



August 22, 2022

Submitted via regulations.gov

U.S. Department of Transportation
Docket Management Facility
1200 New Jersey Avenue SE
Washington, DC 20590

**Re: Comments Concerning the National Electric Vehicle Infrastructure Formula Program
Docket Number: FHWA-2022-0008**

The Consortium for Constituents with Disabilities (CCD) Transportation Task Force Co-Chairs thank the Federal Highway Administration (FHWA) for the opportunity to submit comments for the notice of proposed rulemaking (NPRM) regarding electric vehicle (EV) charging stations funded by the National Electric Vehicle Infrastructure (NEVI) Formula Program.

CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance.

The NEVI Formula Program presents an opportunity to advance equity for communities that have been underserved or even harmed by transportation infrastructure. There should be engagement with rural, underserved, and marginalized communities to ensure that diverse views are heard and prioritized, and to ensure that the deployment, installation, operation, and use of EV charging infrastructure achieves equitable and fair distribution of benefits and services. Rural areas have higher rates of people with disabilities.¹ In addition, individuals with disabilities are an underserved and marginalized community. It is imperative that standards consider people with disabilities and include physical, monetary, communication, and data accessibility.

The U.S. Access Board, an independent federal agency that issues accessibility guidelines under the Americans with Disabilities Act (ADA)², Architectural Barriers Act (ABA), Section 504 of the Rehabilitation Act, and other laws, provided a technical assistance document to assist in the design and construction of EV charging stations that are accessible to and usable by people with disabilities.³ The NEVI Formula Program requirements should adhere to the U.S. Access Board's standards. The 2010 ADA Standards for Accessible Design⁴ (2010 Standards) also have technical specifications. The NEVI Formula requirements must follow the accessibility standards to

ensure that EV charging stations are accessible so that people with disabilities can participate in and benefit from the programs, services, and facilities.

The NPRM addresses six areas under Title VIII of division J of the Bipartisan Infrastructure Law (BIL). We provide the following comments in response to the published notice:

(1) Installation, operation, and maintenance by qualified technicians of EV infrastructure

Uniformity, Access Board Standards - The FHWA regulation proposes at least four chargers at each charging station funded by the NEVI Formula Program. We support this proposal and the requirement for uniformity at all EV charging stations. Uniformity provides drivers with disabilities helpful information ahead of time as to what to expect regarding accessibility. The designs that currently exist mean that a particular charging station may not be usable because they do not have space for a wheelchair user. We urge the FHWA to either incorporate into the NPRM or cross reference and adopt the U.S. Access Board Design Recommendations for Accessible Electric Vehicle Charging Stations.⁵

We are concerned that without incorporating the Access Board's Design Recommendations for EV Charging stations into regulations, the charging spaces will be inaccessible and persons with a disability will be boxed in or unable to reenter their car while other cars are being charged. We also urge the FHWA Regulations to require a charging station to serve multiple types of EV's with various vehicle charging inlet locations, and that accessible vehicle charging spaces provide a variety of access aisle locations and charger configurations.

Payment Systems - Touchless payment points must be made accessible for drivers with disabilities. For instance, they may not be placed too high where a wheelchair user could not reach. Along with the height, the angle of the screen and card reader must be taken into consideration. If a person cannot read the screen because of the sun glare, the device will be extremely difficult to utilize. The font and contrast of any electronic messages should be large enough to allow easy reading. Additionally, the U.S. Access Board correctly identifies the triggering of Section 508 of the Rehabilitation Act when payment systems become information and communication technology (ICT). If such payment systems meet the threshold of ICT, they must provide effective communication for persons with sensory disabilities. This could include the ability for a driver to sync their hearing aid with the communication device.

