



National Association of State Energy Officials

January 28, 2022

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington DC 20590

RE: Comments for U.S. Department and Transportation (DOT) Federal Highway Administration (FHWA) Infrastructure Investment and Jobs Act (IIJA) Request for Information
Docket number FHWA-2021-0022

Dear Secretary Buttigieg:

The National Association of State Energy Officials (NASEO) appreciates the opportunity to submit comments on this Request for Information (RFI) regarding the development of guidance for electric vehicle (EV) charging infrastructure deployment facilitated through the Infrastructure Investment and Jobs Act of 2021 (IIJA). NASEO represents the governor-designated State Energy Directors and their offices from each of the 56 states, territories, and District of Columbia, and has supported the states' transportation electrification and alternative fuel vehicle efforts for decades.

NASEO commends the efforts of the Federal Highway Administration (FHWA) to provide clear program guidance and rules, enabling states to start implementing IIJA-funded investments. Over the past decade, NASEO has worked with State Energy Offices regionally and nationally as they have led electric vehicle supply equipment (EVSE) planning and infrastructure deployment. State Energy Offices have leveraged state, federal, and private investment, as well as funds from the Volkswagen Environmental Mitigation Trust Settlement to help establish EV charging corridors around the country. Our members are the national leaders in EVSE deployment, managing corridor charging programs, governor-led and regional partnerships, urban hub charging, rural and remote charging solutions, and electric grid planning, security, resilience, and integration. Many have also built strong partnerships with their State Department of Transportation colleagues to advance state EVSE.

NASEO is excited to build on our partnerships among State Energy Offices, FHWA, and State Departments of Transportation to help carry out this historic investment to modernize energy-related transportation infrastructure. To support these efforts, NASEO offers a set of recommendations and considerations for FHWA, which help to provide clear, flexible, and implementable rules for state governments as they deploy IIJA-funded EV charging infrastructure. Our recommendations include: 1) provide as much programmatic flexibility as possible to recognize and enhance

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existing plans and programs; 2) provide clear guidance and compliance options for federal rules; 3) provide flexibility around the definition of a charging corridor; 4) support states in their efforts to make these investments in an equitable manner; and 5) enable interstate data sharing platforms to track infrastructure usage and enhance future public-private EVSE programs.

Flexibility on Fund Deployment to Enhance Existing Plans and Programs

Responding to RFI Questions #6 and #7

Providing maximum flexibility to state governments on how they deploy funds will lead to more efficient spending, increased options for stakeholder engagement and sources of local match, and improved programs. For example, the Colorado Energy Office's Fast-Charging Corridors Program, the Nevada Electric Highway led by the Nevada Governor's Office of Energy, Charge Up Michigan, Plug In South Carolina, and the Fast Charge TN Network all have strategically and efficiently deployed or are planning to deploy EVSE infrastructure across their states and offer excellent models for IJJA-related deployment success. These and other state examples are the reason NASEO recommends that FHWA affirmatively grant states the flexibility to enter into teaming arrangements between the State Departments of Transportation and their State Energy Office partners. This will allow states to build upon existing EV infrastructure plans and programs, and tap-in to existing stakeholder engagement initiatives, resulting in more efficient and effective spending. In some states, local contracting rules will require State Departments of Transportation to work exclusively with local governments for surface transportation improvements. By explicitly allowing flexibility in how State DOTs structure their teaming arrangements in the National EV Formula Program rules, FHWA will enable more strategic deployment of EV infrastructure across the country.

Similarly, many states have produced EV roadmaps or action plans to guide their electrification strategies and infrastructure deployment. State Energy Offices have a long history of leading planning processes in their states, from comprehensive energy plans to energy security plans and electric vehicle planning. Many State Energy Offices have produced and are now embarking on EV plans or roadmaps for their states. A few state examples include Maine's Clean Transportation Roadmap; the District of Columbia's Clean Energy DC Plan, which features major sections on EV adoption and readiness; the Iowa Energy Office's Charging Forward Report; the Pennsylvania EV Roadmap; and the California Energy Commission's Clean Transportation Investment Plan. As noted above, NASEO encourages FHWA to allow State Departments of Transportation to build on previous efforts and leverage the institutional expertise of State Energy Offices through programmatic flexibility, and the option to provide an appendix to or otherwise leverage existing EV plans rather than require standalone documents prepared specifically for IJJA highway formula funds. Affirming the value of this approach mirrors the collaboration envisioned by Congress in the establishment of the joint DOT-DOE Office, as well as the excellent progress state transportation and energy leaders demonstrated before the passage of the IJJA.

