



August 15, 2023

SUBMITTED ELECTRONICALLY

The Honorable Tracy Stone-Manning
Director, U.S. Bureau of Land Management
1849 C St NW
Washington, D.C. 20240

Re: Rights-of-Way, Leasing, and Operations for Renewable Energy (RIN 1004-AE78)

Dear Director Stone-Manning:

Thank you for providing the Solar Energy Manufacturers for America (SEMA) Coalition the opportunity to provide comments regarding “Rights-of-Way, Leasing, and Operations for Renewable Energy.”¹

Our members are a diverse group of solar manufacturers — those who make panels and components — throughout the entire solar supply chain. SEMA Coalition members either have a significant manufacturing presence in the United States, or intend to start or shift significant portions of their manufacturing operations to the U.S. following policy supporting growing solar manufacturing and demand in the U.S., including implementation of the Inflation Reduction Act (IRA).

Solar is poised to be the world’s leading source of energy by 2040 and, according to the Department of Energy, could provide 40% of the nation’s electricity by 2035.²³ Accordingly, we must ensure the U.S. government is taking the necessary steps to reduce the country’s reliance on overseas supply chains to meet our future clean energy needs. Despite the incentives provided by the IRA, the solar industry continues to face significant headwinds from foreign competitors who operate with significant government subsidies and are undermining fair competition.⁴

It is critical that the federal government utilize its land leasing authority to incentivize the use of American-made solar panels and components through a strong and effective Buy American rate reduction. This type of policy signal will help the U.S. work in partnership with solar manufacturers to establish a strong, secure, and resilient solar manufacturing supply chain — from polysilicon through module manufacturing — to meet our current and future deployment needs in the U.S. and globally while creating good-paying manufacturing jobs.

¹ [Federal Register :: Rights-of-Way, Leasing, and Operations for Renewable Energy](#)

² [Solar Futures Study](#)

³ [Renewable power’s growth is being turbocharged as countries seek to strengthen energy security - News - IEA](#)

⁴ [Solar Manufacturing in the US Is Facing a Bleak Future. Analysts Warn](#)



With this perspective in mind, we have provided responses to the proposed rule on items that will have the greatest impact on SEMA Coalition members and the future of the U.S. solar manufacturing industry.

1. In response to whether the BLM should establish a fixed reduction based upon a set percentage rather than the escalating approach proposed in this rule

The SEMA Coalition supports the use of a fixed percentage of costs attributable to Buy American items to qualify for a reduced capacity fee, rather than using the proposed escalating percentage approach. To best leverage the power of the federal government's leasing authority, the BLM should **require** a fixed domestic content percentage that ensures any project qualifying for a capacity fee reduction is aligned with the federal government's efforts to reshore the solar supply chain. If an escalating percentage approach is utilized, BLM would allow projects to utilize a de minimis percentage of domestic components, as low as 25% of the cost of a facility, and still be rewarded a fee reduction. As a result, this structure would fail to create a strong demand signal for domestically manufactured solar components and in turn would not support the administration's goal to reshore the solar supply chain.

Genuine efforts to reshore the solar supply chain must support the manufacturing of core solar components such as polysilicon, ingots, wafers, and PV cells domestically. Accordingly, the SEMA Coalition urges BLM to ensure that lessees receiving a reduced capacity fee due to Buy American preference are required to meet a significant domestic content percentage that will send a strong demand signal to domestic manufacturers and help establish a complete solar supply chain within the United States. This approach would signal a whole-of-government approach to supporting domestic solar manufacturing and complement efforts across the federal government.

