

Comment from Encore Renewable Energy

Encore Renewable Energy (Encore) appreciates the opportunity to provide these comments on the Internal Revenue Service's (IRS) 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 (Oct. 5, 2022). Proper and timely guidance will support our company's efforts to accelerate the deployment of solar and energy storage projects across the United States.

Encore is a full-service community-scale renewable energy project development company, with a proven track record in advancing projects from concept to completion. As a values-led commercial solar and storage project development company, we specialize in reclaiming undervalued real estate for clean energy generation and storage, helping us to revitalize communities and create a cleaner, brighter future for all. We have a well established track record in brownfield redevelopment and welcome the opportunity to accelerate this preferred type of site for solar and energy storage development.

Solar and related storage must be built at four times the current rate in order to meet critical climate goals. This is a massive undertaking that needs clear, explicit, and implementable guidance from the Treasury. The following guidance from the IRS related to domestic content and energy communities are the most important for our company to receive in a timely manner and will have the most significant impact on our 400MW pipeline going forward.

Full comments are attached via pdf.



Submitted via Regulations.gov

Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-51)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: "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 (Oct. 5, 2022)

INTRODUCTION:

Encore Renewable Energy (Encore) appreciates the opportunity to provide these comments on the Internal Revenue Service's (IRS) 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 (Oct. 5, 2022). Proper and timely guidance will support our company's efforts to accelerate the deployment of solar and energy storage projects across the United States.

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DOMESTIC CONTENT:

Developing a domestic supply chain is critical to successfully transition to a clean energy economy. Relying on a global supply chain leaves the US vulnerable from an energy security standpoint and creates increasing market volatility in the form of supply chain disruptions and delays, price fluctuations and potential human rights violations. As we look to transition to utilizing more domestic content across our projects over the next two years, there remains a need to source some materials abroad in addition to manufacturing imported materials domestically. Further guidance on these standards will be critical in allowing us to procure the necessary components to deliver projects on a timely basis in order to meet the growing demand for reliable and affordable clean energy in the face of increasing climate disruption.

- The Secretary has the discretionary authority to issue exemptions for these domestic content requirements, it is unclear what type of documentation is required to demonstrate that relevant steel, iron, or manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality to qualify for this exemption. What level is defined as sufficient in terms of supply? Is demonstrating an increase of costs beyond the 25% threshold identified or shipment delay beyond a certain timeframe sufficient to qualify for the exemption or will further documentation be needed? Also, as the domestic capabilities ramp up, will there be a limit to the number of these exemptions?
- Further clarification on the domestic content requirements for subcomponents that require additional domestic manufacturing is needed. Clear and concise definitions are needed to determine what is recognized as a Qualified Facility.
- With regard to U.S. iron or steel –clarification that indicates that U.S. iron or steel requirements apply to structural or load bearing materials and should not apply to steel or iron used as components or subcomponents of manufactured products.
- When creating cost thresholds such as the 25% cost increase that qualifies for a domestic content exemption, it's important to consider total costs that include both manufactured products and materials made primarily of iron or steel.

ENERGY COMMUNITIES:

With the appropriate guidance the IRA has the potential to put solar projects that were previously not financeable or not competitively priced from a PPA standpoint on a level



playing field with greenfield sites and should help to steer renewable energy development towards these previously developed, but currently underutilized properties. Our extensive experience in this market shows that the general public is strongly supportive of redeveloping these properties for solar and increasingly energy storage.

- Set clear guidelines on what counts as a brownfield site and how the expanse of a brownfield site is determined for the purposes of defining an energy community.
 - There remains some ambiguity and discussion around closed and capped landfills and whether these properties qualify as a brownfield under the incentives outlined in the IRA. For example, the definition of a brownfield under CERCLA includes exclusions, which reference to “a land disposal unit”. There also remain questions around the interpretation of landfills being classified as brownfields that includes a "commercial use" test, ie, a site is a brownfield if commercial uses are complicated on that site (due to contamination). This interpretation would indicate that active landfills still have commercial use so therefore not a brownfield. But closed and capped landfills do not have viable commercial use so their assertion is that closed and capped landfills would be brownfields.
- Additional clarity on the ultimate determining agency is needed for new energy community determination. The IRS should work with the EPA to set clear guidelines on what counts as a brownfield site and how the expanse of a brownfield site is determined for the purposes of defining an energy community.