

WSR 21-17-137
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE
[Filed August 18, 2021, 9:24 a.m.]

Subject of Possible Rule Making: Chapter 16-662 WAC, Weights and measures—National Handbooks, sale of motor fuel, and penalties for violations. The department is considering amendments outlined in chapter 238, Laws of 2021 (2SSB 5192) regarding electric vehicle supply equipment (EVSE). The amendments include:

- Requiring all electric vehicle service providers make available multiple payment methods at all publicly available level 2 EVSE or direct current (DC) fast charger EVSE installed in Washington.
- Establishing requirements for all electric vehicle service providers to, at a minimum, meet and maintain nonproprietary interoperability standards for publicly available level 2 EVSE and DC fast charger EVSE.
- Establishing reasonable registration fees, in addition to the registration fees charged for each EVSE charging port in RCW 19.94.175(1) to cover the remaining costs associated with enforcing EVSE accessibility rules.
- Considering establishing a differential fee to reduce the potential burden of the registration fee for electric vehicle service providers operating less than 25 publicly available EVSE in Washington.
- Establishing reporting requirements, in addition to those specifically referenced in 2SSB 5192, to support compliance with the program.
- Updating the chapter title to reflect that the sale of electric vehicle fuel (equipment and service providers) is now regulated under this chapter.
- Adopting National Institute of Standards and Technology (NIST) Handbook 130 standards related to electric vehicle fueling with potential modifications to achieve state objectives.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 238, Laws of 2021 (2SSB 5192); RCW 19.94.010, 19.94.190.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington state department of agriculture (WSDA) weights and measures program protects consumer rights and confidence in the marketplace by ensuring the accuracy in commercial transactions through testing and inspecting commercial devices, price verification, package inspection, public education, monitoring fuel quality, and investigating complaints.

During the 2021 legislative session, the Washington state legislature passed 2SSB 5192 related to EVSE. This legislation directed WSDA to adopt rules regarding methods of payment and interoperability standards. In addition, the legislation authorized WSDA to adopt rules related to reporting requirements and registration fees.

There are currently over 63,000 electric vehicles registered in Washington, 46,000 of which are battery electric vehicles powered solely by electric energy stored in batteries which must be recharged by an external source. According to the United States Department of Energy's Alternative Fuels Data Center there are currently 1,205 electric vehicle charging stations and 3,589 charging ports in Washington. The most common electric vehicle charging stations for the traveling public are Level 2 and DC fast chargers.

Publicly available EVSE is defined as the EVSE and associated parking space or spaces designated by a property owner to be available to the public. EVSE that meet any of the following criteria are also considered publicly available:

- EVSE designated by the property owner to be available only to customers or visitors of a business or of a charging network;
- EVSE that can be accessed by any member of the public regardless of whether a fee is charged including EVSE located in a parking garage or gated facility; or
- EVSE made available to the public during limited time periods are considered publicly available only during those time periods.

2SSB 5192 also requires WSDA to adopt rules, by January 1, 2023, requiring all EVSE providers make multiple payment methods available at all public Level 2 and DC fast chargers. At a minimum, the rules must provide:

- Deadlines for compliance for Level 2 and DC fast chargers installed before a specific date;
- Deadlines for compliance for Level 2 and DC fast chargers installed after a specific date; and
- Minimum required payment methods that are convenient and reasonably support access for all current and future users.

2SSB 5192 also requires WSDA to adopt rules, by January 1, 2023, establishing requirements for all EVSE to, at a minimum, meet and maintain nonproprietary interoperability standards for Level 2 and DC fast chargers. The requirements may not provide the purchase or license of proprietary technology or software from any other company and may not require companies to maintain interoperability agreements with other companies. Interoperability means the ability of hardware, systems, software, or a communication network provided by one service provider to interact with and exchange information, including payment information, between hardware, software, or a communication network provided by a different service provider.

2SSB 5192 gives WSDA authority to establish an additional reasonable registration fee to cover the remaining costs associated with enforcing requirements related to EVSE.

The purpose of NIST Handbook 130 is to achieve, to the maximum extent possible, uniformity in weights and measures, laws, and regulations among the various states and local jurisdictions. WSDA generally adopts NIST Handbook 130 with modifications as necessary to meet the needs of Washington state. One such modification has been to hold off on adopting any EVSE related requirements until they are determined as necessary. The NIST Handbook 130 code on EVSEs was added to the handbook in 2013 and closely aligns with some of the requirements in 2SSB 5192. WSDA is considering adoption of the handbook sections on EVSE and potential modification to achieve consistency in weights and measures regulations between states.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: WSDA is meeting with the utilities and transportation commission and the department of commerce to collaborate on the proposed rule.

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholder groups. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brad White, Assistant Director, Plant Protection Division, WSDA, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1907, fax 360-902-2094, TTY 800-833-6388 or 711, email bwhite@agr.wa.gov, website <https://agr.wa.gov/services/rulemaking>; or Timothy Elliott, Motor Fuel Quality Enforcement Manager, Weights and Measures Program, WSDA, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1984, fax 360-902-2094, TTY 800-833-6388 or 711, email TElliott@agr.wa.gov, website <https://agr.wa.gov/services/rulemaking>.

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