



August 22, 2022

Submitted via Regulations.gov

Stephanie Pollack
Acting Administrator
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Re: Joint Comments of IBEW and NECA on National Electric Vehicle Infrastructure Formula Program Notice of Proposed Rulemaking and Request for Comments, Docket No. FHWA-2022-0008

Dear Acting Administrator Pollack:

The International Brotherhood of Electrical Workers, AFL-CIO, CLC (IBEW) and the National Electrical Contractors Association (NECA) jointly submit these comments in response to the Federal Highway Administration's (FHWA) National Electric Vehicle Infrastructure Formula Program Notice of Proposed Rulemaking (NPRM) and Request for Comments, Docket No. FHWA-2022-0008.¹

At the outset, we wish to commend the Administration and Congress for establishing the National Electrical Vehicle Infrastructure (NEVI) Program that will award \$7.5 billion to build out a nationwide electric vehicle (EV) charging network. Our organizations enthusiastically support many of the provisions in the proposed rule and commend FHWA for issuing it in the short timeframe provided by the Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58. We are particularly grateful for the efforts made to ensure that the EV charging network is built by a "well-qualified, highly-skilled, and certified, licensed, and trained workforce," to "increase the safety and reliability of charging station function and use and mitigate project delivery issues such as cost overruns and delays."² These recommendations will ensure the "long-term operations and maintenance" of EV charging infrastructure as required by the IIJA³

¹ *National Electric Vehicle Infrastructure Formula Program Notice of Proposed Rulemaking and Request for Comments*, Docket No. FHWA-2022-0008, 87 FR 37262 (June 22, 2022).

² 87 FR at 37266

³ Pub. L. No. 117-58, 135 Stat. 1423.

and are consistent with the IIJA’s directive to the Department of Transportation (DOT) to, in consultation with the Department of Energy (DOE) and other “relevant stakeholders” “develop minimum standards and requirements related to...the installation, operation, or maintenance by qualified technicians of electric vehicle charging infrastructure...”⁴ The IIJA also establishes the Joint Office of Energy and Transportation to address issues of “joint concern” between DOT and DOE, including the “development and deployment of training and certification programs.”⁵ With respect to the implementation of the EV Charging Program, the IIJA gives DOT broad discretion and authority to consider “any other factors, as determined by the Secretary.”⁶

IBEW is a labor organization representing approximately 775,000 active members and retirees who work in a variety of fields including utilities, telecommunications, manufacturing, broadcasting and construction. Approximately 400,000 of IBEW’s active members are employed in the construction industry. IBEW electricians are the most highly skilled, trained and qualified electrical professionals in the world. IBEW members are employed in all facets of electrical construction. They assemble, install, erect, and maintain electrical wiring and conduit, electrical controls, distribution systems, transmission lines, and all types of electrical and power generation equipment.

NECA is a national trade association and the leading voice of the \$202 billion electrical contracting industry that brings power, light, and communication technology to buildings and communities across the U.S. NECA collectively represents over 4,000 electrical contractor members served by 118 local Chapters across the country. NECA employs a unionized workforce with contracts collectively bargained with IBEW.

NECA and IBEW recognize that our collective success is our highly skilled and trained union workforce. In these comments, we will provide our shared recommendations for revisions to the proposed rule that we believe will better serve taxpayers by ensuring that the nation’s first EV charging network is not plagued by cost overruns, delays, and safety issues. We believe these recommendations will respond to the Administration’s goals of ensuring that federal infrastructure investment reduces climate pollution and addressing the climate crisis by harnessing opportunities to create well-paying, union jobs to build a modern, sustainable infrastructure and provide an equitable, clean energy future.⁷

I. The Construction, Installation, Operation, Maintenance and Repair of EV Charging Stations Must be Carried Out by Qualified Electricians

Electric vehicle supply equipment (EVSE) units, commonly referred to as “charging stations,” are “the equipment used to deliver electrical energy from an electricity source (such as

⁴ *Id.* at 135 Stat. 1424.

⁵ *Id.* at 135 Stat. 1425; *see also* 23 U.S.C. 140(b) (DOT may partner with any organization for skill improvement programs).

