



November 4, 2022

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, October 5, 2022

Company Overview

Enphase Energy, Inc. (Enphase) is a global energy technology company and the world's leading supplier of microinverter-based solar-plus-storage systems. Enphase was founded in 2009 and is headquartered in Fremont, California. Enphase delivers smart, easy-to-use solutions that connect solar generation, storage, and energy management on one intelligent platform. Its semiconductor-based microinverter system converts energy at the individual solar module level and brings a system-based high-technology approach to solar energy generation, storage, control, and management. Since inception, Enphase has shipped more than 52 million microinverters, and over 2.7 million Enphase-based systems have been deployed in more than 145 countries.

Enphase Energy's 2023 US Manufacturing Plans

On October 25, 2022, Enphase announced publicly it is working with three contract manufacturing partners to establish domestic manufacturing in the United States. Similar to other Silicon Valley technology companies, Enphase has developed a technology platform and installer network to service a global customer base, and relies on contract manufacturing partners around the world to rapidly expand manufacturing capacity to meet the growing demand. As a result, Enphase has made investments in equipment and full-time employees at our contract manufacturing partner facilities.

Given these investments, the highest priority items for Enphase are Treasury clarification on:

- 1) The definition of domestic manufacturing for eligibility under Section 45X of the Internal Revenue Code (IRC) as it relates to the Advanced Manufacturing Production Tax Credit (AMPTC),
- 2) AMPTC credit eligibility when partnering with contract manufacturers, and
- 3) Direct pay eligibility under Section 45X of the IRC

Therefore, Enphase requests expediency in providing clarification on issues germane to our domestic manufacturing expansion plans by the end of December 2022 in order to move forward with purchasing and hiring decisions.

Definition of Domestic Manufacturing for Eligibility Under Section 45X

Question 1(a) under Section 3.03 (i.e., Domestic Content Requirement) asks "what regulations, if any, under 49 C.F.R. 661 (such as 49 C.F.R. 661.5 or 661.6) should apply in determining whether" domestic



content requirements are satisfied. Enphase believes that 49 C.F.R. § 661 and related Federal Transit Administration Guidance letters and other interpretation of these regulations govern the application of the domestic content provisions under the Inflation Reduction Act (IRA). Indeed, IRC 45(b)(9)(ii), created under the IRA specifically references 49 C.F.R. 661.5 in relation to the domestic content bonus tax credit. Therefore, to look beyond 49 C.F.R 661 is unnecessary and would frustrate congressional intent.

In addition, 49 C.F.R. 661.3 should be used to determine what qualifies as domestic manufacturing. This definition has been well understood for decades and as stated “means the application of processes to alter the form or function of materials or elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.” Furthermore, the Solar Industries Energy Association (SEIA) supports Enphase’s position that 49 C.F.R. 661.3 should be used to determine what qualifies as domestic manufacturing.

Therefore, Enphase requests that Treasury provide clarification that the definition of manufacturing process set forth in 49 C.F.R. 661.3 governs the application of the IRA’s domestic manufacturing provisions under Section 45X.

Enphase appreciates the Department of the Treasury’s efforts to seek stakeholder input as they implement the IRA. The establishment of a domestic manufacturing presence for microinverters will support job creation, mitigate against technology transfer and cybersecurity risk, and enable the United States to build a strong U.S. clean technology base with a leading U.S. technology company. Thank you for the opportunity to provide these responses and Enphase looks forward to continuing to work with you on implementation of this and other key provisions of the IRA. If you have any questions, please contact Jason Simon, Head of Policy, Enphase Energy, at (415) 583-6043 or jsimon@enphaseenergy.com.

Sincerely,

A handwritten signature in blue ink, appearing to be "LH", written in a cursive style.

Lisan Hung
Vice President, General Counsel and Corporate Secretary