

Inflation Reduction Act of 2022 (IRA) Resource



HIGHLIGHTS

Clean Energy & Climate Solutions Federal Funding Database

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Wilson Sonsini's Clean Energy and Climate Solutions Federal Funding Database lists federal funding opportunities covering nine categories—from batteries and biofuels to solar and wind.

OVERVIEW

Since the passage of the Inflation Reduction Act of 2022 (IRA), the United States' largest climate bill to date, the Wilson Sonsini Energy and Climate Solutions team has worked to integrate into the fabric of our legal services the IRA's sometimes complex programs for the distribution of billions of dollars in new and re-authorized tax credits and other non-dilutive capital.

Our Energy and Climate Solutions attorneys—several of whom have prior government experience—have continuously provided insights and analysis of the bill for clients and various nonprofits. The implementation of this once-in-a-generation piece of legislation by the Department of the Treasury, Internal Revenue Service, Department of Energy, and other federal entities is complex and constantly evolving. In order to provide a comprehensive set of resources related to IRA implementation, we are pleased to bring together our publications, client alerts, webinars and speaking engagements, our IRA implementation tracker, and our clean energy federal funding database.

We endeavor to provide Wilson Sonsini clients with actionable insights that help unlock the benefits for solar and wind; batteries and energy storage; carbon capture, use, and sequestration (CCUS); industrial decarbonization; EVs and charging infrastructure; hydrogen; nuclear; advanced manufacturing, and energy efficiency. Please consult with your Wilson Sonsini contact for additional guidance or questions on these matters.

INSIGHTS AND RESOURCES

Solar, Wind, Energy Storage, and More

- [Alert | Treasury and IRS Release Long-Awaited Proposed Regulations on Section 48 Investment Tax Credits, December 1, 2023](#)
- [Alert | Treasury and IRS Release Proposed Regulations Regarding the Prevailing Wage and Apprenticeship Requirements, September 6, 2023](#)
- [White Paper | Solar, Wind, and Energy Storage Incentives in the Inflation Reduction Act of 2022, August 20, 2023](#)
- [White Paper | Claiming the Domestic Content Bonus Credit under the Inflation Reduction Act of 2022, August 20, 2023](#)
- [Alert | IRS Releases New Proposed Rules for the Low-Income Communities Bonus Credit for the Investment Tax Credit, June 7, 2023](#)

- [Alert | IRS Releases Preliminary Guidance on the IRA Energy Community Bonus Credit, April 6, 2023](#)
- [Alert | U.S. Treasury and the IRS Issue Request for Public Comments on Energy Tax Provisions in the Inflation Reduction Act, October 20, 2022](#)
- [Alert | Inflation Reduction Act Signed into Law: Important Tax Provisions and Energy Incentives You Need to Know, August 16, 2022](#)
- [Alert | Understanding and Unlocking the IRA and Clean Energy & Climate Solutions Federal Funding Opportunities, August 16, 2022](#)

Clean Hydrogen

- [Alert | Treasury and IRS Propose Supplemental Notice Regarding Clean Hydrogen Production Tax Credit Regulations, April 17, 2024](#)
- [Alert | Treasury and IRS Release Proposed Regulations on Section 45V Hydrogen Production Tax Credit, January 2, 2024](#)

Electric Vehicles and Charging Infrastructure Resources

- [Alert | Treasury and IRS Release Notice of Forthcoming Proposed Regulations on Section 30C Alternative Fuel Vehicle Refueling Property Credit, January 26, 2024](#)
- [Advisory | Inflation Reduction Act of 2022: Electric and Clean Vehicle and Alternative Refueling and Charging Tax Credits, September 1, 2023](#)

Advanced Manufacturing

- [Alert | Treasury and IRS Release Proposed Regulations on Section 45X Advanced Manufacturing Credit, December 20, 2023](#)

Tax Credit Monetization Resources

- [Alert | Treasury and IRS Release Proposed and Final Regulations on Direct Pay Elections, March 12, 2024](#)
- [White Paper | Opportunities for Financing Renewable Energy Projects Using the Direct Pay and Transferability Regimes under the Inflation Reduction Act of 2022, August 20, 2023](#)

