

Washington, D.C. Update: Federal Government Policy Developments

Prepared by
The Franklin Partnership, LLC
Policy Resolution Group at Bracewell
December 19, 2022



Your Team in Washington, D.C.



Lobbying Firm – The Franklin Partnership, LLC

- Bi-partisan Washington, D.C.-based government relations firm
- Representing manufacturing industry since 2002
- Clients include: manufacturing associations, defense contractors, hospitals, cities



Strategic Communications Firm – Policy Resolution Group at Bracewell

- Wash, D.C.-based public affairs & strategic communications consultants
- Promote NTMA and PMA in print, digital and other media
- Support Franklin Partnership government relations efforts by designing and implementing coordinated strategic communications strategy
- Representing metalworking industry since 2003

Nothing contained in here shall be deemed legal or financial advice.

Contents

- Congressional Update
- Federal Regulatory Updates
- Trade and Supply Chain
- Questions

All information presented as of December 16, 2022

Post-Election Lame Duck Session

- Pelosi only has 218-213 margin
- Government spending expires Dec. 23
- Spending (omnibus bill) last vehicle to move
- National Defense Authorization Act finished
- Water Resources Development Act attached



NDAA – Multi-Year Contract Authority

- Multi-Year Procurement included for “Certain Munitions”
- Congress spelled out munitions that apply and total number allowed
- Weapons include:
 - Naval Strike Missiles,
 - HIMARS launcher
 - Patriot Advanced Capability–3 (PAC–3) Missile Segment Enhancement (MSE)
 - MGM–140 Army Tactical Missile System (ATACMS),
 - Long-Range Anti-Ship Missile (LRASM)
 - Joint Air-to-Surface Standoff Missile (JASSM)
 - Guided Multiple Launch Rocket Systems (GMLRS), and more

NDAA - Inflation Modifications for Contracts

- Modification of fixed-price contracts for contractors facing increased costs “due solely to economic inflation”
- Open to DOD Contractors
 - Prime contractors can seek relief on behalf of subcontractors, subs can seek relief directly if their prime does not
- Thresholds for contract adjustments with approval raised:
 - Without DOD Asst. Sec. approval: \$500,000, up from \$50,000
 - Without Congress’s approval: \$150 million, up from \$25 million
- Available through Dec. 31, 2023
- Guidance expected from DOD in March 2023

Year End Bill – Tax Extenders

- Tax extenders need a vehicle (omnibus)
- R&D Expensing, Bonus Depreciation, 163j
- Democrats want Child Tax Credit
- Talks at a standstill; if not now, then when?

118th Congress Sworn in Jan. 3, 2023

- House GOP to hold 222-213 as Dems did
- House GOP has no margin for error
- Moderate and right flank of GOP competing
- Senate Democrats have 51 seats
- Need 60 votes in U.S. Senate to move bills

Regulatory Actions



New OSHA 300A Filing Procedure

Attention: Not all establishments are covered by this reporting requirement. Only a small fraction of establishments is required to electronically submit their Form 300A data to OSHA. Establishments that meet **any** of the following criteria **DO NOT** have to electronically report their information to us. Remember, these criteria apply at the establishment level, not to the firm as a whole.

- The establishment's peak employment during the previous calendar year was **19 or fewer**, regardless of the establishment's industry.
- The establishment's industry **is on** [Appendix A to Subpart B](#) of OSHA's recordkeeping regulation, **regardless of the size of the establishment.**
- The establishment had a peak employment **between 20 and 249 employees** during the previous calendar year **AND** the establishment's industry **is NOT** on [Appendix A to Subpart E](#) of OSHA's recordkeeping regulation.

The OSHA Injury Tracking Application (ITA) has transitioned its login procedure to the public's one account access to government applications, [Login.gov](#). **All current and new account holders must connect their ITA account to a Login.gov account with the same email address** to access the application for the 2023 collection of Calendar Year 2022 Form 300A data.

Before proceeding, please review the following guidance on how to connect your accounts: [Create a Login.gov Account](#)

If you have additional questions, please visit the [FAQs](#). If none of the FAQs address your question, a Help Request Form is available from that page.

<https://www.osha.gov/injuryreporting/ita/>

New OSHA 300A Filing Procedure FAQ



Launch the Application

Frequently Asked Questions

Injury Tracking Application

<https://www.osha.gov/injuryreporting/faqs>

Account Access

How do I create an ITA account?

The steps to create an ITA account and connect it to a Login.gov account are explained in the [Create an ITA Account](#) and [Create a Login.gov Account](#) job aids. You can also watch our [How To Video](#), which covers the account creation process.

Does OSHA notify employers that they need to report their Form 300A data? And if not, where do I get my Username and Password to login and provide my data?