⁶ Pub. L. No. 117-58, 135 Stat. 1423.

⁷ Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, 86 FR 7619 (Feb. 1, 2021).

electrical outlets),” to plug-in electric vehicles.⁸ EVSE installations must comply with local, state, and national codes and regulations.⁹ As acknowledged by FHWA in the NPRM and the Preliminary Regulatory Impact Assessment, the *only* members of the workforce that are appropriately skilled and trained to safely perform EV charging infrastructure work are *electricians with EVSE-specific training*.¹⁰ We believe that the recommendations below will ensure that the final rule will accurately reflect the IIJA’s statutory intent and FHWA’s goals with respect to an efficient and qualified workforce. Furthermore, these revisions will ensure consistency around quality installation and reliable charging station function and prevent safety issues resulting from a lack of standardized qualifications applicable to the workforce.

Specifically, we recommend that FHWA incorporate the following revisions to proposed Section 680.106(j) into the final rule:

A. Clarify that work must be performed by “qualified *electricians*”

Proposed Section 680.106(j) provides:

“(j) Qualified *technician*. States shall ensure that *the workforce installing, maintaining, and operating EVSE* has appropriate licenses, certifications, and training to ensure that the installation and maintenance of EVSE is performed safely by a qualified and increasingly diverse workforce of *licensed technicians and other laborers*.” (Emphasis added).

NECA and IBEW recommend that the term “qualified technician” be removed entirely from the final rule. “Qualified technician” is not defined, nor does this term appear elsewhere in the text of the proposed rule. Furthermore, within state licensing systems, there is no such title of “*licensed technician*.” Failure to specify in the final rule what craft a “technician” is specialized in will create confusion for the U.S. Department of Labor’s Wage and Hour Division, which is responsible for determining Davis-Bacon Act prevailing wage rates and Service Contract Act wage rates. In addition, the term “technician” is not defined in the North American Industry Classification System (NAICS), Division C: Construction.

We also recommend that the terms used to describe the work performed reflect the full scope of the work classifications provided in the Davis-Bacon Act and the Service Contract Act,

⁸ U.S. DOE, *Plug-In Electric Vehicle Handbook for Electrical Contractors* at 6 (Apr. 2012), <https://afdc.energy.gov/files/pdfs/51228.pdf>.

⁹ *Id.* at 9.

¹⁰ “[...] [T]he proposed rule requires that *all electricians* [...] must be certified in Electric Vehicle Infrastructure Training Program (EVITP) or be a graduate of a registered apprenticeship program for electricians that includes EVSE-specific training and is developed as part of a national guideline standard approved by the Department of Labor in consultation with the Department of Transportation.” (Emphasis added).

See FHWA’s Preliminary Regulatory Impact Assessment of Notice of Proposed Rulemaking at pg. 50, <https://www.regulations.gov/document/FHWA-2022-0008-0002>.

i.e., to include “repairing and altering” within the defined scope of work along with the “installing, maintaining, and operating” of EVSE.

As such, IBEW and NECA urge FHWA to revise proposed Section 680.106(j) to read as follows:

“(j) Qualified *electricians*. States shall ensure that *all electricians constructing, installing, maintaining, repairing and/or operating* EVSE have appropriate licenses, certifications and training to ensure that such work is performed safely by a qualified and increasingly diverse workforce by adhering to the following requirements...” (continued below in recommended revisions to proposed Section 680.106(j)(1)-(5)).

B. Clarify that all electricians must be appropriately qualified and trained

Proposed Section 680.106(j)(4) provides that “[f]or projects requiring more than one electrician, *at least one electrician*” be EVITP certified or be a graduate of a registered apprenticeship program for electricians that includes EVSE-specific training.

FHWA should clarify in the final rule that, as described in the Preliminary Regulatory Impact Assessment, this work must be performed exclusively by appropriately skilled and trained electricians who have received EVSE-specific training. Providing that “*all electricians*” must meet the qualifications listed below will achieve this end.