Section 680.106(f) outlines proposed requirements for payment methods used at EV charging stations. The proposed requirements are meant to ensure that payment options are secure, equitable, and accessible. FHWA is not requiring the sole payment method be credit cards to be mindful of the needs of unbanked and underbanked individuals. Individuals with disabilities are more likely to be unbanked and underbanked than people without disabilities.⁶

Accessible payment methods must consider the monetary transaction of funds either in the form of credit or cash to pay for the electric charge received. A pay station could be a separate device at which the customer receives a code to start the designated pump or the individual EV port can also receive funds to engage the delivery of the EV charge. In either case the portal has

to meet access standards that allow a person with a disability to engage independently in the monetary transaction. These devices should have an accessible reach range from a seated position. All operable parts should meet the requirements for an unobstructed side reach, in 2010 Standards §308.3.1, and be no higher than 48” above the clear floor or ground space and no farther than 10 inches away.

Other forms of accessible payment could focus on a subscription and credits that are loaded onto a fob which will deduct the payment simply by placing the fob in the designated spot on the EV charger. Funds can be loaded onto the fob at the pay station device, on home computer, or cell phone as part of subscription or membership.

In addition, fully autonomous vehicles (AVs) will eventually become a part of the EV landscape. When this happens, AVs may be used by riders with a broad range of disabilities, including sensory disabilities. For instance, a rider may be blind and thus could not use a traditional screen and card reader. In this case, audio output will be needed.

Assistance - We also urge the FHWA to add specific assistance provisions to the NEVI Formula Program regulations. Charging stations that are co-located at a traditional self-service gas station should provide assistance to EV disabled drivers in the same manner as required under the ADA guidance for assistance at self-serve gas stations.⁷

Similarly, if entities use NEVI Formula Program funds to build charging stations with staffed lounges and other services, they should be required to provide assistance with handling the charging cables and ports.⁸

Reporting Malfunctions, Issues - Section 680.106(k) outlines proposed requirements that EVs allow for customers to report outages, malfunctions, and other issues with charging infrastructure, by complying with the ADA. Access to customer service for people with disabilities is important to ensure safe and correct operability of the EV charger. This service can be provided in different forms; a technician who is on site who can assist with questions and answers or demonstration and direction as to how to physically engage the EV charger port. Audio customer service via a call button on the EV charger, a call number that connects to a customer service representative, and web-based apps on computer or cell phone that can provide communication, demonstration and instruction. If the driver with a disability is not able to perform the function of re-charging the EV at the EV charging station due to one or more barriers there must be a way to communicate the violation back to the state or local municipality or private entity that governs these charging stations in order to remedy the outage.

A driver must be able to file a complaint under the appropriate law since the charging station is a public accommodation or part of a state program. Reporting on the accessibility of the EV charging station is an important part of customer service and communication. Charging stations can be designed and placed in various locations and on public or private properties. To ensure access the NEVI Formula Program and states and private companies that are awarded funds

must comply with the Design Recommendations for Accessible Electric Vehicle Charging Stations as published by the U.S. Access Board.

Charging Device - The type of connector and charging device must also be considered. There are multiple designs of charging devices: one that is Tesla specific and others that are not. The Access Board recommendations list the various charging devices that currently exist. At least one of these devices has been anecdotally reported to be heavier in weight than other options. This is an important factor to consider for drivers with physical disabilities. If a station only has one charger station, it must include the lighter in weight model. If the station has multiple charging spots, than at least one of the charging spots must include a lighter in weight model, and it would make the most sense to place that model in the spot with the wheelchair accessible access aisle.

(3) Traffic control devices and on-premise signs acquired, installed, or operated

Signage - When creating the requirements for traffic signs, signals, and pavement markings as well as directional and official signs adjacent to interstates and the federal-aid primary system, FHWA must require signage to specifically outline where there are accessible charging stations. Signage must be in compliance with 2010 Standards §216.5. Accessible spaces must be identified by signs with the International Symbol of Accessibility (ISA), under 2010 Standards §703.7.2.1. Signs identifying van spaces must include the term “van accessible.” Signs must be at least 60” high measured to the bottom edge so that they are visible while vehicles are parked in a space. Accessible spaces should have an access aisle, in accordance with 2010 Standards §502.3, and be on an accessible route with stripes.

