

100% 'Buy America' Push May Stall EV Charging Supply Chain

By **Linda Chiem**

Law360 (February 13, 2026, 9:58 PM EST) -- A Trump administration proposal that only electric-vehicle charging stations built with 100% American-made components be eligible for federal funds would create compliance land mines and costly logjams in project planning, potentially stalling future investments in the U.S. electric-vehicle supply chain, many experts say.

The U.S. Department of Transportation's Federal Highway Administration on Feb. 10 proposed modifying its waiver of existing Buy America requirements for federally funded electric-vehicle charging stations, boosting the current 55% domestic content requirement to 100%.

Given an EV manufacturing supply chain that still relies heavily on parts from overseas, experts say the proposal sets a lofty — arguably unattainable — standard that, if finalized, would make it far more difficult for EV charging project developers to tap into federal dollars. It also casts doubt on the future of the \$5 billion National Electric Vehicle Infrastructure, or NEVI, program, which the Trump administration has targeted with restrictive policies and guidance that have complicated procurement and left scores of new and already approved EV charging projects in limbo.

"The proposal sends a very loud signal — a market signal," Mona Dajani, global co-chair of Baker Botts LLP's energy sector and its energy, infrastructure and AI teams, told Law360. "It's not a repeal, it's more of a feasibility filter. The federal dollars still exist. But a 100% domestic content rule makes those dollars really hard to access in practice if the compliance supply chain isn't there at scale or if the compliance proof is too burdensome."

"In the real world, what it means is that NEVI projects become procurement and audit driven," Dajani said. "This shifts the gating item from, 'Do we have a site?' [to] 'Can we document, certify and defend ... the build or the materials?'"

Industry stakeholders will have 30 days to comment on the proposal, which the administration has championed as a shot in the arm for American manufacturing and safeguarding national security interests.

But some EV and clean transportation advocates, such as the Sierra Club and BlueGreen Alliance, called it yet another Trump administration maneuver to sabotage the NEVI program. The program was created by 2021's Infrastructure Investment and Jobs Act with the goal of building a nationwide network of 500,000 EV charging stations by 2030. But the Federal Highway Administration in February 2025 suspended the program, then revised its guidance in August, streamlining the eligibility criteria for

the use of NEVI funds.

Multiple states sued the federal government over the abrupt funding freeze. A Seattle federal judge recently voided the FHWA's suspension of the NEVI program, ruling Jan. 23 that the agency overstepped its authority and "defied the will of Congress by withholding funds in a manner not contemplated by the IIJA."

"The key issue here of whether this guts the [NEVI program] really depends on the glide path," Dajani said. "If the FHWA builds in phasing and transition and clear definitions and realistic exceptions, it's an industry policy accelerant. But if it's strict, fast, ambiguous, you'll get money on paper but fewer shovel-ready deployments."

Notably, Build America, Buy America Act requirements were woven into the IIJA, also known as the Bipartisan Infrastructure Law, stipulating that federally funded infrastructure projects must use U.S.-made iron, steel, construction materials and manufactured products.

The FHWA issued a February 2023 public interest waiver from those Buy America requirements specifically for EV charging projects, saying it "applies to all such whose final assembly occurs in the United States and for which the cost of components manufactured in the United States is at least 55 percent of the cost of all components."

That falls within the 55% to 65% range of similar domestic content requirements under other programs and governing statutes, as well as for clean energy tax credits, according to Covington & Burling LLP partner Mike Wagner, who represents contractors in federal and state compliance and enforcement matters in public procurement.

"That specific range is there for a reason because there's been a lot of analysis of the feasibility of sourcing products and components domestically, and there's been a lot of thinking about the way in which to balance the objectives of maximizing domestic production and manufacturing while also accounting for the fact that we live in a world with globally integrated supply chains," Wagner said.

Also interesting here is "what you have, effectively, is a waiver that imposes — at least as it appears in the proposal — a substantially more demanding standard than the baseline from which it is supposedly providing a waiver," Wagner said.

And while the FHWA has always had the authority to review and reassess its waiver, potentially jumping from the current 55% to a 100% domestic content requirement would be jarring, experts say.

"It gives you pause knowing that the clients that I've worked with on the NEVI program have found it challenging to find anything that is fully Buy America compliant with the waiver that's currently in place," said Ann-Therese Schmid, an infrastructure and project development partner who heads Nossaman LLP's Washington, D.C., office. "The real question is going to be in the rub. I certainly hope that domestic manufacturers respond and give a real-world analysis of where the market really is at as being able to comply."

Ultimately, project developers "are being asked to navigate requirements that appear increasingly disconnected from today's supply-chain realities, in the context of an administration that has consistently sought to unwind Biden-era policies supporting EV deployment," said Morgan Lewis & Bockius LLP's Levi McAllister, who heads the firm's electric vehicles working group. "In context, the

administration's approach of first rescinding funding, then reissuing guidance, and now proposing more restrictive requirements, raises serious questions about whether compliance is intended to be achievable at all."

In its notice for public comment, the FHWA reasoned that "we are currently well beyond the timeframe [that] industry predicted would be needed to ramp up capacity and domestically manufacture EV chargers. The supply chain variability of 2023 levels, as articulated by commenters, has leveled off."

The agency added that the "proposal is designed to provide a strong incentive for manufacturers to shift more rapidly toward domestic manufacturing processes. FHWA believes this approach will be effective in fulfilling President Trump's strong commitment to help American businesses and workers compete and thrive in the global marketplace."

But this is a situation where the policy is getting ahead of manufacturing realities, according to Pillsbury Winthrop Shaw Pittman LLP partner Stephen Humes, who advises clients on clean energy project development and finance.

"Unfortunately, we're not there yet ... you can't get 100% domestic sourcing of the 'Level 3' charging because equipment like power electronics, transformers, the liquid-cooled charging cables, display circuit boards, communication modules — those parts of the system are manufactured at scale in Asia or Europe, but not yet produced in sufficient volume in the United States," Humes told Law360.

Moreover, the optimism and momentum for EVs from just a few years ago has become far more muted in the current climate of uncertain consumer demand and shifting policies. And the latest proposal "would likely have a significant chilling effect" on future investments in EV charging infrastructure "as developers may conclude that projects are no longer financeable if federal funding is effectively out of reach," according to Morgan Lewis' McAllister.

The initial intent behind NEVI might've been to spur a "fast and furious" deployment of EV charging stations nationwide, but the "handcuffs have always been a part of this EV charging rollout" by the mere fact that the Build America, Buy America Act requirements were always there, according to Nixon Peabody LLP project finance partner Rudy Salo.

"The reality is, were we ever going to get to 100% without somebody saying, 'Hey, you have to have 100%?'" Salo asked, while also raising the question of whether the "waivers maybe hampered the explosion of manufacturing that was supposed to have come, and now [if the 100% domestic content] is required, maybe some good will come out of this?"

"There could be an argument [where you say], 'No more waivers, we need to build the stuff, and we need to build it now,'" Salo added. "We've got to see how the market's going to react to this because the market's going to do one of two things: It's going to say, 'We need this money from the federal government in order to make our own investments to make this worth it' or the market's going to say, 'Well, we're going to build this stuff with or without federal money because we believe the future is EV.'"

--Editing by Amy French and Kelly Duncan.