IBEW and NECA therefore additionally recommend revising proposed Section 680.106(j) as follows:

“...by adhering to the following requirements:

(1) *All electricians constructing, installing, maintaining, repairing and/or operating* EVSE shall meet the following requirements:

- a. Graduation from a “Class A” Registered Apprenticeship Program for electricians that is developed as part of national guideline standards approved by the Department of Labor; ***and***
- b. One of the following EVSE-specific qualifications:
 - i. EVSE-specific training, developed as part of national guideline standards approved by the Department of Labor in consultation with the Department of Transportation, incorporated in their training and related instruction in an electrical Registered Apprenticeship Program; ***or***
 - ii. EVSE-specific training, developed as part of national guideline standards approved by the Department of Labor in consultation

with the Department of Transportation, from an electrical Registered Apprenticeship Program as part of their continuing education or upskilling after successful completion of their registered apprenticeship program; *or*

iii. A certificate of completion from the Electric Vehicle Infrastructure Program (EVITP).

- (2) All other non-electrical laborers performing work directly related to or in support of the ***constructing, installing, maintaining, repairing and/or operating*** of EVSE shall have graduated from a Registered Apprenticeship Program, be apprentices currently enrolled in a Registered Apprenticeship Program, or possess all appropriate licenses, certifications, and training as required by the State.
- (3) For projects requiring more than one total person(s) in the workforce directly ***constructing, installing, maintaining, repairing and/or operating*** EVSE or any other electrical work, at least one member of the workforce must be an apprentice currently enrolled in an electrical Registered Apprenticeship Program.”

Finally, we recommend that FHWA consider and address the applicability of the Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 *et. seq.* to all work described under this section.

C. “Class A” apprenticeship quality standards

As the United States prepares to build out the first EV charging network, it should ensure the workforce is trained in the highest quality of apprenticeship programs. NECA and IBEW recommend that FHWA incorporate “Class A” apprenticeship quality standards into the bidding process. These programs, often referred to as “Class A” registered apprenticeship programs, ensure a quality by producing the highest skilled apprentices and electricians. As such, IBEW and NECA recommend FHWA incorporate the following definition of a “Class A” apprenticeship into the final rule: “A ‘Class A’ Registered Apprenticeship Program must have: a) at least a 65 percent graduation rate for all apprentices during the preceding five years and b) graduated at least 5 apprentices per year during the preceding five years.”

As detailed in IBEW’s January 28, 2022 comments responding to FHWA’s initial request for information on the NEVI program, IBEW and NECA’s joint apprenticeship training program, the Electrical Training Alliance, is the largest private sector trainer of electrical workers in the nation, operating nearly 300 construction training centers nationwide and investing nearly \$200 million in apprenticeship training efforts per year, at no cost to participants or taxpayers.¹¹ In

¹¹ See IBEW Comments on Docket No. FHWA 2021-0022, 86 Fed. Reg. 67782 dated January 28, 2022, <https://www.regulations.gov/comment/FHWA-2021-0022-0385>, responding to the *Request for Information on Development of Guidance for Electric Vehicle Charging Infrastructure Deployment*, Docket No. FHWA 2021-0022, 86 Fed. Reg. 67782 (Nov. 29, 2021).

addition, apprentices earn while they learn, and their compensation packages include health and retirement benefits.

By requiring the utilization of electricians who have graduated from a “Class A” Registered Apprenticeship program and requiring EVITP or other EVSE-specific apprenticeship training, FHWA will ensure a pipeline of qualified electricians are available to perform EVSE work for years to come. Rather than posing significant hurdles to costs, these revisions would in fact *reduce* overall project costs by mitigating project overruns, safety issues and delays – all of which pose major financial risks.

II. Additional Recommendations

A. FHWA Should Adopt Responsible Contracting Requirements

IBEW and NECA urge FHWA to adopt the responsible contracting requirements outlined below to ensure that EV infrastructure is developed by responsible companies and/or contractors that have sufficient qualifications, resources and personnel needed for successful project delivery. In addition, by ensuring that EV developers have the proper certifications to perform work in a given jurisdiction, responsible contractor policies increase the likelihood that local workers will be utilized to perform such work.

