
January 28, 2022

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

Dear Deputy Administrator Pollack:

Western Governors appreciate the opportunity to provide input to the Federal Highway Administration (FHWA) as it develops guidance in accordance with electric vehicle (EV) provisions contained in the Infrastructure Investment and Jobs Act (IIJA, Pub. L. 117-58). Effective use of EV infrastructure funds by states and localities will help support the expansion of EV charging infrastructure along highway corridors and in rural and underserved communities.

The Western Governors' Association (WGA) recently completed its Electric Vehicles Roadmap Initiative, a signature project of WGA's immediate past Chair, Oregon Governor Kate Brown. The Initiative examined many aspects of EV charging infrastructure planning and deployment that are referenced in FHWA's Request for Information (RFI). We encourage you to review the [Initiative Report](#) and its discussion of EV charging solutions for underserved communities, permitting and siting best practices, and upgrades to rural electric distribution infrastructure that support the installation of Direct Current Fast Charging technologies. The Initiative Report also includes a Memorandum of Understanding, signed by multiple Western Governors, that promotes voluntary alignment of EV charging hardware and siting standards in certain western states.

Federal EV policy recommendations arising from the Initiative were adopted by Western Governors in WGA Policy Resolution, 2021-07, Transportation Infrastructure in the Western United States (attached). The Resolution encourages federal agencies to leverage multi-state EV partnerships, such as the West Coast Electric Highway and Regional Electric Vehicles Plan for the West, to "help promote targeted investments and partnerships that expand cohesive, regional EV charging networks." The Resolution also describes western states' involvement in FHWA's Alternative Fuel Corridors Program, and contains the following statements:

- In order to meet the "Corridor-Pending" and "Corridor-Ready" metrics, charging or alternative fueling infrastructure must be sited every 100 or 50 miles, respectively, along the proposed corridor. A number of western states have experienced challenges in meeting these defined metrics due to lacking electric infrastructure and suitable charging locations in sparsely populated areas.
- Western Governors request that FHWA promote additional flexibility within the Alternative Fuel Corridors program to recognize the unique geographic and infrastructure conditions in western states. Western Governors and states are eager to work with FHWA to ensure that western states are not adversely affected by federal funding opportunities that are tethered to Alternative Fuel Corridors "Corridor-Pending" and "Corridor-Ready" designations.

Stephanie Pollack

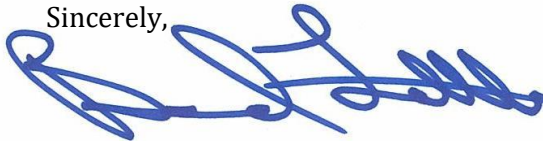
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The RFI indicates that funds made available through both the EV Charging Program and the Charging and Fueling Infrastructure Program will be tied to designated Alternative Fuel Corridors. We request that FHWA work with western states to promote flexibility with respect to their use of these funds to promote the expansion of EV charging options in rural, western corridors that do not meet "Corridor-Pending" or "Corridor-Ready" metrics.

We are prepared and eager to work with you as FHWA launches the EV Charging Program and the Charging and Fueling Infrastructure Program. Thank you for your leadership on this matter.

Sincerely,



Brad Little
Governor of Idaho
Chair, WGA



Jared Polis
Governor of Colorado
Vice Chair, WGA

Attachment



Policy Resolution 2021-07

Transportation Infrastructure in the Western United States

A. BACKGROUND

Surface Transportation

1. The American West encompasses a huge land mass representing 2.4 million square miles or over two-thirds of the entire country. Over 116 million people live in these states and they reside in large, densely populated cities, smaller cities and towns and in rural areas.
2. Perhaps more than any other region, terrain and landownership patterns in the West underscore the purpose and vital need for a federal role in surface transportation. Western states are responsible for vast expanses of national highways and interstates that often do not correlate with population centers but serve as critical national freight and transportation routes for the nation.
3. Western states ports are national assets, moving needed parts and retail goods into the country, while also providing the gateway for our nation's exports. Although they benefit the entire country, the financial burden of developing, expanding and maintaining them to meet the demands of growing trade is almost entirely borne at the state and local level.
4. The vast stretches of highways and railroad track that connect the West to the nation do not have the population densities seen in the eastern United States.
5. Raising private funds to carry forward infrastructure projects in the rural West will be extremely challenging. The low traffic volumes in rural states will not support tolls, even if one wanted to impose them. Projects in rural areas are unlikely to generate revenues that will attract investors to finance those projects, even if the revenues are supplemented by tax credits. Some western states have implemented or are developing mileage-based fee programs as an additional tool to enhance funding.