I want multiple staff members to access the information in my account. How do I give them access?

OSHA Heat Index Rule Working Group

DISCUSSION DRAFT AS OF DECEMBER 13, 2022

NACOSH Heat Stress Work Group 1

Work Group 1's Assignment was to evaluate and provide input and recommendations on OSHA's heat illness prevention materials using the following charges established by OSHA.

1. To identify whether there are communication strategies or products that are useful for employers and workers that are not currently being used by OSHA.
2. To identify whether there are critical heat topics missing from materials.
3. To identify whether materials are accessible to the populations most at risk of hazardous heat exposure in outdoor and indoor work settings.
4. To identify whether existing guidance materials are up to date and align with current best practices in heat hazards and heat illness prevention.
5. To identify specific industries or audiences that would benefit from more tailored guidance materials.

OSHA Heat Index Comments Summary

Introduction

Heat is the leading cause of death among all weather-related phenomena. Excessive heat can cause heat stroke and even death if not treated properly, and it also exacerbates existing health problems like asthma, kidney disease, and heart disease. Workers in both outdoor and indoor work settings without adequate climate-controlled environments are at risk of hazardous heat exposure.

Conclusion

In summary, OSHA received 965 unique public comments, which covered various topics and addressed many of the questions presented in the ANPRM on Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings. Commenters representing various perspectives provided helpful recommendations, insight, and resources for OSHA to consider as a part of the rulemaking process. Some of the most discussed topics included administrative controls, worker training, and heat exposure metrics and monitoring. This summary is meant to provide the work group with a broad understanding of the types of comments received, as well as many of the concerns that commenters raised. Some of the issues raised in the comments, in which there were particularly divergent perspectives presented, include:

<https://www.regulations.gov/document/OSHA-2022-0005-0010>

DoL: Fiduciaries May Consider ESG

Final Rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights

November 22, 2022

WASHINGTON – The U.S. Department of Labor today announced a final rule that allows plan fiduciaries to consider climate change and other environmental, social and governance factors when they select retirement investments and exercise shareholder rights, such as proxy voting.

After extensive consultations and feedback from a wide range of stakeholders, the department concluded that two rules issued in 2020 during the prior administration unnecessarily restrained plan fiduciaries' ability to weigh environmental, social and governance factors when choosing investments, even when those factors would benefit plan participants financially.

“Today’s rule clarifies that retirement plan fiduciaries can take into account the potential financial benefits of investing in companies committed to positive environmental, social and governance actions as they help plan participants make the most of their retirement benefits,” said Secretary of Labor Marty Walsh. “Removing the prior administration’s restrictions on plan fiduciaries will help America’s workers and their families as they save for a secure retirement.”

<https://www.dol.gov/newsroom/releases/ebsa/ebsa20221122>

Industrial Boilers Final Rule Dec. 5

Rule finalizes amendments to certain emission limits for new and existing boilers and process heaters. The EPA is finalizing revisions to 34 different emission limits promulgated in 2011 and amended in 2013. Of these 34 emission limits, 28 of the limits are more stringent. Sets deadline of 3 years for sources to comply with revised emission limits.

Table 3—Source Categories Affected by This Final Action			
Source category	NESHAP	NAICS code ¹	Examples of regulated entities
Any industry using a boiler or process heater as defined in the final rule	Industrial, Commercial, and Institutional Boilers and Process Heaters	211 321	Extractors of crude petroleum and natural gas.
		322	
			Manufacturers of lumber and wood products. Pulp and paper mills.
		325	Chemical manufacturers.
		324	Petroleum refineries, and manufacturers of coal products.
		331	Steel works, blast furnaces.
		332	Electroplating, plating, polishing, anodizing, and coloring.
		336	Manufacturers of motor vehicle parts and accessories.

DoD-SBA-Industry Partnerships

RELEASE
IMMEDIATE RELEASE

Secretary of Defense Establishes Office of Strategic Capital

Dec. 1, 2022 |

Secretary of Defense Lloyd J. Austin III today established the Office of Strategic Capital (OSC), a Department of Defense organization that will help build an enduring technological advantage by partnering with private capital providers.

OSC will connect companies developing critical technologies vital to national security with capital. Critical technologies such as advanced materials, next-generation biotechnology, and quantum science often require long-term financing to bridge the gap between the laboratory and full-scale production, often referred to as the "Valley of Death" in industry.

