

Treasury Issues EV Tax Credit Sourcing Rules. # of Eligible Vehicles Will be Reduced

On Friday, U.S. Department of the Treasury and the Internal Revenue Service (IRS) released proposed guidance on the new clean vehicle provisions of the Inflation Reduction Act which will significantly change electric vehicle (EV) tax credits that are available under Section 30D of the Internal Revenue Code. In particular, the IRS guidance will put in place new critical mineral and battery component content requirements that EVs must meet to qualify for Section 30D tax credits.

For dealers, these new requirements will mean two key things:

- First, effective April 18, 2023, the number of EV make/models that are potentially eligible for a Section 30D credit will likely be dramatically *reduced*.
- Second, for those vehicles that may qualify for a Section 30D credit under the proposed guidance, there will be only two possible credit amounts: \$3,750 or \$7,500. Until April 18, potential Section 30D credits will continue to vary but will typically be for \$7,500.

The Notice of Proposed Rulemaking (NPRM) ostensibly provides clarity and certainty to manufacturers on the Inflation Reduction Act requirements that vehicles eligible for the clean vehicle credit undergo final assembly

in North America and do not exceed a Manufacturer's Suggested Retail Price of \$80,000 for a van, pickup truck, or sport utility vehicle, or \$55,000 for any other vehicle.

Building on the anticipated approach detailed in a white paper released in December, the NPRM also explains how manufacturers may satisfy the critical mineral and battery component requirements under the Inflation Reduction Act.

To be eligible for a \$7,500 credit, clean vehicles must meet sourcing requirements for both the critical minerals and battery components contained in the vehicle. Vehicles that meet one of the two requirements are eligible for a \$3,750 credit.

Critical Mineral Requirement

To meet the critical mineral requirement and be eligible for a \$3,750 credit, the applicable percentage of the value of the critical minerals contained in the battery must be extracted or processed in the United States or a country with which the United States has a free trade agreement, or be recycled in North America—as mandated by the Inflation Reduction Act.

- For 2023, the applicable percentage is 40 percent.
- For 2024, the applicable percentage is 50 percent.
- For 2025, the applicable percentage is 60 percent.
- For 2026, the applicable percentage is 70 percent.
- Beginning in 2027, the applicable percentage is 80 percent.

The NPRM proposes a three-step process for determining the percentage of the value of the critical minerals in a battery that contribute toward meeting critical minerals requirement:

1. Determine procurement chains.
2. Identify qualifying critical minerals.
3. Calculate qualifying critical mineral content.

The NPRM also details a proposed set of principles for identifying the set of countries with which the United States has a free trade agreement in effect, since this term is not defined in statute. This term could include newly negotiated critical minerals agreements.

Agreements would be considered based on whether they reduce or eliminate trade barriers on a preferential basis, commit the parties to refrain from imposing new trade barriers, establish high-standard disciplines in key areas affecting trade, and reduce or eliminate restrictions on exports or commit the parties to refrain from imposing such restrictions on exports, including for trade in the critical minerals contained in electric vehicle batteries.

Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Japan, Jordan, Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, and Singapore are included in the NPRM.

Battery Component Requirement

To meet the battery component requirement and be eligible for a \$3,750 credit, the applicable percentage of the value of the battery components must be manufactured or assembled in North America—as mandated by the Inflation Reduction Act.

- For 2023, the applicable percentage is 50 percent.
- For 2024 and 2025, the applicable percentage is 60 percent.
- For 2026, the applicable percentage is 70 percent.
- For 2027, the applicable percentage is 80 percent.
- For 2028, the applicable percentage is 90 percent.
- Beginning in 2029, the applicable percentage is 100 percent.

The NPRM proposes a four-step process for determining the value:

1. Identify battery components that are manufactured or assembled in North America.

2. Determine the incremental value of each battery component, including North American battery components
3. Determine the total incremental value of battery components.
4. Calculate the qualifying battery component content by dividing the total incremental value of North American battery components by the total incremental value of all battery components.

Beginning in 2024, an eligible clean vehicle may not contain any battery components that are manufactured by a foreign entity of concern and beginning in 2025 an eligible clean vehicle may not contain any critical minerals that were extracted, processed, or recycled by a foreign entity of concern. The NPRM states that Treasury and IRS will issue subsequent guidance on this provision.

The NPRM is filed for public inspection and will be published in the Federal Register on April 17, 2023. Vehicles placed-in-service on or after April 18, 2023 will be subject to the critical mineral and battery component requirements laid out in the rule. On that date, [FuelEconomy.gov](https://www.fueleconomy.gov) will contain a list of eligible clean vehicles that qualified manufacturers have indicated to the IRS meet the requirements to claim the new clean vehicle credit, including the amount of the credit.