IMPLEMENTATION TRACKER

Last Updated: April 8, 2024

IRA Implementation Tracker: Since the passage of the IRA, the Internal Revenue Service (IRS) and the Department of the Treasury (Treasury) have provided certain proposed, temporary, and final regulations, as well as other forms of guidance, on the tax credits included within the bill. The status of the guidance across each tax credit is continually evolving. In an effort to provide Wilson Sonsini clients with an overview of where each credit and bonus credit are regarding their implementation, below we provide an “**Overall Implementation Status**” under each credit to reflect what guidance has been issued as of the date reflected above and indicate what is further expected.

As a general matter, taxpayers may rely on issued temporary guidance from the IRS (which comes often in the form of “Notices”), even though future, final regulations will be issued that may contradict old, temporary guidance, notices, or regulations. At the time final regulations are issued (if they are issued), those final regulations will control. Please note that some tax credits that were extended and modified under the IRA were previously authorized; accordingly, some previously-issued guidance and regulations may still be applicable. Please consult Wilson Sonsini regarding specific questions of applicability of previous, interim, or temporary guidance.

Multiple Technologies Including Solar, Wind, and Storage: Code Sections 48, 45, 48E, and 45Y (ITC/PTC)

- **General**
 - [Notice of Proposed Rulemaking](#) (Published November 22, 2023, provides proposed regulations pertaining to types of energy property eligible for the ITC, clarifies new transfer rules and recapture rules for failure to satisfy prevailing wage and apprenticeship requirements, qualified interconnection costs, 80/20 repowering rule, and more. Comments are due by January 22, 2024).
- **Prevailing wage and apprenticeship bonus credit**
 - [Overall Implementation Status](#): Initial guidance and a notice of proposed rulemaking (NPR) released, awaiting final regulations. The comment period closed on October 30, 2023; however, comments have been submitted to date requesting an extension of the comment deadline. Please see “Cross-Cutting Guidance” for list of tax credits that this same prevailing wage and apprenticeship guidance is applicable to.
 - [Notice of Proposed Rulemaking](#) (Published August 30, 2023, the NPR provides proposed regulations for implementing the prevailing wage and apprenticeship bonus credit, including substantiation and record-keeping requirements, exceptions, and other matters)
 - [Notice 2022-61](#) (Initial Guidance, November 30, 2022)
- **Domestic content bonus credit**

