



MARQUIS
ENERGY

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November 4, 2022

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

RE: Notice 2022-51, 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

To whom it may concern:

Thank you for the opportunity to provide feedback on the Department of Treasury's request for comment regarding prevailing wage and apprenticeship provisions of the Inflation Reduction Act. Marquis Energy has a long history of driving innovation in biofuel production with a diverse portfolio of multi-generational, family-run companies focused on continual innovation in creating a sustainable world. Marquis Energy is located in Hennepin, Illinois, a rural community more than 120 miles southwest of Chicago. Marquis is leading by example with a goal of becoming a carbon-neutral industrial complex by 2030. Today, Marquis is the largest dry-mill ethanol facility in the world, producing 400 million gallons annually. Marquis is creating a circular carbon economy with the production of sustainable fuels and clean hydrogen and ammonia, with a goal of decarbonizing aviation, agriculture, and marine transportation. Located on the Mt. Simon geological formation, the Marquis facility has the capacity to sequester over 100 million tons of carbon dioxide using carbon capture technology.

Like many other rural-based ethanol producers, Marquis is the largest employer in our county and takes pride in offering good-paying jobs to the community. With our feedback below, we highlight areas where we believe we need more guidance to properly prepare for compliance with the Inflation Reduction Act's prevailing wage and apprentice requirements.

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01 Prevailing Wage Requirement

(1) Is guidance necessary to clarify how the Davis-Bacon prevailing wage requirements apply for purposes of § 45(b)(7)(A)?

- Yes, additional clarification is needed for guidance in the allocation of prevailing wage under the Davis-Bacon requirements.
- We ask for clarification on the classification of employees in the correct wage-determination job category for work that may be novel or new in an area.
- We seek definitions of work areas such as those associated with emerging “green” technology and construction in how that is regulated under the requirements.
- We ask for definition and specific guidance on when “construction” is completed and what type of work constitutes “alteration” or “repair”.

(2) Section 45(b)(7)(B)(i) generally provides a correction and penalty mechanism for failure to satisfy prevailing wage requirements. What should the Treasury Department and the IRS consider in developing rules for taxpayers to correct a deficiency for failure to satisfy prevailing wage requirements?

- Treasury and IRS should consider the IRA will likely involve taxpayers that are new or inexperienced with prevailing wage requirements.
- Treasury and the IRS should convey concise rules for correcting any deficiencies and rebutting alleged deficiencies.
- The Treasury Department should allow adequate time to cure any proven violations.

(3) What documentation or substantiation should be required to show compliance with the prevailing wage requirements?

- We ask that the documentation and substantiation requirements be straightforward and consider that some workers will be engaged in novel or new types of work in connection with new technology.
- Guidance is sought on what, if any, separate documentation is required to be obtained from taxpayers from their contractors or subcontractors to show compliance with prevailing wage requirements.

(4) Is guidance for purposes of § 45(b)(7)(A) needed to clarify the treatment of a qualified facility that has been placed in service but does not undergo alteration or repair during a year in which the prevailing wage requirements apply?

- We ask for the distinction between “alteration/repair” and “routine or on-going maintenance” after the construction at the facility has been completed.

- Furthermore, guidance on how the distinction provided above can be made and whether, and how, it needs to be documented.

02 Apprenticeship Requirement

(1) Section 45(b)(8)(C) What factors should the Treasury Department and the IRS consider regarding the appropriate duration of employment of individuals for construction, alteration, or repair work for purposes of this requirement?

- Construction of new “green” facilities will potentially involve novel and new technology and work requirements- the availability of laborers and also qualified apprentices, especially in rural areas, should be taken into consideration.
- Furthermore we ask the Treasury Department and IRS to consider potential limitations when determining the duration of employment for any apprentices.
- Guidance should also recognize that in some areas (especially rural areas with a low population base and disadvantaged communities), taxpayers may have difficulty ensuring compliance when there is a limited number of qualified apprentices.
- We ask for guidance on duration that takes into consideration the burden or challenge in ensuring compliance faced by employers or taxpayers located in disadvantaged or rural areas with low availability of qualified apprentices.
- We ask that guidance not disincentivize projects or make the projects infeasible.

(2) Section 45(b)(8)(D)(ii) provides for a good faith effort exception to the apprenticeship requirement.

(a) What, if any, clarification is needed regarding the good faith effort exception?

- Clarification on what constitutes a “denial” by the registered apprenticeship program and what constitutes the taxpayer’s “refusal” to comply.
- We ask for established standards and requirements of the registered apprenticeship program.
- We seek clarification on the second prong of the exception, which contemplates the registered apprenticeship program’s failure to respond within 5 days.
- Provide guidance on whether there is a continuing obligation for the taxpayer to re-engage with the registered apprenticeship program. What happens if the program responds after 5 days?

(b) What factors should be considered in administering and promoting compliance with this good faith effort exception?

- Consideration (and perhaps flexibility) needs to be afforded to the new and novel technology associated with “green” projects and construction.
- Flexibility should be afforded to employers or taxpayers located in disadvantaged or rural communities with limited availability of qualified apprentices.

(c) Are there existing methods to facilitate reporting requirements, for example, through current Davis-Bacon reporting forms, current performance reporting requirements for contracts or grants, and/or through DOL’s Registered Apprenticeship Partners Information Management Data System (RAPIDS) database or a State Apprenticeship Agency’s database?

- The RAPIDS program, to the extent it can be customized for the taxpayer’s situation, should facilitate the reporting requirements.
- Reporting requirements and forms should be accessible in an online program, including an option for online submission of forms to establish and monitor compliance.

(3) What documentation or substantiation do taxpayers maintain or could they create to demonstrate compliance with the apprenticeship requirements in § 45(b)(8)(A), (B), and (C), or the good faith effort exception?

- A process or approach modeled on the USDOL Registered Apprenticeship Program Standards would be manageable.
- A standard form that can be provided by employers/taxpayers to their contractors and subcontractors would also be beneficial.

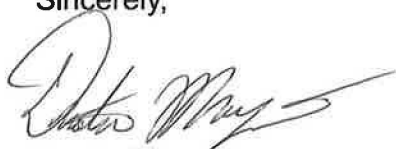
(4) Please provide comments on any other topics relating to the apprenticeship requirements in § 45(b)(8)(B) that may require guidance.

- Is the applicable percentage of total labor hours for qualified apprentices and apprentice-to-journey worker ratio based on an assumption that there are sufficient available apprentices? What if the taxpayer can only partially comply with the percentage and ratio requirements based on the number of available qualified apprentices in their area (especially rural or disadvantaged areas)? Does the Treasury and IRS expect an “all or nothing” approach – the taxpayer either complies completely or not at all and must seek a good-faith exception for non-compliance? Or will the Treasury Department and the IRS adopt some sort of modified requirements for rural or low-population areas that have a limited number of qualified apprentices?

Marquis looks forward to working with the Department of Treasury in its implementation of the IRA. We have provided comments based on the questions asked and request an opportunity to review and provide additional feedback on the draft guidance prior to its

finalization. We also look forward to the opportunity to provide additional feedback on other aspects of the Inflation Reduction Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Dustin Marquis", with a long horizontal flourish extending to the right.

Dustin Marquis
Director of Government Relations
Marquis Energy