RE: NW Energy Coalition’s comments regarding the second draft of rule language for the Electric Vehicle Supply Equipment (EVSE) Regulations

The NW Energy Coalition (NWEC) appreciates the opportunity to comment on the second draft of rule language released by the Washington State Department of Agriculture (WSDA). These comments are in response to the request for stakeholder input released at the January 26, 2022 stakeholder meeting.

This is NWEC’s fifth time commenting on the rulemaking process to date and we remain concerned that the draft rule language does not meet the intent nor the requirements of SB 5192. Our primary concern continues to be with the draft language regarding payment methods. NWEC strongly recommends adopting the same payment method requirements outlined in California’s EVSE Standards. Our comments outline our recommendations to address this and other remaining concerns.

WAC 16-662-200
Electric Vehicle Supply Equipment Compliance Dates

NWEC interprets the enforcement timeline in RCW 19.94.190(6) to apply only to National Institute of Standards and Technology (NIST) Handbook 44 and 130 related regulations and therefore, recommends the compliance deadlines outlined in our comments submitted on September 6, 2021.¹

WAC 16-662-210
Electric vehicle supply equipment payment methods

The second draft of rule language does not address significant concerns raised by several stakeholders regarding WAC 16-662-210. NWEC recommends adopting the same requirements outlined in California’s EVSE Standards, § 2360.2, titled “Payment Method Requirements for Electric Vehicle Supply Equipment.”² We’ve provided additional responses to items raised during the January 26, 2022 stakeholder meeting.

² https://ww2.arb.ca.gov/sites/default/files/2020-06/evse_fro_ac.pdf
Would aligning with California’s Payment Method Requirements result in fewer EVSE installations?

California Air Resources Board (CARB) released an Electric Vehicle Supply Equipment Standards Technology Review (Review) on February 7, 2022. In providing background about the costs associated with California’s EVSE Standards, the Review states that “staff have not seen any evidence that this cost is reducing the number of EVSE units installed in California.”

How can WSDA facilitate charging sessions for consumers who are unbanked, underbanked, or low-moderate income, such as accepting prepaid cards through a card reader device?

CARB’s Review provided data that has been absent from Washington’s rulemaking and we would like to highlight a few key points:

- Over 85 percent of all card-present transactions globally used EMV chip technology and EMV chip cards will continue to be the foundation for payment processing.
- 43 percent of drivers with incomes less than $50,000 do not have a tap card and 30 percent of drivers with incomes less than $50,000 do not have access to smartphones with contactless payment ability.

CARB’s recommendation is to revisit the EMV chip requirement in the EVSE Standards Regulation only when tap technologies are more broadly available in California meaning that they view EMV chip card readers to be vital to ensure reasonable access to public EV charging. Washington does not have the same capacity to conduct a similar study at this time. We encourage WSDA to consider the findings and recommendations in CARB’s Review in order to ensure Washington's EVSE Regulations provide access for all current and future users.

Lastly, the requirements for electric vehicle service providers (EVSPs) to conduct a charging session in languages other than English remain ambiguous and appear difficult to enforce. NWEC urges WSDA require EVSPs consult census tract data to determine languages spoken in the area adjacent to the EVSE location. If more than five percent of the census tract speaks a language other than English at home, EVSPs should provide support in that language. This recommendation is informed in part by the transition we are seeing amongst Transportation Network Company (TNC), such as Uber and Lyft, drivers. Uber and Lyft have goals to transition to 100 percent zero emission vehicles and in a 2020 TNC Driver Outreach and Engagement Report by the City of Seattle, 93 percent of drivers reported another language, other than

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4. Ibid.
English, as the primary language spoken at home. Washington’s EV charging infrastructure must work for the drivers of tomorrow and we encourage WSDA to provide more clarity for conducting charging sessions in languages other than English in a manner that supports all drivers.

**WAC 16-662-215**  
*Interoperability requirements related to electric vehicle supply equipment*

We continue to commend WSDA for proposing draft rule language that would address both hardware-software interoperability and network-to-network interoperability through roaming capabilities. The second draft of rule language related to hardware-software interoperability is a good start but unfortunately does not address the majority of stakeholder’s concerns. Requiring EVSE to “be capable of using Open Charge Point Protocol” is unenforceable and does not adequately provide safeguards to consumers. We recommend the following change.

WAC 16-662-215 (1)(b) To protect Washington state businesses investing in electric vehicle infrastructure, all networked electric vehicle service equipment subject to RCW 19.94.570 shall be capable of using [third-party certified to](https://www.openchargepoint.org) Open Charge Point Protocol (OCPP) version 1.6 or 2.0.1 standards and must not be contractually or functionally locked to the network services of a vendor.

**Rulemaking Process**

To enhance transparency in the rulemaking process and promote informed public engagement, NWEC requests WSDA post all comments received regarding the first and second draft of rule language on the rulemaking webpage. NWEC understands all confidential business information that is protected by the Public Records Act will remain confidential. We recommend WSDA post all nonconfidential information on the webpage, even if this means posting partial or partially redacted comments from a stakeholder.

Additionally, we have noticed that the stakeholder meeting transcripts posted on the webpage are not entirely accurate. We recommend either removing the transcript and posting the audio recording or including a clearly visible disclaimer that the transcript is not entirely accurate.

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6 [https://www.lyft.com/blog/posts/leading-the-transition-to-zero-emissions](https://www.lyft.com/blog/posts/leading-the-transition-to-zero-emissions)
Conclusion

We are grateful for WSDA’s work to implement SB 5192 and the opportunity to comment on the second draft of rule language. Please reach out with any questions on our comments.

Respectfully,

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