# Reduction of Truck Emissions at Port Facilities (RTEPF) Program Questions and Answers

*Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.*

**Question #1**
Can you please confirm that 23 CFR Part 680 applies to RTEPF? If so, can you please confirm if the following requirements also apply to RTEPF:

a. AC chargers must charge at a rate of at least 6 kW
b. DC charger must charge at a rate of at least 150 kW
c. EVSE installations must have at least 4 ports
d. Chargers must be available for use and accessible to the public at least as frequently as the business operating hours of the site host
e. Minimum 97% uptime
f. Chargers must meet ADA requirements

**Answer #1**
As explained in Section A.1 of the NOFO, the RTEPF Grant Program is a new discretionary grant program aimed at funding projects that reduce port-related emissions from idling trucks, including through the advancement of port electrification and improvements in port operations efficiency. As stated in Section A.2 of the NOFO, any project funded by an RTEPF grant shall be treated as a project on a Federal-aid highway under Chapter 1 of Title 23, U.S.C.

23 CFR 680.102 states: "Except where noted, these regulations apply to… projects for the construction of publicly accessible EV chargers that are funded with funds made available under Title 23, United States Code, including any EV charging infrastructure project funded with Federal funds that is treated as a project on a Federal-aid highway."

As a result, 23 CFR Part 680 generally applies to the use of RTEPF funds for the construction of publicly accessible EV chargers. See answer to question #2 for discussion of the meaning of publicly accessible.

**Question #2**
As the National Electric Vehicle Infrastructure Minimum Standards may apply to EV chargers funded through this program, how can applicants meet public accessibility requirements included in 23 CFR Part 680? Will being open to more than one commercial motor vehicle operator satisfy these requirements as it does for the NEVI Formula Program?

**Answer #2**
As discussed in Answer #1, 23 CFR Part 680 applies to projects for the construction of publicly accessible EV chargers funded with funds made available under Title 23. Publicly accessible means the equipment is available to the public without restriction. A station that is not maintained or restricts access only to customers, tenants, employees, or other consumers is not publicly accessible. Publicly accessible locations may include public parking facilities, parking at public buildings, public transportation stations,

Park-and-Rides, public schools, public parks, private parking facilities available for public use, and visitor centers and other public locations on Federal Lands. See National Electric Vehicle Infrastructure Formula Program Guidance (Update) (dot.gov). Therefore, 23 CFR Part 680 does not apply to the use of RTEPF funds to construct non-publicly accessible EV chargers.

As stated in Section C.3 of the NOFO, eligible project locations for deployment projects using RTEPF Grant Program funds include areas within or adjacent to ports and intermodal port transfer facilities. Applicants should determine whether a proposed EV charger will be publicly accessible or not, based on its location and any restrictions on access.

Note that if an applicant proposes to use RTEPF funds to construct publicly accessible EV chargers in an eligible project location, 23 CFR 680.106(e) requires that those charging stations not located along or not designed to serve users of designated Alternative Fuel Corridors be available for use and accessible to the public at least as frequently as the business operating hours of the site host.

**Question #3**
Will Buy America requirements apply to low emissions (propane) vehicle purchases made under this grant program?

**Answer #3**
Please refer to 23 CFR 635.410 for information on the applicability of Buy America to Federal-aid construction projects. Please also see FHWA's Buy America Q and A for Federal-aid Program for additional details. Note that FHWA applies its Buy America requirements to predominantly steel and iron products and predominantly iron and steel components of manufactured products, even if the product itself is not predominantly steel and iron. Under those requirements, all predominantly steel or iron materials, products, or components delivered to a project site for permanent incorporation into a project using Title 23, U.S.C. funds must have all manufacturing processes, including the application of a coating, occur in the United States. Note that Q&A #36 in the Q and A document linked above states that the coverage for Title 23 eligible projects includes projects that may not have been historically considered to be highway construction (e.g., harbor cranes, bicycle racks, railroad stations, trains, motor vehicles, etc.). Also note that leased vehicles are not considered to be permanently incorporated into a project.

**Question #4**
If an applicant wanted to purchase low emissions (propane) vehicles manufactured in another country (e.g. Germany) would they be required to apply for a Buy America waiver?

**Answer #4**
Please see the references linked in the response above. Note that FHWA applies its Buy America requirements to predominantly steel and iron products and predominantly iron and steel components of manufactured products, even if the product itself is not predominantly steel and iron. Under those requirements, all predominantly steel or iron materials, products, or components delivered to a project site for permanent incorporation into a project using Title 23, U.S.C. funds must have all manufacturing processes, including the application of a coating, occur in the United States. Note that leased vehicles are not considered to be permanently incorporated into a project.

FHWA does have a de minimis exception, however, that allows for the minimal use of foreign steel and iron materials if the cost of such materials used does not exceed 0.1 percent of the total contract cost or $2,500, whichever is greater (23 CFR 635.410(b)(4). Further, an applicant may use the alternate bid provisions described in 23 CFR 635.410(b)(3). Finally, an applicant may request a Buy America waiver when the conditions of 23 U.S.C. 313(b) and Section 70914(b) of the Bipartisan Infrastructure Law (BIL) (Pub. L. No. 117-58) are met.