



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

BlueGreen Alliance
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IRS-2022-0046: Response to the Department of the Treasury & Internal Revenue Service's Request for Comments on the Inflation Reduction Act Amendments to the Clean Vehicle Tax Credit

The BlueGreen Alliance (BGA) unites labor unions and environmental organizations to solve today's environmental challenges in ways that create and maintain quality jobs and build a stronger, fairer economy. Our partnership is firm in its belief that Americans don't have to choose between a good job and a clean environment—we can and must have both. The strengthened and newly established tax credits in the Inflation Reduction Act are a critical demonstration of this principle.

We appreciate the opportunity to provide input to shape the implementation of the updated 30D Clean Vehicle Tax Credit, which represents an opportunity to lower the upfront cost of electric vehicles (EVs) for consumers, to accelerate the deployment of EVs, and to reshape the global automotive supply chain to support auto manufacturing workers and communities here.

The BlueGreen Alliance has long supported federal and state governments' efforts to restore global leadership to the American automotive sector, after decades of poor trade and labor policies permitted the offshoring of the most valuable elements of the auto supply chain. These policies have meant a significant loss of good jobs in American manufacturing communities, a decline in the manufacturing sector's union density, and the further gutting of the American middle class.ⁱ Three requirements of the Clean Vehicle Tax Credit will functionally begin to reverse these harms:

- 1) The North American final assembly requirement, effective starting in 2023
- 2) The phased-in critical minerals requirement, achieving 80 percent U.S.- or U.S. free trade partner-extracted or processed, or North American recycled, critical mineral content by 2027

- 3) The phased-in North American battery component requirement, achieving 100 percent North American-manufactured battery components by value by 2029

These three requirements chart a direct course to a North American – and ideally U.S.-based – supply chain for the clean vehicles of the future. Achieving this outcome is the clear intent of the legislation,ⁱⁱ and an explicit priority for the Biden administration.ⁱⁱⁱ The Treasury Department and Internal Revenue Service (IRS) should uphold and honor this intent by limiting the use of general waivers for the requirements that constitute the Clean Vehicle Tax Credit, and holding firm against industry interests that would loosen the terms of the credit in the interest of maintaining their business-as-usual operations, and minimizing impact to their supply chains and profit margins.

While other major auto manufacturing countries and regions like China, South Korea, Japan, and the European Union have a head start in cementing their position in the global EV supply chain, demand for EVs continues to outpace production, which means there is still time and space for the U.S. to play a leadership role in the global EV supply chain of the future.^{iv} The Clean Vehicle Tax Credit – with its final assembly, critical mineral, and battery content requirements – pushes automakers to support this goal. Meanwhile, historic manufacturing investments from the Bipartisan Infrastructure Law (BIL), the CHIPS and Science Act, and the Inflation Reduction Act direct billions of dollars toward the domestic automotive supply chain, enabling automakers to achieve the tax credit targets. Provisions in the BIL like the \$6 billion Battery Processing & Manufacturing Grant Program, alongside the Inflation Reduction Act's \$3 billion Advanced Technology Vehicle Manufacturing Loan Program, the \$1 billion Domestic Manufacturing Conversion Grant Program, the 48C Advanced Energy Project Tax Credit, and the 45X Advanced Manufacturing Production Tax Credit, all bring the Clean Vehicle Tax Credit's ambitious-but-achievable assembly and supply chain targets into view. The IRS and Treasury Department should work to make these tax credits available as swiftly as possible to ensure that auto supply chain facilities can plan their investments to meet the critical mineral and battery component requirements of the updated Clean Vehicle Tax Credit.

Finally, in order for the Clean Vehicle Tax Credit to be effective, automakers must be maximally transparent about their supply chains with both consumers and the Treasury Department. The Treasury Department and IRS must require robust reporting of the automakers, who are responsible for securing information about the manufacture of their vehicles' batteries from their suppliers. For consumers, who are primarily interested in whether or not they can access the tax credit, information about the location of the vehicle's final assembly, as well as the vehicle's eligibility for the critical minerals and the battery components parts of the tax credit, should be clearly labeled alongside the Vehicle Identification Number (VIN), which is unique to every vehicle. Moreover, automakers should report whether the battery and vehicle were assembled in a union facility, where workers

are protected by a collective bargaining agreement.

