August 27, 2025

The Honorable Sean Duffy
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: National Electric Vehicle Infrastructure Formula Program Guidance [FHWA–2025–0010]

Dear Secretary Duffy:

The National Association of Convenience Stores (NACS), NATSO, Representing America's Travel Centers and Truck Stops, and SIGMA: America's Leading Fuel Marketers (together, the "Associations"),[1] submit these comments in response to the Federal Highway Administration's ("FHWA's" or the "Agency's") request for comment on the interim final guidance ("Guidance") issued for the National Electric Vehicle Infrastructure ("NEVI") Formula Program (the "Program").[2]

The Associations applaud the Agency for issuing Guidance that addresses many of the challenges under the NEVI Program while advancing a consumer-oriented implementation strategy that can prompt private investment in alternative refueling infrastructure across the country.

The NEVI Program has been subjected to artificial barriers and implementation flaws that hindered the efficient and effective deployment of Congressionally authorized funds. States have been afforded excessive discretion to develop criteria, processes, contracts, and interpretations that were materially different from one another. The Guidance should rectify many of those challenges and prompt businesses to make durable, consumer-focused investments in a nationwide refueling network.

Drivers today are accustomed to refueling at convenient locations with competitive and transparent pricing, reliable and secure facilities, and ancillary amenities offered on the premises

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[1] The National Association of Convenience Stores (NACS) is an international trade association representing the convenience store industry with more than 1,500 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO currently represents approximately 5,000 travel plazas and truck stops nationwide, comprising both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel. Our membership consists of the companies that provide transportation energy to American motorists. NACS, NATSO, and SIGMA represent a diverse community of dynamic, forward-thinking companies that are well-positioned to offer consumer-friendly, competitively priced EV charging access alongside attractive amenities to on-the-go EV drivers, consistent with consumers' existing habits and expectations.

[2] *See* "National Electric Vehicle Infrastructure Formula Program Guidance", U.S. Department of Transportation, Federal Highway Administration (August 13, 2025) *available at* https://www.govinfo.gov/content/pkg/FR-2025-08-13/pdf/2025-15370.pdf.

(such as restrooms and food service). These locations, many of which are owned and operated by the Associations' members, are optimal for the buildout of alternative refueling infrastructure. The Guidance appropriately recognizes that offering electric vehicle ("EV") charging at existing retail fuel outlets will mean drivers do not need to change their habits if they do not wish to – they can refuel on-the-go at the same convenient locations that they do today.

In this respect, the Associations commend the Agency for directing states to prioritize grant funding for site hosts who own and operate the NEVI-funded EV charging infrastructure. Similarly, the Associations support the directive encouraging the selection of site hosts that co-locate chargers at retail locations with onsite amenities. The Associations recommend that FHWA go further and condition approval of any state plans submitted in response to the Guidance on the explicit inclusion of these requirements. Subsidizing charging station installations at locations that EV drivers will want to use is essential to ensure that this program delivers the best return for taxpayers. The Guidance should ensure that the program delivers the best return and results by encouraging co-locating charging stations at retail locations with onsite amenities.

To safeguard the coherent approach advanced under the Guidance, the Agency should ensure that the state plan approval process promotes maximum consistency among various states. Uniform, straightforward plans and contracts will avoid a fragmented, state-by-state patchwork that deters private investment.

The Agency's Guidance is a major step forward that can revitalize the NEVI Program. The Associations' members have dozens of shovel-ready projects throughout the country and are prepared to deliver the alternative refueling network that Congress and the Trump Administration envision. We respectfully request that FHWA promptly approve updated state plans consistent therewith and resume disbursements as soon as possible.

The Associations offer the following comments on the Guidance as the Agency continues to implement the NEVI Program. Our core recommendations are that FHWA:

- Require state plans to explicitly prioritize projects where: (i) the site hosts (or a subsidiary or similar financial affiliate) also own and operate the EV charging infrastructure; and (ii) such infrastructure is co-located with onsite amenities such as restrooms and food service.