<https://www.defense.gov/News/Releases/Release/Article/3233377/secretary-of-defense-establishes-office-of-strategic-capital/>

As of Dec. 11, 2022

DoL Youth Build Grants Announced

US DEPARTMENT OF LABOR ANNOUNCES \$90M FUNDING OPPORTUNITY TO SUPPORT DELIVERY OF ACADEMIC, SKILLS TRAINING, EMPLOYMENT SERVICES FOR YOUNG PEOPLE

Agency: Employment and Training Administration

Date: November 30, 2022

Release Number: 22-2227-NAT

WASHINGTON – To help remove academic and training barriers faced by young people, the U.S. Department of Labor today announced [a \\$90 million funding opportunity](#) in [YouthBuild Program](#) grants to support pre-apprenticeships in high-demand industries including construction, healthcare, information technology and hospitality.

Grants will support occupational skills training, employment services and educational guidance to disadvantaged young people, from ages 16 to 24, in communities where barriers to basic academic and career skills development exist.

Administered by the department's [Employment and Training Administration](#), and supported by the [Workforce Innovation and Opportunity Act](#), the grants will fund approximately 75 projects nationwide with individual grants ranging from \$700,000 to \$1.5 million. The funding opportunity follows the department's 2021 guidance that prioritizes quality jobs, green building and community violence intervention.

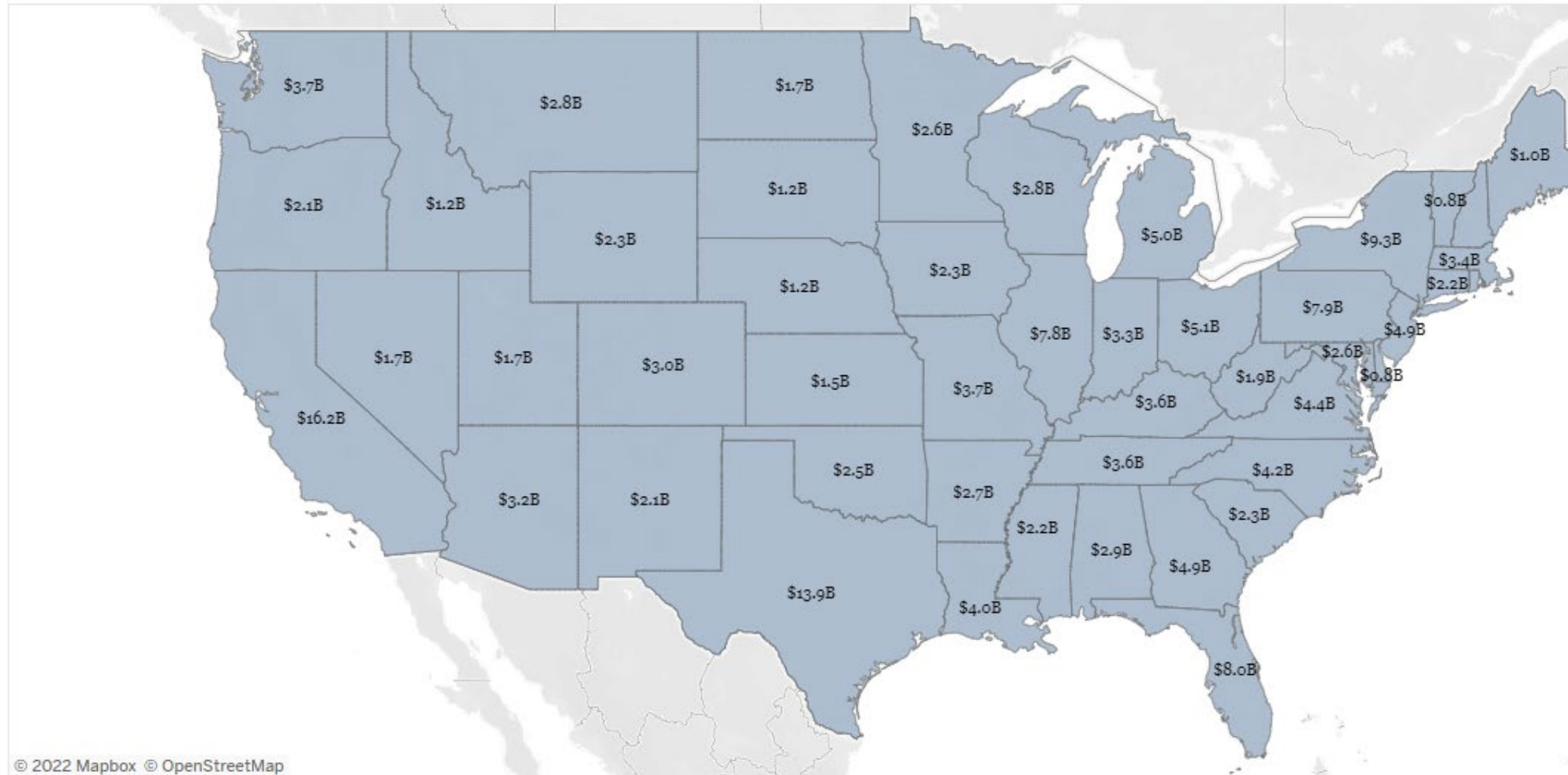
<https://www.dol.gov/newsroom/releases/eta/eta20221130>