- **Overall Implementation Status:** Initial guidance released, awaiting proposed regulations beyond this initial guidance.
 - [Notice 2024-9](#) (Exception for Applicable Entities for Elective Payment Projects, December 28, 2023; announced forthcoming proposed regulations to be issued on the application of the domestic content requirements to taxpayers using direct pay to monetize PTCs and ITCs from certain renewable energy projects and exceptions to complying with such requirements in certain cases)
 - [Notice 2023-38](#) (Initial Guidance, May 12, 2023)
- **Energy communities bonus credit**
 - **Overall Implementation Status:** Initial guidance released, Notices issued for certain tax years, proposed regulations forthcoming.
 - [Notice 2024-30](#) (Expanded nameplate capacity attribution rule to include offshore wind farm projects as qualifying projects; added two new NAICS codes for purposes of measuring minimum fossil fuel related employment under the Statistical Area Category, March 22, 2024)
 - [Appendix 1:](#) Additional MSAs and non-MSAs that meet Fossil Fuel Employment Threshold and not included in Appendix B to Notice 2023-29.
 - [Appendix 2:](#) MSAs and non-MSAs that qualify as energy communities in 2023 by meeting the Fossil Fuel Employment threshold and unemployment rate requirement for calendar year 2022.
 - [Notice 2023-47](#) (Published list of information taxpayers may use to meet certain requirements under the Statistical Area Category or Coal Closure Category, described further herein, June 15, 2023). Applicable Appendices listed below:
 - [Appendix 1:](#) Additional MSAs and non-MSAs that meet Fossil Fuel Employment Threshold and not included in Appendix B to Notice 2023-29.
 - [Appendix 2:](#) MSAs and non-MSAs that qualify as energy communities in 2023 by meeting the Fossil Fuel Employment threshold and unemployment rate requirement for calendar year 2022.
 - [Appendix 3:](#) Additional census tracts that have ever had, since December 31, 1999, a closed coal mine or have ever had, since December 31, 2009, a retired coal-fired electric generating unit, and directly adjoining tracts that were not included in Appendix C to Notice 2023-29.
 - [Notice 2023-45](#) (Update to Notice 2023-29 for certain special rules on beginning of construction, brownfield site safe harbor for projects with nameplate capacity not greater than 5 MW AC, and other matters, June 15, 2023)
 - [Notice 2023-29](#) (Initial Guidance, April 4, 2023), proposed regulations forthcoming.
 - [Appendix A:](#) Treasury/IRS-defined MSAs and non-MSAs for IRA Energy Community Tax Credit Bonus.
 - [Appendix B:](#) MSAs and non-MSAs that meet the Fossil Fuel Employment threshold (unemployment rate requirement yet to be determined).
 - [Appendix C:](#) Census tracts that have ever had, since December 31, 1999, a closed coal mine or have ever had, since December 31, 2009, a retired coal-fired electric generating unit, and directly adjoining tracts.
- **Low-income bonus credit allocation and associated application**
 - **Overall Implementation Status:** Applications for the 2024 program to open in Q2 2024. Applications for the 2023 program closed on February 29, 2024. Updates on available capacity by allocation category are available at the Department of Energy's [Program Capacity Dashboard](#). Final regulations issued. It is likely further guidance will be issued based on the type and volume of applications for allocations IRS received in the first round.
 - [Department of Energy Low-Income Communities Credit Program Guidance Page](#)
 - [Final Regulations](#), 88 FR 55,506 (August 10, 2023)
 - [Revenue Procedure 2024-19](#) (March 29, 2024) (supersedes Revenue Procedure 2023-27 for purposes of 2024 program)
 - [Revenue Procedure 2023-27](#) (August 10, 2023)
 - [Proposed Rulemaking](#), 88 FR 35,719 (Proposed Rules, May 31, 2023)
 - [Notice 2023-17](#) (Initial Guidance, February 13, 2023)

Advanced Manufacturing Credits: Code Sections 45X and 48C

- **48C Qualifying Advanced Energy Project Credit Allocation Program**
 - **Overall Implementation Update:** Initial and clarifying guidance released for 40% of the 48C program's \$10 billion total of programmatic funds. Further guidance anticipated for future application round(s) for the remaining \$6 billion. Please further note that the prevailing wage and apprenticeship guidance also applies to 48C.
 - [Notice 2023-44](#) (Additional Guidance, clarifying and modifying Notice 2023-18, May 31, 2023)
 - [Notice 2023-18](#) (Initial Guidance, February 13, 2023)
- **45X Advanced Manufacturing Credit**
 - **Overall Implementation Update:** Notice of proposed rulemaking issued in December 2023. See below regarding elective payment guidance.
 - [Notice of Proposed Rulemaking](#) (Published December 15, 2023, provides initial guidance and requests comment. Comments are due by February 13, 2024)

