

# Guidance: Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines, EV Charging Stations

## I. Introduction

The U.S. Access Board is proposing to revise and update its accessibility guidelines at 36 CFR 1191 for buildings and facilities covered by the Americans with Disabilities Act of 1990 (ADA) and the Architectural Barriers Act of 1968 (ABA) to address the accessibility of EV charging stations covered by the ADA, as well as EV charging stations owned or managed by or on behalf of the federal government. These guidelines cover new construction and alterations and serve as the basis for enforceable standards once adopted by other Federal agencies. The ADA applies to places of public accommodation, commercial facilities and State and local government facilities. The ABA covers facilities designed, built, altered with Federal funds or leased by Federal agencies. The purpose of this proposed rule is to set minimum guidelines to ensure that EV charging stations are readily accessible to and usable by persons with disabilities, including both physical access to the EV charging station and access to the interface to operate and pay for the charging session. As electric vehicles become more numerous, and with the current effort to increase the number of EV charging stations across the United States, it is imperative that these EV charging stations are accessible to and usable by people with disabilities.

Key accessible features addressed in this proposed rule for EV charging stations include: scoping (including minimum number of accessible EV charging spaces at each EV charging station); accessible routes; mobility features of the EV charger; operable parts; accessibility of the EV charging space; signage; and communication elements and features.

These guidelines, once adopted by the enforcement authorities, will require all new construction of EV charging stations to be fully compliant with the technical specifications for accessibility. Existing EV charging stations will need to be made compliant as they are altered in the future, to the maximum extent feasible if existing physical constraints prevent full compliance.

## II. Legal Authority

The Americans with Disabilities Act (ADA) of 1990 charges the Access Board with developing and maintaining minimum guidelines to ensure the accessibility and usability of the built environment in new construction, alterations, and additions. *See* 42 U.S.C. 12101 *et seq.*; *see also* 29 U.S.C. 792(b)(3)(B) & (b)(10). The Access Board's ADA Accessibility Guidelines (ADAAG) address buildings and facilities covered under Title II of the ADA (state and local government facilities) and Title III of the ADA (places of public accommodation and commercial facilities). The ADAAG serve as the basis for legally enforceable accessibility standards issued by the Department of Justice (DOJ) and the Department of Transportation (DOT), the federal entities responsible for implementing and enforcing the ADA's non-discrimination provisions related to buildings and facilities in new construction, alterations, and additions.

The Access Board has a similar responsibility under the Architectural Barriers Act (ABA) of 1968, which requires that buildings and facilities designed, built, or altered with certain federal funds or leased by federal agencies be accessible to people with disabilities. *See* 42 U.S.C. 4151 *et seq.* The ABA charges the Access Board with developing and maintaining minimum guidelines for covered buildings and facilities. The Board's ABA Accessibility Guidelines (ABAAG) serve as the basis for enforceable standards issued by four standard-setting agencies: the Department of Defense, the General Services Administration, the Department of Housing and Urban Development, and the U.S. Postal Service.

Under both the ADA and the ABA, the Access Board maintains these accessibility guidelines, which includes updating the current requirements and addressing new technology as it is developed.

### III. Need for Accessibility Guidelines for EV Charging Stations

Electric Vehicle (EV) charging stations are becoming commonplace with the rising production and use of electric and plug-in hybrid vehicles. According to the U.S. Department of Energy, there are nearly 50,000 public EV charging stations with almost 127,000 charging ports across the country. Additionally, on November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (P. L. 117-58) (commonly referred to as the “Bipartisan Infrastructure Law”), which contains significant new funding for EV charging stations. Key new U.S. Department of Transportation (USDOT) programs established by this legislation include the National Electric Vehicle (NEVI) Formula Program (\$5 billion) and the Discretionary Grant Program for Charging and Fueling Infrastructure (\$2.5 billion). The law also makes the installation of EV charging infrastructure an eligible expense under the USDOT Surface Transportation Block Grant formula program.

The Bipartisan Infrastructure Law supports national goals of building a network of greater than 500,000 electric vehicle chargers in the U.S. and ensuring that EVs make up at least 50% of new car sales by 2030. *See* Fact Sheet: Biden-Harris Administration Announces New Standards and Major Progress for a Made-in-America National Network of Electric Vehicle Chargers, available at <https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/15/fact-sheet-biden-harris-administration-announces-new-standards-and-major-progress-for-a-made-in-america-national-network-of-electric-vehicle-chargers/> (last accessed, January 4, 2024). Additionally, California's Air Resources Board has approved the Advanced Clean Cars II rule, which requires that 100% of new cars and light trucks sold in California be zero-emission vehicles by 2035. Cal. Code Regs tit. 13 § 1900, *et. seq.* (2023).

With the new funding for the installation of EV charging stations, USDOT approached the Access Board to provide guidance on how to design and install accessible EV charging stations in accordance with the ADA and ABA. On July 21, 2022, the Access Board issued a technical assistance document, *Design Recommendations for Accessible Electric Vehicle Charging Stations*, to assist with the design and construction of accessible EV charging stations. This document laid out the existing ADA, ABA, and Section 508 Standards that applied to EV charging stations and also provided recommendations for areas not covered by the current

Standards. In this rulemaking, the Board intends to specifically address EV charging stations throughout the ADA and ABA Guidelines for buildings and sites to provide clear specifications that will ensure that EV charging stations are accessible to and usable by individuals with disabilities.

The NEVI Standards and Requirements, which sets minimum standards and requirements for projects funded under the NEVI Formula Program and projects for the construction of publicly accessible EV chargers under certain statutory authority, specify that the ADA of 1990 and the implementing regulations apply to EV charging stations by prohibiting discrimination on the basis of disability by public and private entities. 23 CFR 680.118(c). The NEVI Standards and Requirements further specify that EV charging projects under NEVI and projects funded under Title 23 of the Code of Federal Regulations must comply with the applicable accessibility standards adopted by DOT into its ADA regulations (49 CFR part 37) in 2006, and by DOJ into its ADA regulations (28 CFR parts 35 and 36) in 2010. 23 CFR 680.118(c). Additionally, in the preamble to the NEVI final rule, FHWA recommended that EV charging stations be designed and constructed according to the Access Board's technical assistance document, *Design Recommendations for Accessible Electric Vehicle Charging Stations*, until the Board revises the ADAAG to specifically address EV charging stations. 88 FR 12724,12750 (March 30, 2023).