Trade and Supply Chain Policy

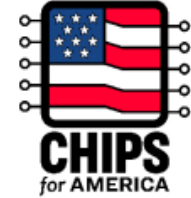
One Year Infrastructure Law Anniversary

Bipartisan Infrastructure Law (BIL) Maps Dashboard

ANNOUNCED BIL FUNDING AS OF OCTOBER 25, 2022



CHIPS Semiconductor White Paper 1Q23



National Semiconductor Technology Center

Elements:

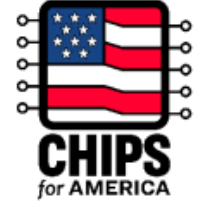
- Core of centrally operated, in-house research, engineering, and program capabilities combined with a network of directly funded and affiliated entities.
- Includes applied research, prototyping of devices and processes in a real-world environment, challenges related to scaling, start-up company support, or development of advanced manufacturing tools and processes.
- Focus research and engineering on challenging projects with a time horizon beyond 5 years.
- The NSTC will serve as a key convening body for the ecosystem.

Process:

- NSTC white paper, 1st quarter 2023.
- Summarize the results of a landscape analysis, outline a governance structure, and describe a preliminary operating and financial model.

CHIPS Semiconductor RFI Closed

Request for Information (RFI)



- Responses to this RFI will inform NIST's development of funding opportunities for federal assistance to establish Manufacturing USA semiconductor institutes.
 - RFI Published October 13, 2022
 - Three public informational webinars held on October 20, November 2, and November 16, 2022.
 - Public comment period extended until December 12th.
 - 57 comments received to date.
- A summary of the public input is expected to be available in early February 2023.

FEDERAL REGISTER
The Daily Journal of the United States Government

Manufacturing USA Semiconductor Institutes

A Notice by the National Institute of Standards and Technology on 10/13/2022

This document has a comment period that ends in 42 days. (11/28/2022) [SUBMIT A FORMAL COMMENT](#)

PUBLISHED DOCUMENT

AGENCY:
National Institute of Standards and Technology, Department of Commerce.

ACTION:
Notice; request for information.

DOCUMENT DETAILS

Printed version:
PDF

Publication Date:
10/13/2022

Agencies:
National Institute of Standards and Technology

Dates:

<https://www.federalregister.gov/documents/2022/10/13/2022-22221/manufacturing-usa-semiconductor-institutes>

CHIPS R&D Gaps Working Group

Work plan – 90 day sprint

- Nov 15 1st meeting Charter and expectations
- Nov 22 2nd meeting Speakers and member homework
- Nov 29 3rd meeting Grand Challenges and Gaps Part 1
- Dec 1 4th meeting Grand Challenges and Gaps Part 2
- Dec 8 5th meeting Breakout team discussions
- Dec 13 6th meeting Breakout team updates
- Jan 10 7th meeting Consolidate and summarize
- Jan 23 Draft of WG recommendations to IAC
- Feb 15 Finalize WG recommendations to IAC

