

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

Prepared by  
The Franklin Partnership, LLC &  
Policy Resolution Group at Bracewell  
August 4, 2023



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## Lobbying Firm – The Franklin Partnership, LLC

- Bi-partisan Washington, D.C.-based government relations firm
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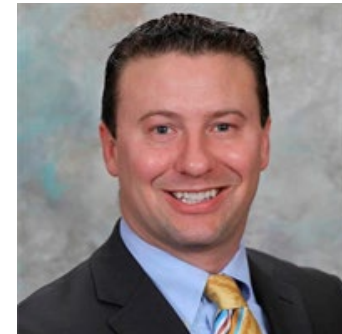
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*Nothing contained in here shall be deemed legal or financial advice.*

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# Contents

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- U.S. Congress
- Regulatory Update
- Trade, Tariffs and Supply Lines



*All information presented as of August 3, 2023*

U.S. Congress

# Congress Left Washington for August

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- House, Senate left July 27 for August recess
- Senate returns Sept. 5; House returns Sept. 12
- U.S. House passed 1 of 12 spending bills
- Senate Committee passed all 12 bipartisan bill
- Government shutdown if no agreement on FY24 by Sept. 30 or passage of Continuing Resolution
  - House GOP must agree among themselves on funding levels
  - Conservatives want lower number than June 2023 bipartisan agreement

# Legislation Facing Sept. 30 Deadline

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- Federal Aviation Administration authorization
- Five-year Farm bill reauthorization
- Pandemic and All Hazards Preparedness Act
- Temporary Assistance for Needy Families
- National Flood Insurance Program expires
- National Defense Authorization Act
  - House passed bill along largely party lines
  - Senate overwhelmingly passed bipartisan bill

# House NDAA Codifies Buy America



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

July 10, 2023  
(House Rules)

## STATEMENT OF ADMINISTRATION POLICY

**H.R. 2670 – National Defense Authorization Act for Fiscal Year 2024**

(Rep. Rogers, R-AL, and Rep. Smith, D-WA)

**Domestic Content Requirements.** The Administration appreciates section 869, which supports the President's executive order signed in 2021 that directed the increase of domestic content thresholds for government procurement, including major defense acquisition programs, ramping up to a final target of 75 percent in 2029.



# R&D Fix, Tax Changes Status Update

- No House vote on GOP-only tax bill extending expired provisions prior to August recess
  - Includes R&D Section 174 fix retroactive to January 1, 2022
  - Returns Bonus Depreciation to 100% from 80% effective Jan. 1, 2023
  - Restores full EBITDA for 163(j) business interest loan deduction
- Some CA, NY, NJ GOP members want SALT fix
- Many conservatives will vote no if bill has SALT
- If passes House, will negotiate w/Senate Dems

# Workforce Bills Delayed in Senate

U.S. SENATE COMMITTEE ON  
Health, Education  
Labor & Pensions

**Date and Time:** POSTPONED

**Location:** 430 Dirksen Senate Office Building

- S. 2122, National Apprenticeship Act of 2023
- S. 2363, Youth Apprenticeship Advancement Act
- S. 161, JOBS Act of 2023
- S. 2402, Gateway to Careers Act of 2023

- Senate HELP Committee had scheduled July 27 markup of bills

- Senate left Washington July 27

# Regulatory Update

# Injury, Illness Reporting Rule Finalized

- Effective 2024, requirement for manufacturers (NAICS 31-33) and select other industries
- Establishments with 100 or more employees must e-file Form 300-Log of Work-Related Injuries and Illnesses, and Form 301-Injury and Illness Incident Report to OSHA annually
- This is in addition to submission of Form 300A-Summary of Work-Related Injuries and Illnesses

# Injury, Illness Reporting Rule Finalized

- Establishments with 20 to 249 employees will continue to e-file Form 300A annually
- Required to include company name in e-filing
- OSHA intends to post some of the data on a public website after removing “information that could reasonably be expected to identify individuals directly”

*As of July 17, 2023*

# OSHA Heat Hazard Emphasis Enforcement

## DEPARTMENT OF LABOR ANNOUNCES HAZARD ALERT, STEPS UP ENFORCEMENT AS EXTREME HEAT ENDANGERS WORKERS ACROSS THE NATION

*Federal law requires employers to provide safe, healthy working conditions*

**WASHINGTON** – The U.S. Department of Labor today announced that its Occupational Safety and Health Administration has issued [a heat hazard alert](#) to remind employers of their obligation to protect workers against heat illness or injury in outdoor and indoor workplaces.

