a streamlined process but instead adds additional burdens for local jurisdictions. A characteristics-based tiered permitting system, which is what ESHB 2783 intended, will be mutually beneficial for industry and the local authorities. To streamline permitting, the tiers should be created based on a list of site conditions and if specific conditions of concern are present, it will be deemed a Tier 2 site by the jurisdiction. All other locations would be listed as a Tier 1 site to allow operations to begin where there are no unusual safety or environmental concerns while still allowing jurisdictions control over what is needed for site permitting and allowing for inspections of the site at the discretion of the fire safety official.

The operational and vehicle permitting, as proposed by the SBCC, does not remove the duplication of work. It was the intent of ESHB 2783 to create a process where an operational or vehicle permit issued by any jurisdiction in Washington State will be accepted by another jurisdiction. This does not prohibit another jurisdiction from offering such permits but does allow

mobile refuelers to operate in the jurisdiction while operational or truck permits are being reviewed.

It has been a privilege working with you and the council through the rulemaking process. We hope that the council considers amendments to the proposed language to preserve the intent of ESHB 2783. Please feel free to reach out to me or my team should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Okpaku', written in a cursive style.

Joseph Okpaku
Chief Policy Officer, Booster Fuels
Joe.Okpaku@boosterfuels.com

cc: Members of the Council
Richard Brown, Managing Director, SBCC

4. Proposed Code Amendment. Reproduce the section to be amended by underlining all added language, striking through all deleted language. Insert new sections in the appropriate place in the code in order to continue the established numbering system of the code. If more than one section is proposed for amendment or more than one page is needed for reproducing the affected section of the code additional pages may be attached. (Examples on the SBCC [website](#)) **BOOSTER AMENDMENTS IN GREEN.**

Code(s) 2018 International Fire Code **Section(s)** 5707 and 105.6

Enforceable code language must be used. Amend section to read as follows:

5707.1 General. On-demand mobile fueling operations that dispense Class I, II and III liquids into the fuel tanks of motor vehicles shall comply with Sections 5707.1 through 5707.6.~~((3))~~ 6.

Exception: Fueling from an *approved* portable container in cases of an emergency or for personal use.

5707.1.1 Approval required. Mobile fueling operations shall not be conducted without first obtaining a *permit* and approval from the *fire code official*. Mobile fueling operations shall occur only at *approved* locations. The fire code official is authorized to approve individual locations or geographic areas where mobile fueling is allowed.

5707.1.2 Coordination of permits. Permits across multiple authorities having jurisdiction shall be coordinated in accordance with Sections 5707.1.2.1 through 5707.1.2.4.

~~**5707.1.2.1 Acceptance of permits issued by other authorities having jurisdiction.** Local authorities having jurisdiction that allow mobile on-demand fueling trucks may accept conforming permits issued and/or inspections performed by any other local authorities having jurisdiction in Washington State. Local authorities having jurisdiction that choose to accept conforming permits issued by other local authorities having jurisdiction in Washington State retain the right to inspect the vehicle and operations and enforce the provisions of this section.~~

~~**5707.1.2.12 Local authorities having jurisdiction not offering operator or truck certification.** A conforming operator or vehicle permit issued by one local authority having jurisdiction shall be recognized and accepted by all local authorities having jurisdiction in Washington State, if those local authority having jurisdictions allow mobile on-demand fueling and do not offer such operator or vehicle permits truck certification. Under no circumstances will an issuing local authority having jurisdiction be expected to perform permissive inspections beyond their jurisdiction.~~

~~**5707.1.2.23 Commencing permit issuance.** A local authority that has not yet developed a process to issue permits authorizing mobile fueling operations shall accept valid mobile fueling operator and mobile fueling vehicle permits issued by another local authority having jurisdiction in Washington state and allow the mobile fueler to operate upon receipt of the validly issued permit from the other jurisdiction. When a local authority having jurisdiction that has previously authorized mobile fueling operations but not issued their own permits commences permit issuance for mobile fueling operations or vehicles, that local authority having jurisdiction shall continue to accept permits previously issued by another local authority having jurisdiction in Washington State for three months or until their expiration date, whichever is sooner.~~

~~**5707.1.2.34 Permit record maintenance.** Issuing local authorities having jurisdiction shall maintain a publicly available list of current permits or other information source to enable all parties to have information about whether permits are in good standing.~~

~~5707.1.3 Jurisdictions that issue operator permits. A conforming operator or vehicle permit issued by one local authority having jurisdiction may be recognized and accepted by all local authorities having jurisdiction in Washington state for a minimum three months or until the expiration date, whichever is sooner, while the local authority having jurisdiction commences its own permit issuance.~~

5707.2 Mobile fueling vehicle. An on-demand mobile fueling vehicle shall be one of the following: utilized in on-demand fueling operations for the dispensing of Class I, II or III liquids into the fuel tanks of motor vehicles and shall comply with Sections 5707.2.1 and 5707.2.2.