Clean Vehicles: Code Sections 30D, 30C, 45W, and 25E

- **Implementing guidance affecting multiple vehicle credits**
 - **Overall Implementation Update:** Notice released along with fact sheet and revenue procedure. Additional guidance expected.
 - **Revenue Procedure 2023-38** (Guidance related to submission to IRS by qualified manufacturers of clean vehicles, previously-owned clean vehicles, and commercial clean vehicles; released December 1, 2023)
 - **Fact Sheet 2023-29** (Provides guidance related to critical mineral and battery component requirements for new, previously owned, and qualified commercial clean vehicle credits; released December 2023)
 - **Notice 2023-16** (Modifies the definitions of certain vehicle classifications for new, previously owned, and qualified commercial clean vehicle credits. Modifies Notice 2023-01 by changing the vehicle classification standard by which vans, sport utility vehicles, pickup trucks, and other vehicles are defined; issued February 3, 2023)
 - **Fact Sheet 2023-4** (FAQ regarding new, previously owned, and qualified commercial vehicle credits; this FAQ supersedes FS-2022-42, released on December 29, 2022).
 - **Revenue Procedure 2022-42** (Details procedures for qualified manufacturers to enter into written agreements with the Secretary of the Treasury for reporting information related to manufacturing of vehicles for purposes of 30D and 25E, released on December 12, 2022)
- **30D (New Clean Vehicles)**
 - **Updated List of Credit Eligible Vehicles** (Department of Energy maintains a list of eligible clean vehicles that qualified manufacturers have indicated to the IRS meet the requirements to claim the 30D credit; list is updated as of 1/8/24)
 - **Notice of Proposed Rulemaking** (Published December 4, 2023, provides proposed regulations on Section 30D excluded entities and further definitions with respect to new clean vehicles and qualified manufacturers. Comments are due by January 18, 2024).
 - **Notice of Proposed Rulemaking** (Treasury and IRS proposed regulations regarding 30D. Comment period closed on December 11, 2023. Rules are generally proposed to apply to new clean vehicles placed in service in taxable years beginning after October 10, 2023. Proposed transferability regime for transfer of 30D credits by vehicle buyers to dealers proposed to apply to vehicles placed in service after December 31, 2023; rules released on October 10, 2023)
 - **Revenue Procedure 2023-33** (Details procedures for transfer of 30D credits by taxpayer purchasing new clean vehicle to eligible entity, including registration procedures for qualified manufacturers and sellers and procedures for dealer registration and the suspension and revocation of that registration. This revenue procedure also establishes a program to make advance payments of credit amounts to registered dealers).
 - **Notice of Proposed Rulemaking** (Treasury and IRS proposed regulations regarding 30D per Notice 2023-01, below. The comment period closed on June 16, 2023. Taxpayers may rely on this NOPR until final regulations are published in the Federal Register, provided that the taxpayer follows the proposed regulations in their entirety and in a consistent manner; issued April 17, 2023)
 - **Notice 2023-01** (IRS and Treasury stated intent to publish regulations related to 30D. Such proposed regulations will include definitions of final assembly, North America, manufacturer's suggested retail price, classifications for categories of vehicles, including vans, sport utility vehicles, pickup trucks, and other vehicles, and placed in service; December 29, 2022)
- **30C (Alternative Fuel Vehicle Refueling Property Credit)**
 - **Notice 2024-20** (Provides guidance on determining eligible census tracts in non-urban areas and low-income communities, including appendices to assist taxpayers in confirming eligibility based on geographic identifiers (GEOIDs) for non-urban census tracts and low-income community population census tracts; issued January 19, 2024)
 - No other additional guidance has been issued to date since the passage of the IRA, but this credit was previously authorized under law, so existing guidance may still apply. Please see [here](#) for the latest overview from the IRS. Please further note that the prevailing wage and apprenticeship guidance also applies to 30C.
- **45W (Qualified Commercial Clean Vehicle)**
 - **Notice 2024-5** (Provides a safe harbor regarding the incremental cost of certain qualified commercial clean vehicles placed in service in calendar year 2024; issued December 20, 2023)
 - **Notice 2023-09** (Provides a safe harbor regarding the incremental cost of certain qualified commercial clean vehicles placed in service in calendar year 2023; issued December 31, 2022)
- **25E (Previously-Owned Clean Vehicles)**
 - **Notice of Proposed Rulemaking** (Treasury and IRS proposed regulations regarding 25E. Comment period closed on December 11, 2023. Rules are generally proposed to apply to previously-owned clean vehicles placed in service in taxable years beginning after October 10, 2023. Proposed transferability regime for transfer of 25E credits by vehicle buyers to dealers proposed to apply to vehicles placed in service after December 31, 2023; rules released on October 10, 2023)
 - **Revenue Procedure 2023-33** (Details procedures for transfer of 25E credits by taxpayer purchasing previously-owned clean vehicle to eligible entity, including registration procedures for qualified manufacturers and sellers and procedures for dealer registration and the suspension and revocation of that registration. This revenue procedure also establishes a program to make advance payments of credit amounts to registered dealers)