Transportation Infrastructure

6. Jobs, the economy and quality of life in the West depend on high quality transportation infrastructure that efficiently, effectively and safely moves goods and people. Western transportation infrastructure is part of a national network that serves national interests. Among other things, transportation infrastructure in the West: moves agricultural and natural resource products from source to national and world markets; carries goods from western ports on western highways and railroad track to eastern and southern cities; and enables travelers to visit the great National Parks and other destinations in the West.
7. The transportation and transit needs in the West differ significantly from our eastern counterparts. Western states are building new capacity to keep up with growth, including new interstates, new multimodal systems including high-speed passenger rail and light rail

transit systems, biking and pedestrian options, and increased capacity on existing infrastructure.

8. The infrastructure in the region is under strain from both increased movement of goods and people and from underinvestment in preservation and repair and new infrastructure needed to keep pace with this growth and change. Positive and productive partnerships between state department of transportation offices and their local U.S. Department of Transportation (DOT) Federal Highway Administration (FHWA) office have enabled innovative advances in infrastructure funding and development.
9. Modernizing and maintaining the West's network of infrastructure relies upon permitting and review processes that require close coordination and consultation among state, federal and tribal governments. State, federal and tribal coordination is necessary to ensure that infrastructure projects are designed, financed, built, operated and maintained in a manner that meets the needs of our economies, environment, public health, safety and security. Early, ongoing, substantial, and meaningful state-federal consultation can provide efficiency, transparency, and predictability for states and tribes, as well as prevent delays, in the federal permitting and environmental review process.
10. State and local governments often have the best available science, data and expertise related to natural resources within their borders. In cases where the states have primary management authority, such as wildlife and water governance, states also possess the most experience in managing those resources and knowledge of state- and locality-specific considerations that should inform infrastructure siting decisions.
11. The National Environmental Policy Act (NEPA), since its enactment in 1970, has required that federal agencies consider how proposed federal actions may affect natural, cultural, economic and social resources for present and future generations of Americans. The process by which NEPA is implemented has been defined over time through regulations and guidance issued by the Council on Environmental Quality (CEQ).
12. On April 27, 2021, FHWA issued a [guidance document](#), State DOTs Leveraging Alternative Uses of the Highway Right-of-Way Guidance. The guidance encourages FHWA division offices to work with state departments of transportation in order to leverage highway rights-of-way (ROWs) for the siting of renewable energy projects, transmission and distribution assets, broadband infrastructure, and alternative fueling facilities.

Electric Vehicle Infrastructure

13. WGA recently executed the *Electric Vehicles Roadmap Initiative*, its signature policy project for Fiscal Year 2021. The Initiative was principally focused on the planning, siting and coordination of electric vehicle (EV) charging infrastructure in western states and explored a number of federal policy issues that affect the buildout of this infrastructure.
14. Western Governors and states are exhibiting strong leadership on EV infrastructure planning, coordination, and investment. Many western states are actively collaborating with each other via their engagement in the West Coast Electric Highway¹ and Regional Electric Vehicles Plan for the West² (REV West).

¹ California, Oregon and Washington are members of the West Coast Electric Highway.

² Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming are members of the REV West.

15. Western states face a suite of challenges related to planning and siting EV infrastructure, including the unique needs of both underserved and rural communities, vast distances between communities, limited electric grid infrastructure in sparsely populated areas, and a patchwork of federal, state, and private lands ownership boundaries. These factors combine to make EV infrastructure installations more logistically challenging and costly, regardless of whether the infrastructure is funded by public or private sources or a combination of the two.
16. Many western states have engaged with and submitted corridor nominations to the FHWA's Alternative Fuel Corridors Program. The Program assigns "Corridor-Pending" and "Corridor-Ready" designations for interstate, U.S. route, and state highways.
17. In order to meet the "Corridor-Pending" and "Corridor-Ready" metrics, charging or alternative fueling infrastructure must be sited every 100 or 50 miles, respectively, along the proposed corridor. A number of western states have experienced challenges in meeting these defined metrics due to lacking electric infrastructure and suitable charging locations in sparsely populated areas.
18. 23 U.S.C. 111 prohibits Interstate System rest areas built after January 1, 1960, from offering commercial services such as fuel and food on the Interstate System right-of-way. Due to this prohibition, EV charging stations may be sited at Interstate System rest areas, but no fee may be charged for the electricity that is dispensed. This significantly complicates the business case for siting EV charging infrastructure at these rest areas. Western Governors support amending 23 U.S.C. 111 to allow commercial EV charging at all rest areas along the Interstate, but we would note that western states are especially affected by the current prohibition because many rest areas in the West are located far from communities or businesses that could offer suitable locations for EV charging.
19. Western states contain many public federal lands, including areas managed by the Bureau of Land Management, National Park Service and U.S. Forest Service. Many of these federal lands serve as regional tourism attractions and support economic development in rural western communities. Creating and implementing efficient practices for permitting and siting EV infrastructure on federal lands will help support continued tourism and economic opportunities across the West.
20. Private investments in zero-emission vehicle (ZEV) charging and fueling infrastructure can be aided by supportive investment tax credit structures. The current Alternative Fuel Vehicle Refueling Property Investment Tax Credit could be enhanced to improve the business case for private sector investment in ZEV charging and fueling infrastructure.
21. The U.S. Department of Energy's (DOE) Vehicle Technologies Office manages the Clean Cities Coalition (CCC) Program, which has active members across the West. CCCs often serve a crucial role at the local level by leading EV infrastructure planning and implementation projects.
22. The COVID-19 pandemic highlighted disruptions to domestic supply chains across many sectors. On February 24, 2021, President Biden signed an Executive Order on America's Supply Chains ([EO 14017](#)). The EO launches a comprehensive review of certain U.S. supply chains and directs federal departments and agencies to identify ways to secure U.S. supply chains against a wide range of risks and vulnerabilities. Two supply chains included in the

