NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

October 30, 2023

Douglas W. O'Donnell
Deputy Commissioner for Services and Enforcement
U.S. Department of the Treasury
Internal Revenue Service
1111 Constitution Ave. NW
Washington, DC 20224

Re: NECA Comments on the Treasury Department's Proposed Rule on the Prevailing Wage and Registered Apprenticeship Requirements Under the Inflation Reduction Act of 2022 (RIN 1545-BQ54, REG-100908-23)

The National Electrical Contractors Association (NECA) is a national trade association and the leading voice of the $202 billion electrical contracting industry that brings power, light, and communication technology to buildings and communities across the U.S. NECA collectively represents over 4,000 electrical contractor members served by 118 local Chapters across the country.

NECA employs a unionized workforce with contracts collectively bargained with the International Brotherhood of Electrical Workers (IBEW). NECA contractors recognize that strong partnership with a highly skilled, trained, and specialized union workforce is the key to success in the construction industry. NECA has long advocated for many of the recommendations included in our comments for comprehensive implementation of prevailing wage and apprenticeship statutes to ensure that the IRA is being implemented as Congress intended and in the best interest of the American taxpayer.

NECA offers these comments in response to the Department of Treasury's Notice of Proposed Rulemaking: Increased Credit or Deduction Amounts for Satisfying Certain Prevailing Wage and Registered Apprenticeship Requirements, 88 Fed. Reg. 60,018 (Aug. 30, 2023) (hereinafter the "Proposed Rule").

I. The Treasury Department Should Create a Robust Compliance System

The Treasury Department should require taxpayers to complete a pre-filing registration process before any construction, alteration, or repair work begins, or immediately thereafter. This will encourage transparency and provide the Treasury with a mechanism for tracking compliance with prevailing wage and apprenticeship requirements. Further, the Treasury should monitor projects on an ongoing basis to ensure that the requirements are met throughout all phases of construction.

The Proposed Rule does not speak to any form of front-end compliance monitoring for claiming the bonus tax credits, instead relying on records retention in the hopes of accurate and reliable reporting from the taxpayer. Due to the large magnitude of tax dollars potentially being disbursed

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it is in the interest of the American taxpayer to ensure that the 'taxpayer' is being held to the apprenticeship and prevailing wage provisions in the IRA.

NECA submitted joint comments with the IBEW to the Wage and Hour Division's proposed rule on independent contractor status[1] speaking at length of the potential misclassification and fraud that takes place in the construction industry. A front-end compliance system will help reduce fraud, waste, and abuse of the public funds to unscrupulous parties. This will ensure that the prevailing wage provisions within the IRA are being fully implemented.

The apprenticeship utilization provisions within the IRA are unique to federal law, but states have been at the forefront of successfully implementing apprenticeship utilization provisions. States such as California, Washington, and Wyoming have successfully implemented such provisions within their state. These States have developed a user-friendly system for contractors to use when reporting appropriate hours worked by apprentices and journeyworkers. California has implemented a system of monthly reporting that begins as soon as a project begins construction. This model ensures that compliance is being followed throughout the duration of such projects.

II. The Treasury Department Should Treat Project Labor Agreements As Evidence of Compliance with the Prevailing Wage and Apprenticeship Utilization Requirements

Large construction projects share specific characteristics and challenges that have informed the use of PLAs in both the public and private sectors for decades. All large construction projects will necessitate a constantly changing stream of contractors and subcontractors, each responsible for distinct parts of the project. Each of these distinct parts must be highly coordinated and collaboratively work together seamlessly for the entire project to be completed efficiently and safely. On a typical large construction project, an owner will contract and subcontract various aspects of construction. Each contractor and subcontractor will supply its own set of employees who are, for the most part, hired for that particular project. In the unionized sector, each construction trade is governed by its own unique collective bargaining agreement ("CBA"), each with its own set of rules covering the terms of employment (i.e., work hours, rates of pay and overtime, holidays, etc.). In the nonunion sector, each contractor will similarly bring with it its own labor-relations structure, including work rules, scheduling, and hiring needs. These different work rules typically vary widely, and thus can and often do lead to costly project overruns, delays, safety issues, and work stoppages. PLAs were designed as a project management tool to control these unique challenges by maximizing efficiency and productivity while reducing costs and meeting critical project deadlines.