IBEW and NECA therefore recommend that the final rule include requirements for subgrantees (including prime contractors and subcontractors at any tier) to adhere to a responsible contractor policy that requires, at minimum:

1. Labor standards compliance self-certification: As part of their application, project owners/contractors and subcontractors at any tier must attest, under penalty of perjury, that they have had no project defaults or law violations of any kind that have resulted in penalties, back pay, etc. over a specified amount (i.e., \$5,000) within the last three (3) years. FHWA should exclude those subgrantees that have been found liable of serial or willful violations.
2. Use of “Class A” Registered Apprenticeship Programs: require contractors to self-certify that they participate in “Class A” Registered Apprenticeship Programs, which will ensure all construction work is performed by appropriately skilled and trained personnel, leading to successful and timely project delivery.
3. Self-certification by project owner/contractor and subcontractors at any tier that they possess all necessary licenses, registrations, certificates or permits as required by applicable state or local law.
4. Self-certification by project owner/contractor that they possess all technical and industry-specific qualifications, equipment, financial resources, and personnel needed to successfully complete the project.

5. Monitoring and enforcement provisions, including disqualification/debarment and penalties for those that submit false or inaccurate information or have been issued:
 - a. Two or more willful or repeated violations of the Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 *et. seq.*, in the last five years;
 - b. Two or more willful or repeated violations of the Fair Labor Standards Act, as amended, 29 U.S.C. § 203, in the last five years; and/or

B. Craft Labor Certification

NECA and IBEW recommend that FHWA require that the prime contractors provide to the State DOT a craft labor certification during the bidding or proposal process in order to be eligible to submit a bid or proposal on the contract.

The craft labor certification should be submitted on a form provided by the FHWA or State DOT and should require the prime contractor to self-certify that it meets the criteria set forth below.

Suggested language for a craft labor certification form is as follows:

1. The project workforce that will be employed for the contract, whether directly by the prime contractor or by subcontractors at any tier, shall be comprised of no less than 70 percent of workers who have successfully completed a registered apprenticeship program.
2. The prime contractor shall provide with the certification a complete list of names and addresses of all registered apprenticeship programs used for the construction craft personnel, whether used by it or its subcontractors for the contract.
3. A subcontractor, at any tier, employed for the contract that is a sole proprietorship subcontractor, shall furnish the prime contractor with sufficient proof that it is a legitimate contracting business, as opposed to an improperly misclassified employee; such proof shall be in the form of business records typically used by subcontracting companies, including general liability or other business insurance certificates, bonding certificates, or contractor licenses or registrations.
4. The prime contractor shall provide a monthly report indicating the total number of persons employed in the project workforce, the number and names of graduates of registered apprenticeship programs, and the number and names of registered apprentices employed for that month on the contract.
5. All agency, contractor and subcontractor records required by this section shall be made available to the public within ten days of a request and shall not be redacted or exempted from disclosure for any reason.
6. The prime contractor shall publish, on a publicly available website, the certifications listed in subsection (2) and the monthly reports listed in subsection (4) within 24 hours from the time they are submitted to the executive agency.
7. The failure of the prime contractor to comply with the requirements of this section shall constitute a material breach of the covered construction contract and entitle the executive agency to all rights and remedies available as provided by federal

law and contract, including but not limited to remedies under the Federal False Claims Act, 31 U.S.C. §§ 3729, *et. seq.*

8. Prime contractors and subcontractors shall be jointly and severally liable for violations of this section.
9. A prime contractor or subcontractor that engages in conduct that results in a violation of these requirements shall, after notice and opportunity to be heard, be deemed non-responsible for purposes of future covered construction projects for a period of not less than three years.

C. Include responsible contracting requirements and craft labor certification to improve transparency in public-private partnership (P3) procurements

IBEW and NECA support the use of Public-Private Partnerships (P3s) as described in the proposed rule and recommend that when a state enters into a P3 agreement for this work, that the private entities be required to adhere to the responsible contracting and craft labor certification provisions detailed above.