- Require states to promptly release funds for awarded projects that are consistent with this Guidance, and reassess awards that are inconsistent with the Guidance.

- Consider specifying criteria for determining when an alternative fuel corridor ("AFC") is "fully built out."

- Prohibit states from imposing revenue-sharing requirements or caps on rates of return.

- Accommodate expansion at existing charging sites in addition to new locations.

I. The Associations' Involvement in the NEVI Program.

The Associations' members provide competitively priced fuel and services to their customers. They are agnostic as to the type of fuel they sell at their locations; their goal is to provide customers with *what they want, where they want it, when they want it, at a price they are willing to pay*. In this respect, as some consumers have chosen to drive EVs, our members have expanded their offerings to include EV charging stations.

Existing convenience stores, fuel retailers, and travel centers are optimal for the buildout of EV charging stations. Collectively, our members have invested hundreds of millions of dollars in charging infrastructure in response to public demand and Congressional policy signals. As part of those efforts, fuel retailers have been actively engaged with the NEVI Program. A sizeable portion of NEVI grants – both obligated and awarded-but-not-yet-obligated – have gone to our members' locations.

The Associations encourage the Agency to ensure that NEVI grant awards that are consistent with the updated guidance are unlocked as soon as possible so that these buildouts may proceed.

II. The Guidance Would Significantly Improve the NEVI Program.

a. Prioritization of Site Hosts who Own Charging Infrastructure

The Associations strongly support FHWA's recommendation that states prioritize grant applicants in which the site host owns and operates the charging infrastructure. Because the site host has more control over the overall experience at a site, the EV consumer experience is best when the charging station is owned by the site host. This also reduces the risk of stranded assets, where charging equipment might otherwise be left in disrepair or abandoned if a third party lacks the incentive or capacity to maintain it in good working order. In many states, contracting and permitting processes have substantially slowed or entirely derailed infrastructure deployment in cases where grant recipients rely on a third party for real estate.

Perhaps most importantly, this configuration ensures that <u>the site host has a vested financial interest in ensuring that the chargers are operational, reliable, and well maintained</u>. Site hosts whose business model depends on providing reliable refueling services to customers are natural stewards of publicly funded chargers.

The Guidance should clarify that arrangements whereby charging infrastructure is owned or operated by a subsidiary or other similar financial affiliate of the real estate owner fall within these parameters. This is not an uncommon arrangement in our industry (*i.e.*, where a retail fuel company has a separate, wholly-owned subsidiary managing its EV charging business). Absent explicit clarity in this respect there is concern that some states may misinterpret the Guidance as not prioritizing these types of arrangements, when in fact they are fully consistent with the notion of prioritizing configurations under which the site host maintains a financial and operational interest in the success of NEVI-funded charging infrastructure on the site.

Drivers of gas-powered vehicles seldom confront dilapidated or malfunctioning fuel pumps. EV drivers cannot say the same about charging stations.[3] The same level of reliability can and should characterize NEVI-funded EV chargers when they are operated by the site host.[4]

b. Co-location with Amenities.

The Associations applaud FHWA for aligning the Guidance with the Congressional directive that states prioritize locating chargers alongside restrooms and other public amenities wherever possible. This approach reflects a practical understanding of driver behavior: motorists expect the same level of safety, convenience, and comfort when charging an EV as they do when refueling a gasoline- or diesel-powered vehicle. (If anything, these amenities are *more important* in the EV charging context because it takes longer to charge an EV than it does to refuel a gas-powered vehicle.) FHWA's guidance will direct investments to locations where businesses already provide these amenities as part of their existing operations.

Co-locating chargers with amenities also better ensures driver safety. Our members' facilities have on-site employees whose job function includes not only keeping chargers in good working order but also calling law enforcement in the event of an emergency. People should not feel uncomfortable charging alone at night.

c. Unlocking Funds Consistent with These Parameters

FHWA should instruct states to promptly release funds in support of projects where awards have been made but funds have not yet been obligated, *provided* those projects are consistent with the Guidance's *site-host ownership* and *co-location with amenities* parameters. Conversely, projects that are inconsistent with these parameters should be reassessed to ensure they are consistent with the Agency's priorities.