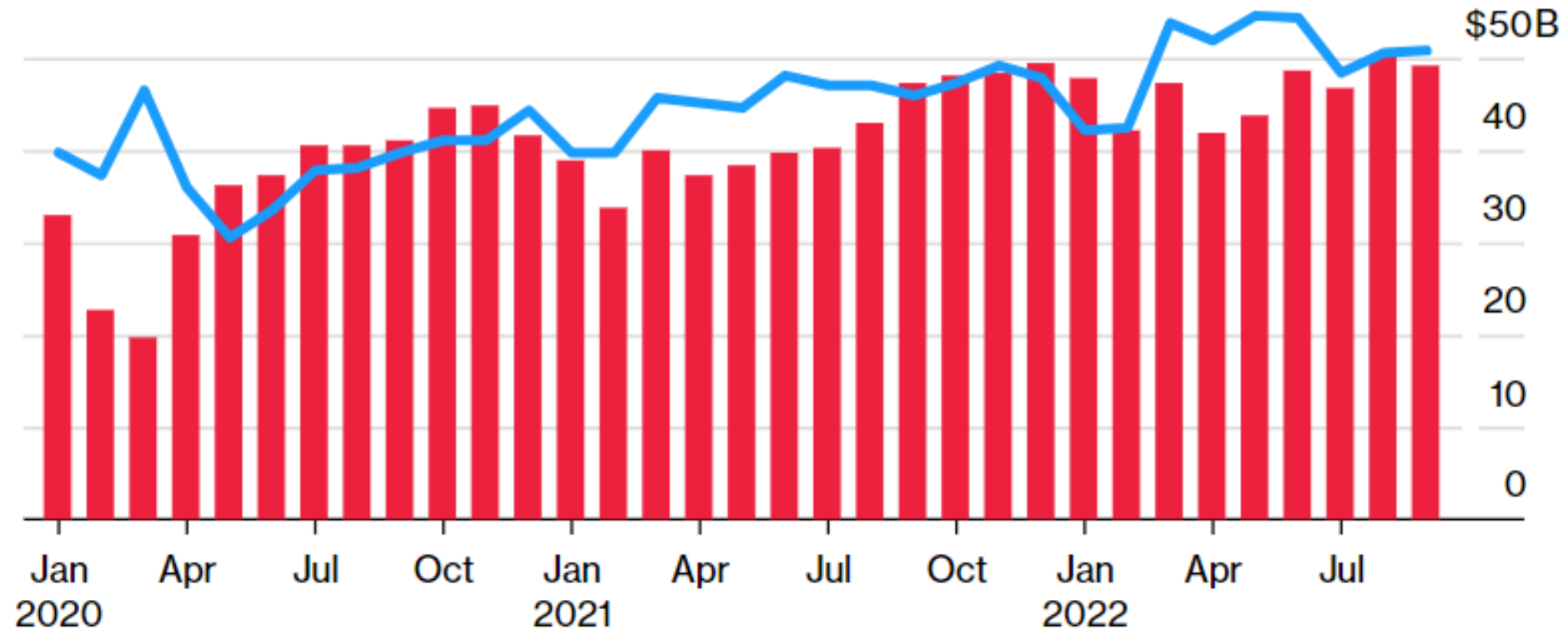
<https://www.nist.gov/system/files/documents/2022/12/15/2.%20Dec%208%20R%26D%20Gaps%20Working%20Group%20Update.pdf>

U.S. Trade with Europe Increasing

Transatlantic Trade Boom

The US is importing more goods from Europe than from China

— EU+UK ■ China



Source: US Census Bureau

WTO: U.S. Steel, Aluminum Tariffs Illegal

7.137. In conclusion, the Panel does not find, based on the evidence and arguments submitted in this dispute, that the measures at issue were "taken in time of war or other emergency in international relations" within the meaning of Article XXI(b)(iii) of the GATT 1994. Therefore, the Panel finds that the inconsistencies of the measures at issue with Articles I:1, II:1, and XI:1 of the GATT 1994 are not justified under Article XXI(b)(iii) of the GATT 1994.

8.1. For the reasons set forth in this Report, the Panel concludes as follows:

- a. Regarding Norway's claims under Article II of the GATT 1994, the additional duties of 25% on steel products and 10% on aluminium products do not accord the treatment provided for in the United States' Schedule, contrary to Article II:1(b) and Article II:1(a) of the GATT 1994.

8.2. Under Article 3.8 of the DSU, in cases where there is an infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment. The Panel concludes that, to the extent that the measures at issue are inconsistent with certain provisions of the GATT 1994, they have nullified or impaired benefits accruing to Norway under that Agreement.

8.3. Pursuant to Article 19.1 of the DSU, the Panel recommends that the United States bring its WTO-inconsistent measures into conformity with its obligations under the GATT 1994.

Dec. 9: USTR Will not Lift 232 Tariffs

WASHINGTON – Assistant United States Trade Representative Adam Hodge today released a statement in response to the final public reports in United States – Certain Measures on Steel and Aluminum Products (DS544, 552, 556, and 564).

“The United States strongly rejects the flawed interpretation and conclusions in the World Trade Organization (WTO) Panel reports released today regarding challenges to the United States’ Section 232 measures on steel and aluminum brought by China and others. The United States has held the clear and unequivocal position, for over 70 years, that issues of national security cannot be reviewed in WTO dispute settlement and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security.

“These WTO panel reports only reinforce the need to fundamentally reform the WTO dispute settlement system. The WTO has proven ineffective at stopping severe and persistent non-market excess capacity from the PRC and others that is an existential threat to market-oriented steel and aluminum sectors and a threat to U.S. national security. The WTO now suggests that the United States too must stand idly by. The United States will not cede decision-making over its essential security to WTO panels.

<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/december/statement-ustr-spokesperson-adam-hodge>



Carbon Tariffs on Steel, Aluminum...?

