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August 22, 2022

Stephanie Pollack
Acting Administrator
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Request for Comments on Notice of Proposed Rulemaking (NPRM) on regulations setting minimum standards and requirements for projects funded under the National Electric Vehicle Infrastructure (NEVI) Formula Program; Docket No. FHWA-2022-0008

Dear Acting Administrator Pollack:

On behalf of the Independent Electrical Contractors (IEC), I welcome the opportunity to offer this comment letter regarding the Federal Highway Administration's (FHWA) proposal to establish regulations setting minimum standards and requirements for projects funded under the National Electric Vehicle Infrastructure (NEVI) Formula Program for the construction of publicly accessible electric vehicle (EV) charging stations (i.e., chargers).

IEC urges the FHWA to eliminate the requirements for installation, operation, and maintenance of EV charging stations governed by the NEVI Formula Program in the final rule as they will drastically increase the time it takes to roll out EV charging stations, slow the adoption of EVs, increase costs to the taxpayer, and discriminate against high quality electrical contractors and their qualified electrical workforce while also actively endorsing one specific training program over all others.

About IEC

Established in 1957, the Independent Electrical Contractors is a trade association representing over 3,700 members with more than 50 chapters and training centers nationwide. Headquartered in Arlington, Va., the IEC is the nation's premier trade association representing America's independent electrical and systems contractors. IEC National aggressively works with the industry to establish a competitive environment for the merit shop—a philosophy that promotes the concept of free enterprise, open competition, and economic opportunity for all.

IEC & Registered Apprenticeship

For 65 years, IEC has been at the forefront of the industry by providing highly skilled electricians through its Registered Apprenticeship Program. An IEC apprentice is able to earn while they learn, incurs little to no debt, and enters into a well-paying job upon graduation. In addition to being certified by the Department of Labor's (DOL) Office of Apprenticeship and 38 State Apprenticeship Councils, the American Council on Education (ACE) has recommended that students that graduate the IEC apprenticeship program be eligible for 46 semester hours of college credit. IEC is also a member of DOL's Registered Apprenticeship – College Consortium (RACC), a national network of postsecondary

The leading educator for merit shop electrical and systems contractors

institutions, employers, unions, and associations working to create opportunities for apprentice graduates who may want to further enhance their skills by completing an associate's or a bachelor's degree. RACC members have their programs evaluated by a third-party organization to determine the college credit value of the apprenticeship completion certificate. During the 2022–2023 school year, IEC's merit shop contractors and chapters will educate nearly 15,000 electrical apprentices across the country. Our number one goal is to make sure we have the best qualified electrical workforce and to keep them safe at all costs.

FHWA's Proposed Training Requirements — Overview

Section 680.106 of the proposed rule titled "Installation, Operation, and Maintenance by Qualified Technicians of Electric Vehicle Charging Infrastructure" proposes requirements for individuals that will be permitted to install and service a state's system of EV chargers under the NEVI Formula Program. Section 680.106(j) outlines what is considered to be a "Qualified technician" and proposes that "States shall ensure that the workforce installing, maintaining, and operating EVSE [Electric Vehicle Supply Equipment] has appropriate licenses, certifications, and training to ensure that the installation and maintenance of EVSE is performed safely by a qualified and increasingly diverse workforce of licensed technicians and other laborers." The proposed rule further defines "Qualified technician" in more detail, as follows:

"(1) Except as provided in paragraph (j)(2) of this section, all electricians installing, operating, or maintaining ESVE must meet one of the following requirements:

(2) Certification from the Electric Vehicle Infrastructure Training Program (EVITP).

(3) Graduation from a Registered Apprenticeship Program for electricians that includes EVSE-specific training and is developed as a part of a national guideline standard approved by the Department of Labor in consultation with the Department of Transportation.

(4) For projects requiring more than one electrician, at least one electrician must meet the requirements above, and at least one electrician must be enrolled in an electrical registered apprenticeship program.

(5) All other onsite, non-electrical workers directly involved in the installation, operation, and maintenance of EVSE must have graduated from a registered apprenticeship program or have appropriate licenses, certifications, and training as required by the State."