D. Additional support for EVITP

As discussed in detail in IBEW's January 28, 2022 comments to FHWA,¹² EVITP is a federally recognized, non-profit, comprehensive training program for the construction and installation of EV charging infrastructure. EVITP provides residential, commercial, and industrial charging infrastructure training. The program is regularly updated with the help of its partner advisors and is currently on its fourth generation of updates. EVITP provides training in the following:

- Level 1 (120V), Level 2 (220V) Residential Charging
- Commercial / Institutional Level 2 Charging
- DC Fast Charging
- Medium Duty (MD) Commercial / Institutional
- Heavy Duty (MD) Commercial & Industrial
- Site assessment and load calculations (core)
- Commissioning
- Wireless Power Transfer Equipment *WPTE* (Inductive Charging)
- EVSE Communications and Networks
- Electric Vehicle Battery Types, Specifications and Charging Characteristics
- Automobile Manufacturer's Charging Performance Integrity Specifications
- Utility Interconnect Policies and Requirements
- Utility Grid Stress precautions including demand response integration technologies
- Role of electrical storage devices as charging intermediaries
- Integration of electric vehicle infrastructure with distributed generation
- Electrical Code and Standards requirements
- Fire protection and OSHA regulations

¹² *Id.*

- Electrical installation standards for ZEV equipment
- First responder safety and fire hazard measures
- Next generation charging
- EVSE maintenance, troubleshooting, and repair
- Startup and commissioning of EVSE systems
- Safety-related work practices related to EVSE installation and maintenance

The EVITP program curriculum is regularly updated to include new technology, products, best practices, and industry norms. The current curriculum, EVITP 4.0, includes DC fast chargers, inductive charging equipment, liquid-cooled conductors, vehicle-to-grid applications and other installation and maintenance best practices.

As detailed in IBEW’s prior comments, EVITP certification requirements have been adopted by numerous local, state, and federal agencies because they have been found to improve safety, performance, and reliability, and reduce liability and risks to people and property.¹³ In addition to the examples noted in IBEW’s prior comments, requirements to use EVITP or EVSE apprenticeship programs have been implemented in California’s Public Utilities Code.¹⁴ DOE has also featured EVITP in two of its “DOE Clean Cities EVSE Guides.”¹⁵

E. Safety recommendations

As discussed in detail in IBEW’s prior comments,¹⁶ electrical construction, particularly the installation of EVSE is an extremely safety-sensitive endeavor. Utilization of an untrained workforce in the buildout of the EV charging network has the potential to be catastrophic, resulting in loss of life, injury, and significant property loss. Without proper training, workers in this high-hazard industry run the risk of electrical shocks, burns and/or electrocution, which is the third leading cause of death in construction.¹⁷ In addition, faulty electrical installations often prove to not only be hazardous, but tremendously expensive, leading to crippling cost overruns for project owners.

The American National Standards Institute (ANSI) is a private, non-profit organization that administers and coordinates the U.S. voluntary standards and conformity assessment system. Founded in 1918, the Institute works in close collaboration with stakeholders from industry and government to identify and develop standards- and conformance-based solutions to national and global priorities.¹⁸ An American National Standard (ANS) is a voluntary consensus standard that

¹³ *Supra* at fn. 11.

¹⁴ CA Pub. Util. Code § 740.20.

¹⁵ See EVITP Comments on California Energy Commission Docket No. 17-EVI-01 dated Aug. 20, 2020, <https://efiling.energy.ca.gov/GetDocument.aspx?tn=234201&DocumentContentId=67042>.

¹⁶ *Supra* at fn. 11.

¹⁷ CPWR, *The Construction Chart Book: The US Construction Industry and Its Workers*, 6th ed., at 43 (Feb. 2018), https://www.cpwr.com/wp-content/uploads/publications/The_6th_Edition_Construction_eChart_Book.pdf.

¹⁸ See <https://www.ansi.org/about/introduction>.

is developed in accordance with the ANSI Essential Requirements: Due process requirements for American National Standards and subject to ANSI's neutral oversight and approval.¹⁹ These requirements are designed to ensure that development of American National Standards is a fair and responsive process that is open to all directly and materially interested parties. IBEW and NECA recommend FHWA adopt ANSI NECA 413-2019, *Standard for Installing and Maintaining Electric Vehicle Supply Equipment (EVSE)*.

