



Booster Fuels, Inc.
1840 Gateway Drive
Suite 200
San Mateo, CA 94404

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.

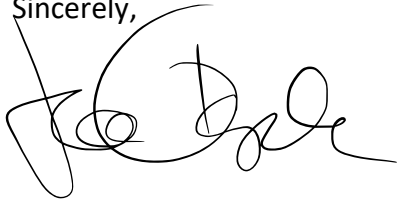
The language proposed for tiered permitting does not create a streamlined process but instead adds additional burdens for local jurisdictions. A characteristics-based tiered permitting system, which is what ESHB 2783 intended, will be mutually beneficial for industry and the local authorities. To streamline 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

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

NEW SECTION

WAC 51-54A-5707 Section 5705—On-demand mobile fueling operations.

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 5707.6.6.

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 enforce the provisions of this section.

~~5707.1.2.21 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 authorities having jurisdictions allow mobile on-demand fueling and do not offer such operator or ~~truck~~ vehicle ~~permits certification~~. Under no circumstances will an issuing local authority having jurisdiction be expected to perform permissive inspections beyond their jurisdiction. ~~Nothing in this section shall prohibit a local authority from accepting and recognizing a mobile on-demand fueling operator or truck permit or certification from another jurisdiction if the jurisdiction allows mobile fueling on demand.~~

~~5707.1.2.32 Commencing permit issuance.~~ 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.

~~5707.1.2.43 Permit record maintenance.~~ Issuing local authorities having jurisdiction shall maintain a publicly available list of current *mobile fueling operator permits and mobile fueling vehicle permits and make the list available upon request.* ~~or other information source to enable all parties to have information about whether permits are in good standing.~~

5707.2 Mobile fueling vehicle. An on-demand mobile fueling vehicle shall be 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 where the aggregate capacity does not exceed 1600 gallons (6057 L).

2. **Type 2** Mobile Fueling Vehicle - A vehicle with 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) or the weight capacity of the vehicle in accordance with DOTn.

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.

5707.2.2 Mobile fueling vehicle requirements. Each 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 Section 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.

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.

7. Fueling locations.

8. Locations of all storm drain openings and adjacent waterways or wetlands.

9. Information regarding slope, natural drainage, curbing, and impounding.

10. How a spill will be kept on the site property.

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 site~~ shall be used by the fire code official to designate ~~fueling sites as Tier 1 or Tier 2, 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. ~~The mobile refueler shall notify the local fire code official of their intent to conduct mobile fueling operations at a tier 1 site and shall self-certify that (a) the location meets the requirements of a tier 1 site as defined by the local jurisdiction and (b) the operations shall conform with all state and local requirements. Upon submission of required self-certification, the fire code official shall issue a permit within 10 business days, unless the fire code official disputes the self-certification.~~ The fire code official may impose additional conditions and may perform a site inspection during the period of *permit* validity.

5707.3.4.2 Tier 2 sites. Sites that require an inspection shall be approved by the fire code official prior to *permit* issuance ~~due to the presence of atypical geographical or safety concerns defined by specific site conditions or characteristics.~~

5707.4 Mobile fueling areas. During fueling, the mobile fueling vehicle and point of connection of the vehicle being fueled shall not be located 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. 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 5707.5.5.

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.

5707.5.3 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).

5707.5.4 Fire extinguisher. An *approved* portable fire extinguisher complying with Section 906 with a minimum rating of 4A:80-B:C shall be provided on the mobile fueling vehicle with signage clearly indicating its location.

5707.5.5 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.

5707.6.6 Spill reporting. Spills shall be reported in accordance with Section 5003.3.1.