5707.2 Mobile fueling vehicle. An on-demand mobile fueling vehicle shall be ((one of the following:)) utilized in on-demand fueling operations for the dispensing of Class I, II or III liquids into the fuel tanks of motor vehicles and shall comply with Sections 5707.2.1 and 5707.2.2.

5707.2.1 Mobile fueling vehicle classifications. An on-demand mobile fueling vehicle shall be classified as one of the following:

1. Type 1 Mobile Fueling Vehicle- A tank vehicle that complies with NFPA 385 and that has chassis-mounted tanks or containers where the aggregate ~~carge~~ capacity does not exceed ~~4200~~ 1600 gallons (4592 6057 L).

2. Type 2 Mobile Fueling Vehicle- A ~~mobile fueling~~ vehicle with a ~~mounted tank~~ in excess of one or more chassis-mounted tanks or chassis-mounted containers, not to exceed 110 gallons (415 L) capacity for each tank or container and having an aggregate capacity not exceeding 800 gallons (3028 L) ~~shall comply with the requirements of Section 5706.6, Section 5707 and NFPA 385 or the weight capacity of the vehicle in accordance with DOTn.~~

2 3. Type 3 Mobile Fueling Vehicle- A vehicle that carries a maximum aggregate capacity of 60 gallons (227 L) of motor fuel in metal safety cans *listed* in accordance with UL 30 or other *approved* metal containers, each not to exceed 5 gallons (19 L) in capacity. ~~Containers shall be secured to the mobile fueling vehicle except when in use.~~

5707.2.2 Mobile fueling vehicle requirements. Each ~~The~~ mobile fueling vehicle shall comply with all local, state and federal requirements, and the following:

1. Mobile fueling vehicles with a chassis-mounted tank in excess of 110 gallons (415 L) shall also comply with the requirements of Section 5706.6 and NFPA 385.

2. The mobile fueling vehicle and its equipment shall be maintained in good repair.

3. Safety cans and approved metal containers shall be secured to the mobile fueling vehicle except when in use.

4. Fueling a motor vehicle from tanks or containers mounted in a trailer connected to a mobile fueling vehicle shall be prohibited.

5707.3 Required documents. Documents developed to comply with Sections 5707.3.1 through 5707.3.3 shall be updated as necessary by the *owner* of the mobile fueling operation and shall be maintained in compliance with Section 108.3.

5707.3.1 Safety and emergency response plan. Mobile fueling operators shall have an *approved* written safety and emergency response plan that establishes policies and procedures for fire safety, spill prevention and control, personnel training and compliance with other applicable requirements of this code. The safety and emergency response plan shall specifically address and require that all operators assess surroundings prior to fueling to consider the presence of items listed in 5707.3.3

5707.3.2 Training records. Mobile fueling vehicles shall be operated only by designated personnel who are trained on proper fueling procedures and the safety and emergency response plan. Training records of operators shall be maintained.

5707.3.3 Site plan. Where required by the *fire code official*, a site plan shall be developed for each location or area at which mobile fueling occurs. The site plan shall be in sufficient detail to indicate but not be limited to the following:

1. All buildings, structures,
2. † Lot lines or, property lines and
3. Electric car chargers
4. Solar photovoltaic parking lot canopies
5. Appurtenances on site and their use or function;
6. All uses adjacent to the lot lines of the site; and
7. ‡ Fueling locations; the
8. † Locations of all storm drain openings and adjacent waterways or wetlands;
9. † Information regarding slope, natural drainage, curbing, and impounding. and
10. ‡ How a spill will be kept on the site property; and the
11. § Scale of the site plan.

5707.3.4 Tiered Sites. Where a site permitting process is required by the local jurisdiction, a two tiered system identifying site conditions or characteristics shall be designated by the *fire code official* to be one of the following and based on local provisions as necessitated by zoning laws, environmental laws, public safety, and other characteristics.

5707.3.4.1 Tier 1 Sites. Sites that do not present atypical geographic, safety, or environmental concerns shall be provided expedited permitting review and shall allow permit issuance prior to site inspection. For locations deemed as Tier 1 Sites, an inspection shall not be required by the fire code official prior to mobile fueling operations being commenced, provided that a written notice and a site plan as defined by 5707.3.3 has been provided to the fire code official five business days prior to the commencement of mobile fueling operations. The fire code official may impose additional conditions and may perform a site inspection during the period of permit validity. Sites that have been determined that an inspection is not required by the fire code official or that have site conditions or characteristics approved by the fire code official. The fire code official may impose additional conditions at a future date if warranted.