FHWA should also seriously consider state, city and municipal implemented regulations, including the coordination of permitting, plan review and inspection processes, since these processes are required in most jurisdictions. In addition, we recommend that FHWA mandate adoption of the most current editions of the following NFPA Codes and Standards:

1. NFPA 25: Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
2. NFPA 70: National Electrical Code
3. NFPA 70B: Recommended Practice for Electrical Equipment Maintenance
4. NFPA 900: Building Energy Code
5. NFPA 13: Standard for installation of Sprinkler Systems
6. NFPA 70E: Standard for electrical Safety in the Workplace

NECA and IBEW recommend that FHWA give strong consideration to the ANSI-accredited quality and performance standards, as they are directly related to the subject matter covered by these comments.

The National Electrical Code (NEC) is the most widely adopted electrical code in the world. The NEC is approved by ANSI and has been sponsored by the National Fire Protection Association (NFPA) since 1911. It is the most complete set of electrical code requirements that govern electrical installations in the interest of safety for persons and property. As explained by the U.S. Department of Energy, “[k]nowledge and application of the current NEC is required for a safe and code-compliant installation.”²⁰ Compliance with the NEC rules results in electrical installations and systems that are essentially free from hazards. The NEC is the minimum set of electrical rules that must be followed for compliance and assurances that occupancies are safe from potential electrical hazards. Successful electrical contractors understand how necessary it is to maintain proficiency in the NEC rules, as it is an inherent part of doing business in the electrical industry.

As such, FHWA should adopt the National Electrical Installation Standards (NEIS) specifically:

1. ANSI NECA 303-*Standard for Installing Closed-Circuit Television Systems (CCTV)*

¹⁹ See <https://www.ansi.org/american-national-standards/ans-introduction/essential-requirements>.

²⁰ *Supra* at fn. 8.

2. ANSI NECA 416–*Recommended Practice for Installing Energy Storage Systems (ESS)*
3. ANSI NECA 417–*Recommended Practice for Designing, Installing, Operating, and Maintaining Microgrids*
4. ANSI NECA 701–*Standard for Energy Management, Demand Response, and Energy Solutions*

F. Requirements for work directly or indirectly supporting a NEVI Program site

IBEW and NECA recommend that the final rule provide that all construction, installation, maintenance, repair and/or operation work conducted in direct or indirect support of a NEVI Program site follow all applicable laws and regulations, including, but not limited to:

1. Subchapter IV of chapter 31 of title 40, United States Code, as amended (hereinafter the “Davis-Bacon Act”);
2. If such NEVI Program site total (direct and indirect) cost is over \$35 million, it should then be required to adhere to Executive Order 14063, Use of Project Labor Agreements (87 Fed. Reg. 7363).

G. FHWA should encourage State DOTs to implement flood mitigation plans including stormwater drainage and flood pump installation to ensure EVSE resilience and reliability in floodplains and during natural disasters

NECA and IBEW recommend that FHWA clarify in the final rule that construction, maintenance, and repair of flood mitigation plans that use NEVI Program funds that directly impacts a NEVI Program installation site are subject to the prevailing wage requirements of the Davis-Bacon Act. In addition, we recommend that FHWA consult with the Secretary of Interior and United States Army Corp best practices on all flood mitigation tactics.

We also recommend that upgrades to grid infrastructure be made in the surrounding areas of proposed port charging stations. NECA and IBEW strongly believe that upgrades to the electrical-service wiring running to a facility, or even certain components of the local distribution infrastructure, will be needed to ensure power to both the proposed port charging station and the surrounding community. While in 2020 there was roughly \$760 million in proposed utility investment,²¹ there remains more to be done to ensure equity power supply throughout the corridors.