A PLA is a comprehensive multi-employer/multi-union unitary collective bargaining agreement designed to cover entire construction project(s). PLAs are generally negotiated by the entity that controls contracting for the project and a council of labor organizations representing all trades

[1] NECA and IBEW Joint Comments on the Department of Labor's Notice of Proposed Rulemaking, "Employee or Independent Contractor Classification under the Fair Labor Standards Act," 87 FR 62218 (October 13, 2022), available at https://www.regulations.gov/comment/WHD-2022-0003-52404.

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employed on the project. Through PLAs, the parties set standard work rules, including, but not limited to rules to establish various forums for communication and coordination, and prevent work stoppages with provisions such as no-strike, no-lockout provisions, and speedy dispute-resolution mechanisms. They also set standard pay scales and benefit rates for each trade and address labor supply issues through provisions that commit the signatory unions to use their job referral procedures to ensure a steady supply of highly skilled workers for the project. Both union and nonunion workers can register for referrals, and typically any contractor – union or nonunion – may bid for work on a covered project, as long as they agree to abide by the agreement and thereby to be held to the same standards.

As such, PLAs reduce administrative costs, improve coordination and consistency, and prevent cost overruns and project delays that can be fatal to successful project completion. PLAs also ensure that projects are completed to the highest quality standards, minimizing the need for work to be redone later. In addition, PLAs often contain provisions requiring participation in Registered Apprenticeship Programs and pre-apprenticeship programs to help recruit women, people of color and other underrepresented individuals into the construction industry to provide family-sustaining careers working on the projects that impact their communities.

The private sector has long recognized that PLAs promote economy and efficiency when committing shareholder funds for their largest, most critical, and most complex construction projects. A representative sampling of some major private sector construction projects with PLAs include:

- The New York City 2009 Economic Recovery Project Labor Agreement ("ERPLA")(2009): This PLA was designed to "save construction jobs and 'financially distressed' private sector projects from the severe impact of the 2008-2009 economic downturn to New York City's construction and real estate markets." The ERPLA is estimated to have reduced the cost of unionized construction by between 16 and 20 percent.[2]
- Shell Beaver County Cracker Plant (2016): This massive energy project built under a PLA required 6,000 construction craft workers.[3]
- Malta GlobalFoundries Manufacturing Facilities (2014):[4] This project was subject to one of the largest private sector PLAs in IBEW/NECA history to build a semiconductor manufacturing facility. GlobalFoundries invested nearly $8 billion and the total annual work hours on the project averaged over 2 million per year during construction.

[2] Fred Kotler, Project Labor Agreements in New York State II: In the Public Interest and Of Proven Value at 49-50, Cornell University ILR School (2011), available at https://ecommons.cornell.edu/handle/1813/74333.

[3] See "Shell's multibillion-dollar PA plant project to create 6K construction jobs," CONSTRUCTION DIVE, June 9, 2016, available at https://www.constructiondive.com/news/shells-multibillion-dollar-pa-plant-project-to-create-6kconstruction-jobs/420637/.

[4] "Small Chips Mean Big Jobs for Albany Local," The Electrical Worker Online (June 2014), available at http://www.ibew.org/articles/14electricalworker/ew1406/LittleChips.0614.html.

- Marcus Hook Industrial Complex (2019):[5] In 2019, a $200 million PLA was announced with the Philadelphia Building Trades to expand the capabilities of the Marcus Hook natural gas liquids processing facility. The project created approximately 1,200 construction jobs, including 300 IBEW members from local unions in the surrounding area.
- The Citizens Imperial Solar, LCC Project (2019):[6] The new IID/Citizens low-income community solar project was built under a PLA. The project will serve upwards of 12,000 electric customers in an economically distressed desert area of California. It is one of the nation's largest low-income community solar projects, and unique among community solar energy projects in its structure and implementation.
- The Oregon Clean Energy Center (2014):[7] North America Project Development, LLC, a joint venture of CME and Pure Energy, utilized a PLA to build the Oregon Clean Energy Center. The Center is an 869 MW (Peak: 951 MW) natural gas-fired electric power plant in Oregon, Ohio that uses state-of-the-art technology to capture exhaust heat to generate enough electricity to power over 700,000 homes. About 1,500 skilled construction craftspeople worked on the project.

