

Client Alert

White House Touts EV Action Plan; Calls on Industry and Other Stakeholders to Provide Information to Support Buildout of Charging Infrastructure

December 20, 2021

On December 13, 2021, the Biden administration announced several actions to begin the build out of electric vehicle charging infrastructure in support of its goal of transitioning 50 percent of new vehicle sales to electric vehicles by 2030 and in response to the recently enacted Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law).

The White House announced the creation of the Joint Office of Energy and Transportation which, according to the Bipartisan Infrastructure Law, will be responsible for studying, planning, coordinating, and implementing issues of joint concern between the two agencies related to the build out of EV charging infrastructure. The Joint Office is expected to provide technical assistance to support the deployment, operation, and maintenance of zero emission vehicle charging and refueling infrastructure, to advise on generating, storing, and integrating renewable energy into the grid for use by electric vehicles, to develop training and certification programs, and to study, plan, and support high-voltage transmission along the rights of way for the Interstate Highway system.

This announcement further delineated funding opportunities available for government contractors and grantees under the \$1 trillion Bipartisan Infrastructure Law. The announcement provided that \$5 billion would be allocated to states for EV infrastructure and an additional \$3 Billion in federal grants to ensure that charger network meets administrative priorities.

Although the Bipartisan Infrastructure Act's alternative fuel vehicle programs provide support for more than just electric vehicles, including support for hydrogen, propane, and natural gas fueling infrastructure, the White House's announcement does not mention these other fuel sources and focuses just on electric vehicles. For example, the action plan highlights the following initiatives to implement the Bipartisan Infrastructure Law:

Creation of a new Advisory Committee on Electric Vehicles. Pursuant to section 25006 of the Infrastructure Law, the Secretary of Energy and the Secretary of Transportation are responsible for establishing a working group to make recommendations regarding the development, adoption, and integration of light- and medium-duty vehicles into the transportation and energy system within one year of enactment. The working group is to consist of 25 members -- six federal agencies and 19 representing a range of transportation, energy, labor, and community stakeholders -- and to meet at least every four months. The White House's announcement said it is targeting the first quarter of 2022 to complete the process of appointing members to the working group.

EV Charging Equipment Standards: Pursuant to section 11129 of the Bipartisan Infrastructure Law, federal funds may only be used for non-proprietary charging connectors that meet applicable industry safety standards and open access payment methods that are available to all members of the public. Further, the appropriations section of the Bipartisan Infrastructure Law calls on the Department of Transportation, in coordination with the

Department of Energy and in consultation with stakeholders, to issue standards within 180 days of enactment concerning the installation, operation, or maintenance by qualified technicians of electric vehicle charging infrastructure under this paragraph in this Act, the interoperability of electric vehicle charging infrastructure, and network connectivity of electric vehicle charging infrastructure, among other topics. The White House action plan states that the Department of Transportation will publish these electric vehicle charging standards by May 13, 2022.

DOT Guidance on EV Charging Infrastructure. The Infrastructure Law directs the Department of Transportation to issue guidance on the deployment of EV charging stations for recipients of federal funding. On November 29, 2021, the Department of Transportation published [a notice](#) in the Federal Register soliciting public comment on several aspects related to EV charging infrastructure as it develops the required guidance. For example, the notice seeks information about how to connect the charging network to the electric grid and any necessary upgrades to the grid to support the build out, challenges faced by rural or underserved communities, existing incentive programs, interest by potential investors in public-private partnerships, and future market demand for electric vehicles and charging infrastructure. The comment period for this information request closes January 28, 2022. Guidance to states and communities is expected to be issued in February 2022.

EV Supply Chain Review: On November 24, 2021, the Department of Transportation and the Department of Energy published [a notice](#) in the Federal Register seeking public comment on potential supply chain concerns, impacts of “Buy America” requirements, and challenges with the build out of electric vehicle charging infrastructure and the Biden administration’s plans to move the economy toward net-zero emissions. For example, the departments are requesting information about the components that go into charging infrastructure equipment, the sourcing and delivery timelines, the domestic manufacturing capacity for charging equipment, and whether charging equipment currently on the market would meet existing “Buy America” requirements for iron and steel. The comment period for this request closes January 10, 2022.

In addition, the Department of Energy published [a notice](#) in the Federal Register on November 29, 2021, seeking information from stakeholders involved in the supply chains for energy, energy systems and technologies, energy efficiency technologies, processed materials, subcomponents, and end-of-life material recovery and recycling. Although the notice was issued pursuant to Executive Order 14017 (“America’s Supply Chain”), responses to the request for information will inform the Biden administration on potential policies to achieve its greenhouse gas reduction goals in both the energy and transportation sectors. The deadline for responding to this information request is January 15, 2022.

The action plan also notes the Bipartisan Infrastructure Law provides almost \$7 billion in total funding to support the development of a domestic EV battery industry but does not specify timelines for when funding opportunities under these provisions will be announced. Several other provisions of the Bipartisan Infrastructure Law not mentioned in the White House action plan are also expected to be of interest to the automobile industry generally, electric utilities, electric vehicle battery manufacturers, and other parts of the transportation supply chain, including a directive in section 40435 for the Secretary of Energy to issue a report within 120 days on the cradle-to-grave environmental impacts of electric vehicles and a requirement in section 40431 for state utility regulators and non-regulated utilities to begin considering measures to promote greater electrification of

the transportation sector within one year of enactment. While the Bipartisan Infrastructure Law mandates that the National Highway Traffic Safety Administration enact and revise a series of federal safety standards, they did not focus on electrification, nor is electrification safety an emphasis in the White House action plan.

The recent passage of the Bipartisan Infrastructure Law and the Biden administration's release of an electric vehicle action plan are just the beginning steps on the path toward remaking the transportation sector and electric utility generation and transmission systems. The Bipartisan Infrastructure Law includes multiple deadlines for the Biden administration to swiftly build out the nation's charging infrastructure, usually over the course of just months, not years. The recent flurry of announcements and requests for information highlight how important it will be for stakeholders to monitor and engage on these issues moving forward.

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