FHWA's Proposed Training Requirements are Unnecessary

The proposed rule endorses the EVITP—a 20-hour continuing education program operated by the International Brotherhood of Electrical Workers—and offers an alternative training option through a Registered Apprenticeship Program approved by the DOL and Department of Transportation (DOT). After reviewing the EVITP curriculum, IEC has determined that it does not offer any knowledge to a licensed or certified electrician that he/she does not already possess. IEC believes that EVSE-specific training, whether it be through a Registered Apprenticeship Program or the EVITP, is not needed for qualified, licensed electricians to safely install EV chargers.

The same basic concepts and skills that apply to the installation of equipment such as three-phase industrial motors, three-phase transformers, and any type of high-amperage electrical services also

apply to EV chargers. An electrician, especially one that's graduated IEC's Registered Apprenticeship Program, possesses the following knowledge:

- Understands electrical theory
- Understands differences between varying voltages
- Understands the concepts of Ohm's Law
- Understands and knows how to use the *National Electrical Code*® (NEC®)
- Understands DC and AC theory
- Understands series and parallel circuits
- Knows how to properly and safely use hand and power tools
- Knows the proper personal protective equipment (PPE) to wear
- Can follow the manufacturer's installation instructions
- Knows how to prepare wire and make proper connections
- Understands how to read and comprehend wire diagrams

As noted, an understanding of these items is necessary for a wide variety of tasks regularly performed by licensed and certified electricians everyday across the country. While EV chargers are a growing technology, they are not new. The concepts and skills required to install and service them have been around for decades for the simple fact that they require no additional skill or qualification whatsoever. Therefore, inserting additional "EVSE-specific" training requirements, whether that be through the EVITP or a Registered Apprenticeship Program, into the NEVI Formula Program is totally unnecessary and self-serving only to the EVITP. The EVITP National Co-Chair, Jennifer Mefford, even admitted as much in her May 21, 2022 [testimony](#) before the House Committee on Science, Space, and Technology Subcommittee on Research. She stated, "EV infrastructure projects are primarily comprised of the electrical construction work skills deployed by experienced electricians every day—including, for example, performing load calculations, electrical service analysis, and applying *National Electrical Code*® standards."

She went on to say, "While the number of licensed and certified electricians in the U.S. today is adequate for current installation needs in most areas, additional training for existing electricians and onboarding of new electricians through Registered Apprenticeship Programs and quality pre-apprenticeship programs will be key to meeting future demand." Nowhere in her testimony does she indicate that the EVITP is at all necessary to safely install or service an EV charger.

FHWA's Proposed Training Requirements Create a Monopoly

As an alternative to the EVITP, the proposed rule permits states to use electricians that have gone through a Registered Apprenticeship Program with EVSE-specific training that's been approved by DOL and DOT. Since, to IEC's knowledge, DOT has never been engaged in registered apprenticeship, no electrical apprenticeship program would qualify. Even though IEC's Registered Apprenticeship Program provides apprentices the knowledge and skills to install EV chargers, based on the text of the proposed rule, it is our interpretation that IEC would need to go through a brand-new bureaucratic approval process that includes input from both DOL and DOT. Invariably, establishing a new bureaucracy within an agency whose experience with apprenticeship is virtually non-existent will take time and prove challenging at the very least. Consequently, what the FHWA is proposing is a monopoly that only serves to further enrich the EVITP.

Questions Regarding EVITP Endorsement

Additionally, the proposed rule's endorsement of the EVITP for purposes of the NEVI Formula Program implies the installation and service of EV chargers by electricians with its certification are safer than those that are installed and serviced by those without it. Is FHWA suggesting EV chargers installed by EVITP-certified electricians are superior or those without its certification are inferior? What data has been collected to support this? Are we and the public simply asked to take the FHWA's word that EVITP-installed chargers are safer without anything to demonstrate as such? IEC would appreciate feedback from FHWA on these important questions.

