

# PUBLICATION

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## Inflation Reduction Act of 2022 – Guidance for New Tax Credits for Clean Energy Manufacturers Coming Soon

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**Manufacturers should consider seeking Section 48C Advanced Energy Project Credit allocations, recently provided by the Inflation Reduction Act, with guidance coming out in February 2023. Capped at \$10 billion, this is a competitive tax credit program that effectively acts as a competitive grant. Tax credits could be sought for up to 30 percent of the amount invested in new or upgraded facilities to build or recycle specified renewable energy components. Manufacturers must apply and be certified by the IRS to secure an allocation of the Section 48C credits.**

Manufacturers seeking this credit should consider:

1. Assessing general eligibility
2. Preparing draft application materials based on past criteria
3. Assessing "energy community" eligibility
4. Assessing bonus credit eligibility based on recently release Treasury guidance on wage and apprenticeship rules

### **Qualifying Manufacturing Facilities:**

Generally, qualified projects include those:

which re-equips, expands, or establishes an industrial or manufacturing facility for the production or recycling of—

property designed to be used to produce energy from the sun, water, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

fuel cells, microturbines, or energy storage systems and components,

electric grid modernization equipment or components,

property designed to capture, remove, use, or sequester carbon oxide emissions,

equipment designed to refine, electrolyze, or blend any fuel, chemical, or product which is—

renewable, or

low-carbon and low-emission,

property designed to produce energy conservation technologies (including residential, commercial, and industrial applications),

light-, medium-, or heavy-duty electric or fuel cell vehicles, as well as—

technologies, components, or materials for such vehicles, and

associated charging or refueling infrastructure,

hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds, as well as technologies, components, or materials for such vehicles, or

other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary,

which re-equips an industrial or manufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20 percent through the installation of—

low- or zero-carbon process heat systems,

carbon capture, transport, utilization and storage systems,

energy efficiency and reduction in waste from industrial processes, or

any other industrial technology designed to reduce greenhouse gas emissions, as determined by the Secretary, or

which re-equips, expands, or establishes an industrial facility for the processing, refining, or recycling of critical materials (as defined in section 7002(a) of the Energy Act of 2020 ([30 U.S.C. 1606\(a\)](#)))

A full list can be found [here](#).

**Eligibility:** Projects receive a base credit rate of 6 percent of qualified investments in qualified advanced energy projects. The qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year. To receive a bonus rate of 30 percent, taxpayers must satisfy the prevailing wage requirements for the establishment, expansion, or re-equipping of a manufacturing facility and for five years after the project is placed into service and satisfy the apprenticeship requirements during construction of the project.

**Timeline:** The IRS is likely to issue regulations in February 2023 to establish a program to consider and award certifications for qualified investments. Applicants will have two years from the date of certification by the IRS to provide evidence that they have met the requirements of the certification and that their projects have been placed in service.

**Past Credits:** The last time these credits were offered was in the American Recovery and Reinvestment Act of 2009, which offered \$2.3 billion in tax credits and was initially oversubscribed by more than three to one. In the first phase of awards, the DOE received more than 590 applications and the IRS [certified](#) 151 projects, representing more than 116 manufacturers.

**Energy Communities Set-Aside:** The new program sets aside \$4 billion for qualifying projects in census tracts designated as "energy communities." An energy community designation could make securing credits easier. Initial analysis mapping energy communities from [Resources.org](#) indicates that significant portions of the U.S. [may be classified](#) as such. Treasury guidance may be necessary to clarify definitions of energy communities, which has not yet been released.

If you have any questions about the Inflation Reduction Act, please contact any member of Baker Donelson's [Government Relations and Public Policy](#) practice.