



National Electrical Manufacturers Association

The association of electrical equipment
and medical imaging manufacturers
www.nema.org

**Comments of the
National Electrical Manufacturers Association (NEMA)
to
Federal Highway Administration, US Department of Transportation**

**RE: Request for Comments on Notice of Proposed Waiver of Buy America
Requirements for Electric Vehicle Chargers**

Docket No. FHWA-2022-0023

September 30, 2022

The National Electrical Manufacturers Association (NEMA) is the leading U.S. trade group representing electrical equipment and medical imaging manufacturers, which are at the forefront of electrical safety, reliability, and efficiency. Our nearly 325 Member companies provide a range of products including both the transportation and utilities sectors. Collectively our membership provides some 370,000 American manufacturing jobs in more than 6,100 facilities, with worldwide industry sales exceeding \$140 billion.¹

Summary of Comments

The Federal Highway Administration (FHWA) is seeking comments on a proposal under its Buy America waiver authorities to: modify its existing general applicability waiver for manufactured products to remove electric vehicle (EV) chargers; and waive certain Buy America requirements under FHWA regulations and the Build America, Buy America Act for the steel, iron, manufactured products, and construction materials in EV chargers in a manner that, over a deliberate transitional period, reduces the scope of that waiver. The proposed new waiver would initially waive all Buy America requirements for EV chargers and all components of EV chargers that are installed in a project and then phase-out the waiver with two changes during calendar year 2023 and one change in January 2024. Please find our comments herein:

General Comments

NEMA's EV Charging Equipment Manufacturers represent companies that are currently selling, manufacturing, and operating in North America. They share the goal of fostering and strengthening our domestic manufacturing and supply chain capabilities for EV Charging

¹ For more information, please visit: <https://www.nema.org/>.

Equipment. The full list is available at the following URL:

<https://www.nema.org/directory/products/view/electric-vehicle-supply-equipment-system>

FHWA requested comments on all phases of the proposed schedule set forth in the notice, including: supporting information for alternative dates if applicable; whether there should be four phases as proposed; whether industry expects its production rates and capacity for chargers to be consistent with the proposed schedule; and how the proposed schedule or alternative dates impact installation schedules in the field.

Specific Comments

1. Initial Phase and Removal of EV Chargers from Manufactured Products General Waiver.

While NEMA supports the initial proposal of the waiver being extended through at least 2022, NEMA believes that individual EV Charging Manufacturers are better suited to answer this question.

2. Partial Phase-Out of Waiver.

NEMA suggests that FHWA allow a 30 or 45-day grace period on a project that experiences unforeseen project delays like inclement weather (hurricane, snow storm, etc.) or other force majeure event like a pandemic. This will avoid the instances of a project being halted since its installation wraps around a cut-off date and the resulting disposal of functional EV Charging Equipment because it didn't meet a domestic content threshold.

Another option for FHWA to consider for cut-off dates instead of installation dates would be dates that the product ships from a manufacturer's facility also known as "FOB Origin" or "FOB Shipping Point".

3. Consideration of Different Schedules for DCFC and L1/L2 Chargers

NEMA believes that the same schedules and timelines should apply for DCFC and L1/L2 Chargers. This will avoid any unnecessary confusion among end users wishing to install EV Charging Equipment.

4. Proposed Meaning of Cost Component Under Waiver

NEMA supports the proposed meaning of the cost component under the waiver. Additional clarification would be useful to know if Manufacturer Value Add or Substantial Transformation is part of the cost component. NEMA reiterates that the cost of the component test must be without regard to the country of origin of the subcomponents.

5. Proposed Meaning of EV Charger Under Waiver

NEMA supports the proposed meaning of EV Charger under the waiver.

6. Proposed Meaning of Installation Under Waiver

NEMA supports the proposed meaning of installation of under the waiver.

7. Consideration of Use of Either Installation Date or Other Date for Waiver Effective Date and Phase-Out Dates

Please see our answer as part of our response to question #2.

8. Consideration of Exclusion of Predominantly Steel and Iron Components from Coverage Under Waiver.

NEMA supports the exclusion of predominantly steel and iron components from coverage under the waiver. Tracking and ensuring that all the numerous steel and iron components (e.g., frame, hinges, in some cases enclosures, transformer cores, etc.) in an EV Charger meet the 100% domestic content requirement adds an administrative burden with little tangible benefit for end users.

9. Request for Comments on Proposed NEVI Requirements for OSHA and Energy Star Certifications.

NEMA seeks clarification on what is meant by certification from an OSHA Nationally Recognized Testing Laboratory since EV Chargers are typically compliant and certified to the UL 2202 standard for Safety EV Charging System Equipment.

NEMA advises against pursuing an Energy Star Certification for DCFC. It is not feasible to test DCFC as third party testing labs do not have the required support equipment.

10. Other factors

Given grid resiliency improvements combining EV chargers with supplemental batteries, combined with the lack of domestic suppliers, NEMA is requesting that batteries be not included in the Buy America content calculation for the duration of this waiver.

Request for Meeting

We would like to facilitate a meeting with you to discuss NEMA's responses to this RFI at your earliest possible convenience. Please contact Steve Griffith, NEMA Senior Industry Director of Transportation and Cybersecurity, at steve.griffith@nema.org.

Sincerely,



Spencer Pederson
Vice President of Public Affairs