Bloomberg

US, EU Weigh Climate-Based Tariffs on Chinese Steel and Aluminum

- US officials to propose tariff levels for polluting countries
- New framework designed to address carbon output, overcapacity

U.S. Proposes Green Steel Club That Would Levy Tariffs On Outliers

A concept paper sent to the European Union suggests a new trade approach to tax metal made with higher carbon emissions in countries like China.

The New York Times

US-EU: Steel, Alum Carbon Tariff Regime

STEEL & ALUMINUM

U.S.-EU Joint Statement

October 31, 2021

2. Global steel and aluminum arrangements to restore market-oriented conditions and address carbon intensity

Steel and aluminum manufacturing is one of the highest carbon emission sources globally. Excess capacity generates unnecessary greenhouse gas emissions, deflates prices of high emissions products and hinders the development and scaling up of competitive solutions for lower emissions production. For steel and aluminum trade to be sustainable, producers and consumers must address both global non-market excess capacity as well as the carbon intensity of the industries. Against this backdrop, the United States and the EU are resolved to negotiate, in accordance with their respective institutional frameworks, future arrangements for trade in these sectors that take account of both issues. The United States and the EU will invite like-minded economies to participate in the arrangements and contribute to achieving the goals of restoring market-oriented conditions and supporting the reduction of carbon intensity of steel and aluminum across modes of production. The United States and the EU will seek to conclude the negotiations on the arrangements within two years. In order to encourage similar efforts by other steel producing economies, the United States and the EU will consult with respect to bringing these matters into relevant international fora for discussion, as appropriate.

US-EU: Steel, Alum Carbon Tariff Regime

- Oct. 2021: U.S-EU set two-year timeline
- Dec. 2022: U.S. sent framework to EU
- Oct. 2023: Deadline for U.E.-EU agreement
- Jan. 1, 2024: Global Arrangement on Sustainable Steel and Aluminum takes effect
- Set permissible carbon emissions by product
- Create a market-oriented club (not China)

US-EU: Steel, Alum Carbon Tariff Regime

- Will establish an emissions threshold for club
- Tariff on exports from club exceeding carbon level
- Higher tariffs on exports from outside club
- Meant to incentivize less carbon intense exports
- Possible alternative to Section 232 tariffs
- May be a long-term tariff regime if goes into effect
- Will alter metal markets for rest of decade

EU: Products to Have a Carbon Price

Press release | 13 December 2022 | Brussels

European Green Deal: Agreement reached on the Carbon Border Adjustment Mechanism (CBAM)

The Commission welcomes the political agreement reached this morning between the European Parliament and the Council on the [Carbon Border Adjustment Mechanism \(CBAM\)](#). The CBAM is the EU's landmark tool to put a fair price on the carbon emitted during the production of carbon intensive goods that are entering the EU, and to encourage cleaner industrial production in non-EU countries. Today's agreement will be complemented by the revision of the Emissions Trading System (ETS), with negotiations taking place later this week, and that will align the phase-out of the allocation of free allowances with the introduction of CBAM to support the decarbonisation of EU industry.