PLA's is a pre-hire collective bargaining agreement between one or more labor unions and the entity with control over contracting for the project. By establishing the terms and conditions of employment for a specific construction project, PLAs ensure a uniform and stable system of labor relations that promotes efficiency. Some of the essential provisions of a PLA include wage and fringe benefits for each craft construction worker, use of registered apprenticeship programs; no-strike, no lock–out clauses; and a robust grievance/arbitration process. PLA's in its nature can be amended based on negotiations and can easily adapt to include IRA prevailing wage and apprenticeship provisions. This inclusion of provisions will blind all parties, including labor, of interest to the project with a third party overview to ensure proper compliance.

Therefore, PLA's should be exempt from the periodic reporting requirements or subsequent Treasury adults as long as the PLA signed agreement was submitted during the pre-filling procedure. This should allow the Treasury to focus its compliance efforts that are not subject to a PLA since they will inherently be more vulnerable to violations. NECA agrees with the Treasury's proposed rule that projects subject to a PLA should not be subject to any of the corrective penalties in IRA. This will strongly incentivize the use of PLAs on IRA projects, which will produce a positive return on investment and promote compliance with the labor standards requirements.

III. PREVAILING WAGE

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5 """$200M Agreement Brings Jobs, Stability in Pennsylvania," The Electrical Worker Online (July 2019), available at http://www.ibew.org/articles/19ElectricalWorker/EW1907/Circuits.0719.html.

6 See "IID & Citizens commission community solar project dedicated to low-income customers," IID.ORG, Sept. 25, 2019, available at https://www.iid.com/about-iid/news-resources/news-releases/-item-709.

7 See "Oregon, Ohio Clean Energy Center," CME-ENERGY.COM, available at https://www.cmeenergy.com/content/oregon-ohio-clean-energy-center.

The Davis-Bacon Act was enacted in 1931 to establish "a minimum wage law designed for the benefit of construction workers." United States v. Binghamton Constr. Co., 347 U.S. 171, 178 (1954). Its purpose was "to give local labor and the local contractor a fair opportunity to participate in [...] building program[s]." Univs. Res. Ass'n v. Coutu, 450 U.S. 754, 773–74 (1981) (quotation omitted); *see also* S.R. Rep. No. 88-963 (1964) (noting that the Davis-Bacon Act was designed to protect local contractors who were losing bids on federal projects to "outside contractors . . . who recruited labor from distant cheap labor areas.").

As we explained in our comments to the Department of Labor (DOL) on updating the Davis-Bacon and Related Acts (DBRA),[8] DBRA requires contractors on most federally funded infrastructure projects to pay employees and specifically all laborers and mechanics, at a minimum, "the wages *the Secretary of Labor determines* to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed..." 40 U.S.C. § 3142(b) (emphasis added). In the plain text of the law, the Davis-Bacon Act does not define the term "prevailing" or "prevailing wage," but instead gives that authority to the Secretary of Labor. During the House floor debate of the Davis-Bacon Act, Rep. William Kopp (R-IA) clearly stated that although "...the term 'prevailing rate' has a vague and indefinite meaning [...] the power will be given [...] to the Secretary of Labor to determine what the prevailing rates are." Congress thus demonstrated a clear intent to give the Secretary of Labor the exclusive authority to determine prevailing rates and implement prevailing wage law.

As explained in our prior comments with IBEW,[9] we urge the Treasury to follow the recommendations from North America's Building Trades Unions (NABTU)[10] to follow DOL's existing standards and procedures for both the prevailing wage and apprenticeship requirements under the IRA. We also reiterate our call for the Treasury to adopt DOL's rigorous oversight and quality control standards, including apprentice-journeyperson ratios, which are critical for ensuring safety and training to the specialized skills for each craft, and our recommendation that the Treasury follow NABTU's 2022 recommendations regarding recordkeeping, reporting and enforcement, which will prevent unscrupulous contractors from benefiting from the IRA's tax incentives by exploiting untrained, underpaid workers.

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[8] NECA Comments on the Department of Labor's Proposed Rulemaking: Updating the Davis-Bacon and Related Acts, 87 FR 15698 (March 18, 2022), available at: https://downloads.regulations.gov/WHD-2022-0001-40915/attachment_1.pdf.

[9] NECA and IBEW Joint Comments on the Treasury Department's Guidance on the Prevailing Wage and Apprenticeship Requirements under the Inflation Reduction Act of 2022, Notice 2022-0051 (October 11, 2022), available at: https://downloads.regulations.gov/IRS-2022-0025-0240/attachment_1.pdf.

