



National Association of State Energy Officials

September 30, 2022

Brian Hogge
U.S. Department of Transportation
Federal Highway Administration Office of Infrastructure
1200 New Jersey Ave. SE, W112-140
Washington, D.C. 20590

RE: Comments for U.S. Department of Transportation's Notice of Proposed Waiver of Buy America Requirements for Electric Vehicle Chargers. Docket number: FHWA-2022-0023

Dear Mr. Hogge,

The National Association of State Energy Officials (NASEO) appreciates the opportunity to submit comments in response to the Notice of Proposed Waiver of Buy American Requirements for Electric Vehicle (EV) chargers. NASEO represents the governor-designated State Energy Directors and their offices from each of the 56 states, territories, and District of Columbia. We commend the efforts of the U.S. Department of Transportation (DOT) and U.S. Department of Energy (DOE) to better understand the impact of and approach to Buy America enforcement, and to develop clear compliance options for states and their partners as they begin to deploy Electric Vehicle Service Equipment (EVSE) infrastructure using Infrastructure Investment and Jobs Act (IIJA) funds.

Over the past decade, NASEO has worked with State Energy Offices regionally and nationally on EVSE implementation. Our members have leveraged state, federal, and private investments, as well as funds from the Volkswagen Settlement. State Energy Offices are 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, and resilience.

NASEO strongly supports the Build America, Buy America (BABA) provisions in IIJA to promote domestic manufacturing, strengthen supply chains, and create good-paying jobs in the United States. We also recognize that for certain components not currently manufactured in the United States, manufacturers may require reasonable time and favorable market conditions to produce these products in compliance with BABA. For these reasons, NASEO commends the FHWA in establishing a waiver under Section 313 (b) (1) of Title 23 of the U.S. Code and 23 CFR 635.410 c, with respect to steel, iron, and manufactured products.

The Partial Phase-Out of Waiver proposed by the FHWA intends to partially phase-out the waiver in two steps during the calendar year 2023 and arrive at the final proposed phase on January 1, 2024. NASEO supports a flexible, incremental approach to applying BABA requirements to projects funded under the NEVI program, which will enable domestic manufacturing of critical charging equipment alongside the timely development of EV charging stations using best-available technologies. However, the specifics of the FHWA Phase-Out proposal raise two concerns:

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First, the target date of January 1, 2024, may not provide sufficient time for American companies to fully onshore their supply and production of EVSE, and could create challenging investment timelines for some firms.

Second, the proposed use of the installation date of the EV charger as the effective date for the waiver and the dates for the phase-out schedule of the waiver could lead to inadvertent non-compliance. For example, supply chain lags could create situations in which a project is Buy America-compliant at the outset but falls out of compliance after the equipment is ordered and before it is installed. NASEO recommends selecting a date to determine waiver eligibility to address this issue.

NASEO appreciates the opportunity to provide input on the Proposed Waiver of Buy America Requirements for EV Chargers, and for your efforts to build certainty around Buy America compliance on this critical issue. State Energy Offices are working with State Departments of Transportation and other state, local, and private-sector stakeholders to build out a national EV charging network that is reliable, accessible, affordable, and supports American manufacturing, jobs, and competitiveness. We look forward to continuing our partnership with DOT and DOE in supporting states as they implement IIJA EVSE investments.

Best regards,

A handwritten signature in blue ink, appearing to read 'D. Terry', enclosed in a light blue rectangular box.

David Terry
Executive Director
National Association of State Energy Officials