U.S. Department of Transportation
Federal Highway Administration

Memorandum

Subject: **INFORMATION:** Build Out Certification - NEVI Formula Program Guidance

Date: December 11, 2024

From: Emily Biondi
Associate Administrator for Planning, Environment, and Realty

In Reply Refer To: HEPN1

To: Division Administrators

The purpose of this memorandum is to revise the Build Out Certification guidance for the National Electric Vehicle Infrastructure (NEVI) Formula Program.

The content of this memo supersedes Section V-C of the NEVI Formula Program Guidance dated June 11, 2024. There are two revisions to Section V-C of the June 11, 2024 guidance: the "Fully Built Out Criteria" and the "Flexibility after Build Out Certification" sections have been modified to encompass a broader range of stations as "creditable" and to clarify the expansion of eligibility for EV infrastructure projects after build out certification. The remainder of the June 11, 2024, NEVI Formula Program Guidance remains the same except where noted with "**[REVISED]**" below.

As noted in the June 11, 2024 NEVI Formula Program Guidance, 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.

If you have any questions, please contact Will Stein (william.stein@dot.gov) or Suraiya Motsinger (suraiya.motsinger@dot.gov) of the Office of Natural Environment.

Attachment

BUILD OUT CERTIFICATION

A primary objective of the NEVI Formula Program is to establish a national network for EV charging. Initially, funding under this program is directed to designated AFCs towards this objective.

[REVISED] Until FHWA certifies, pursuant to authority delegated by the Secretary, that a State's AFC network is fully built out, NEVI Formula Program funding for construction purposes shall only be used along designated AFCs to construct new EV charging infrastructure and to upgrade existing EV charging infrastructure.

Fully Built Out Criteria

In a State that is fully built out, every designated AFC for EV charging must meet the following criteria:[1]

1. Stations are spaced along all designated EV AFCs at a maximum distance of 50 miles apart and within 1 mile of the designated roadway, except where exceptions have been granted. (See Section III-B for information about discretionary exceptions). All creditable stations must:
    - be publicly accessible[2],
    - include at least four 150kW Direct Current Fast Chargers with CCS ports,
    - be capable of simultaneously charging four EVs at 150kW or above at each port, with a minimum station power capability at or above 600kW, and
    - meet the minimum standards and requirements as described in 23 CFR 680.104, 23 CFR 106(b), 23 CFR 680.106(c), 23 CFR 680.106(d), 23 CFR 680.106(e), 23 CFR 680.106(f), 23 CFR 680.106(g), 23 CFR 680.106(h), 23 CFR 680.106(i), 23 CFR 680.106(k), 23 CFR 680.106(l), 23 CFR 680.108, 23 CFR 680.110, 23 CFR 680.114, and 23 CFR 680.116.
2. Any point along the corridor must be connected via an AFC to a station in each logical direction so that the gap is no more than 50 miles.
3. **[REVISED]** All creditable stations are either (1) operational, (2) contracts for construction have been executed, or (3) notices to proceed have been issued for construction at all sites, or any combination of (1), (2), and (3). While working to fully build out AFCs, States are encouraged to engage communities to begin planning activities beyond their AFCs.
4. All corridor termini must have a station located within 25 miles.

---

[1] **[REVISED]** The FHWA is directed by paragraph (2) under the Highway Infrastructure Program heading in title VIII of division J of the Bipartisan Infrastructure Law (BIL) (enacted as the Infrastructure Investment and Jobs Act) (Pub. L. 117–58) (Nov. 15, 2021) to develop guidance for States and localities to strategically deploy electric vehicle charging infrastructure, including criteria for the States to determine, and FHWA to certify, they are fully built out. The FHWA established this criteria in the June 2, 2023 NEVI Formula Program Guidance which was last updated on June 11, 2024. Section V-C of the June 11, 2024 NEVI Formula Program Guidance is being superceded by this memo.

[2] 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.

- If the continuation of the corridor is not designated as an AFC by the adjacent state, then this corridor should be considered a terminus at the state border (e.g., there must be a station located within 25 miles of the state border.)
- If a designated corridor extends beyond a state's border into an adjacent state, the 50-mile spacing must be maintained along the designated corridor (e.g., one state may have a station greater than 25 miles from their border if the adjacent state has a station along that same corridor less than 25 miles from their border in a manner that maintains the overall 50-mile spacing). If a designated corridor changes names or highway designation along the corridor, this is not considered a corridor terminus.

Fully Built Out Certification Process

In order to have a determination reviewed by FHWA and the Joint Office, States should submit a letter determining their status as fully built out with accompanying maps, tables, and data:

- An overall map of the State highlighting that all designated AFC corridors meet the fully built out criteria.
- Maps of individual designated AFC corridors showing the location of each station and the distance between stations and from the corridor
- A table identifying each station as identified on the corresponding maps. The table should detail and verify all of the information needed to make a fully built out determination (see "Fully Built Out Criteria" preceding). The Joint Office will be available to provide technical assistance to States, however certification rests with FHWA.
- Optionally, States may submit accompanying Geographic Information Systems (GIS) data to include both the designated corridors and the station information.

States are encouraged to submit for certification at the same time as their annual Plan submissions.

Flexibility after Build Out Certification

"If a State determines, and FHWA certifies[3], that the designated AFCs for electric vehicles in the States are fully built out, then the State may use funds provided under the NEVI Formula Program for EV charging infrastructure on any public road or in other publicly accessible locations that are open to the general public or to authorized commercial motor vehicle operators from more than one company."[4]

- 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.
- If the Secretary certifies a State's determination that its AFCs for electric vehicles are fully built out, that certification will apply to obligation of all remaining NEVI

[3] As delegated by the Secretary of Transportation.

[4] Paragraph (2) of the Highway Infrastructure Program heading in title VIII of division J of the BIL.

Formula Program funding authorized through FY 2026. This certification should not be construed as implying that additional State, local, or private sector investment is not necessary or encouraged.

- Stations do not need to be funded by the NEVI Formula Program to be counted towards a fully built out determination, but they must meet the "Fully Built Out Criteria" identified in this section.
- All one-mile and fifty-mile exception requests are considered permanent with a fully built out certification.
- **[REVISED]** After certification of full build out, States may also use NEVI funds for AC Level 2, medium and heavy duty, and off-corridor EV chargers.