Holding firm to these final assembly, critical minerals, battery content, and supply chain reporting requirements will require automakers to scrutinize and restructure their supply chains in order to ensure that their vehicles qualify for the full credit. This is one of the major virtues of the current construction of the credit: it pushes automakers to contribute to long term stability in the supply chain for U.S.-made clean vehicles. And manufacturing tax credits like 45X and 48C—both which may be directed toward facilities making battery components and processing critical minerals—give automakers the resources they need to comply. American automakers have already suggested that their existing vehicle models meet the requirements needed to earn at least half the credit, and that those models are expected to earn the full credit within a few years.^{v,vi}

To these ends, BGA offers the following responses to the Treasury Department and IRS's questions on the interpretation and implementation of the Clean Vehicle Tax Credit.

(2) Critical Minerals: Section 30D(e)(1) provides the new critical minerals requirements, including the applicable percentage requirements to be phased in over several years.

(a) What factors and definitions should be considered to determine the place of extracting or processing such minerals, and in particular, to determine whether extracting or processing occurred in the United States or in any country with which the United States has a free trade agreement in effect?

While the location of critical minerals extraction is limited by the geographies of known deposits, processing and recycling can occur anywhere. Chinese mineral processing companies, for example, currently represent an industry-controlling segment of the world's critical mineral processing capacity, despite minimal actual mineral deposits within Chinese borders.^{vii} The critical minerals requirement in the Clean Vehicle Tax Credit encourages U.S. companies and free trade partners to follow suit.

The Treasury Department and IRS should ensure that qualifying mineral processing includes substantial transformation of the critical minerals, rather than end-stage processing. This concept is analogous to the melted-and-poured standard for steel that is included in Buy America provisions, which is aimed at ensuring the most economically consequential stage of the manufacturing process that generates the most jobs actually occurs in the United States, according to the intent of Buy America provisions.

Finally, the role of free trade agreements in defining the impact of the critical minerals requirement illustrates the importance of ensuring good labor and environmental protections are codified within those free trade agreements, which

otherwise facilitate a race-to-the-bottom for workers at home and abroad, and for environmental protections.^{viii} They should be modified and revised to include high road standards with swift and certain enforcement, according to recommendations that have been made by the labor and environmental communities for decades.^{ix,x}

(b) What factors and definitions should be considered to determine the place of recycling such minerals and, in particular, to determine whether recycling occurred in North America?

In determining the place of recycling, The Treasury Department and IRS should employ a similar standard as they do with original processing – one which ensures that only substantial transformation that occurs within North America is considered acceptable under the provision.

(3) Battery Components: Section 30D(e)(2) provides the new battery component requirements, including the applicable percentage requirements to be phased in over several years.

(a) What factors should be considered in defining the components of a battery of a clean vehicle?

The Treasury Department and IRS should consider that the value of the battery lies in the cell unit, rather than the module or pack. The labor involved in assembling battery cells, as well as the costs of materials and subcomponents, dwarf those of modules and packs.

It follows that components of a battery should be interpreted as components of a battery *cell* such that the components are understood to be the manufactured goods within a single battery cell, including—but not limited to—the anode, cathode, and separator.

The clean vehicle tax credit is important, because a robust EV market contributes to meeting our transportation decarbonization and climate goals. While this definition of battery components may challenge clean vehicle manufacturers in the short term, it charts a path toward a resilient and complete North American supply chain for EV batteries in the long term, which will further reduce costs for consumers. The intent of the Clean Vehicle Tax Credit as described in the Inflation Reduction Act is to secure the supply chains of the critical components of EV batteries that, if disrupted, could jeopardize automakers' ability to produce EVs. These critical components are the anodes, cathodes, separators, and other components of a single battery cell.