5707.3.4.2 Tier 2 Sites. Tier 2 Sites that require an inspection shall be approved by the fire code official prior to permit issuance. shall mean locations that may require an inspection by the fire code official prior to mobile fueling operations being commenced due to the presence of the site conditions or characteristics listed below. Tier 2 sites shall require approval by the fire code official prior to permit issuance and may require site inspections and the development of a site-specific safety and emergency response plan for each location which fueling occurs. Tier 2 conditions and characteristics are locations that present atypical geographic, safety, or environmental concerns and can contain but are not limited to the following site characteristics:

1. Above ground storage tanks containing flammable gas or class 1 or class 2 liquids
2. Underground injection or groundwater wells within 100ft gradient from site

5707.4 Mobile fueling areas. Mobile fueling During fueling, the mobile fueling vehicle and point of connection of the vehicle being fueled shall not be located shall not occur on public streets, *public ways* or inside *buildings*.

Fueling on the roof level of parking structures or other *buildings* is prohibited.

5707.4.1 Separation. Mobile fueling. During fueling, the point of connection of the vehicle being fueled shall not take place within 25 feet (7620 mm) of buildings, lot lines, property lines or combustible storage. Mobile fueling vehicles shall not park within 10 feet (3048 mm) of buildings, lot lines, property lines or combustible storage.

Exceptions:

1. The fire code official shall be authorized to decrease the separation distance for dispensing from metal safety cans or other approved metal containers in accordance with Section 5707.2.
2. The point of fueling shall not take place within 10 feet (3048 mm) of buildings, lot lines, property lines, or combustible storage when the mobile fueling vehicle has an approved vapor recovery system or is servicing vehicles with on board refueling vapor recovery. Where dispensing operations occur within 15 feet (4572 mm) of a storm drain, an approved storm drain cover or an approved equivalent method that will prevent any fuel from reaching the drain shall be used.

5707.4.2 Sources of ignition. Smoking, open flames and other sources of ignition shall be prohibited within 25 feet (7620 mm) of fuel dispensing activities. Signs prohibiting smoking or open flames within 25 feet (7620 mm) of the vehicle or the point of fueling shall be prominently posted on the mobile fueling vehicle. The engines of vehicles being fueled shall be shut off during fueling.

5707.4.3 Electrical equipment. Mobile fueling shall not occur within 20 feet of electrical equipment located within 18 inches of the ground unless such electrical equipment is rated for Class 1, Division 2 hazardous locations in accordance with NFPA 70.

5707.5 Equipment. Mobile fueling equipment shall comply with Sections 5707.5.1 through 5707.5.4.5.

5707.5.1 Dispensing hoses and nozzles. Where equipped, the dispensing hose shall not exceed 50 feet (15240 mm) in length. The dispensing nozzles and hoses shall be of an approved and listed type. Where metal-to-metal contact cannot be made between the nozzle and the fuel fill opening, then a means for bonding the mobile fueling vehicle to the motor vehicle shall be provided and employed during fueling operations.

5707.5.2 Break-away device. A listed break-away device shall be provided at the nozzle.

Exception: Mobile fueling vehicles equipped with an approved brake interlock tied to the nozzle holder that prohibits movement of the mobile fueling vehicle when the nozzle is removed from its holder or tied to the delivery of fuel that prevents activation of the pumping system.

5707.5.2.3 ((Fuel)) Shut off valve and fuel limit. Mobile fueling vehicles shall be equipped with a listed shut off valve assembly and a fuel limit switch set to a maximum of 30 gallons (116 L) and a nozzle or other approved device that, when activated, immediately causes flow of fuel from the mobile fueling vehicle to cease.

5707.5.3.4 Fire extinguisher. An approved portable fire extinguisher complying with Section 906 with a minimum rating of 40-4A:80-B:C shall be provided on the mobile fueling vehicle with signage clearly indicating its location.

5707.5.4.5 Spill kit. Mobile fueling vehicles shall contain a minimum 5-gallon (19 L) spill kit of an approved type.

5707.6 Operations. Mobile fueling vehicles shall be constantly attended during fueling operations with brakes set and warning lights in operation. Mobile fueling vehicles shall not obstruct emergency vehicle access roads.

5707.6.1 Dispensing hose. Where equipped, mobile fueling vehicles shall be positioned in a manner to preclude traffic from driving over the dispensing hose. The dispensing hose shall be properly placed on an approved reel or in an approved compartment prior to moving the mobile fueling vehicle.

5707.6.2 Drip control. Operators shall place a drip pan or an absorbent pillow under the nozzle and each fuel fill opening prior to and during dispensing operations to catch drips.

5707.6.3 Safety cones. Safety cones or other visual barriers shall be employed as warning devices to highlight the vehicle fueling area. Signs prohibiting smoking or open flames within 25 feet (7620 mm) shall be prominently posted in the vehicle fueling area.

5707.6.4 Vehicle lights. The mobile fueling vehicle flasher lights shall be in operation while dispensing operations are in progress.

5707.6.5 Nighttime deliveries. Nighttime deliveries shall only be made in areas adequately lighted per WAC 296-800-21005, ~~or equivalent as approved by the fire code official.~~

5707.6.3-6 Spill reporting. Spills shall be reported in accordance with Section 5003.3.1.