[10] NABTU Comments on the Treasury Department's Guidance on the Prevailing Wage and Apprenticeship Requirements under the Inflation Reduction Act of 2022, Notice 2022-0051 (October 11, 2022), available at: https://downloads.regulations.gov/IRS-2022-0025-0022/attachment_1.pdf.

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A. Treasury should expressly adopt the Department of Labor's new Davis-Bacon rules

The DOL recently issued a final rulemaking updating DBRA which took effect on October 23, 2023. We urge the Treasury to expressly adopt the new DBRA regulations in its final rule. The new DBRA rule modernizes and streamlines the administration of the prevailing wage law and reverses Reagan-era changes that weakened its original intent. Adopting the new DBRA rule is critical to ensuring that IRA projects support good-paying local jobs and prevent low-road contractors from depressing wage rates.

a. 30-percent rule

For the first 50 years after the enactment of the Davis-Bacon Act, "prevailing rate" was defined by the Department of Labor to mean "the wage (hourly rate of pay and fringe benefits) paid to the greatest number of laborers or mechanics in the classification on similar projects in the area during the period in question, provided that the wage is paid to at least 30 percent of those employed in the classification." 29 C.F.R. § 1.2(a) (1935).

For 50 years, the prevailing wage was determined by a three-step process: (1) Any wage rate paid to a majority of workers; and, if there was none, then (2) the wage rate paid to the greatest number of workers, provided it was paid to at least 30 percent of workers, and, if there was none, then (3) the weighted average rate. The second step is referred to as the "30-percent rule."

In 1982, the Department of Labor abruptly removed the 30-percent rule. See 47 Fed. Reg. 23644, 23645 (May 28, 1982). The new process required only two steps: (1) identifying if there was a single wage rate paid to more than 50 percent of workers, and then (2) if no wage rate is greater than 50 percent of workers, relying on a weighted average of all the wage rates paid. *Id.*; see also 29 C.F.R. § 1.2(a)(1) (1982).

The 30-percent rule was finally restored with the enactment of DOL's new DBRA rule. The 1982 rule – which remained in effect until the new rule took effect this month – incorrectly declared the "prevailing" rate to be the "majority" rate. This interpretation was inconsistent with the statutory text and purpose of the Davis-Bacon Act and contrary to Congressional intent.

The Davis-Bacon Act was designed to protect local wage standards – even if they were enjoyed by a minority (i.e., less than 50 percent) of workers. The authors of the Davis-Bacon Act obviously recognized the futility of a statute that would protect a rate only if it was being received by a majority of workers or that was the product of an "averaging" process. Congress examined this issue in Congressional hearings by the House Special Subcommittee on Labor. In its 1963 report, the House Subcommittee supported use of the 30 percent rule, finding that:

> "It should be kept in mind that "prevailing" means only a greater number. It need not be a majority. Therefore, the subcommittee believes that the 30 percent rule should be established legislatively.

> The subcommittee strongly opposes using an average unless at least 30 percent of those employed in a given classification do not receive the same rate. As was indicated previously an average rate is per se going to be an artificial rate in that it will not mirror any of the actual wages paid in a community. To that extent it would disrupt such local wages"[11]

The 1982 rule does not result in a wage that is "commonly accepted" or "predominant." Indeed, the resulting artificial average rate is a rate that likely is *not*, in fact, paid to any workers in the locality. NECA strongly urges the Treasury to adopt the new DBRA rule, including the 30 percent rule, which restores the prevailing wage law to align with the Congressional intent of the Davis-Bacon Act.

b. Coverage for solar, wind, and EV charging infrastructure

NECA also urges the Treasury to adopt the new DBRA rule modernizing the definition of "building or work" (as used to delineate contracts for covered construction activities) by including solar panels, wind turbines, broadband installation, and installation of electric car chargers to the non-exclusive list of covered activities. These relatively new industries have been traditionally less unionized and pay lesser than prevailing wages as compared to traditional construction projects. By including these categories into the "building or work" definition with Davis-Bacon coverage, the DOL's new rule more accurately reflects the state of the construction industry today.

As the federal government has committed to an historic infrastructure investment benefitting these exact activities, following the most updated prevailing wage regulations is essential. Furthermore, given the fact that these building work activity categories have suffered skilled labor shortages, contractors and industry will benefit greatly from a growing labor force boosted by robust prevailing wage coverage.

c. Site of work

NECA urges the Treasury to follow the final DBRA rule specifically regarding the definition of 'site of work' when implementing the IRA.

