

WSR 25-01-044

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 10, 2024, 11:23 a.m., effective January 10, 2025]

Effective Date of Rule: Thirty-one days after filing.

Purpose: 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 supply equipment (EVSE) payment methods. The department is also expanding upon these requirements to include additional technologies and be inclusive of evolving technologies.

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 the 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.

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 electric vehicle (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 multi-state 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 those 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 maximize benefits to the public.

Citation of Rules Affected by this Order: Amending WAC 16-662-210.

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

Adopted under notice filed as WSR 24-21-161 on October 23, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 10, 2024.

Derek I. Sandison
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.