



**American
Forest & Paper
Association**



AMERICAN WOOD COUNCIL

**Joint Comments of AF&PA and AWC on U.S. Department of Treasury
Implementation of the Inflation Reduction Act
Clean Energy Tax Incentives**

**Notice 2022-51 (Prevailing Wage, Apprenticeship, Domestic Content, and Energy
Communities)**

November 4, 2022

The American Forest & Paper Association (AF&PA) and the American Wood Council (AWC) appreciate the opportunity to comment on the U.S. Department of Treasury's (Treasury's) implementation of the Inflation Reduction Act (IRA) clean energy tax incentives.

For notice 2022-51 (prevailing wage, apprenticeship, domestic content and energy communities), we recommend that Treasury clarify several of the key terms applicable to the bonus credits.

I. Introduction

AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative, [*Better Practices, Better Planet, 2030*](#) (BPBP2030). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 men and women. The industry meets a payroll of approximately \$55 billion annually and is among the top 10 manufacturing sector employers in 45 states.

AF&PA's sustainability initiative — *Better Practices, Better Planet 2030* — comprises one of the most extensive quantifiable sets of sustainability goals for a U.S. manufacturing industry and is the latest example of our members' proactive commitment to the long-term success of our industry, our communities and our environment. We have long been responsible stewards of our planet's resources.

AF&PA is proud to report that our members achieved most of our 2020 goals. For example, the paper and wood products industry's efficient production and use of energy has contributed to a dramatic decrease in its GHG emissions. The GHG emissions of

AF&PA members were 24.1% less in 2020 than in the 2005.¹ Our member companies have also achieved our 2020 goal of increasing wood fiber procurement from certified forestlands and certified fiber sourcing programs. In addition, AF&PA's 2030 goal to reduce greenhouse gas emissions by 50 percent is consistent with President Biden's 2030 economy-wide goal, and a leading example for the U.S. manufacturing sector.

The American Wood Council (AWC) is the voice of North American wood products manufacturing, an industry that provides almost 450,000 men and women in the United States with family-wage jobs. AWC represents 86 percent of the structural wood products industry, and members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. Staff experts develop state-of-the-art engineering data, technology, and standards for wood products to assure their safe and efficient design, as well as provide information on wood design, green building, and environmental regulations. AWC also advocates for balanced government policies that affect wood products.

II. Background on Treasury's Requests for Comment

On October 5, Treasury issued [requests for comment](#) on potential guidance to implement several aspects of the IRA's clean energy tax incentives, including [energy generation](#), [credit enhancements](#), and [advanced manufacturing](#). In its press release, Treasury notes that the while the public will have further opportunities to provide input, the notices provide an early way for stakeholders to inform Treasury's work on the IRA and help Treasury to provide clarity and certainty related to IRA tax policy.

III. Response to Notice 2022-51 (Prevailing Wage, Apprenticeship, Domestic Content, and Energy Communities) – We Recommend that Treasury Clarify Several Key Provisions Related to Bonus Credits

As we have reviewed the clean energy tax provisions in the IRA, the following questions have arisen. If Treasury could provide clarification on these questions, that would be much appreciated.

- **Apprentice Requirements:**
 - Which definition will be utilized?
 - Does Treasury plan to rely on an existing statutory or regulatory definition, or is Treasury considering proposing a new regulatory definition?
 - Can an apprentice be associated with operational hours in addition to build and install?
 - What are the tracking or reporting requirements?

¹ 2020 AF&PA Sustainability Goals: Achievements Summary, <https://www.afandpa.org/sites/default/files/2022-02/BPBP2020SustainabilityGoalsAchievementsSummary-2-2-22.pdf>, at 4.

- What documentation will be required to show compliance with the apprenticeship requirements? How long must it be retained?
- Regarding Section 45(b)(8)(C)'s requirement that each taxpayer, contractor, or subcontractor who employs four or more individuals must employ one qualified apprentice, is there a required minimum hour threshold of employment or period of time before a qualified apprentice will satisfy this requirement?
- Must all contractors and subcontractors employ at least one qualified apprentice even if less than four employees are employed by that entity?
- Regarding the "Good Faith Effort," please clarify if a request made prior to the beginning of construction would qualify with respect to any work performed during the entire project period of construction (which might span multiple years).
- **Prevailing Wage:**
 - What are the rules to play by?
 - Is Treasury going to require the U.S. Department of Labor (DOL) to add a new line description specific to energy manufacturing so it's clear in all regions?
 - What are the tracking or reporting requirements?
 - What documentation will be required to show compliance with the prevailing wage requirements? Will compliance require disclosure of payroll reports? Will contractors and subcontractors be required to provide certifications of payroll? How long must documents be retained?
 - In the event that the Secretary of Labor updates the prevailing wage rates during a qualified facility's construction, is there a grace period for adjusting the wage rates of laborers and mechanics to meet the updated prevailing wage rates?
 - Additional guidance, cure or good faith exception is needed where there is no set prevailing wage by the federal or local agency for a particular position in a particular industry.
 - Additional guidance is needed regarding beginning of construction requirements (this applies to wage/apprenticeship and all of the energy incentives). Will this be achievable via the following?
 - Spending more than 5% of the total cost of qualifying property in a specified year?
 - Beginning physical work on site (e.g., excavating foundations or beginning construction of equipment unique to the planned facility)?
 - Beginning physical work off site (e.g., beginning work to manufacture equipment that will be integrated into the qualified property)?
 - A program of continuous construction?

- **Domestic Content:**
 - What is the % needed?
 - Is a phase-in process likely or “reasonable good faith?”
 - What are the tracking or reporting requirements?

- **Energy Community:**
 - Are energy communities defined as only brownfields, abandoned mines or closed coal plants?
 - Will there be a mile radius utilized or is it just on the former energy site itself?

- **Low Income Community:**
 - Could Treasury consider adding a mileage radius to the definition of community to reflect the workforce in the surrounding area?

- **Construction:**
 - We are aware of the current requirements for “construction” for energy credits – physical work test, 5% of project cost safe harbor followed by continuous progress. Will those requirements remain the same under the IRA?

IV. Conclusion

Thank you again for the opportunity to provide comments. As noted above, we recommend that Treasury clarify several of the key terms applicable to the bonus credit provisions related to the clean energy tax incentives under the IRA.

If you would like further information, please feel free to contact Jesse Levine at Jesse_Levine@afandpa.org and David Ross at David_Ross@afandpa.org.

Best regards,

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