(4) Data requested related to a project funded under the NEVI Formula Program, including the format and schedule for the submission of such data

Section 680.112(d) would require the creation of a community engagement outcomes report to document, on an annual basis, the community engagement activities conducted in compliance with a state's approved State EV Infrastructure Deployment Plan. This reporting should include engagement activities conducted with local and national disability community members.

(6) Information on publicly available EV infrastructure locations, pricing, real-time availability, and accessibility through mapping applications

Station Public Data, including Accessibility Information - We strongly promote the widespread sharing of station availability, where and what each location specifically provides including the numbers and types of charges, the configuration of access aisles and charger location, the types of connectors, their weight, and whether human assistance is or is not available.

As discussed previously, different charging station designs may or may not accommodate some EV drivers with disabilities. As a result, although uniformity will help to ensure some level of confidence in accessibility, a clear distribution of *real-time* information will enable drivers to know exactly what is available in their area to empower them to make the best decisions. This

information should be shared in multiple forms and venues. This will ensure that as many people as possible will have access to it. Additionally, it is vital that the websites, applications, and other modes of distributing information are in accessible formats and kept up-to-date at all times, and notify customers of malfunctions or if a station is out of service.⁹

The FHWA proposes to establish minimum standards and requirements for chargers to communicate their status with consumers and third-party mapping applications. Included in this list of data is a requirement to identify the number of charging posts accessible to individuals with disabilities at each charging station. The information available must also state whether there are van accessible spaces and whether accessible spaces are available in real-time. This is imperative data to ensure compliance to ADA requirements and reduce consumer anxiety of drivers with disabilities.

Thank you again for the opportunity to comment on this important and emerging topic. If you have any follow-up questions, please reach out to Claire Stanley, Public Policy Analyst, at Claire.stanley@ndrn.org, or 202-567-3501.

Sincerely,

CCD Transportation Task Force Co-Chairs

Sarah Malaier, American Foundation for the Blind

Swatha Nandhakumar, American Council of the Blind

Claire Stanley, National Disability Rights Network

Carol Tyson, Disability Rights Education & Defense Fund

¹ Disability and Health Promotion, Prevalence of Disability & Disability Types, Centers for Disease Control and Prevention, <https://www.cdc.gov/ncbddd/disabilityandhealth/features/disability-prevalence-rural-urban.html>

² Americans with Disabilities Act, U.S. Department of Justice, Civil Rights Division, <https://beta.ada.gov/law-and-regs/ada/>

³ Design Recommendations for Accessible Electric Vehicle Charging Stations, U.S. Access Board, <https://www.access-board.gov/ta/tad/ev/>

⁴ ADA Standards for Accessible Design, U.S. Department of Justice, Civil Rights Division, https://www.ada.gov/2010ADASTandards_index.htm

⁵ Access Board EV Charging Station Design Recommendations, <https://www.access-board.gov/ta/tad/ev/>

⁶ Banking Status and Financial Behaviors of Adults with Disabilities: Findings from the 2017 FDIC National Survey of Unbanked and Underbanked Households and Focus Group Research, National Disability Institute, <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/11/ndi-banking-report-2019.pdf>

⁷ Department of Justice Technical Assistance, Assistance at Self-Service Gas Stations,
<https://www.ada.gov/gasserve.htm>

⁸ Recent articles describe the provision of lounges and EV customer amenities. Refer to the following,
https://www.greencarreports.com/news/1135410_electrify-america-future-ev-charging-stations-solar-lounges-valet; <https://www.autoweek.com/news/a40156968/ev-charging-lounges-plugging-in-experience/>; <https://www.edmunds.com/car-news/charging-stations-for-electric-vehicles-adding-coffee-lounges.html>

⁹ Recent media coverage indicates that broken chargers are currently a common problem,
<https://www.nytimes.com/2022/08/16/business/energy-environment/electric-vehicles-broken-chargers.html>