The DOL has the authority to ensure that the Davis-Bacon Act is being properly followed and not subverted through large-scale prefabrication, solely dedicated prefabrication shops, and/or modular construction. NECA acknowledges that the use of large prefabrication materials and modular construction has significantly grown since the first implementation of Davis-Bacon in 1935. The DOL considered a wide range of comments on varying viewpoints and decided when issuing the final rule. In the final rule the DOL modified its proposal to narrow the scope of coverage at secondary construction sites. Specifically, the final rule provides that for a secondary

[11] Staff of the H. Subcomm. on Lab., 88th Cong., Administration of the Davis-Bacon Act, Rep. of the Subcomm. on Lab. of the Comm. on Educ. and Lab. (Comm. Print 1963) (emphasis added).

construction site to be considered part of the site of the work, in addition to being a location where a significant portion of a building or work is constructed for specific use in the designated building or work, the site must be either established specifically for the performance of the covered contract or project or dedicated exclusively, or nearly so, to the covered contract or project.

d. Consideration of local construction labor market realities

When the DOL lacks adequate wage data for a specific county to establish prevailing wage rates, it extends the survey's geographic coverage and often gathers information from distant counties that are not neighboring though it matches the so-called “metropolitan or rural” determination from OMB. This approach arises because existing regulations prevent the DOL from factoring in wage data from metropolitan counties when determining prevailing wage rates for rural counties, and vice versa. The final rule reinstates the practice that existed before 1982, allowing the DOL to consider neighboring communities for wage data without being restricted by arbitrary geographical classifications.

For instance, under the final rule, if the DOL doesn't receive sufficient data from a rural county, it can utilize data from a neighboring metropolitan county, provided both counties are reasonably considered part of the "local construction labor market." Additionally, when the DOL expands the survey's geographic scope to encompass a group of counties, the rule generally mandates that all counties within the group share a border with at least one other county in the same group. The DOL is given flexibility in determining the methodology to determine whether a rural and a metropolitan county are indeed part of the same "local construction labor market."

B. Strengthening enforcement through cross-withholding

Cross-withholding is a procedure through which agencies withhold contract payments due to a contractor for work on a project other than the project that gave rise to the Davis-Bacon violation (e.g., having multiple federal government contracts).

The final rule enhances the DOL’s cross-withholding procedures by making clear that federal agencies may pursue cross-withholding regardless of whether the contract on which withholding is sought by the same federal agency that awarded the contract on which the Davis-Bacon violations occurred.

The final rule also creates a new mechanism that will allow federal agencies to cross-withhold when contractors use single-purpose entities, such as joint ventures or partnerships, to bid on and enter into Davis-Bacon contracts. So, if a contractor secures two or more contracts though separate “prime contractor” entities as described above, the DOL can still pursue cross-withholding between the two contracts even though they are awarded to technically separate entities. The final rule also gives DOL priority to withheld funds above competing claims to those funds by a contractor’s sureties, assignees, successors, and bankruptcy trustees.

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The Treasury Department has broad authority to ensure enforcement of prevailing wage and apprenticeship utilization. The Treasury Department should create a cross-withoding mechanism modeled after the cross-withholding mechanism used by DOL. For example, if a taxpayer is engaged in two or more separate projects claiming bonus tax credits and is found in violation of either the prevailing wage *or* the apprenticeship utilization requirements, that should immediately alert the Treasury to stop any payment of tax credits on all other projects owned by the taxpayer. The Treasury should immediately thereafter conduct a robust audit of all of the taxpayer's projects utilizing the bonus tax credit provisions. Finally, until the taxpayer has cleared the audit and paid all associated penalties, the taxpayer should not be able to claim any further bonus tax credit on additional projects.

IV. APPRENTICE UTILIZATION

A carefully balanced system of education, training, and experience is the only method for achieving safety and the highest level of craftsmanship. It is therefore critical that the workers charged with building energy infrastructure have a robust understanding of their craft's work supported by extensive training, including knowledge of current technological and safety standards.

Over 70 years ago, NECA and IBEW developed the nonprofit Electrical Training Alliance ("Alliance").[12] The Alliance's affiliated local apprenticeship training programs are the largest training providers for electrical workers in the nation, with some 300 construction training centers in operation. IBEW and NECA invest nearly $200 million per year in apprenticeship training efforts. Training is provided at no cost to participants or taxpayers, and apprentices earn competitive wages for on-the-job training plus health and retirement benefits.