This can be accomplished by states simply asking all grantees that are awaiting funds for awards have already been made to affirm, under pains and penalties of perjury, that the project (i) includes only charging stations that are owned and operated by the site host, and (ii) such charging stations will be co-located with on-site amenities including restrooms and

[3] *See* Andrew Hawkins, "An Analysis of 20,000 EV Stations Concludes That Charging Is Still a Massive Bummer," *The Verge*, August 6, 2024, https://www.theverge.com/2024/8/6/24214581/electric-vehicle-charging-reliability-study-chargehelp; *see also* Harvard Business School, "The State of EV Charging in America," *HBS Business & Environment Initiative*, June 2024, https://www.hbs.edu/bigs/the-state-of-ev-charging-in-america ("the deep dive into tomorrow's gas station network estimates that drivers can successfully recharge their cars using non-residential EV equipment only 78% of the time, highlighting critical issues with reliability."); *see also* UC Davis Institute of Transportation Studies, "Charging, Not Range, Becoming Top Concern for Electric Car Drivers," UC Davis Blog, October 2024, https://www.ucdavis.edu/blog/charging-not-range-becoming-top-concern-electric-car-drivers ("While many charging-point operators report high uptime percentages, their figures often exclude factors such as slow charging speeds or incomplete charges that degrade users' experience.")

[4] *Cf.* Christopher Mims, "I Drove a Rivian EV 1,600 Miles and Found Chargers the Whole Way," The Wall Street Journal, August 23, 2025, https://www.wsj.com/business/autos/electric-vehicle-rivian-charging-infrastructure-b90be73a?mod=mhp. ("Pilot and Flying J truck stops … now have a multitude of fast chargers, so there was no overnight slow charging for us.")

food service. Funds should be promptly released for projects where grantees can so affirm. Other projects should be reassessed and potentially reopened for competitive bid consistent with the Agency's Guidance.

III. Additional Opportunities and Considerations.

a. Ensuring a Fully Built-Out Alternative Refueling Network.

Congress designed the NEVI Program to build a seamless, nationwide alternative refueling network along the highway system and then into non-highway communities. The statutory requirement that NEVI funds remain focused on AFCs until those corridors are "fully built out" reflects this vision.[5]

The Associations encourage robust oversight by the Agency of this requirement. Customers are accustomed to being able to pull off the highway and have access refueling infrastructure alongside associated amenities. FHWA should verify that the state has a network of charging stations, co-located with consumer amenities, alongside its highway system before certifying that the AFC's buildout is complete.

This milestone of course may vary by state. (Sparsely populated rural states with fewer EVs on the road, for example, should be treated differently than more densely populated regions that have higher numbers of registered EV drivers.) FHWA should consider clarifying in the Guidance how it intends to determine when AFCs are considered "fully built out." Clear and transparent criteria will ensure that states understand the thresholds they must meet. It will also ensure that NEVI funding is not expanded to non-AFC applications until a nationwide charging network has been established along the Interstate system.

b. Caps on Investment Returns

Several states have sought to impose artificial, arbitrary limits on the rate of return or revenue-sharing requirements on NEVI-funded chargers.[6] Such restrictions seriously undermine the Program's ability to attract private capital to what is already a risky, capital-intensive investment. The purpose of the NEVI Program is to leverage public investment to draw investment from businesses willing to assume long-term operating responsibility for alternative refueling infrastructure.

Caps on the rate of return or revenue-sharing requirements dissuade private businesses with attractive facilities for EV drivers from applying for NEVI grants. A competitive market environment does not accommodate uncompetitive pricing. Moreover, should charging become more profitable as utilization rates increase, NEVI awardees subject to return caps will be at a competitive disadvantage relative to privately funded chargers. The caps that certain states have

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[5] *See* P.L. 117-58 (Bipartisan Infrastructure Law), Division J, title VIII, Highway Infrastructure Program heading, paragraph (2): "When the State determines and the Secretary certifies that Alternative Fuel Corridors in the State are fully built out, funding may be used for EV charging infrastructure on any public road or in other publicly accessible locations."