https://ec.europa.eu/commission/presscorner/detail/en/IP_22_7719

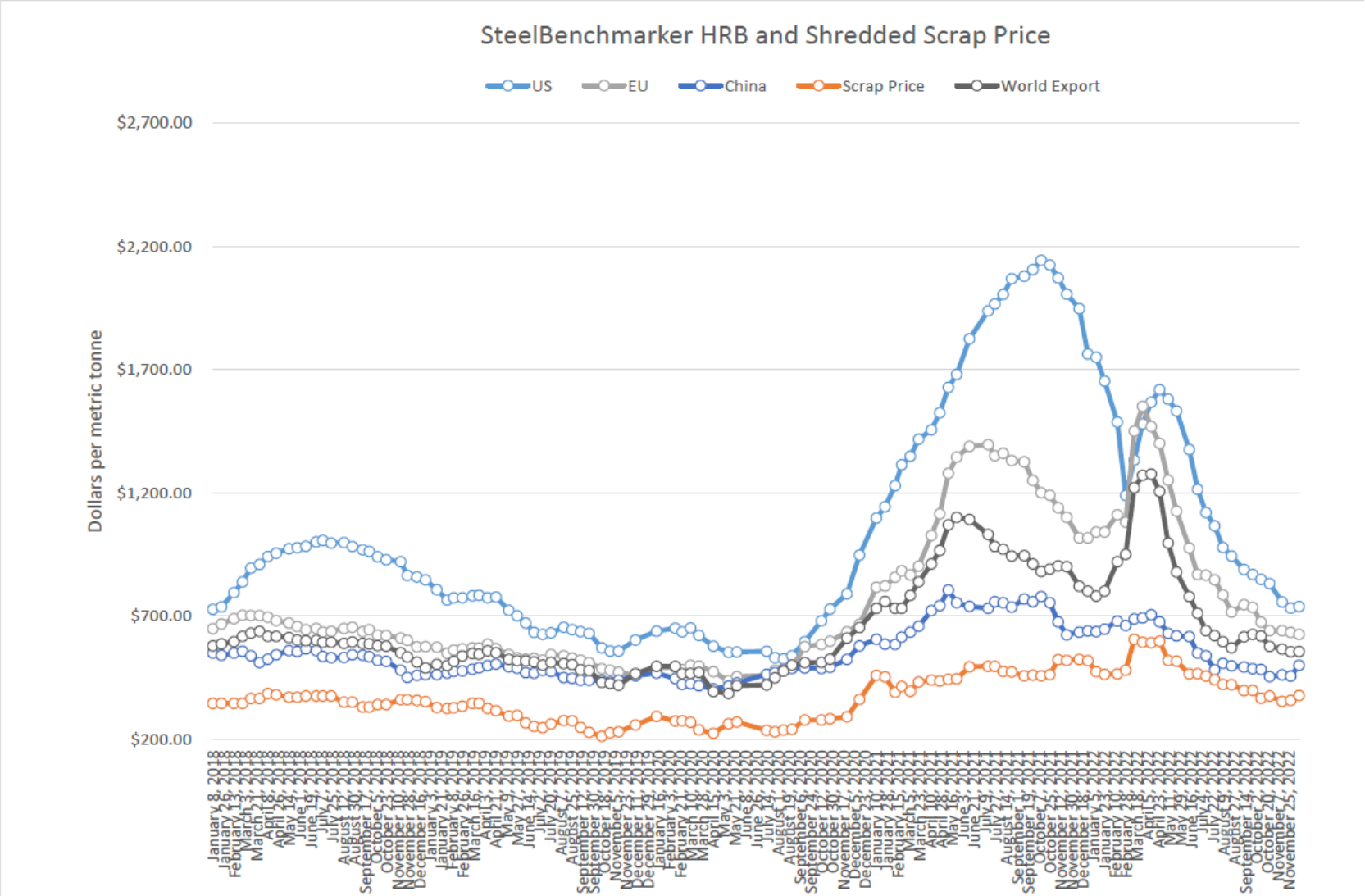
EU: Products to Have a Carbon Price

The CBAM will **initially apply to imports of certain goods and selected precursors** whose production is carbon intensive and at most **significant risk of carbon leakage: cement, iron and steel, aluminium, fertilisers, electricity and hydrogen.** With this enlarged scope, CBAM will eventually – when fully phased in – capture more than 50% the emissions of the ETS covered sectors. Under this political agreement, the CBAM will **enter into force in its transitional phase as of 1 October 2023.**

Given the close links between the new CBAM and the review of the EU ETS, currently under negotiation in 'trilogue' between the co-legislators, the final technical details of the mechanism's functioning will need to be clarified. Once the text has been finalised, the European Parliament and the Council will have to formally adopt the new Regulation before it can enter into force.