(b) What factors and definitions should be considered to determine the place of manufacture or assembly of the components of a battery of a clean vehicle and, in particular, to determine whether manufacture or assembly occurred in North America?

The place of manufacture or assembly of the components of the battery should be defined as the facility or facilities in the battery supply chain immediately preceding the facility where battery cells are assembled.

- (c) What factors and definitions should be considered to determine (i) the total value of components contained in the battery of a clean vehicle, and (ii) the percentage of that total attributable to components that were manufactured or assembled in North America?**

The total value of components contained within the value of a clean vehicle should represent the cost of materials and technology involved in manufacturing the components and assembling the battery cell.

(4) Applicable Values: The new critical mineral and battery component requirements in 30D(e) are based on value. What existing battery supply chain methodologies or regulatory frameworks should be considered in determining applicable values?

There are numerous third parties that have developed supply chain traceability platforms for use by manufacturers seeking more information about the particulars of their supply chain. Industry leaders in this space include Circular, Everledger, and Optel, which are already in use by major automakers.^{xi}

Ultimately, the onus is on automakers to investigate their own supply chains, and report their findings clearly to the Treasury Department and IRS in order for the agencies to determine vehicles' eligibility for the Clean Vehicle Tax Credit.

(6) Recordkeeping and Reporting

- (a) In addition to VIN numbers, what additional information should a qualified manufacturer provide to the Secretary to be considered a qualified manufacturer with respect to a particular vehicle, per 30D(d)(3)?**

Pursuant to the goals described in the opening paragraph of this comment, qualified manufacturers should seek to provide the utmost transparency to consumers about the origin of a vehicle and its main components, and the labor that went into making them. The information requested below is already reported by automakers to NHTSA by the American Automobile Labeling Act, and should be clearly communicated to consumers. Qualified manufacturers should provide, along with the VIN:

- The final assembly location of the vehicle (Country, State, and Facility Name)
- The union status of the facility of final assembly
- The final assembly location of the battery cells (Country, State, and Facility Name)

- The union status of the facility of final battery cell assembly

(b) What existing regulatory or guidance frameworks for recordkeeping requirements or information reporting or existing battery supply chain technologies may be useful for developing guidance for qualified manufacturers under 30D(e)(3)?

The American Automobile Labeling Act requires automakers to report to NHTSA the location (country and facility) of final assembly of all qualifying vehicles, as well as the location of final assembly of conventional vehicles' engines/motors and transmissions. This methodology should be extended to cover the location of final assembly of qualifying vehicles' battery cells.

(c) What information should be included in the report furnished by the seller of the vehicle to the taxpayer and the Secretary under 30D(d)(1)(H), including the election to transfer the credit under 30D(g)?

The sharing of battery information can be done via a physical label and/or a label with a digital identifier that connects to an online database. Examples of common digital identifiers include a QR code or a barcode. A physical label on electric vehicle batteries will become a requirement for vehicles starting with model year 2026 sold in states that adopt California's Advanced Clean Cars II regulation. While the regulation does not require information about the supply chain, it does require the following: cathode type, voltage, capacity, and a digital identifier.^{xii} The European Union has recommended a similar labeling requirement as part of the European Union Battery Act.^{xiii}

The European Union Battery Act suggests the Battery Passport as a route of information sharing with consumers.^{xiv} The Battery Passport is hardware that is installed into the EV battery, and stores information on battery materials sourcing, battery use, and then finally the battery disposition. The concept was first developed by the Global Battery Alliance, a consortium of nonprofits, industry organizations, academics, and governments with the collective vision to, "foster a circular, responsible, and just battery value chain".^{xv}

(8) Registered Dealer and Eligible Entity

(a) What guidance, if any, is needed to determine who is a licensed dealer who can be registered with the Secretary for purposes of the transfer of the credit under 30(D)(g)(2), (7) and (8)?

