

## **Inflation Reduction Act Accelerates Biden Energy Efficiency Agenda**

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President Biden's signing of the Inflation Reduction Act (IRA)<sup>1</sup> on August 16, 2022, is the latest exemplar of his Administration's, and Congress's, commitment to appliance energy efficiency and other energy conservation goals.

At the signing ceremony, the President said that the IRA "invests \$369 billion to take the most aggressive action ever — ever, ever, ever — in confronting the climate crisis and strengthening our economic — our energy security." He emphasized, among other provisions, "rebates to buy new and efficient appliances, weatherize their homes, get tax credit for purchasing heat pumps and rooftop solar, electric stoves, ovens, dryers."<sup>2</sup> Secretary of Energy Jennifer Granholm has called the IRA "the most consequential energy legislation in decades, and the most significant federal climate action ever."<sup>3</sup>

The IRA includes these energy provisions:

**Reducing Consumer Energy Costs.** Consumers can expect a multitude of tax credits and rebates related to home and transportation efficiency.

To start, the IRA expands tax credits for the installation of electric heat pumps, HVAC, and water heating technology as well as other appliances from 10% to 30% through 2032. This credit is capped at \$1,200 annually or \$2,000 for heat pumps and biomass stoves. The IRA similarly extends the 30% credit for residential solar, wind, and geothermal use for 10 years and a phase out period of an additional two. Battery storage is incentivized as well. On top of these efforts, \$4.28 billion in grants are awarded to state energy offices to retrofit low-income homes with cleaner and more efficient appliances and technology. Rural communities will receive similar grant assistance with \$2 billion awarded for their own renewable and efficiency improvements. Though not specifically addressing efficiency standards, such credits should lead to great investment in efficient appliances as well as stimulate innovation within the realm of efficient technologies.

**Electric Vehicles.** In an interest of expanding the fleet of electric vehicles on the road, the IRA looks to make EV's and plug-in hybrids a more cost-effective option for the average American consumer.

A new \$4,000 tax credit for used clean vehicles supplements the extended \$7,500 tax credit for new clean vehicles, subject to an income eligibility requirement of \$75,000 and \$150,000, respectively. In addition to consumer aid, the IRA eliminates the previous limit on the number of cars per manufacturer that were eligible for the consumer credit, which was set at 200,000 units sold per company. This opens the door for more brands to qualify for the credit. However, strict

parameters are imposed on which vehicles qualify, reducing or eliminating the credit entirely for vehicles assembled outside of North America or with batteries that source their materials outside of countries that we participate in a free trade agreement with. Although this could help spur domestic EV manufacturing, it could also limit the immediate impact of this credit in terms of fleet replacement.

Use of electric commercial vehicles is also incentivized under the IRA. Purchases of commercial vehicles over 14,000 lbs. are eligible for a credit of \$40,000, while all vehicles below that weight qualify for the normal \$7,500. EV transition is further encouraged by a 30% credit for alternative refueling properties like charging stations; this credit is available for expenses incurred through 2032. For expenses in excess of \$100,000, the credit is reduced to 20% of eligible expenses.

**Encouraging Domestic Renewable Manufacturing and Production.** With recent developments in the global community, it has become a priority of the Biden Administration to strengthen American energy security. To do so, the IRA creates or extends multiple investment (ITC) and production (PTC) tax credits.

On the ITC side, the IRA extends current tax credits for renewable technology and construction through 2024, after which an amended credit will kick in until 2034. The specifics of this ITC include 30% credits for solar, geothermal, energy storage, on and offshore wind, and other production related sites built prior to January 1, 2025, with geothermal heat pumps specifically extending on a reduced rate until 2034. An additional 10% credit can be added to any construction that takes place in a brownfield site or utilizes domestic manufacturing products. The ITC taking effect in 2025 has similar features but does not differentiate between renewable technologies. The new ITC also adds a 10% credit on top of the base 30% for sites built in low-income communities or on tribal land with an additional 20% for efficient low-income housing. This commitment to low-carbon housing is supplemented by roughly \$4.5 billion appropriated across multiple agencies for the development and use of low-carbon building materials.

