



Summary of Treasury’s Final Regulations on Prevailing Wage and Registered Apprenticeship (PWA) Requirements for Certain IRA Tax Credits

Agency: Internal Revenue Service (IRS), Treasury Department

Action: Final Rule

Publication Date: June 25, 2024

Effective Date: 60 days after publication in the *Federal Register*

Pre-Publication Document: [Here](#)

Key Links:

- PWA [Overview](#), [Fact Sheet](#), and FAQ [Document](#)
- IRS [Proposed PWA Requirements](#) (August 2023)
- ZETA’s [Comments on the Proposed PWA Requirements](#) (October 2023)

Affected Tax Credits

- 30C, 45, 45L, 45Q, 45U, 45V, 45Y, 45Z, 48C, 179D

Background

The Treasury Department and the IRS have released a final rule on the implementation of prevailing wage and apprenticeship requirements (“PWA”) for clean and alternative energy tax credits. These include the 30C credit, applicable to EV charging stations, and the 48C credit, applicable to advanced energy projects. To qualify for increased credit or deduction amounts of certain clean energy tax incentives, taxpayers generally need to ensure that laborers and mechanics employed in the construction, alteration, or repair¹ of qualified projects are paid no less than applicable prevailing wage rates, and employ apprentices from registered apprenticeship programs for a certain number of hours. By meeting the necessary IRA prevailing wage and apprenticeship requirements, taxpayers can multiply the base amounts of the applicable clean energy tax credits by five.

Overview

Prevailing Wage Requirements

Laborers and mechanics employed in the construction, alteration, and repair of relevant properties must be paid no less than the prevailing wage rate, determined by the Department of Labor (DOL). DOL determines the prevailing wage rates for each labor classification in a particular geographic area for a particular type of construction. This includes both the basic hourly wage rate as well as any other benefits, and are published in general wage determinations on [sam.gov](#). If wage determinations are not available for a specific type of work or property, applicable parties may request additional determinations or classifications from the DOL.

¹ Only construction activities have prevailing wage requirements for the purpose of the 30C tax credit.

Taxpayers are generally not required to update their hourly wage rates in response to updates to DOL wage determinations unless contracts are substantially changed or renegotiated.

Registered Apprenticeship Requirements

Each taxpayer, contractor, and subcontractor employing four or more laborers or mechanics must employ one or more qualified apprentices. These apprentices must perform more than 15 percent of total labor hours for construction, alteration, or repair for projects beginning in 2024 or after.² The taxpayer, contractor, or subcontractor must also meet any applicable requirements for apprentice-to-journeyworker ratios under DOL or the applicable state apprenticeship agency.

Good faith effort exceptions can be made for employers who's request for qualified apprentices from registered apprenticeship programs are a) denied for reasons other than the taxpayer's failure to comply with apprenticeship program requirements, i.e. lack of availability, or b) not responded to in a timely manner. Taxpayers must send a second request one year after the first request in order to continue qualifying for the good faith exception.

Recordkeeping Requirements

Taxpayers claiming the PWA multiplier must maintain records and documents that demonstrate compliance with the relevant requirements. This information includes the hourly wages for laborers and mechanics, hours worked, labor classifications, and total wages paid.

Corrections and Penalties

Taxpayers who fail to meet PWA requirements initially may still claim the increased tax incentive by making correction and penalty payments. This includes correction payments for prevailing wage underpayments plus interest, as well as a penalty payment to the IRS. Taxpayers must also make penalty payments to the IRS for failing to meet apprenticeship requirements, unless they qualify for the good faith effort exception. Intentional disregard for requirements may warrant higher correction and penalty amounts. Penalties do not apply to taxpayers who employ workers under a qualified project labor agreement, or collective bargaining agreement, between the taxpayer and labor organization(s).

Exceptions

Taxpayers who do not meet PWA requirements but qualify for one of the two general exceptions may claim the PWA multiplier. Exceptions are made for:

- Qualified facilities with maximum net outputs of less than one megawatt, as measured in alternating current
- Qualified facilities beginning construction before January 29, 2023. The date of the beginning of work can be measured through:
 - The *Physical Work Test*, or the date of the start of significant physical work, or

² 12.5 percent for projects beginning in 2023, and 10 percent for projects beginning before 2023.

- The *Five Percent Safe Harbor Test*, the date on which the taxpayer pays or incurs at least 5% of the total cost of the facility.

Incorporation of ZETA's Comments

Exemption for repair and maintenance

In its comments on the proposed rule, ZETA urged Treasury to alter its requirements to reflect the statutory text of 30C, which stated that PWA requirements are only relevant to construction of new charging stations, and not to other activities such as repair, alteration, and maintenance. In its final rule, Treasury clarified that PWA requirements “do not apply after a section 30C project is placed in service,”³ meaning that repair and alteration of charging stations are not subject to PWA requirements.

Second request for registered apprentices

The proposed rule's clarification on Good Faith Effort Exceptions for apprenticeships stated that the denial of a request for qualified apprentices would qualify a taxpayer for a Good Faith Exception for a period of 120 days, after which the taxpayer would be required to submit an additional request or lose the exemption. In its comment, ZETA noted the fundamental differences between charging station construction and advanced manufacturing facilities, and requested that Treasury eliminate the 120-day requirement for the 30C credit. Treasury received multiple comments regarding the 120-day period, and in its final rule chose to modify the period to 365 days, or 366 in the case of a leap year.⁴

Alignment of PWA implementation with 30C census tract guidance

ZETA urged Treasury to align the date for the beginning of construction (BOC) after which the final rule would be retroactively applicable to the final publication of census tract guidance for the 30C credit. Treasury declined to alter the BOC date in its final rule, citing ZETA's request as outside the scope of the final regulations.⁵

³ Pre-publication final rule, p. 195

⁴ Pre-publication final rule, p. 174

⁵ Pre-publication final rule, p. 195