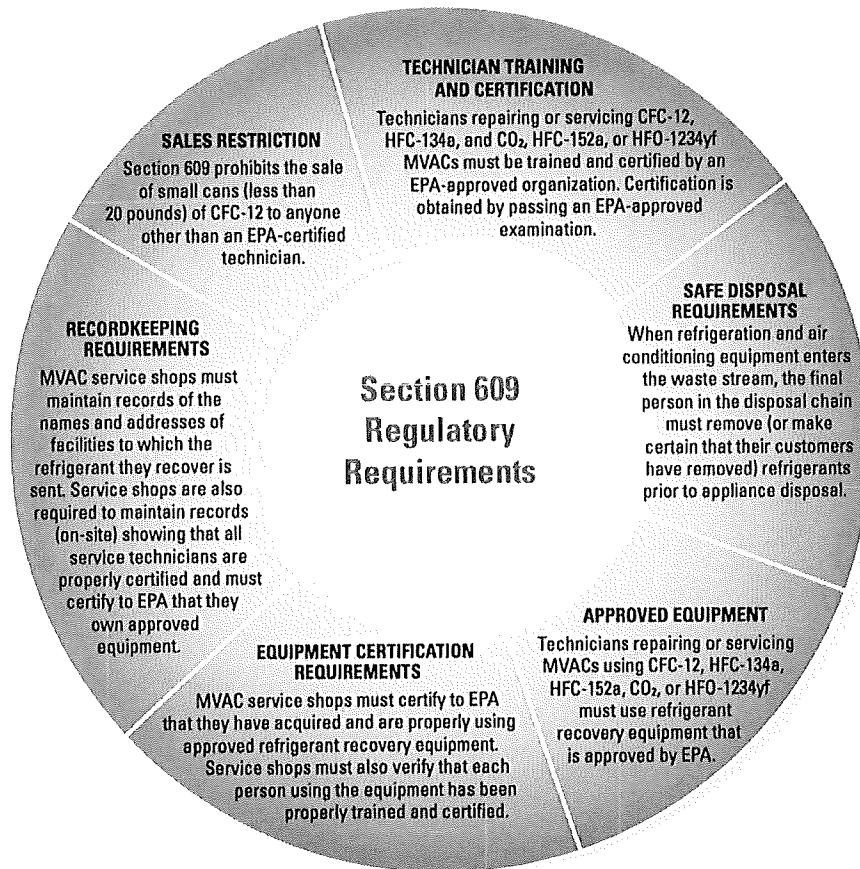
This list will continue to be updated promptly, as manufacturers provide information on which of their vehicles qualify for the tax credit based on the NPRM. [Additional information about the clean vehicle credit is available here.](#) Treasury and the IRS will carefully consider public comments and feedback before issuing final rules.



A/C Technicians Must Be Compliant With EPA Recycle Regulations

Any person who repairs or services a motor vehicle air conditioning (MVAC) system must be properly trained and certified under Section 609 (see below) of the Clean Air Act by an EPA-approved program. Technicians need to obtain A/C Technician Certification only once; but, because of turnover, service managers need to be sure technicians doing AC-related work are certified. The chart below summarizes the regulatory requirements under Section 609.

Section 609 Regulatory Requirements: Motor Vehicle Air Conditioning



In addition to properly training technicians, dealers are required to use approved recover/recycle equipment, and submit certification of equipment to the EPA. Currently, Intertek and Underwriters Laboratory are the only organizations approved to certify refrigerant handling equipment. Recordkeeping Requirements Service stations must maintain on-site records proving that each person using servicing equipment has been properly trained and certified. Records must also be kept on-site of the name and address of any facility to which they send recovered refrigerant and must be maintained for 3 years. For more information on Section 609, go to www.epa.gov/mvac.



Group of State Attorneys General Ask Congress to Pass Right-to-Repair

By Cole Rogerson, Lead Editor with Waste Dive

A group of 28 state and territorial attorneys general, including Nevada Attorney General Aaron Ford, recently sent a joint letter to members of Congress asking them to “redouble” their efforts on

passing right-to-repair legislation for “automobiles, agricultural equipment, and digital electronic equipment.”

Right-to-repair policy for consumer electronic equipment is of particular relevance for the recycling industry. Certain trade groups and companies have previously supported the concept as a way to enable greater recycling and reuse of devices, some of which can also present fire hazards in waste facilities due to their batteries.

The March 24th letter was addressed to Rep. Cathy McMorris Rodgers (R-Wash.), Rep. Frank Pallone (D-N.J.), Sen. Maria Cantwell (D-Wash.) and Sen. Ted Cruz (R-Texas); all of whom are the chairs or ranking members on relevant committees.

The attorneys general specifically touted three bills introduced in the last session of Congress: the Fair Repair Act, the Saving Money on Auto Repair Transportation (SMART) Act and the Right to Equitable and Professional Auto Industry Repair (REPAIR) Act. The REPAIR Act was also reintroduced in February.

The attorneys general described the concept as a bipartisan issue that can reduce consumer costs amid inflation, noting how equipment manufacturers “often control access to these electronics parts, creating unfair restraint of trade and a monopoly on repair.”

The letter went on to note that common tactics “include using adhesives that make parts difficult to replace, limiting the availability of parts and tools, or making diagnostic software unavailable.” It also pointed to prior support for this concept from the Federal Trade Commission and Biden administration.

The letter was signed by officials from Alaska, Arizona, California, Connecticut, Delaware, District of Columbia, Guam, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maine, Maryland, Michigan, Minnesota, Nevada, New Mexico, Northern Mariana Islands, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Washington and Wisconsin.

At the state level, New York became the first to pass a repair law focused on electronics in December. Nathan Proctor, senior campaign director for this issue at PIRG, said in a statement that “this incredible, bipartisan display of support shows, people from all across America support making it the law of the land.”



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