2. In response to whether the BLM may consider using a definition from other policies as an alternative to the domestic content definition under Buy American

In support of interagency coordination and simplifying compliance efforts, the SEMA Coalition would ideally support a single domestic content definition applied to all federal domestic solar manufacturing incentives. However, given the Internal Revenue Service's (IRS) current domestic content definition fails to adequately support the onshoring of core solar components, as a solar module with a significant number of foreign components can still qualify as domestically manufactured, the SEMA Coalition does not support the use or incorporation of the domestic content definition currently implemented by the IRS. Instead, the SEMA Coalition recommends the BLM utilize a domestic content definition that incentivizes the use of domestically manufactured core solar components, as laid out in Section 45X of the IRA, to ensure that solar projects that use significantly incorporate items that are composed of these critical domestic components receive the domestic content benefit.



3. In response to whether there is a more appropriate way than determining the percentage of total cost of qualifying items for the domestic content preference

The SEMA Coalition believes that utilizing the percentage of the total cost of qualifying items incurred by a developer is a simple and effective way of determining eligibility for the domestic content preference. It is crucial, however, that a cost is defined as the cost incurred by a developer when purchasing a qualified item rather than the direct cost of manufacturing a qualifying item. If a cost is defined as the direct cost of manufacturing a qualifying item, manufacturers may be hesitant to participate given they will have to share proprietary and business sensitive information with their customers, who need it in order to finance projects, and ultimately receive a reduced capacity fee. Furthermore, while some manufacturers may be able to divulge costs, their competitors may not choose to do so, resulting in skewed inputs into the domestic content calculation. With that in mind, BLM will need to be aware of potential market price manipulation and should ensure that projects aren't inflating the acquisition costs of certain items beyond general market pricing in order to receive the fee reduction.

4. In response to whether there are other methods to promote the greatest use of solar and wind energy generation on the public lands while strengthening the resiliency of domestic energy supply chains and whether the proposed reductions fairly encourage developers to qualify for using American-made products in their solar or wind energy generation facilities, and support increasing demand for clean energy technologies on public lands

While the proposed regulations would provide a valuable incentive for solar developers to source domestically manufactured components, the BLM could further incentivize domestic manufacturing by requiring solar facilities to domestically source all the core solar components laid out in Section 45X of the IRA in order to receive the reduced capacity fee. Currently there is no domestic production of solar ingots, wafers, or cells; however, domestic manufacturers are making large investments and are actively constructing manufacturing facilities to reshore these crucial portions of the supply chain. As domestic capacity is being generated, the BLM could issue a temporary safe harbor for certain core solar components until domestic capacity is expected to sufficiently meet demand. This would ensure that the domestic content incentive can be feasibly met by developers while also providing domestic manufacturers with the demand signal needed to make large scale investments and establish a U.S. solar supply chain.

5. What are reasonable levels to qualify for Buy American items within an energy generation facility that could be met by a developer today and in the future, such as when domestic production levels have increased further?

To ensure that the domestic content capacity fee reduction incentive can be reasonably obtained while also supporting domestic manufacturing, the SEMA Coalition requests that the BLM implement a fixed domestic content percentage that increases over time. The IRA, for example, set a reasonable domestic content standard under the clean energy production tax credit (Section



45Y) that increases with time to adapt as domestic manufacturing capacity increases, as seen below:

Year	Domestic Content Percentage
Present - December 31, 2024	40%
January 1, 2025 - December 31, 2025	45%
January 1, 2026 - December 31, 2026	50%
After December 31, 2026	55%

The BLM could apply a similar domestic content standard to ensure that developers are able to currently meet such requirements. However, with time, the BLM could adopt a more stringent domestic content standard as dictated by the domestic content standards under Buy American (48 CFR § 52.225-1):

Year	Domestic Content Percentage
Present - December 31, 2023	60%
January 1, 2024 - December 31, 2028	65%
After December 31, 2028	75%

The SEMA Coalition recommends the BLM utilize a blend of both the IRA and Buy American domestic content standards in order to ensure that the BLM's domestic content incentive both supports domestic manufacturing while also being realistically attainable for developers. This will help generate the demand signal needed to build a resilient solar domestic supply chain and support the increased solar deployment.

Sincerely,

Mike Carr
Executive Director
Solar Energy Manufacturers for America Coalition