

WSR 24-21-161

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed October 23, 2024, 9:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-03-163.

Title of Rule and Other Identifying Information: Chapter 16-662 WAC, Weights and measures—National Handbooks, sale of motor fuel, electric vehicle supply equipment, and penalties for violations. As a result of a petition for rule making, the department of agriculture (department) is proposing amending chapter 16-662 WAC to align with the Federal Highway Administration's National Electric Vehicle Infrastructure (NEVI) program's technical requirements for electric vehicle (EV) supply equipment (EVSE) payment methods. The department is also expanding upon these requirements to include additional technologies and be inclusive of evolving technologies

Hearing Location(s): On November 26, 2024, at 10:00 a.m., via Microsoft Teams conference call. Join on your computer, mobile app, or room device [Date of Intended Adoption: December 3, 2024.](https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F1%2Fmeetup-join%2F19%253ameeting_Njc1YmJjNWETnZgwNC00NzVmLWlzMzQtM2YxMGVmMDC10TEz%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%2522Oid%2522%253a%2522838c55c7-c187-44ae-8de0-2be684ce5d4a%2522%257d&data=05%7C02%7CAClow%40agr.wa.gov%7C769d35f33747416e35ff08dce8a058cb%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C638641022583287835%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=fVp3qefs5e3j%2BBm3OgSVoC4oLeTz-NYFDdglcqvP0ONA%3D&reserved=0, Meeting ID 293 568 530 736, Passcode MKDZkt; or dial in by phone 1-564-999-2000,,361690620# United States, Olympia, Phone conference ID 361 690 620#.</p></div>
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Submit Written Comments to: Gloriann Robinson, Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email wsdarulescomments@agr.wa.gov, fax 360-902-2092, by November 26, 2024, by 5:00 p.m.

Assistance for Persons with Disabilities: Contact Amy Clow, plant protection rules coordinator, phone 360-902-2041, email aclow@agr.wa.gov, by November 19, 2024, by 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During the 2021 legislative session, the Washington state legislature passed 2SSB 5192 related to EVSE. This legislation directed the department to adopt rules regarding methods of payment. On December 16, 2022, the department adopted rules establishing minimum payment requirements for EVSE, which included having a credit card reader device physically located on either the EVSE unit or a kiosk used to service that equipment. That device must be able to accept a Euro MasterCard Visa (EMV) chip. This rule became effective January 1, 2024.

On July 28, 2023, a group of electric vehicle service provider (EVSP) organizations petitioned the department to amend the required minimum payment methods adopted in WAC 16-662-210 to align with NEVI program requirements established in February 2023. These requirements include a contactless payment method that accepts major debit and credit cards. They do not require a physical credit card reader device

to be installed on the EVSE or kiosk. In response to the NEVI technical requirements adoption in July 2023, California aligned their EVSE payment regulations with the technical requirements of NEVI, specifically removing the requirement for an EMV chip reader to be installed on the EVSE. Due to these changes, Washington will be the only state with a state-level regulation requiring EVSE to provide an EMV chip reader.

Reasons Supporting Proposal: Due to the regulations recently adopted by the NEVI program and the state of California, Washington is currently the only state with a state-level regulation requiring EVSE to provide an EMV chip reader to be physically installed on each charging station. The impact of this requirement is significant for EV charging providers and EV drivers. It will require different equipment and operational obligations, resulting in different installation and maintenance costs for EVSE manufacturers and network providers for EVSE in Washington compared to other states. To put it simply, manufacturers will have to design an EV charging product just for operating in Washington. This will add further complexity and costs to multistate EVSE projects, such as those running across California, Oregon, and Washington. For EV drivers in Washington, it will also result in different payment experiences, offerings, reliability, and potentially costs to charge from that of surrounding states.

By amending this rule to align with the NEVI and California requirements, as well as expanding upon those requirements to include additional technologies, the department is ensuring that it continues to meet its statutory mandate to remain consistent with evolving technology, while also seeking to minimize costs and maximizing benefits to the public.

Statutory Authority for Adoption: RCW 19.94.010, 19.94.190, 19.94.565.

