

Comment from Century Aluminum Co.

On behalf of Century Aluminum Co., we hereby submit the following comments in response to the Department of the Treasury's the Internal Revenue Service's request for comments on the prevailing wage, apprenticeship, domestic content, and energy communities requirements under the act commonly known as the Inflation Reduction Act of 2022. Century supports the recent enactment of the Act, which is intended to support domestic manufacturers, businesses, and American workers in the aluminum and other critical domestic industries. Century welcomes the opportunity to submit the following comments to assist Treasury and the IRS in applying the IRA's provisions in a manner that best effectuate the intent of the statute and maximize the benefits provided to the U.S. primary aluminum industry. Please see attached narrative.



November 4, 2022

VIA REGULATIONS.GOV

Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-47)
Room 5203, P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: *IRS-2022-51: Comments of Century Aluminum on Comments on Prevailing Wage, Apprenticeship, Domestic Content, and Energy Communities Requirements Under the Act Commonly Known as the Inflation Reduction Act of 2022*

To Whom It May Concern:

On behalf of Century Aluminum Co. (“Century”), we hereby submit the following comments in response to the Department of the Treasury’s (“Treasury”) the Internal Revenue Service’s (“IRS”) request for comments on the prevailing wage, apprenticeship, domestic content, and energy communities requirements under the act commonly known as the Inflation Reduction Act of 2022 (“IRA”).¹ Century supports the recent enactment of the Act, which is intended to support domestic manufacturers, businesses, and American workers in the aluminum and other critical domestic industries. Century welcomes the opportunity to submit the following comments to assist Treasury and the IRS in applying the IRA’s provisions in a manner that best effectuate the intent of the statute and maximize the benefits provided to the U.S. primary aluminum industry.

As background, Century is the largest remaining primary aluminum producer in the United States, with smelters in Hawesville and Sebree, Kentucky and Mt. Holly, South Carolina. Primary

¹ See *Request for Comments on Prevailing Wage, Apprenticeship, Domestic Content, and Energy Communities Requirements Under the Act Commonly Known as the Inflation Reduction Act of 2022*, Notice 2022-51.

aluminum is of vital importance to the national security, economy and clean energy future of the United States, making it critical that domestic manufacturing capabilities in primary aluminum is maintained. In total, Century employs roughly 2,000 workers and is seeking to expand its operations and hire more, which the IRA's provisions, if implemented as intended, will allow Century and other U.S. primary aluminum producers to do.

The United States was once one of the world's largest primary aluminum producers, with 22 aluminum smelters. The number of operating plants has dwindled from 14 in 2011 to only 5 today, with only one operating at full capacity. U.S. jobs in alumina refining and primary aluminum production fell nearly 60 percent between 2013 and 2016. By the beginning of 2016, every remaining American smelter was slated for closure due to the global excess capacity crisis and collapse in pricing. The Section 232 program has allowed the industry to begin to reinvest and restart. However, the United States still imports a significant portion of its primary aluminum, often from unstable and even unfriendly sources, putting our national security and climate ambitions at risk. The application of the IRA provisions in a manner that supports U.S. primary aluminum producers, including through manufacturing credits and credits to allow for improvements and expansions to smelters, is an important and necessary step to help rebuild and re-shore America's primary aluminum supply chain, and ensure that the United States maintains core manufacturing capabilities in aluminum.

Consistent with the Act and the Administration's policy objectives, Century urges Treasury and the IRS to ensure that all further guidance issued regarding the IRA's implementation, including with regard to the domestic content requirements in the IRA for taxpayers to qualify for bonus credit amounts, serves the goal of increasing the smelting and casting of aluminum in the United States. Century further addresses some of the agencies' specific questions below.

(2) Sections 45(b)(9)(B)(iii) and 45Y(g)(11)(B)(iii) provide that manufactured products that are components of a qualified facility upon completion of construction will be deemed to have been produced in the United States if not less than the adjusted percentage of the total costs of all of such manufactured products of such facility are attributable to manufactured products (including components) that are mined, produced, or manufactured in the United States.

(b) Does the determination of “total costs” with regard to all manufactured products of a qualified facility that are attributable to manufactured products (including components) that are mined, produced, or manufactured in the United States need further clarification? If so, what should be clarified? Is guidance needed to clarify the term “mined, produced, or manufactured”?

With regard to the IRA’s provision regarding “manufactured products (including components) which are mined, produced, or manufactured in the United States,” Century believes that further clarification would be helpful with regard to the interpretation of this phrase as it relates to aluminum and aluminum products. Aluminum and aluminum eligible components are “manufactured products.” For aluminum and aluminum eligible components to be considered “mined, produced or manufactured in the United States,” the agencies should specify that the aluminum must have been smelted and cast² in the United States. While Century believes that a smelted-and-cast requirement for aluminum is clear from the terms “produced” or “manufactured” in the United States, explicit clarification of this point will remove any confusion and prevent attempts to disguise foreign-origin aluminum as meeting the domestic content standard.

A failure to require that primary aluminum be smelted and cast in the United States would have the unintended effect of encouraging the import of foreign aluminum, seriously harm an already injured U.S. aluminum industry, and directly undermine the IRA’s and the

² By “cast,” we refer to the process by which unwrought unalloyed aluminum is alloyed.

Administration's goals of creating "a clean energy boom that's made in America" by American workers.³

- (c) Does the term "manufactured product" with regard to the various technologies eligible for the domestic content bonus credit need further clarification? If so, what should be clarified? Is guidance needed to clarify what constitutes an "end product" (as defined in 49 C.F.R. 661.3) for purposes of satisfying the domestic content requirements?**
- (e) Does the treatment of subcomponents with regard to manufactured products need further clarification? If so, what should be clarified?**

Century believes that the identification of certain examples of "end products," and the components and subcomponents that comprise those products, could provide helpful clarification of the requirements for satisfying the domestic content provisions. Defining "end products" too broadly (to include, for example, an entire electricity generation system) could have the unintended effect of significantly lessening the impact of the domestic content requirements, by resulting in the classification of many of the products utilized as only "subcomponents." Thus, for example, the aluminum cables to transmit the electricity generated by wind towers or solar modules onto the grid should themselves be defined as a manufactured end product, for which the aluminum must be smelted and cast in the United States to qualify as U.S.-produced.

³ *Remarks by President Biden on the Bipartisan Infrastructure Law {and Inflation Reduction Act}*, The White House (Oct. 19, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/10/19/remarks-by-president-biden-on-the-bipartisan-infrastructure-law-6/>.

* * *

Thank you in advance for your consideration of these comments and please do not hesitate to contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Robert E. DeFrancesco, III

Alan H. Price, Esq.

Robert E. DeFrancesco, III, Esq.

Laura El-Sabaawi, Esq.

Counsel to Century Aluminum Co.