

January 10, 2022

Stephanie Pollack, Deputy Administrator  
Federal Highway Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

*Re: Request for Information on the Development of Guidance for Electric Vehicle Charging Infrastructure Deployment, Docket No. FHWA-2021-0022*

Dear Deputy Administrator Pollack:

The Northeast States for Coordinated Air Use Management (NESCAUM) offers the following comments in response to the request for information (RFI) issued by the Federal Highway Administration (FHWA), 86 Fed. Reg. 67782 (November 29, 2021). The RFI solicits input to inform the development of guidance by the U.S. Department of Transportation (USDOT), in coordination with the U.S. Department of Energy (USDOE), related to the Electric Vehicle Charging Program (EVCP) and Charging and Fueling Infrastructure Program (CFIP) as enacted by the Bipartisan Infrastructure Law (BIL). NESCAUM views effective implementation of these programs as critical to establishing a zero-emission highway transportation system that meets our member states' clean air and climate goals. A successful transformation will require a reliable, accessible, and convenient user experience, which can be achieved through clear requirements and guidance.

NESCAUM is the regional association of air pollution control agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. NESCAUM serves as a technical and policy advisor to its member agencies on a wide range of air pollution and climate issues. NESCAUM also facilitates the Multi-State Zero Emission Vehicle (ZEV) Task Force, which now includes 16 states, the District of Columbia, and the Canadian province of Quebec. These jurisdictions have committed to work together to accelerate transportation electrification, for example, by creating a multi-state ZEV action plan and a regional strategy for charging infrastructure deployment.<sup>1</sup>

### **Building a Reliable, Accessible, Convenient, and Equitable National Charging Network**

Building consumer confidence to drive electric vehicle (EV) adoption is about much more than simply installing thousands of charging stations. Rather, consumer acceptance depends on other

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<sup>1</sup> See "Multi-State ZEV Action Plan," available at [www.nescaum.org/documents/2018-zev-action-plan.pdf](http://www.nescaum.org/documents/2018-zev-action-plan.pdf); and "Northeast Corridor Regional Strategy for Electric Vehicle Charging Infrastructure 2018 – 2021," May 2018, available at [www.nescaum.org/documents/northeast-regional-charging-strategy-2018.pdf](http://www.nescaum.org/documents/northeast-regional-charging-strategy-2018.pdf).

important factors that influence the public perception of and experience with a robust and reliable charging network. It is essential, for example, that public charging stations be broadly accessible to consumers regardless of membership in a specific network, that pricing is transparent and understandable, and that the network is properly operated and maintained. Further, providing a consistent and convenient user experience will bolster consumer confidence in a national EV charging network.

To promote the deployment of reliable and consumer friendly EV public charging networks, NESCAUM worked with the ZEV Task Force to develop a consensus set of model grant agreement and procurement contract provisions and interoperability recommendations for publicly funded charging stations. These provisions are designed to maximize station functionality; promote open access, interoperability, and consumer ease of use; and enable collection and reporting of station utilization data. When developing guidance for federally funded EV charging programs, NESCAUM urges FHWA to consider the model provisions and recommendations captured in the following three documents:

**Building Reliable EV Charging Networks: Model State Grant and Procurement Contract Provisions for Public EV Charging, May 2019:** Recommendations to help ensure that publicly funded charging stations address important consumer access and use issues, such as open access, payment options, accessibility, pricing transparency, uptime, customer support, operation, maintenance, and repairs.<sup>2</sup>

**Electric Vehicle Charging Interoperability: Recommendations for State Policy Makers, May 2020:** Recommendations to support the compatibility of key system components that allow vehicles, charging stations, charging networks, and the grid to work together as part of a seamless charging system.<sup>3</sup>

**Collecting EV Charging Utilization Data: Model Language for State Grant and Procurement Contracts, April 2021:** Recommendations for establishing uniform data collection and reporting standards to create a larger dataset and lay the foundation for a centralized data warehouse.<sup>4</sup>

In short, these documents conclude that requiring publicly funded charging stations to ensure reliability and accessibility, promote interoperability, and collect data in a consistent manner will foster a better user experience, which is critical to consumer acceptance of electric vehicles.

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<sup>2</sup> See “Building Reliable EV Charging Networks: Model State Grant and Procurement Contract Provisions for Public EV Charging,” May 2019, available at <https://www.nescaum.org/documents/model-contract-provisions-for-public-evse-5-24-19.pdf/>.

<sup>3</sup> See “Electric Vehicle Charging Interoperability Recommendations for State Policy Makers,” May 2020, available at [https://www.nescaum.org/documents/ev-charging-interoperability-recommendations\\_5-1-20.pdf/](https://www.nescaum.org/documents/ev-charging-interoperability-recommendations_5-1-20.pdf/).

<sup>4</sup> See “Collecting EV Charging Station Utilization Data: Model Language for State Grants And Procurement Contracts,” April 2021, available at <https://www.nescaum.org/documents/evse-data-collection-model-contract-provision-for-public-evse-4-16-21.pdf/>.

