



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 23, 2024

TIME: 9:06 AM

WSR 24-21-161

Agency: Dept. of Agriculture

☐ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 24-03-163 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) 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 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.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

November 26, 2024

10:00 AM

Microsoft Teams conference call information:
Join on your computer, mobile app, or room device
https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F%2Fmeetup-join%2F19%253ameeting_Njc1YmJjNWEtNzgWNC00NzVmLWlzMzQtM2YxMGVmMDc1OTEz%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%7CAClo w%40agr.wa.gov%7C769d35f33747416e35ff08dce8a058cb%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C638641022583287835%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=fVp3qefs5e3j%2BBm3OgSVoC4oLeTzNYFDdg1cqVpOONA%3D&reserved=0

Meeting ID: 293 568 530 736
Passcode: MKDZkt

Dial in by phone:

Attendees may join the public hearing through the Teams conference link provided.

		+1 564-999-2000 ..361690620# United States, Olympia Phone conference ID: 361 690 620#										
Date of intended adoption: <u>December 3, 2024</u> (Note: This is NOT the effective date)												
Submit written comments to: Name: Gloriann Robinson, Agency Rules Coordinator Address: PO Box 42560, Olympia, WA 98504-2560 Email: wsdarulescomments@agr.wa.gov Fax: (360) 902-2092 Other: By (date) November 26, 2024 by 5:00PM		Assistance for persons with disabilities: Contact Amy Clow, Plant Protection Rules Coordinator Phone: (360) 902-2041 Fax: TTY: Email: aclow@agr.wa.gov Other: By (date) November 19, 2024 by 5:00PM										
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 the National Electric Vehicle Infrastructure (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 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. 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; RCW 19.94.190; RCW 19.94.565												
Statute being implemented: Chapter 19.94 RCW												
Is rule necessary because of a: <table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">Federal Law?</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/> Yes</td> <td style="width: 20%; text-align: center;"><input checked="" type="checkbox"/> No</td> </tr> <tr> <td>Federal Court Decision?</td> <td style="text-align: center;"><input type="checkbox"/> Yes</td> <td style="text-align: center;"><input checked="" type="checkbox"/> No</td> </tr> <tr> <td>State Court Decision?</td> <td style="text-align: center;"><input type="checkbox"/> Yes</td> <td style="text-align: center;"><input checked="" type="checkbox"/> No</td> </tr> </table> If yes, CITATION:				Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No										
Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.												
Type of proponent: <input checked="" type="checkbox"/> Private <input type="checkbox"/> Public <input type="checkbox"/> Governmental												
Name of proponent: (person or organization) Electric Vehicle Charging Association, Tesla, Rivian, ChargePoint, Blink, ABB E-Mobility, EVgo, FLO												
Name of agency personnel responsible for: <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 30%;">Name</th> <th style="width: 30%;">Office Location</th> <th style="width: 30%;">Phone</th> </tr> </thead> <tbody> <tr> <td>Drafting:</td> <td>Tahis McQueen</td> <td>PO Box 42560 Olympia, WA 98504-2560</td> <td>(360) 481-7452</td> </tr> </tbody> </table>					Name	Office Location	Phone	Drafting:	Tahis McQueen	PO Box 42560 Olympia, WA 98504-2560	(360) 481-7452	
	Name	Office Location	Phone									
Drafting:	Tahis McQueen	PO Box 42560 Olympia, WA 98504-2560	(360) 481-7452									

Implementation:	Tahis McQueen	PO Box 42560 Olympia, WA 98504-2560	(360) 481-7452
Enforcement:	Tahis McQueen	PO Box 42560 Olympia, WA 98504-2560	(360) 481-7452

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

☒ No: Please explain: The Washington State Dept. of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i)

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4) (does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of how the above exemption(s) applies to the proposed rule: Based on the stakeholder outreach conducted by the department, it has been determined that no small businesses are impacted by the proposed rule.

The rulemaking 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 rulemaking 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, an SBEIS 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); RCW 19.85.030(1)(a).

(2) Scope of exemptions: *Check one.*

- ☒ The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- ☐ The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- ☐ The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- ☐ No Briefly summarize the agency’s minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- ☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: 10/22/24

Name: Greg Haubrich

Title: Assistant Director

Signature:



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.