Compliance with Federal Regulations

Responding to RFI Questions #6 and #7

National Environmental Protection Act (NEPA) reviews are critical to ensuring minimal environmental impacts from construction projects; however, they can also add additional and unnecessary burden to EV charging station deployment. While it is important to understand the environmental impact of new investments, thousands of new EV charging stations are expected to be deployed under the IJJA, many of which will be placed on previously disturbed land. A separate

NEPA review for each station would divert time and resources away from station investments and create a major procedural hurdle. NASEO's members have also reported that NEPA reviews are often difficult to complete, with site hosts changing as each project progresses. States often target areas or census tracts for new EVSE stations, rather than specific locations.

NASEO encourages two actions from FHWA to streamline the NEPA process. First, allow NEPA reviews to be bundled for EV charging stations during the planning phase of programs. Alternatively, if each station will require a NEPA review, programmatic templates or waivers such as the categorical exclusions used by the U.S. Department of Energy in implementing the *American Recovery and Reinvestment Act* could be developed for standard projects. The streamlining of NEPA approvals have also been used for the installation of EVSE under DOE's U.S. State Energy Program. NASEO encourages DOT to examine how the streamlined NEPA process used for DOE-supported EVSE investment could be adapted for IIJA EVSE deployment.

Americans with Disabilities Act (ADA) compliance is another area where States are interested in federal guidance on compliance options. Faced with a lack of federal guidance on ADA compliance during the disbursement of VW Settlement Trust Funds, some states developed their own standards, such as those outlined within the Program Guidelines of the Fast Charge TN Network program (page 13), or developed by Minnesota for their EVSE investments. NASEO encourages FHWA to provide ADA compliance guidelines to support consistency, avoid duplicative efforts across state and local governments, and ensure seamless access to charging infrastructure for persons with disabilities.

Finally, NASEO's members encourage explicit guidance on when Buy America requirements would apply to highway infrastructure programs under IIJA, including compliance options. NASEO's response to U.S. DOT's RFI on Buy America Guidance for EV Charging Programs offers explicit recommendations and can be found here.

Flexibility in Corridor Designations

Responding to RFI Questions #1 and 3

NASEO's members strongly support the IIJA's goal to deploy ubiquitous EV charging on key interstate routes throughout the United States. However, State Energy Offices believe that flexibility on corridor charging locations will enhance investments and produce a better charging experience for drivers. Specifically, the ability to invest near highway corridors in community locations will allow IIJA funds to support community charging as well as Interstate travel. Additionally, stations located in highway-adjacent communities are more likely to have access to important amenities like bathrooms, lighting, food and drink options, security cameras, and storm shelters, as well as vehicle repair options. The prohibition on charging a fee for EV charging at federal rest stops within the Right of Way further augments the benefits of investing in existing and secure community locations near interstates.

Some states have developed guidance on this issue. A group of eight western states – known as “REV West” – is partnering on EV corridor development with participation from all eight State Energy Offices and six State Departments of Transportation¹. This group has recently grown to include three new observer states (Alaska, Kansas, and Oklahoma) and has inspired similar regional partnerships

¹ REV West was formed in 2017 when Governors from Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming signed a Memorandum of Understanding to work together to invest in EV chargers along key corridors in the region. More information on REV West can be found here: <https://www.naseo.org/issues/transportation/rev-west>

around the country (such as the Southeast Regional Electric Vehicle Initiative and REV Midwest). REV West released Voluntary Minimum Station Standards in December 2019. These standards encourage EVSE deployment within one mile of a highway interchange, allowing flexibility in location selection. However, stations are also encouraged to locate at “consumer-friendly locations” with key amenities like water, bathrooms, ADA accessibility, lighting, security cameras, and emergency shelter, with stretch standards to encourage EV stations near restaurants, shopping, or tourist attractions. NASEO members believe that consumer experience will help drive EV adoption, and the flexibility to allow community charging near highway corridors will improve the charging experience and lower EVSE deployment costs through co-location of private-sector services.