Above all, a national zero-emission highway transportation network must ensure the equitable distribution of the benefits and impacts of transportation electrification projects. NESCAUM urges FHWA to ensure that disadvantaged communities that have been historically marginalized, underserved, and overburdened by pollution are not only served by, but also benefit from, national programs to deploy EV charging infrastructure. Program guidance should ensure that even communities with low car ownership rates will still benefit from the program's activities, for example, by providing charging infrastructure to support electric ride-hailing and ride-sharing vehicles. Indeed, the electrification of ride-hailing and ride-sharing vehicles could improve access to clean mobility solutions in low-income communities and populations with limited access to private vehicles or public transit, both in densely populated urban centers and rural areas.<sup>5</sup>

NESCAUM also encourages FHWA to consider how program requirements for EVSE data collection and equipment standardization could be used in innovative ways to drive an equitable transformation of the national highway transportation system. For instance, this could include using charging utilization data to identify gaps in the charging network and to ensure federal funds are spent in areas that may not attract private investment in the near term, such as rural corridors and historically disadvantaged communities.

### **Permit Streamlining**

Streamlining the permitting of fast charging stations is an important issue that needs to be resolved to enable the rapid deployment of fast charging networks. According to electric vehicle supply equipment (EVSE) providers, the local permitting process for fast charging stations is sometimes lengthy and fraught with delays due to unfamiliarity with the technology, protracted zoning reviews, and undefined requirements for permitting DCFC.

Through the ZEV Task Force, NESCAUM worked with states and EVSE providers and reviewed the practices in leading jurisdictions to identify steps that local governments can take to make the permitting process more efficient for everyone involved, from zoning boards to permitting staff to EVSE developers to inspectors.<sup>6</sup> For instance, clarifying that adding fast charging stations to existing parking areas for already developed sites is an accessory use that does not require further zoning board approval can save significant time and resources for zoning boards and applicants. FHWA guidance that prioritizes federally-funded EV investments in communities with streamlined permitting processes could encourage local jurisdictions to ensure that their permitting processes for fast charging stations are standardized, well-defined, and transparent.

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<sup>5</sup> See "Accelerating Ride-Hailing Electrification: Challenges, Benefits, and Options for State Actions," December 2020, available at [https://www.nescaum.org/documents/ride-hailing-electrification\\_white-paper\\_120220.pdf/](https://www.nescaum.org/documents/ride-hailing-electrification_white-paper_120220.pdf/).

<sup>6</sup> See "Preparing Our Communities for Electric Vehicles: Facilitating Deployment of DC Fast Chargers," May 2019, available at <https://www.nescaum.org/documents/dcfc-permit-streamlining-whitepaper-final-5-14-19.pdf/>.

## **Fees for Charging in the Interstate Right-of-Way**

FHWA policies regarding the assessment of fees at charging stations located at highway visitor centers and rest areas is another key issue that should be addressed. As states make plans to strategically deploy charging infrastructure in designated Alternative Fuel Corridors, they may identify rest areas and visitor centers located within the Interstate Right of Way (ROW) as priority locations for new charging stations, especially in underserved rural areas. NESCAUM appreciates FHWA's recent clarification of some circumstances under which EV charging stations located along highway corridors can assess charging fees (e.g., fringe and corridor parking facilities not located within the Interstate ROW, so long as they do not exceed operation and maintenance costs).<sup>7</sup> However, considering the important role that charging stations at rest areas and visitor centers could serve to fill gaps in highway corridor charging networks, program guidance for EVCP and CFIP should clarify whether any exceptions to the prohibition on commercial activity within the Interstate ROW, such as those detailed in 23 U.S.C 111(b), apply to charging stations at these locations.

## **Importance of State Environmental Agency Coordination**

Related to prioritization and planning, NESCAUM requests that FHWA program guidance clarify the substantive role of environmental agencies in required statewide planning for EV charging infrastructure. In NESCAUM's experience working with the ZEV Task Force, state environmental agencies are often leading experts on transportation electrification in their states. Many have led the management of transportation electrification programs, including adopting and implementing the ZEV regulatory program, developing and implementing financial and non-financial incentives for EVs, analyzing EV registration data, conducting EV infrastructure planning, and administering Volkswagen settlement mitigation funds to maximize investments in transportation electrification. Moreover, state environmental agencies worked closely with NESCAUM to develop the documents referenced above on building reliable charging networks, ensuring interoperability, collecting EV charging utilization data, and streamlining permitting.

The process of rapidly deploying a national EV charging network only stands to benefit from combining the unique expertise of transportation, environmental, and energy agencies. The advent of a dedicated federal funding program presents an opportunity to operationalize this synergy, and FHWA should consider how to ensure that the expertise of state environmental agencies is fully utilized in the planning and implementation of the national EV charging programs. In addition, FHWA should consider how a substantive role for environmental agencies could be extended to other programs with similar activities, including the Congestion Mitigation and Air Quality Improvement Program.

Thank you for the opportunity to respond to FHWA's RFI regarding the national EV charging programs. NESCAUM appreciates the commitment of USDOT, through FHWA, and USDOE to

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<sup>7</sup> Federal Highway Administration (FHWA) Frequently Asked Questions on Electric Vehicle (EV) Charging, updated December 3, 2021, available at [https://www.fhwa.dot.gov/real\\_estate/right-of-way/corridor\\_management/ev\\_charging\\_faq.cfm](https://www.fhwa.dot.gov/real_estate/right-of-way/corridor_management/ev_charging_faq.cfm).

develop coordinated guidance for states and localities to strategically deploy EV charging infrastructure. The joint activities of these agencies can enable a transformation to a zero-emission national highway transportation system and facilitate better cooperation among federal, state, and local agencies and community-based organizations working toward the shared goal of providing equitable access to clean, convenient, safe, and affordable transportation options.

Sincerely,



Paul J. Miller  
Executive Director

Cc: NESCAUM Directors  
Lynne Hamjian and Cynthia Greene, EPA R1  
Richard Ruvo, EPA R2