The department also announced that OSHA will intensify its enforcement where workers are exposed to heat hazards, with increased inspections in high-risk industries like construction and agriculture. These actions will fully implement the agency's National Emphasis Program on heat, announced in April 2022, to focus enforcement efforts in geographic areas and industries with the most vulnerable workers.

<https://www.dol.gov/newsroom/releases/osh/osh20230727>

*As of July 27, 2023*



# OSHA Heat Emphasis

## Employers are Responsible for Protecting Workers from Heat Illness

By law employers are responsible for providing workplaces free of known safety hazards, including extreme heat.

It is your responsibility to:

- ☒ Provide workers with water, rest and shade.
- ☒ Allow new or returning workers to gradually increase workloads and take more frequent breaks during the first week of work as they build a tolerance for working in the heat.
- ☒ Plan for emergencies and train workers on prevention.
- ☒ Monitor workers for signs of illness.

[osha.gov/heat](https://www.osha.gov/heat)



[https://www.osha.gov/sites/default/files/publications/OSHA\\_HA-4279.pdf](https://www.osha.gov/sites/default/files/publications/OSHA_HA-4279.pdf)

# OSHA Heat Hazard Alert Emphasis

Workers can file a confidential complaint with OSHA if they believe their working conditions are unsafe or unhealthful, or if they think their employer is not following OSHA standards.

Complaints can be reported by calling OSHA at 800-321-OSHA or filed [online](#).

It is illegal for any employer to fire or otherwise retaliate against a worker who complains to OSHA and uses their legal rights. Workers can exercise their rights to file a [Whistleblower complaint](#) within 30 days if they believe they have been retaliated against in any way.

## Federal Enforcement

OSHA initiated a [National Emphasis Program](#) on heat in April 2022, and continues to focus enforcement efforts in geographic areas and industries with the most vulnerable workers. Many states have their own initiatives, and several have their own OSHA heat standards.

The Agency is planning enhanced enforcement actions, with a strategic focus on geographic locations and industries where high heat impacts vulnerable worker populations. This means more inspection activity as well as a broader use of enforcement tools, especially where workers are in clear danger.

OSHA will also be providing outreach and compliance assistance to ensure employers, including those not covered by the OSH Act, and worker organizations have the tools to protect workers from hazardous heat.

OSHA is also diligently working towards publishing a proposed standard on heat illness prevention for indoor and outdoor workers. We are currently in the Congressionally mandated Small Business Regulatory Flexibility Act process, to get feedback from small businesses on regulatory approaches under consideration.

Employers should immediately take all steps to protect workers from extreme heat. Learn more about how to protect workers from occupational heat hazards at [osha.gov/heat](https://www.osha.gov/heat).

[https://www.osha.gov/sites/default/files/publications/OSHA\\_HA-4279.pdf](https://www.osha.gov/sites/default/files/publications/OSHA_HA-4279.pdf)



# OSHA Warehouse, Distribution Emphasis

## PARTMENT OF LABOR ANNOUNCES NATIONAL EMPHASIS PROGRAM AIMED AT REDUCING, PREVENTING WORKPLACE HAZARDS IN WAREHOUSES, DISTRIBUTION CENTERS

**WASHINGTON** – The U.S. Department of Labor’s Occupational Safety and Health Administration today launched a [national emphasis program](#) to prevent workplace hazards in warehouses, processing facilities distribution centers, and high-risk retail establishments.

Under this three-year emphasis program, OSHA will conduct comprehensive safety inspections focused on hazards related to powered industrial vehicle operations, material handling and storage, walking and working surfaces, means of egress and fire protection. The program will also include inspections of retail establishments with high injury rates with a focus on storage and loading areas; however, OSHA may expand an inspection’s scope when evidence shows that violations may exist in other areas of the establishment.

In addition, OSHA will assess heat and ergonomic hazards under the emphasis program, and health inspections may be conducted if OSHA determines these hazards are present.

Inspected establishments will be chosen from two lists. One includes establishments with industry codes covered under this emphasis program. The second consists of a limited number of retail establishments with the highest rates of injuries and illnesses resulting in days away, restricted duty or job transfer.

<https://www.dol.gov/newsroom/releases/osha/osha20230713-1>

# OIRA Reviewing Worker Walkaround

**DOL/OSHA**

**Title:** Worker Walkaround Representative Designation Process

**Abstract:**  
  
This rulemaking will clarify the right of workers and certified bargaining units to specify a worker or union representative to accompany an OSHA inspector during the inspection process/facility walkaround, regardless of whether the representative is an employee of the employer, if in the judgment of the Compliance Safety and Health Officer such person is reasonably necessary to an effective and thorough physical inspection.