review are critical minerals, including rare earth elements, and large capacity batteries such as those used in electric vehicle production.

23. Battery EVs require a number of critical minerals in their production, including lithium, nickel and cobalt, among others. Consumption of these critical minerals essential to EV supply chains will rise as more EV batteries are produced. EVs sold in 2019 alone accounted for more than one quarter of the total battery capacity deployed nationwide.³ With increasing demand for EVs, it is projected that demand for these minerals will concurrently increase in coming decades.

Aviation

24. Lack of reliable air service is a significant barrier to fulfilling the needs of rural communities in the West. Air service is essential infrastructure for connecting many remote communities. It is important not only to recreation and emergency services, but to economic, social and cultural needs. In some communities it is the only way to bring doctors or other non-local workers in and out of where they work but may not live.
25. The DOT Essential Air Service (EAS) Program was put into place in 1978 to guarantee that small communities served by certificated air carriers before passage of the Airline Deregulation Act maintained a minimum level of scheduled air service. This is generally accomplished by DOT subsidizing two round trips a day with 30- to 50-seat aircraft, or additional frequencies with aircraft with 9 seats or fewer, usually to a large- or medium-hub airport. The Department currently subsidizes commuter and certificated air carriers to serve communities in Alaska and in the lower 48 contiguous states that otherwise would not receive any scheduled air service.⁴
26. Of the communities that participate in EAS, 63 percent are in the West, illustrating the rurality of these areas and their need for connectivity. EAS has a significant economic effect on rural communities. A 1 percent increase in traffic to an EAS airport results in a 0.12 percent increase in income for the entire community, and an 8 percent increase in traffic results in a 1 percent income increase. Businesses need connectivity to the national and global economy to succeed and rural communities with good air service are more attractive to remote workers.⁵
27. The Small Community Air Service Development Program (SCASDP) is a DOT grant program designed to help small communities address air service and airfare issues. SCASDP's eligibility criteria are broader than EAS and provide a grant applicant the opportunity to self-identify its air service deficiencies and propose an appropriate solution compared to an EAS direct subsidy.⁶ Air service started by the SCASDP often continues without further funding once the grant is over, exemplifying that the service proves itself to be commercially viable beyond its value to the community and the public.⁷

³ <https://www.ucsusa.org/sites/default/files/2021-02/ev-battery-recycling-fact-sheet.pdf>

⁴ [DOT Essential Air Service Program](#)

⁵ WGA *Reimagining the Rural West* [Initiative Appendix](#)

⁶ [DOT Small Community Air Service Development Program](#)

⁷ WGA *Reimagining the Rural West* [Initiative Appendix](#)

