



October 27, 2022

IRS Request for Comments on Prevailing Wage, }  
Apprenticeship, Domestic Content, and Energy } **Notice 2022-51**  
Communities Requirements Under the Act. }  
Commonly Known as the Inflation Reduction }  
Act of 2022. }

**Comments of the Borough of Forest Hills**

4400 Greensburg Pike  
Pittsburgh, PA 15221

**General Comments:**

The Treasury Department transmittal letter approving the enactment of the Inflation Reduction Act summarized three areas addressed for funding:<sup>1</sup>

In short, the tax provisions of the Inflation Reduction Act close loopholes, invest in our energy and climate future, and make health insurance and prescription drugs more affordable. The corporate minimum tax and carried interest provisions apply to large corporations and investment professionals making \$400,000 or more per year.

The energy security and climate change components of this legislation were summarized as:<sup>2</sup>

The Inflation Reduction Act also invests \$369 billion in energy security and addressing climate change, including through the extension and expansion of many existing renewable energy credits and the creation of new tax credits for investments in clean energy technologies or energy production. It provides consumer tax credits for home energy efficiency improvements and for the purchase of clean vehicles and extends and expands the existing production tax credits and investment tax credits for businesses to support investments in energy storage technologies, renewable energy sources such as solar and wind power, clean vehicles and charging stations, and fuels such as clean hydrogen.

The regulations proposed in this Notice address the specific tax provisions to be incorporated into the implementing regulations.

The Borough of Forest Hills, PA is a suburban community of 6,427 people within the metropolitan area of Pittsburgh, PA.<sup>3</sup> Forest Hills has an annual budget of \$6.9 million, and maintains an AA Bond Rating.<sup>4</sup> The community is located within the air shed affected by industrial and energy operations, although none of these facilities are located within the community. In 2021, 200 out of 365 days were considered not good air quality days.<sup>5</sup> We

experience poor air quality for ozone and particulate (PM2.5) from industrial and energy facilities nearby.<sup>6</sup> Mining for coal took place in Forest Hills between 1864 and 1962; the streams in our community are contaminated with mine drainage, and 40% of the land is subject to landslides. In planning for the future development and resilience of our community Forest Hills adopted a Comprehensive Plan in 2019 with a focus on moving forward with a continued tradition of innovation, following the initiative of Westinghouse research in this community. The Borough built a net zero energy municipal building completed in 2018 to house the administrative offices, community functions room, library, and police station. We see the Inflation Reduction Act as a vehicle for helping to implement our Climate Action Plan with a goal of reaching net zero in climate emissions by 2050.<sup>7</sup> Federal funding to assist homeowners and businesses with energy efficiency measures and adoption of renewable energy resources will have a significant positive impact on reaching our goal. We also see potential for commercial establishments to benefit from the provisions of the Inflation Reduction Act.

**We have four concerns regarding the proposed implementing regulations.**

1. **The definition of “Energy Community Requirements” Sections 45(b)(11), 48(a)(14), 45Y(g)(7), and 48E(a)(3)(A) would exclude Forest Hills because we do not have energy facilities as defined in this regulation within our boundaries.** Nevertheless, we are within the affected area for climate emissions, and 20% of people employed in our community are directly or indirectly associated with the energy industry, mostly at the management or professional level. If it is the intention of the Inflation Reduction Act to stimulate investment in communities, in a region such as ours, the towns and boroughs are small and closely intertwined. A better definition of Energy Communities should reflect the interconnected metropolitan area of Pittsburgh. We are seeking to attract and expand renewable energy and other sustainable businesses to our community. Access to the tax benefits described in this regulation would not be available to businesses or citizens within the current definition of community requirements.
2. **One of the intentions of the Inflation Reduction Act is to attract investment into Energy Communities through “increased credit amounts under §§ 45, 48, 45Y, and 48E for investment in energy communities.”** Since the Borough of Forest Hills is tax exempt, our role in attracting investment for businesses in our community depends on our ability to partner with businesses. Our Climate Action Plans include developing infrastructure to support electric vehicles, both within local government operations, such as police and public works vehicles and to provide accommodation for such infrastructure for the community. All communities within the affected area of past and current high pollution profiles suffer from long term environmental injustice, not only the communities where such facilities are located. Our ability to attract new businesses or to develop new programs for implementing efficiency improvements and renewable energy systems would be hampered if our community is not within the definition established for “Energy Communities.”