Further, we recommend, when possible, the use of off-grid power sources, through distributed (on-site) electricity generation and on-site energy storage. FHWA should consider the use of solar, wind, geothermal energy generation, and other modes of energy generation to help supplement the energy consumption during peak-hours and energy storage to help supplement consumption. This will in turn help mitigate any potential concerns to the grid to surrounding communities, provide a layer of independence to the facility from natural disasters, physical

²¹ See <https://us13.campaign-archive.com/?u=26abb7b630884ef648822201c&id=f452ed1321>.

harm to surrounding power lines, other potential external risks, and provide grid resiliency from cyber-attacks. FHWA should seek the advice of the Secretary of Energy on best practices and Secretary of Labor on the appropriate labor practices when conducting any energy project.

H. Physical and cybersecurity strategies: lighting and fire prevention requirements

To ensure the safety of the consumer at a NEVI Program location, we recommend that State DOTs be required to properly implement sufficient street lighting or parking lighting, Closed-Circuit Television (CCTV) cameras, and fire protection protocols. Street and or parking lighting will provide a clear line of sight to the consumer throughout the NEVI Program funded location to ensure such a person can identify as person(s) that enter the facility. CCTV cameras will also provide additional safety to the consumer and the EV charging equipment from any malicious attempt to alter, destroy or tamper with the EV charging station. There also needs to be adequate fire protection systems separate from any internal mechanism within the EV charging station. This will provide sufficient protection to the EV charging station and consumer when using the EV charging station. We also recommend that FHWA clarify in the final rule that all light fixtures, CCTV cameras, and fire protection equipment being constructed, maintained, and/or repaired be subject to the prevailing wage requirements of the Davis-Bacon Act.

Finally, NECA and IBEW recommend that charging stations should provide broadband or cellular access to customers to collect payment, transmit utilization data, including current charger availability, support remote customer service and firmware updates. We recommend that FHWA should partner with the Federal Communications Commission, Department of Commerce including on the Broadband Equity, Access and Deployment (BEAD) program and other programs to ensure prioritization to charging station sites. This collaboration will help support the customer by allowing for different modes of payment, but also serve an important customer service and communications purpose to ensure the charging port is in proper function. We recommend that all broadband or cellular infrastructure to be added to any NEVI Program site being constructed, maintained, and/or repaired be subject to all prevailing wage requirements of the Davis-Bacon Act. In addition, FHWA should seek the advice of the Secretary of Commerce for best practices regarding the implementation of broadband and wireless technologies.

I. States should be required to maintain EV charging infrastructure in compliance with the final rule indefinitely

Proposed Section 680.106(i) would establish a requirement for States to maintain charging infrastructure in compliance with the provisions of the proposed regulation for at least 5 years. Instead, we recommend that these regulations remain in place indefinitely beyond the 5-year maintenance period.

J. Service, emergency services, and on-call strategies to enhance customer service

The FHWA should require a minimum of two emergency call boxes at each EV charging station that should be monitored by State DOTs to ensure customer safety in case of emergency and protection to the EV charging port(s). The emergency call boxes should be installed by electricians that meet the requirements set forth in Section I. These measures will ensure protection of consumers, EV charging port or station infrastructure, and the electricians working on these projects.

We also recommend that FHWA implement the most current edition of the following National Fire Protection Association (NFPA) Standards:

1. NFPA 1078: Standard for Electrical Inspector Professional Qualifications
2. NFPA 1221: Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems

III. Conclusion

NECA and IBEW urge the Federal Highway Administration to quickly implement the above changes to the final rule for the National Electric Vehicle Infrastructure Program. As FHWA embarks on the first ever EV charging network, proper standards and regulations must be put in place to ensure high-road, quality construction. This new endeavor is of the utmost urgency given the evidence of rapid climate change and increased demand for electric vehicles and electrification of the country. We believe the recommendations provided in these comments will ensure the greatest return on investment for the taxpayer, federal government, and local communities, who will build and reap the benefits of this important federal investment.

Please note that the IBEW's principal point of contact on this matter is Taylor Waites, who can be reached at (202) 728-6046 or Taylor.Waites@ibew.org. NECA's principal point of contact on this matter is Jared Karbowsky, who can be reached at (443) 975-2932 or Jared.Karbowsky@necanet.org.

Signed for IBEW

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Signed for NECA



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