Training Requirements are the Purview of the States

Additionally, IEC would assert that the FHWA is overstepping its bounds since Congress did not grant it the authority or specifically state the kind of training background necessary for the roll out of federally funded EV chargers. Nowhere in the plain language of the Infrastructure Investment and Jobs Act (IIJA) signed by President Biden does it state the kind of training a qualified electrician should possess in order to install and service EV chargers, nor should it; this should be left entirely up to the states to determine, not Congress or the executive branch agencies. Congress even eliminated language that was included in the House-passed version of the INVEST in America Act that would have mandated EVITP. States and localities already govern the requirements for work performed by electricians and should be given the freedom to decide the criteria for which an electrical contractor must meet for any and all electrical projects. For the FHWA to propose these onerous and unnecessary training requirements goes against the wishes of Congress and restricts states' ability to quickly and cost-effectively install EV chargers.

Impact on Small Electrical Contractors

In addition, the proposed rule states that for those projects requiring more than one electrician "at least one electrician must be enrolled in an electrical registered apprenticeship program." While, as stated earlier, IEC is heavily invested in the registered program, the industry continues to face a workforce shortage, with IEC contractor members continuing to express frustration in their ability to find qualified individuals to enter its Registered Apprenticeship Program. The FHWA mandating the use of a registered apprentice on a project does nothing to help address these workforce shortages. It also places many smaller electrical contractors, that are often women or minority-owned, at a competitive disadvantage. These operations may have the requisite journeymen to complete the job but may lack the apprentices to meet the proposed rule's requirements. IEC would hope the administration would take into consideration the impact these arbitrary requirements have on small businesses' ability to compete for NEVI Formula Program projects.

Request for Clarification

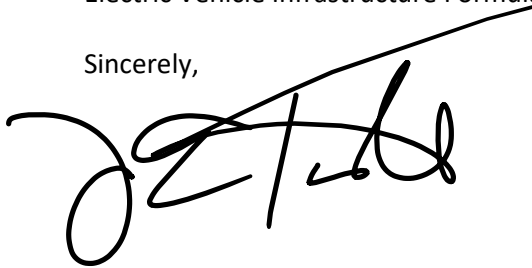
Lastly, should the FHWA move forward with the training requirements as proposed, IEC would appreciate clarification on issues prompted by the proposed rule. Those concerns are as follows:

- Can a journeyman electrician that's graduated from a Registered Apprenticeship Program (like IEC's) service and install NEVI Formula Program-funded EV chargers or does he/she have to re-enroll into the program once DOL and DOT approve the curriculum?
- Will a journeyman have to go through the entire program again and "re-graduate" or simply take the EVSE-specific courses?
- Will a stand-alone EVSE-specific training course operated by a Registered Apprenticeship Program be eligible for approval or must it be imbedded in the existing curriculum?
- What is specifically required by a Registered Apprenticeship Program to receive approval by both DOL and DOT?

- Will the entire Registered Apprenticeship Program be up for review or just the EVSE-specific curriculum?
- How long will the DOL/DOT approval process for this curriculum take?
- How will programs registered with State Apprenticeship Councils be handled? Will they need to coordinate with federal or state DOT or both?

IEC looks forward to working with the Biden administration in its endeavor to expand EV chargers throughout the country in order to increase the adoption of electric vehicles. IEC supported passage of the IIJA, due in large part to Congress excluding language and provisions that would restrict free and open competition on construction projects funded by the law. However, the administration has taken it upon itself to go against congressional intent to draft rules that severely limit competition for the installation and servicing of EV chargers. Such restrictions will only serve to increase cost, slow installation timelines, and reduce adoption of electric vehicles, all while unnecessarily discriminating against IEC's qualified electrical contractors and their experienced workforce. For these reasons, IEC urges the FHWA to eliminate the training requirements outlined in Section 680.106(j) of the National Electric Vehicle Infrastructure Formula Program in its final rule.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Todd', with a long horizontal line extending from the top of the signature.

Jason E. Todd
Vice President, Government Affairs
Independent Electrical Contractors