Home and Building Electrification and Energy Efficiency: Code Sections 25C, 25D, 179D, and 45L

- **25C (Energy efficient home improvement credit)**
 - Overall Implementation Update: Initial notice and FAQ issued with NOPR forthcoming.
 - [Announcement 2024-19](#) (Addresses tax treatment of rebates provided by Department of Energy under its Home Energy Rebate Program (as established by the IRA); provides coordinating rules for purposes of taxpayers who both receive rebates and intend to claim 25C credits)
 - [Notice 2024-13](#) (Requests comments on implementation of “product identification number” requirement for certain categories of products eligible for 25C credits, beginning January 1, 2025. Comments are due by February 27, 2024)
 - [Notice 2023-59](#) (IRS and Treasury intend to issue a NOPR to address requirements for home energy audits with respect to 25C. Notice sets forth various definitions, requirements for qualifying as a home energy auditor, substantiation requirement and transition rule)
 - [Fact Sheet 2022-40](#) (Provides FAQs regarding 25D and 25C)
- **25D (Residential clean energy credit)**
 - Overall Implementation Update: Fact sheet released, December 22, 2022.
 - [Fact Sheet 2022-40](#) (Provides FAQs regarding 25D and 25C)
- **179D (Commercial buildings energy efficiency tax deduction) and Provision 13703 cost recovery for qualified clean energy facilities, property, and technology**
 - Overall Implementation Update: No new guidance has yet been released with the exception of Announcement 2023-01; however, the new prevailing wage and apprenticeship guidance is applicable to 179D. Prior guidance has been released, hyperlinked below regarding 179D. While no formal guidance has been released, the IRS provides general instructions pertaining to Provision 13703, hyperlinked below.
 - [Announcement 2023-01](#) (Provides reference standards required to be used to determine amount of energy efficient commercial building property deduction allowed under 179D; released December 23, 2022)
 - [Notice 2012-26](#) (prior guidance, released 2012)
 - [Notice 2008-40](#) (prior guidance)
 - [Notice 2006-52](#) (prior guidance)
 - [Provision 13703 Guidance](#)
- **45L (Energy efficient home credit)**
 - Overall Implementation Update: Initial guidance released in September 2023. Please further note that the recent prevailing wage and apprenticeship guidance also applies to 45L.
 - [Notice 2023-65](#) (Provides implementation guidance for 45L; released September 27, 2023)

Sustainable Aviation Fuel (SAF) and Clean Fuels: Code Sections 40B and 45Z

- Overall Implementation Update: Initial guidance issued in Notices below for SAF. No guidance yet issued on 45Z; however, the prevailing wage and apprenticeship guidance is applicable to 45Z.
 - [Notice 2024-6](#) (Provides guidance on new SAF credits regarding the lifecycle greenhouse gas emissions reduction percentage and certification of sustainability requirements and safe harbors; released December 13, 2023)
 - [Notice 2023-06](#) (Provides guidance on new SAF credits under Code Section 40B and 6426(k); released December 19, 2022)
 - [Notice 2022-39](#) (Explains how to file a one-time claim for credit and payments for alternative fuels; released September 13, 2022)

Clean Hydrogen: Code Section 45V

- Overall Implementation Update: Initial proposed regulations and accompanying Department of Energy and Environmental Protection Agency white papers released December 2023. Please also see “Cross-cutting guidance,” and note that the prevailing wage and apprenticeship guidance applies to 45V.
 - [Notice of Proposed Rulemaking](#) (Published December 22, 2023, provides initial guidance on 45V, in particular, outlines the three new criteria “three for Renewable Energy Certificates to qualify for purposes of claiming 45V credits (sometimes referred to as the “three pillars”); see initial Wilson Sonsini takeaways [here](#). Comments are due by February 26, 2024.)
 - [45VH2-GREET Model Download Link](#)
 - [Department of Energy 45V White Paper](#) (Overviews lifecycle greenhouse gas emissions associated with electricity use for producing clean hydrogen; released December 22, 2023)
 - [Guidelines to Determine Well-to-Gate Greenhouse Gas \(GHG\) Emissions of Hydrogen Production Pathways using 45VH2-GREET 2023](#) (User Manual; released December 22, 2023)
 - [Environmental Protection Agency, Letter to Treasury on the definition of lifecycle greenhouse gas emissions under the Clean Air Act to support Treasury’s interpretation and implementation of Internal Revenue Code Section 45V](#) (December 22, 2023)
 - [Department of Energy National Transmission Needs Study](#) (October 2023)