3. **Section 45(b)(11)(A) provides an increased credit amount for a qualified facility located in an energy community. The definition of an Energy Community is based on past experience, and past location of energy facilities from the fossil fuel era.** The requirement for Qualified Facilities to be a maximum net output of one megawatt or less is appropriate for small communities. As defined, communities developing a profile for new energy systems such as net zero energy buildings, micro-grids, or eco-industrial parks, would qualify as long as the projects are considered on an individual basis. If plans are successful in adopting renewable energy projects across all sectors, the net total may exceed one megawatt. If the Borough installs energy storage facilities as part of a microgrid for the entire community, the total output may exceed one megawatt. Forest Hills has a land area of approximately 1.5 square miles. Megawatt scale solar installations or wind systems are unlikely here. However, many buildings in the community are suitable for solar installations; all need energy efficiency upgrades, including conversion away from burning natural gas for heat and household use of appliances for hot water and cooking. Such conversions would contribute to achieving the net zero emissions by 2050 goal set in our Climate Action Plan.<sup>8</sup> Converting such uses to electricity generated from renewable energy systems will require direct incentives from the federal government. To address the climate crisis already upon us requires that fossil fuel use be replaced by efficient renewable and sustainable energy systems. Small scale installations can contribute significantly to this effort.
4. **A rule similar to the rule in § 1397C(f) (Enterprise Zones rule regarding the treatment of *businesses straddling census tract lines*), the rules in 26 C.F.R. §§ 1.1400Z2(d)-1 and 1.1400Z2(d)-2 would be beneficial in making a determination for a qualified facility within an energy community.** If the intent is to drive investment in communities through federal tax incentives, the Enterprise Zone definition should not be limited to communities where substantial erosion of the economy has already occurred. The incentives should apply to preventing erosion of the economy. Because renewable energy systems have minimum pollution effects at the point of use, they can be integrated into existing buildings and even within residential areas. The Borough of Forest Hills has the potential to generate the equivalent of one megawatt of electricity, but not at a single facility; installations would be distributed at the point of use and integrated through microgrids managed by linked.

As the final regulations for offering tax credits and tax incentives are put in place, it is important to note that such government subsidies have been extended to the fossil extraction industries for over 50 years. These are no longer emerging industries in need of government incentives, whereas the clean energy industries would benefit greatly from such support. The climate crisis requires rapid, effective, and permanent transformation of the energy system from a fossil fuel base to a renewable, sustainable, and resilient energy **system**. Updating the regulatory infrastructure to drive this transformation is critically important. These tax and investment credit provisions incorporated into law provide part of the regulatory stability that encourages growth

in the renewable energy sector. Jobs studies done in support of the ReImagine Appalachia Blueprint for shared prosperity show that in Pennsylvania alone 243,000 jobs will be generated in the clean economy.<sup>9</sup> This only works if the federal incentives programs can reach every community.

Comments approved by unanimous vote of Borough Council on October 27, 2022.

Respectfully submitted by:

**Patricia M. DeMarco, Ph.D.**

Patricia M. DeMarco, Ph.D. Vice President, Forest Hills Borough Council

### **Endnotes:**

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<sup>1</sup> Internal Revenue Service and Department of the Treasury Notice of Request for Comments No. 2022-51. <https://www.irs.gov/pub/irs-drop/n-22-51.pdf> Accessed October 18, 2022.

<sup>2</sup> Janet Yellin. Transmittal letter to House Speaker Nancy Pelosi. August 2, 2022. <https://home.treasury.gov/system/files/136/Inflation-Reduction-Act-Letter-to-Congress-20220802.pdf> Accessed October 18, 2022.

<sup>3</sup> Forest Hills Borough Comprehensive Plan. November 11, 2019. <https://foresthillspa.org/Document%20Center/Borough-Budget/Comprehensive%20Plan.pdf> Accessed October 18, 2022.

<sup>4</sup> Forest Hills Borough. 2021 Budget and Financial Statements. <https://foresthillspa.org/budget-and-finance-2022/>

<sup>5</sup> <https://censwpa.org/wp-content/uploads/2021/07/NATA-Factsheet.pdf> Accessed October 18, 2022.

<sup>6</sup> Allegheny County Health Department. 2021 Air Quality Annual Review: The Process of Progress. [https://www.alleghenycounty.us/uploadedFiles/Allegheny\\_Home/Health\\_Department/Resources/Data\\_and\\_Reporting/Air\\_Quality\\_Reports/2021\\_AQ\\_Annual\\_Review.pdf](https://www.alleghenycounty.us/uploadedFiles/Allegheny_Home/Health_Department/Resources/Data_and_Reporting/Air_Quality_Reports/2021_AQ_Annual_Review.pdf) Accessed October 18, 2022.

<sup>7</sup> Borough of Forest Hills. Climate Action Plan. December 16, 2020. <https://foresthillspa.org/Document%20Center/Informational-Memos/News%20And%20Events/Climate%20Action%20Plan.pdf> Accessed October 18, 2022.

<sup>8</sup> Forest Hills Climate Action Plan. <https://foresthillspa.org/Document%20Center/Informational-Memos/News%20And%20Events/Climate%20Action%20Plan.pdf>

<sup>9</sup> ReImagine Appalachia. Impacts of the ReImagine Appalachia and Clean Jobs Report for Pennsylvania. PERI Institute. January 2022. <https://reimagineappalachia.org/resources/> Accessed October 18, 2022.