[6] For instance, both Minnesota and Iowa have instituted a 15% cap on returns on investment (with the rest remitted to the respective state's DOT).

levied also apply to individual charging sites. Many awardees – who rely on the "portfolio" investment approach – may have return rates that vary drastically across sites. Those entities rely on locations that are profitable to subsidize other sites with lower utilization rates, particularly in rural areas.

Arbitrary caps on return distort risk allocation, limit the revenue available for novel investments, and ultimately dissuade competitive grant applicants from participating. To the extent the Agency considers amendments to the Guidance, FHWA should make clear that states may not impose such restrictions as a condition of receiving NEVI funds.

c. "Publicly Accessible"

The NEVI Program should only support investments in charging stations that would be available to the general public, as opposed to a more limited universe of users. For this reason, the Associations support the definition of "publicly accessible" articulated in *footnote 4* of the Guidance: "Publicly accessible means the equipment is available to the public without restrictions. A station [that] restricts access only to customers, tenants, employees, or other customers is not publicly accessible". A private, "behind-the-gate" EV charger that is available only to certain companies would not be eligible under this definition (even if "more than one company" has access to the charger).

d. Eligibility of Infrastructure-Related Investments and Site Expansion

As the NEVI Program resumes, it is important to – when appropriate – ensure that funding is allowed towards the expansion of existing charging sites in addition to new locations. Many current facilities are already located in optimal areas for Interstate travelers and demand often exceeds available capacity. Supporting expansion at proven sites will ensure that funds are directed to locations with the highest driver utilization. Similarly, the Agency should permit the use of funds at novel charging sites with more than the minimum required number of chargers.

FHWA should also clarify that the cost of certain infrastructure-related investments that are essential to station reliability are eligible for NEVI funding. Specifically, the Agency should explicitly include charging station canopies – which protect consumers, refueling equipment, and vehicles from the elements – as eligible expenses. The Agency should also allow a variety of charging connector types to be eligible under the NEVI Program. Flexibility with respect to charging technology will future-proof infrastructure investments while fostering competition and innovation within the market. The final Guidance should explicitly identify such infrastructure and technology improvements as eligible uses of funds.

e. Medium- and Heavy-Duty Charging Infrastructure

The Associations are pleased that the Agency is looking to the future by allowing investments in medium- and heavy-duty charging infrastructure under the Guidance. The Associations support the Agency's flexibility to allow refueling infrastructure for heavy-duty vehicles. Fuel retailers are well positioned to meet this emerging demand, just as we have done with light-duty EV charging under NEVI. Allowing medium- and heavy-duty technology to participate under the NEVI Program is an important attribute that will help to future-proof public investments in the years to come.

f. Prohibition on Rest Area Commercialization.

The Agency should continue to uphold and enforce the longstanding federal prohibition on rest area commercialization as part of the NEVI Program. Congress has repeatedly reaffirmed this policy, and FHWA's Guidance appropriately preserves the prohibition on installation of any charging infrastructure at Interstate rest areas. Allowing commercial services at Interstate rest areas would undermine private investment refueling infrastructure and distort the competitive marketplace that the NEVI Program is designed to support. Maintaining this protection ensures that federal investments complement, rather than displace, the businesses that have historically provided safe, convenient, and consumer-friendly refueling services along the Interstate Highway System.

IV. Conclusion.

Thank you for the opportunity to submit these comments. The Associations stand ready to be of any further assistance as the Agency continues to implement the NEVI Program.

Sincerely,

National Association of Convenience Stores (NACS)
NATSO, Representing America's Travel Centers and Truck Stops
SIGMA: America's Leading Fuel Marketers