Carbon Capture, Utilization, and Sequestration (CCUS): Code Section 45Q

- **Overall Implementation Update:** Only requests for comment have been issued; there is no updated new guidance or proposed regulations to date. Please also see “Cross-cutting guidance,” and note that the prevailing wage and apprenticeship guidance applies to 45Q.

Nuclear: Code Section 45J

- **Overall Implementation Update:** Request for comment has been issued, along with initial guidance below. Please also see “Cross-cutting guidance,” and note that the prevailing wage and apprenticeship guidance applies to 45J.
 - **Notice 2023-24** (Provides guidance related to computing the value of the credit, the amount of unutilized national megawatt capacity limitation, procedures for taxpayers to apply for allocations of unutilized national megawatt capacity limitation with respect to facilities that the Department of Energy previously certified as “advanced nuclear facilities,” and requests comment on various 45J topics; released March 9, 2023)

Cross-Cutting Guidance: Tax Credit Monetization and Prevailing Wage and Apprenticeship

- **Transferability and elective pay**
 - **Overall Implementation Update:** Proposed regulations issued for transferability, direct pay, pre-filing registration requirements, and specific applications for the Advanced Manufacturing Investment Credit. Comment period is now closed. Final regulations forthcoming. Pre-filing registration tool has been made available. Transferability and elective pay apply to the following credits: 45, 45Y, 48, 48E, 45U, 45Q, 45V, 45Z, 45X, 48C, 30C. Please further note that Code Section 45W is eligible for transferability but not direct pay.
 - **Pre-Filing Registration Tool**
 - **Final Regulation:** Section 6417, Elective Pay, TD 9988 (March 11, 2024)
 - **Final Regulation:** Section 48D, Elective Payment of Advanced Manufacturing Investment Credit, TD 9989 (March 11, 2024)
 - **Proposed Regulation:** Section 6417/Section 761, Elective Pay, 89 FR 17,613 (March 11, 2024) (comments requested by May 10, 2024)
 - **Proposed Regulation:** Section 6417, Elective Pay, 88 FR 40,528 (June 21, 2023)
 - **Proposed Regulation:** Section 6418, Transfer of Certain Credits, 88 FR 40,496 (June 21, 2023)
 - **Proposed Regulation:** Elective Payment of Advanced Manufacturing Investment Credit, 88 FR 40,123 (June 21, 2023)
 - **Proposed Regulation:** Pre-Filing Registration Requirements for Certain Tax Credit Elections, 88 FR 40,086 (June 21, 2023)
- **Prevailing wage and apprenticeship**
 - **Overall Implementation Status:** While this guidance applies for the purposes of determining a bonus credit under Code Sections 45, 45Y, 48, and 48E as noted in the Implementation Tracker (ITC/PTC and their technology-neutral counterparts), the guidance also applies to the following credits: 30C, 45L, 45Q, 45U, 45V, 45Z, 48C, and 179D. Please refer to the ITC/PTC section for further information on prevailing wage and apprenticeship guidance.

Additional Governmental Resources

- For a full list of all IRS resources on these topics, please visit the IRS’s Inflation Reduction Act of 2022 page here: <https://www.irs.gov/inflation-reduction-act-of-2022>.
- For a guide that summarizes each energy tax credit and other IRA funding opportunities, please see the White House IRA guidebook here: <https://www.whitehouse.gov/wp-content/uploads/2022/12/Inflation-Reduction-Act-Guidebook.pdf>.
- For the latest Treasury and IRS Guidance Priority List updates, please see here: <https://www.irs.gov/privacy-disclosure/priority-guidance-plan>.