B. GOVERNORS' POLICY STATEMENT

Surface Transportation

1. Western Governors believe there is a strong federal role, in partnership with the states and local governments, for the continued investment in our surface transportation network – particularly on federal routes and in multimodal transportation networks throughout the West that are critical to interstate commerce and a growing economy. These routes and networks traverse hundreds of miles without traffic densities sufficient to either make public-private partnerships feasible or allow state and local governments to raise capital beyond the historic cost share.
2. Western Governors believe the current project decision-making role of state and local governments, with meaningful participation from affected communities, particularly tribes and historically underserved communities, in investment decisions should continue. Western Governors desire additional flexibility to determine how and where to deploy investment in order to maximize the use of scarce resources.
3. Western Governors believe that a viable, long-term funding mechanism is critical to the maintenance and expansion of our surface transportation network and encourage Congress to work together to identify a workable solution that adequately funds the unique needs of the West.
4. Western Governors believe in enhancing the ability to leverage scarce resources by supplementing traditional base funding by creating and enhancing financing mechanisms and tools that are appropriate for all areas of the United States, including those with low traffic densities where tolling and public private partnerships are not feasible.
5. Western Governors believe using the historic formula-based approach for the distribution of funds would ensure that both rural and urban states participate in any infrastructure initiative and it would deliver the benefits of an infrastructure initiative to the public promptly.
6. Western Governors believe the Highway Trust Fund (HTF) and the programs it supports are critically important to success in efforts to maintain and improve America's surface transportation infrastructure. Currently, the HTF will not be able to support even current federal surface transportation program levels and will not meet the needs of the country that will grow as the economy grows. Congress must provide a long-term solution to ensure HTF solvency and provide for increased, sustainable federal transportation investment through the HTF.
7. Western Governors strongly encourage western states port operators and their labor unions to work together to avoid future work slowdowns by resolving labor issues well before contracts are set to expire. In recent years, protracted disagreement in bargaining between parties has had an adverse effect on the American economy that should not be repeated.
8. Western Governors believe modern ports infrastructure is essential to strong national and western economy and urge Congress to fully fund the Harbor Maintenance Trust Fund and to reform the Harbor Maintenance Tax to ensure western ports remain competitive. Furthermore, Western Governors believe the federal government must work

collaboratively with states, along with ports, local governments and key private sector transportation providers like the railroads, to ensure the necessary public and private investments to move imports and exports efficiently through the intermodal system, as well as community organizers and the Environmental Protection Agency's National Environmental Justice Advisory Council to effectively mitigate environmental and public health impacts to port communities.

Transportation Infrastructure

9. Western Governors believe regulation accompanying federal transportation programs should be evaluated and if necessary, revised to encourage expediting project delivery and streamlining the environmental review process without diminishing environmental standards or safeguards.
10. The federal infrastructure permitting and environmental review process must be transparent, predictable, accessible and consistent for states, project developers, and affected community stakeholders. Federal processes must ensure that agencies set, and adhere to, timelines and schedules for completion of reviews and develop improved metrics for tracking and accountability.
11. Federal programs that increase bottom-up coordination among agencies, state and local governments and that foster collaboration among project proponents and diverse stakeholders, particularly rural communities, underserved communities, and tribes can create efficiency and predictability in the NEPA process, including reducing the risks of delays due to litigation.
12. Western Governors encourage consistency in the implementation of NEPA within and among agencies and across regions. The federal government should identify and eliminate inconsistencies in environmental review and analysis across agencies to make the process more efficient.

Electric Vehicle Infrastructure

13. Western Governors emphasize western states' collaborative efforts to improve the planning and siting of EV charging infrastructure to promote equitable access, particularly along highway corridors, rural areas, underserved communities, or anywhere that users do not have the ability to charge at home. We encourage Congress and the Administration to leverage these state partnerships when designing federal programs and allocating surface transportation and infrastructure funds focused on EV infrastructure. Coordinating with these multi-state groups would help promote targeted investments and partnerships that expand cohesive, regional EV charging networks.
14. Western Governors request that FHWA promote additional flexibility within the Alternative Fuel Corridors program to recognize the unique geographic and infrastructure conditions in western states. Western Governors and states are eager to work with FHWA to ensure that western states are not adversely affected by federal funding opportunities that are tethered to Alternative Fuel Corridors "Corridor-Pending" and "Corridor-Ready" designations.
15. Western Governors support legislative measures that address prohibitions within 23 U.S.C. 111 that limit the siting of EV charging stations at Interstate System rest areas and the issuance of a fee for the use of that infrastructure.

16. Promoting visitation to federal public lands and state parks is a high priority for Western Governors. Western Governors would welcome the opportunity to work with state and federal land management agencies to address challenges that affect the permitting and siting of EV charging infrastructure on state and federal public lands.
17. Western Governors support legislative efforts that seek to extend and expand the Alternative Fuel Vehicle Refueling Property Investment Tax Credit and improve the business case, especially in rural and underserved areas, for private investment in ZEV charging and refueling infrastructure.
18. Western Governors emphasize the important functions that Clean Cities Coalitions have served in coordinating and implementing ZEV infrastructure projects across the West and encourage Congress to provide funding support for the DOE Vehicle Technologies Office and Clean Cities Coalition Network.
19. Western Governors support strengthening domestic supply chains of critical minerals vital to electric vehicle battery production without compromising environmental and health and safety standards. Governors also support development of emerging tools and technologies that address barriers to mineral supply chain reliability, including technologies that help recycle or reuse existing critical mineral resources for use in electric vehicles and other clean energy technologies.

Aviation

20. Western Governors encourage the executive branch to include full funding for the EAS and SCASDP programs in the President's annual budget request. Western Governors also support legislative actions to maintain and secure the longevity of these programs.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in June 2024. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.