Statute Being Implemented: Chapter 19.94 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Electric Vehicle Charging Association, Tesla, Rivian, ChargePoint, Blink, ABB E-Mobility, EVgo, FLO, private.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Tahis McQueen, P.O. Box 42560, Olympia, WA 98504-2560, 360-481-7452.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The department is not a listed agency under RCW 34.05.328 (5) (a) (i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Based on the stakeholder outreach conducted by the department, it has been determined that no small businesses are impacted by the proposed rule.

The rule making effectively alleviates the burden on large businesses, such as site hosts, service providers, and utility companies, to no longer require physical EMV chip readers to be installed on newly manufactured EVSE units, thus resulting in projected cost savings. Further, the proposed rule making does not impose any requirements to modify existing operational EVSE units with EMV chip readers, meaning that both EMV chip-related maintenance responsibilities and costs are inherently removed.

Under chapter 19.85 RCW, a small business economic impact statement is not required for this rule making as it does not affect small businesses, nor does it impose more-than-minor costs on businesses. RCW 19.85.025(4), 19.85.030 (1)(a).

Scope of exemption for rule proposal:

Is fully exempt.

October 22, 2024
Greg Haubrich
Assistant Director

OTS-5913.3

AMENDATORY SECTION (Amending WSR 23-01-091, filed 12/16/22, effective 1/1/24)

WAC 16-662-210 Electric vehicle supply equipment payment method and fee disclosure requirements. (1) All publicly available electric vehicle supply equipment installed in Washington that requires payment shall (~~meet the following requirements:~~

~~(a) Have a credit card reader device physically located on either the electric vehicle supply equipment unit or a kiosk used to service that electric vehicle supply equipment. The credit card reader device shall comply with all of the following requirements:~~

~~(i) The credit card reader device shall accept, at a minimum, the Euro MasterCard Visa (EMV) chip and, at a minimum, one of the following credit card types: Visa, MasterCard, or American Express; and~~

~~(ii) The credit card reader device shall be nonlocking and shall always permit customers to remove their credit card without damage to the card, including during a fault situation or power failure.~~

~~(b) All electric vehicle supply equipment subject to this section shall have a mobile payment device physically located on the electric vehicle supply equipment or kiosk used to service that electric vehicle supply equipment; and~~

~~(c) The electric vehicle service provider shall provide and display a toll-free number on each electric vehicle supply equipment or kiosk used to service that electric vehicle supply equipment that provides the user with the option to initiate a charging session and submit payment at any time that the electric vehicle supply equipment is operational and publicly available.~~

~~(2)) provide for secure payment methods, accessible to persons with disabilities, which at a minimum shall include:~~

~~(a) A contactless payment method that accepts major debit and credit cards; and~~

~~(b) An automated toll-free phone number or a short message/messaging system (SMS) that provides the electric vehicle charging customer with the option to initiate a charging session and submit payment.~~

~~(2) "Contactless payment methods" means a secure method for consumers to purchase services using a debit card, credit card, smart-card, mobile applications, or another payment device including, but not limited to, those using radio frequency identification (RFID) technology and near-field communication (NFC).~~

(3) At a minimum, the electric vehicle service provider shall disclose to the user, at the point of sale, the following minimum information, if applicable:

(a) A fee for use of the parking space;

(b) A nonmember plug-in fee from the electric vehicle service provider;

(c) The price to refuel in United States dollars per kilowatt-hour or mega joule;

(d) Any potential changes in the price to refuel, in United States dollars per kilowatt-hour or mega joule, due to variable pricing; and

(e) Any other fees charged for a charging session.

~~((3))~~ (4) If the charging session or portion of a charging session is offered at no cost, it must be disclosed at the location where the charging session is initiated and prior to a user or a vehicle initiating a charging session.

~~((4))~~ (5) The electric vehicle service provider may not require a subscription, membership, or account or a minimum balance on an account in order to initiate a charging session at an electric vehicle supply equipment subject to this section.

~~((5))~~ (6) The requirements of this section shall not apply to electric vehicle supply equipment exempted under RCW 19.94.555.