Finally, states would like additional guidance on the criteria they should use in determining that corridors have been “completed,” thus opening up IJJA highway formula funds for additional EV charger investment scenarios by state governments. NASEO’s members are concerned that states with EV-Ready and EV-Pending corridors under the Alternative Fuel Corridors Program will be at a disadvantage when using formula EV funds. For example, with the goal of providing ubiquitous EV charging, Montana has designated thousands of miles of EV corridors. To “complete” these corridors with fast-charging stations would require dozens of new stations covering remote mountainous terrain, often lacking existing electric infrastructure, and would preclude the state’s ability to invest in community charging near population centers or at key tourist attractions. Conversely, states with few designated corridors (or none) will not be subject to completing these corridors and will have much more control over how and where to prioritize their infrastructure investments. NASEO encourages FHWA to provide clear criteria and guidance on when corridors can be considered complete, and to consider the importance of providing flexibility to states that have geographically large and sparsely populated areas when crafting this guidance.

Ensuring Equitable Investments

Responding to RFI Question #4

President Biden’s commitment to equitable investments through the Justice40 Executive Order is commendable and NASEO encourages FHWA to ensure that Justice40 principles and goals are built into programmatic rules. Clear guidance will help states incorporate equity considerations into their plans early on, through process requirements, grant application benefits, or success metrics. Beyond guidance on Justice40 requirements, states have two other equity-related concerns regarding formula EVSE programs. First, a 20 percent local cost match requirement may serve as a deterrent to low-income communities to apply for and receive investments through IJJA programs. Some states have taken a creative approach to minimizing or waiving cost-match for low-income communities. For example, in December 2020, the Washington Department of Commerce’s State Energy Office released a round of EVSE grants. The program was structured to require local cost match, with lower match requirements for low-income census tracts and non-attainment air quality zones, which compounded together for even lower cost match where appropriate. Such an approach ensures that underserved and overburdened communities can reap the benefits of this infrastructure spending. Another approach would be an aggregated (i.e., not project specific) state-wide 20 percent local match requirement, which would allow states to work with some partners to provide high levels of cost-match, while providing opportunity for infrastructure development (and lower or no match) in less affluent communities. Overall, NASEO suggests flexibility regarding local cost match to ensure a wide variety of project types and partners organizations are possible.

Finally, states with existing EVSE programs have found that additional outreach and education is needed to reach markets and communities within the state that they have not previously engaged. Set-aside funding for consumer education, outreach to potential grantees, and support during the application process will help ensure that infrastructure is located in new and diverse communities that have not previously benefitted from EV station investment through the Volkswagen Settlement or other programs.

Data Collection and Sharing

Responding to RFI Question #5

The FHWA appropriations under Title J Section VIII of the IIJA explicitly call for “data sharing about electric vehicle infrastructure to ensure the long-term success of investments.” NASEO encourages FHWA to plan for data sharing up front, through working group discussions on key data needs, data gathering mechanisms, aggregation, and sharing with state governments and other stakeholders. Through discussions with the NASEO-National Association of Clean Air Agencies (NACAA) Volkswagen Settlement Working Group, states have often expressed a desire to share and aggregate data. However, data collection processes were not established at the start of settlement implementation, which has proven to be a barrier too large to overcome for an aggregated database of state spending and alternative fuel charging infrastructure performance. Under the IIJA, FHWA has the opportunity to plan for data sharing before program implementation begins. States’ EVSE investments would benefit greatly from aggregated data across the country, assembled by FHWA using key metrics from IIJA-funded stations.

NASEO appreciates the opportunity to provide feedback on guidance being developed for the National EV Formula Program and the Charging and Fueling Infrastructure Program. Our members have a long history of planning and implementing state EVSE programs, as well as grid-programs, which have led to the establishment of thousands of miles of EV-Ready interstates around the country. We encourage FHWA to leverage this expertise and provide the flexibility in formula funding to enhance these efforts if a state chooses. Additionally, providing guidance on compliance with federal requirements and data collection needs early on will allow states to tailor their plans and programs and more efficiently and effectively disburse funds. We encourage FHWA to grant flexibility to state governments while also offering clear program guidance to enable strategic, efficient, and equitable build-out of a national EV charging network.

Thank you for your consideration, and we look forward to continuing our partnership with U.S. DOT to meet the transportation electrification goals under the IIJA.

Best regards,



David Terry
Executive Director, NASEO

cc: State, Territory, and District of Columbia Energy Directors