Licensed dealers should only include dealers and eligible entities who have demonstrated adherence to U.S. labor standards and workplace safety rules. In order to be considered licensed dealers, eligible entities should demonstrate that, for the past year:

- They have not been charged with an Unfair Labor Practice (ULP), and

- They have not been found in violation of OSHA rules.

(b) What guidance, if any, is needed regarding what circumstances may lead to revocation of such registration under 30(D)(g)(4)?

A licensed dealer that is charged with an Unfair Labor Practice (ULP) or found in violation of OSHA rules at any point during the duration of the credit should have its status as an eligible entity revoked.

ⁱ Economic Policy Institute, “Unions help reduce disparities and strengthen our democracy,” April 2021. Available Online: <https://www.epi.org/publication/unions-help-reduce-disparities-and-strengthen-our-democracy/>.

ⁱⁱ Schumer, “Schumer reveals just-passed Inflation Reduction Act – the largest investment in clean energy ever – will supercharge cutting edge battery industry in Finger Lakes,” September 2022. Available Online: <https://www.schumer.senate.gov/newsroom/press-releases/schumer-reveals-just-passed-inflation-reduction-act-the-largest-investment-in-clean-energy-ever--will-supercharge-cutting-edge-battery-industry-in-finger-lakes-schumer-launches-new-push-to-deliver-major-fed-funding-to-rochesters-li-cycle-to-accelerate-their-growth-support-200-good-paying-jobs-and-power-upstate-ny-into-a-global-battery-research-hub->.

ⁱⁱⁱ White House, “FACT SHEET: President Biden’s Economic Plan Drives America’s Electric Vehicle Manufacturing Boom,” September 2022. Available Online: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/14/fact-sheet-president-bidens-economic-plan-drives-americas-electric-vehicle-manufacturing-boom/>.

^{iv} The IEA, “2022 Global Electric Vehicle Outlook,” May 2022. Available Online: <https://www.iea.org/reports/global-ev-outlook-2022>.

^v Autoweek, “GM Will Increase Chevy Bolt Production by Nearly 60% in 2023,” October 2022. Available Online: <https://www.autoweek.com/news/a41766478/gm-increase-chevy-bolt-production-2023/>.

^{vi} Ford, “Q3 2022 Earnings Call Transcript,” October 2022. Available Online: https://s201.q4cdn.com/693218008/files/doc_financials/2022/q3/Ford-Q3-2022-Earnings-Call-Transcript.pdf.

^{vii} The Brookings Institution, “China’s Role in Supplying Critical Minerals for the Global Energy Transition,” July 2022. Available Online: https://www.brookings.edu/wp-content/uploads/2022/08/LTRC_ChinaSupplyChain.pdf.

^{viii} Economic Policy Institute, “NAFTA’s Impact on U.S. Workers,” December 2013. Available Online: <https://www.epi.org/blog/naftas-impact-workers/>.

^{ix} Office of the U.S. Trade Representative, “Labor Advisory Committee.” Available Online: <https://ustr.gov/issue-areas/labor/labor-advisory-committee>.

^x Sierra Club, “Discussion Paper: A New, Climate-Friendly Approach to Trade,” November 2016. Available Online: <https://www.sierraclub.org/sites/default/files/uploads-wysiwig/climate-friendly-trade-model.pdf>.

^{xi} Recycling Today, “Everledger, Ford to launch EV battery passport pilot,” October 2022. Available Online: <https://www.recyclingtoday.com/article/everledger-ford-to-launch-ev-battery-passport-pilot/>.

^{xii} California Air Resources Board. Section 1962.6, Title 13, California Code of Regulations. Available Online: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/accii1962.6.pdf>.

^{xiii} Regulation of the European Parliament and of The Council Concerning Batteries and Waste Batteries. October 2020. Available Online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0798>.

^{xiv} Ibid.

^{xv} The Global Battery Alliance. Available Online: <https://www.globalbattery.org/about/>.