https://ec.europa.eu/commission/presscorner/detail/en/IP_22_7719

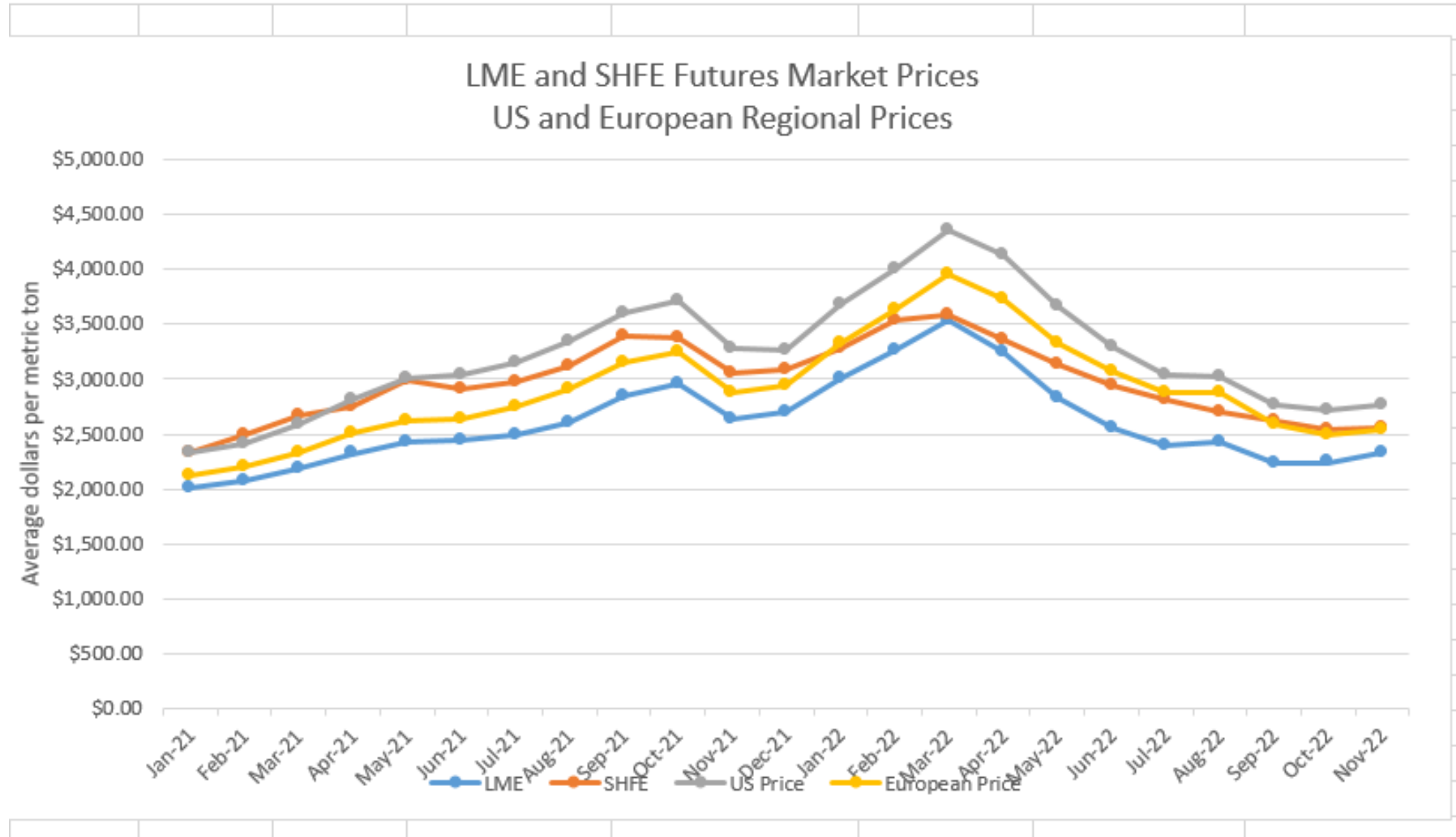
Steel Prices



Source: steelbenchmarker.com

Aluminum Prices

Global Aluminum Prices January 2021-November 2022



Take Action: Tax Extenders, Funding



Tell Congress to Support Policies and Funding Critical to Manufacturers!

Congress is wrapping up their work for 2022 and we need your help to ensure that they take action on critical policies important to manufacturers. The House and Senate need to fund the government for fiscal year (FY) 2023 and are working towards a 12-bill omnibus funding...

<https://www.metalworkingadvocate.org/take-action>

Take the One Voice Survey



Washington Policymakers Want Your Input!

You have the opportunity to directly influence which policies and issues the NTMA/PMA One Voice team will concentrate its lobbying efforts on in 2023 by completing our annual survey. Without your response, politicians and the public will not hear your voice.

This anonymous survey should only take about 15-minutes to complete. We know that you are extremely busy but promise that your time spent is critical as policymakers in Washington, D.C. use the survey results to formulate laws and regulations and without your voice, that could mean tax increases and ineffective regulations, lower funding for job training programs, and uncompetitive trade policies.

We need you to complete this survey TODAY by clicking on the link below. Do not put this off until it is too late to complete (survey closes on December 23). We cannot become a casualty to inaction; we need to maximize survey responses to have your voice heard in Washington.

In order to participate you may either:

[Click Here](#)

OR

Stay Connected – One Voice Podcast



Donate to NTMA, PMA's to Advocacy in DC

NTMA's Government Affairs Administrative Fund (GAAF) allows the association to undertake initiatives aimed at educating elected officials on tooling and machining and the industry's priority issues. It also permits us to support a variety of activities to inform and mobilize our members, as well as to protect and promote the industry with key lawmakers. You can use corporate OR personal funds to donate to the GAAF.

Donate Today!

<https://ntma.org/programs/advocacy/>

PMA ADVOCACY FUND

PMA's Advocacy Fund supports the association's day-to-day lobbying and public relations efforts in Washington, D.C., increasing the industry's visibility in Congress, the Administration and the public. You can use corporate OR personal funds to donate to the advocacy fund.

Donate Today!

<https://www.pma.org/advocacy/donate-today.asp>

Questions?

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<https://www.pma.org/advocacy/donate-today.asp>

<https://ntma.org/programs/advocacy/>