Apprentices in NECA/IBEW affiliated Registered Apprenticeship programs receive hands-on work experience under the supervision of experienced journey-level electricians and study electrical, mechanical and construction theory as part of their classroom training. Apprentices train in blueprint reading, mathematics, safety, first aid, conduit installation, wiring, outlets, and switches, among other topics. Those furthest along in their training work on planning the construction and testing the operation of an entire electrical system. In addition, journey-level workers frequently obtain additional certifications due to the ever-evolving technological advancements and safety imperatives in the field.

NECA/IBEW affiliated Registered Apprenticeship programs are trained to state licensing and other industry standards, even in states without such standards in place. Apprentices are also trained to the latest components, devices, technological specifications in the electrical construction industry. For example, apprentices are trained to follow the National Electric Code ("NEC"), a model code produced by the National Fire Protection Association ("NFPA") that provides benchmark standards for the safe installation of electrical wiring and equipment.

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[12] Electrical Training Alliance, https://www.electricaltrainingalliance.org/AboutUs.

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a. Treasury should require taxpayers to document outreach to all registered apprenticeship programs

If an employer can receive a good faith waiver even when it doesn't receive all the qualified apprentices it originally requested, there is a risk that employers may exaggerate the number of apprentices they request from registered apprenticeship programs. Additionally, having an "all or none" standard for good faith waivers would not be in the best interest of public policy. The intention behind the IRA's apprentice utilization provisions is to encourage the utilization of qualified apprentices and the registered apprenticeship programs responsible for their training. Allowing taxpayers and their affiliated employers to claim a higher tax credit without actually employing the qualified apprentices available to them from a registered apprenticeship program would undermine both of these public policy objectives.

To address this issue, it's essential that employers engage in well-documented outreach efforts to all registered apprenticeship programs with the appropriate trade classifications for the apprentices required for the work associated with the taxpayer, contractor, or subcontractor. This outreach should cover a 75-mile radius, regardless of state borders, from the Qualified Facility and should involve direct contact by certified mail, phone call, and email to the training director of the apprenticeship program or an equivalent individual. Additionally, such training director or equivalent individual should respond with the number of apprentices by certified mail, phone call, and email.

V. 1 MW EXCEPTION

NECA supports Treasury's proposed nameplate capacity definition to determine maximum net output for purposes of the One Megawatt (MW) exception.

Nameplate capacity, distinct from actual generation, remains relatively constant despite fluctuations in environmental conditions such as temperature, cloud cover, and wind speed. In evaluating a taxpayer's eligibility for the One Megawatt exception, nameplate capacity offers a stable measure of a facility's size, immune to the influence of weather-related variations, thereby providing greater certainty to the taxpayer regarding the applicability of labor standards.

Furthermore, utilizing nameplate capacity as the criterion for eligibility serves as a safeguard against fraud and abuse. If the exception were to rely on actual electricity generation, a taxpayer might engage in manipulative practices to avoid paying prevailing wages or employing apprentices. They could throttle electricity production until they secure the full tax credit, and subsequently, increase production without consequences. The Treasury Department's proposed definition ensures that the exception only encompasses facilities capable of generating a maximum of one megawatt of electricity, thereby preventing such exploitative practices.

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A taxpayer seeking a bonus tax credit should not be permitted to subdivide projects and construction contracts in an effort to evade the prevailing wage requirement. Certain factors, including ownership and proximity, shall determine whether multiple Qualified Facilities or units of equipment[13] constitute one single Qualified Facility for purposes of determining whether the 1-megawatt exception applies.

Finally, to prevent taxpayers from evading the One Megawatt exception, the Treasury Department should evaluate whether facilities will be using the same transmission lines or connecting to the same powerhouse. Such energy projects will need to either use the same transmission lines, build subsequent news ones, or connect to a nearby powerstation

VI. CONCLUSION

NECA applauds the Treasury Department for issuing the Proposed Rule, which takes significant steps towards effective implementation of the IRA's prevailing wage and apprenticeship utilization requirements. NECA urges the Treasury Department to adopt the above recommendations to ensure Congressional intent is followed in applying labor standards to the federal tax code, and to conclude this rulemaking quickly, to enable taxpayers to move forward with a clear understanding of their obligations under the IRA.

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[13] For purposes of the final rule, the phrase "units of equipment" should be defined to include equipment that directly or indirectly affects, impacts, or assists in the production of wattage for a Qualified Facility.

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