The Treasury Department will publish emissions rates for like technologies for the purpose of determining ITC eligibility, which would be advantageous for efficient technology. Manufacturing receives a supplementary boost with an Advanced Energy Project Credit, which extends the 30% credit to non-renewable but clean energy technologies, like reduced carbon, carbon capture, storage, and efficiency. Manufacturing facilities that pledge to reduce emissions by 20% are also eligible for the above credit, which is capped at \$10 billion. Carbon capture specifically receives a boost with an increased minimum plant threshold and increased credit amounts for tons of carbon sequestered, all of which can be accessed through 2032.

As for the production end, each renewable energy source will receive extended or new tax credits for the next decade. Plants that produce electricity at zero or negative carbon emissions receive a PTC of 1.5 cents per kWh produced or stored, with 10% boosts for being in a brownfield site and/or low-income community as well as meeting domestic manufacturing requirements, totaling an additional 30%. These credits can be used in conjunction with carbon capture benefits for

greater savings and emissions reduction. A clean fuel production credit is also created at \$1 per gallon multiplied by a source-specific emissions factor for the next two years.

The IRA dictates an interesting balance between renewable and fossil fuel production. Though appropriating funds for offshore wind development and lifting the moratorium in Southeastern and Gulf states, leases can only be issued to offshore producers after the sale of at least 60 million acres to oil and gas producers in the prior year. While this opens the door for further fossil fuel production, greater financial limitations are imposed on these plants, such as increasing annual rental rates, royalty rates, and minimum bid amounts per acre, as well as providing incentives for emissions reduction.

**Financing and Grants.** The IRA greatly expands the Department of Energy (DOE) Loan Programs Office (LPO), which provides funding for various clean energy programs through loans or loan guarantees. LPO received authority to place an additional \$40 billion in loans, with specific expansions in authority to make or guarantee loans to replace and repurpose energy infrastructure for clean operations. DOE also received appropriations to cover credit subsidy and other costs of loan guarantees, which will reduce the cost to borrowers. Similar grant projects are supported within the EPA for the purpose of greenhouse gas reduction to the tune of \$27 billion. Other parts of DOE are authorized to provide up to \$2 billion in the form of grants for domestic EV manufacturing in the form of matching funds, .

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**DOE presses forward with efficiency rules.** In the meantime, DOE continues its race to adopt and update efficiency standards and test procedures pursuant to the Energy Policy and Conservation Act (EPCA).<sup>4</sup> We count well over 100 actions on standards and test procedures since Inauguration Day. We have covered these in prior advisories.<sup>5</sup> And many more proceedings are in DOE's pipeline.

**Conclusion.** Energy efficiency continues to be a fundamental part of U.S. energy policy. Efforts to promote this policy have accelerated since the start of the Biden Administration—and have gotten a huge boost with the passage of the IRA. Much more is to come—as DOE adds more products to the efficiency program and makes standards more stringent. Civil penalties for violations are severe—currently \$503 per violation—and this rate will increase with inflation. Stakeholders should make their views known in such rulemaking proceedings—keeping in mind that filings are permissible even after the formal comment period has closed.

*HWG Legal Analyst T.J. Picciotti did analysis of provisions of the IRA.*

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For more information on this subject or HWG LLP's energy practice, please contact [Stephanie Weiner](#), [John A. Hodges](#), or [Gena E. Cadieux](#).

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<sup>1</sup> Inflation Reduction Act of 2022, H.R. 5376, 117th Cong. (2022).

<sup>2</sup> The White House, *Remarks by President Biden at Signing of H.R. 5376, the Inflation Reduction Act of 2022* (Aug. 16, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/08/16/remarks-by-president-biden-at-signing-of-h-r-5376-the-inflation-reduction-act-of-2022/>.

<sup>3</sup> DOE, *Statement by Secretary Granholm on the Senate's Passage of the Inflation Reduction Act of 2022* (Aug. 7, 2022), <https://www.energy.gov/articles/statement-secretary-granholm-senates-passage-inflation-reduction-act-2022-0>.

<sup>4</sup> 42 U.S.C.A. § 6291 *et seq.*

<sup>5</sup> HWG LLP, *HWG Energy Efficiency Updates*, HWG Law, <https://www.hwglaw.com/practice/energy/energy-efficiency-update>.