

July 28, 2023

Director Derek Sandison  
Washington State Department of Agriculture  
Re: Chapter 16-662 WAC  
PO Box 42560  
Olympia, WA 98504-2560

**RE: Petition for Rulemaking Amending WAC 16-662-210 Addressing Payment Methods for Electric Vehicle Supply Equipment**

Director Derek Sandison,

On behalf of the undersigned organizations, we submit this petition for rulemaking on the Washington State Department of Agriculture's (Department) Rulemaking Order filed December 16, 2022, for Chapter 16-662-210 regarding payment method requirements for electric vehicle supply equipment (EVSE), directed from Senate Bill 5192.[1]

WAC 16-622-210 requires all publicly accessible EVSE installed in Washington after January 1, 2024, to provide the following payment options: a toll-free number, a credit card reader device with EMV chip reader, and a mobile payment option.[2] These payment methods for EVSE were developed and adopted during the 2022 rulemaking process with the expressed intent to align with California's EVSE regulations which, at the time, required a credit card reader with EMV chip capability. Since then, there have been federal and state actions on EVSE payment requirements, warranting review of Washington's regulations to ensure consistency across the United States.

In February 2023, the Federal Highway Administration (FHWA) established technical requirements for EVSE payment methods through their National Electric Vehicle Infrastructure (NEVI) program.[3] These requirements include a contactless payment method that accepts major debit and credit cards, and either a toll-free phone number or a short SMS. Appendix 1 outlines the NEVI requirements and includes FHWA rationale. Responsively, in July 2023, California aligned their EVSE payment regulations with the technical requirements in NEVI, specifically removing the requirement for an EMV chip reader.[4] Appendix 2 outlines these revised requirements.

Due to these changes, Washington will be the only state with a state-level regulation requiring EVSE to provide an EMV chip reader, if unaddressed through a new rulemaking, in addition to being only one of two states to mandate payment requirements outside an incentive program. The impact of this discrepancy 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 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 that of surrounding states.

We recommend the Department amend WAC 16-622-210 to align with the NEVI technical requirements for EVSE payment methods, such as California has done. Appendix 3 includes proposed amendments to meet this objective. Importantly, SB 5192 provides the Department with sufficient flexibility in stating, "contactless credit card devices may be used as an option to meet the requirements of this subsection"

and allowing for Department review when necessary to, “maintain consistency with evolving technology”. [5]

We appreciate the Department’s consideration.

Sincerely,

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Electric Vehicle Charging Association

Noelani Derrickson  
Tesla

Hannah Steinweg  
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Mollie Corcoran  
ChargePoint

Michael Daft  
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## Appendix 1

### National Electric Vehicle Infrastructure Program Technical Requirements, Payment Methods

<https://www.govinfo.gov/content/pkg/FR-2023-02-28/pdf/2023-03500.pdf>

(f) *Payment methods.* Unless charging is permanently provided free of charge to customers, charging stations must:

- (1) Provide for secure payment methods, accessible to persons with disabilities, which at a minimum shall include a contactless payment method that accepts major debit and credit cards, and either an automated toll-free phone number or a short message/ messaging system (SMS) that provides the EV charging customer with the option to initiate a charging session and submit payment;
- (2) Not require a membership for use;
- (3) Not delay, limit, or curtail power flow to vehicles on the basis of payment method or membership; and
- (4) Provide access for users that are limited English proficient and accessibility for people with disabilities. Automated toll-free phone numbers and SMS payment options must clearly identify payment access for these populations.

<https://www.federalregister.gov/documents/2023/02/28/2023-03500/national-electric-vehicle-infrastructure-standards-and-requirements>

FHWA provides the following justification for its inclusion of these requirements following a comprehensive stakeholder review process:

*“While FHWA agrees that contactless payment methods are critical to the future of the industry, FHWA also agrees that the addition of other payment options could improve the accessibility of charging stations to disadvantaged communities. The FHWA added the requirement that charging stations provide EV charging customers an automated toll-free phone number where customers can provide their debit/credit card information via phone to an automated system in order to initiate charging or an SMS where customers can provide their debit/credit information via text to an automated system in order to initiate charging. If choosing a toll-free phone number, this phone line need not be staffed by live operators, thus reducing the burden of this final rule. The use of an automated toll-free phone number can help to alleviate many of the concerns regarding the inclusion of contact-based (i.e., EMV/Magstripe readers) payment methods. From a cost perspective, establishing an automated toll-free phone number or SMS is substantially cheaper than implementing physical hardware and economically scales across many chargers, because a single number can be used to service many different locations. In fact, most major service providers already have options to call for payment, and of the over 55,000 chargers listed on the Alternative Fuels Data Center, fewer than 700 do not have a phone number associated with them—indicating a strong precedent. The FHWA recognizes that the toll-free calling and SMS options are not perfect accessibility solutions. Consumers who are unbanked, underbanked, or may not have access to a credit/debit card may be able to use this option with a pre-paid card. However, consumers who do not have access to a cell phone, customers that are deaf or hard of hearing, or users who do not have cellular signal may not be able to properly utilize the charging infrastructure through provision of an automated toll-free phone number alone. Nevertheless, these options seek to minimize the drawbacks of contact-based [EMV chip] technology while substantially decreasing the accessibility issues related to having a minimum contactless payment requirement.”*

