

WSR 24-03-163

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF AGRICULTURE

[Filed January 24, 2024, 8:45 a.m.]

Subject of Possible Rule Making: 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 considering 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.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.94.010, 19.94.190, 19.94.565.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department's 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 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.

In deciding what amendments should be included in the final rule language, the department intends to review all available information to ensure consistency with evolving technology and access for all current and future users of electric vehicles, including those who are unbanked, underbanked, and low-moderate income.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will consult with the utilities and transportation commission and the department of commerce 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 Tahis McQueen, Acting Manager, Weights and Measures Program, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-481-7452, fax 360-902-2094, TTY 800-833-6388 or 711, email TMcQueen@agr.wa.gov, website <https://agr.wa.gov/services/rulemaking>; or Greg Haubrich, Acting Assistant Director, Plant Protection Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-2071, fax 360-902-2094, TTY 800-833-6388 or 711, email GHaubrich@agr.wa.gov, website <https://agr.wa.gov/services/rulemaking>.

December 5, 2023
Greg Haubrich
Assistant Director