## Appendix 2

### California Senate Bill 123, Payment Methods

[https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB123](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB123)

SEC. 4. Section 44268.2 of the Health and Safety Code is amended to read:

44268.2. (a) (1) Persons desiring to use an electric vehicle charging station that requires payment of a fee shall not be required to pay a subscription fee in order to use the station, and shall not be required to obtain membership in any club, association, or organization as a condition of using the station. The total actual charges for the use of an electric vehicle charging station, including any additional network roaming charges for nonmembers, shall be disclosed to the public at the point of sale.

(2) Notwithstanding paragraph (1), an electric vehicle charging station may offer services on a subscription- or membership-only basis provided those electric vehicle charging stations allow nonsubscribers or nonmembers the ability to use the electric vehicle charging station through the payment options detailed in paragraph (3).

(3) (A) An electric vehicle charging station that requires payment of a fee and that is first installed or first made publicly available on or after the effective date of this paragraph, at a minimum, shall provide both of the following:

(i) A contactless payment method that accepts major credit and debit cards. For purposes of this clause, "contactless payment method" means a secure method for consumers to purchase services using a debit card, credit card, smartcard, or another payment device, by using radio frequency identification (RFID) technology and near-field communication (NFC).

(ii) Either an automated toll-free telephone number or a short message system (SMS) that provides the electric vehicle charging customer with the option to initiate a charging session and submit payment.

(B) A direct current fast charging station that is first installed or first made publicly available on or after the effective date of this paragraph shall also include Plug and Charge payment capabilities meeting the International Organization for Standardization (ISO) 15118 standard no later than one year after this effective date of this paragraph.

(C) The commission, by regulation that is effective no earlier than January 1, 2028, may add to or subtract from payment methods required by this paragraph, as appropriate in light of changing technologies.

(b) The service provider of electric vehicle service equipment at an electric vehicle charging station or its designee shall disclose to the National Renewable Energy Laboratory the electric vehicle charging station's geographic location, a schedule of fees, accepted methods of payment, and the amount of network roaming charges for nonmembers, if any.

(c) Electric vehicle charging stations shall be labeled in accordance with Part 309 of Title 16 of the Code of Federal Regulations, and, where commercially reasonable and feasible, may be clearly marked with appropriate directional signage in the parking area or facility where they are located.

(d) If no interoperability billing standards have been adopted by a national standards organization by January 1, 2015, the commission may adopt interoperability billing standards for network roaming payment methods for electric vehicle charging stations. If the commission adopts interoperability billing

standards, all electric vehicle charging stations that require payment shall meet those standards within one year. Any standards adopted by the commission shall consider other governmental or industry-developed interoperability billing standards and may adopt interoperability billing standards promulgated by an outside authoritative body.

### Appendix 3

Department of Agriculture Rulemaking Chapter 16-662 WAC, Proposed Amendments  
[https://cms.agr.wa.gov/WSDAKentico/Documents/AdminRegs/Rule%20Making/WAC16-662\\_EVSE\\_CR103\\_121622.pdf](https://cms.agr.wa.gov/WSDAKentico/Documents/AdminRegs/Rule%20Making/WAC16-662_EVSE_CR103_121622.pdf)

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 **provide for secure payment methods, accessible to persons with disabilities, which at a minimum shall include a contactless payment method that accepts major debit and credit cards, and either an automated toll-free phone number or a short message/messaging system (SMS) that provides the EV charging customer with the option to initiate a charging session and submit payment. "Contactless payment method" means a secure method for consumers to purchase services using a debit card, credit card, smartcard, or another payment device, by using radio frequency identification (RFID) technology and near-field communication (NFC).** ~~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.~~

~~mobile payment device physically located on the electric vehicle supply equipment or kiosk used to service that electric vehicle supply equipment; and  
and display on each electric vehicle supply equipment or kiosk used to service that electric vehicle supply equipment.~~

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

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[1] <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5192-S2.SL.pdf#page=1>

[2] [https://cms.agr.wa.gov/WSDAKentico/Documents/AdminRegs/Rule%20Making/WAC16-662\\_EVSE\\_CR103\\_121622.pdf](https://cms.agr.wa.gov/WSDAKentico/Documents/AdminRegs/Rule%20Making/WAC16-662_EVSE_CR103_121622.pdf)

[3] <https://www.govinfo.gov/content/pkg/FR-2023-02-28/pdf/2023-03500.pdf>

[4] [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB123](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB123)

[5] <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5192-S2.SL.pdf#page=1>