**RIN:** 1218-AD45

**Agency:** Department of Labor(DOL)

**RIN Status:** Previously published in the Unified Agenda

**Major:** No

**CFR Citation:** [29 CFR 1903](#)

**Legal Authority:** [29 U.S.C. 657](#)   [5 U.S.C. 553](#)

**Legal Deadline:** None

**Timetable:**

**Publication ID:** Spring 2023

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule Stage

**Unfunded Mandates:** No

Action	Date	FR Cite
NPRM	06/00/2023	

# EEO-1 Filings Delayed from mid-July

06/29/2023 - 2022 EEO-1 Component 1 Data Collection Notice:

The EEOC is currently completing a mandatory, three-year renewal of the EEO-1 Component 1 data collection by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). Accordingly, the EEOC has updated the tentative opening of the 2022 EEO-1 Component 1 data collection to the **Fall of 2023**. All updates about the 2022 EEO-1 Component 1 data collection, including the final opening date and opening of the Filer Support *Message Center*, will be posted to [www.eeocdata.org/eeo1](https://eeocdata.org/eeo1) as they become available.

**The Employer Information Report (EEO-1), Standard Form 100, Component 1, must be filed annually by:**

All private employers who are:

(1) subject to Title VII of the Civil Rights Act of 1964, as amended, with 100 or more employees EXCLUDING State and local governments, public primary and secondary school systems, institutions of higher education, American Indian or Alaska Native tribes, and tax-exempt private membership clubs other than labor organizations;

-- OR --

(2) subject to Title VII who have fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise and the entire enterprise employs a total of 100 or more employees.

<https://eeocdata.org/eeo1>

*As of June 29, 2023*

# OIRA Reviewing DoL Overtime NPRM

**DOL/WHD**

**RIN:** 1235-AA39

**Publication ID:** Spring 2023

**Title:** Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

**Abstract:**

WHd is reviewing the regulations at 29 CFR 541, which implement the exemption of bona fide executive, administrative, and professional employees from the Fair Labor Standards Act's minimum wage and overtime requirements.

**Agency:** Department of Labor(DOL)

**RIN Status:** Previously published in the Unified Agenda

**Major:** Yes

**CFR Citation:** [29 CFR 541](#)

**Legal Authority:** [29 U.S.C. 201 et seq.](#) [29 U.S.C. 213](#)

**Legal Deadline:** None

**Timetable:**

**Priority:** Economically Significant

**Agenda Stage of Rulemaking:** Proposed Rule Stage

**Unfunded Mandates:** Undetermined

Action	Date	FR Cite
NPRM	08/00/2023	

# Accounting for Ecosystem in Benefit-Cost Analysis

Today, the Office of Information and Regulatory Affairs (OIRA)—part of the Office of Management and Budget (OMB)—is taking a critical step to help agencies account more fully for costs and benefits linked to the environment.

In collaboration with the Office of Science and Technology Policy (OSTP), OIRA is releasing a draft of the federal government's first-ever guidance on accounting for ecosystem services in benefit-cost analysis. Once the draft is finalized, this guidance will advance and strengthen analyses of regulations and government investments.

<https://www.whitehouse.gov/wp-content/uploads/2023/08/DraftESGuidance.pdf>

*As of August 1, 2023*



# CEQ Releases Proposed NEPA Permit Rule

## SUMMARY:

The Council on Environmental Quality (CEQ) is proposing this “Bipartisan Permitting Reform Implementation Rule” to revise its regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA), including to implement the Fiscal Responsibility Act's amendments to NEPA. CEQ proposes the revisions to provide for an effective environmental review process that promotes better decision making; ensure full and fair public involvement; provide for an efficient process and regulatory certainty; and provide for sound decision making grounded in science, including consideration of relevant environmental, climate change, and environmental justice effects. CEQ proposes these changes to better align the provisions with CEQ's extensive experience implementing NEPA; CEQ's perspective on how NEPA can best inform agency decision making; longstanding Federal agency experience and practice; NEPA's statutory text and purpose, including making decisions informed by science; and case law interpreting NEPA's requirements. CEQ invites comments on the proposed revisions.

*As of July 31, 2023*

## DOCUMENT DETAILS

### Printed version:

[PDF](#)

### Publication Date:

07/31/2023

### Agency:

[Council on Environmental Quality](#)

### Dates:

Comments: CEQ must receive comments by September 29, 2023.

### Comments Close:

09/29/2023

### Document Type:

Proposed Rule

### Document Citation:

88 FR 49924

### Page:

49924-49988 (65 pages)

# IRS Says ERC Backlog Eliminated

## **IRS Commissioner signals new phase of Employee Retention Credit work; with backlog eliminated, additional procedures will be put in place to deal with growing fraud risk**

The IRS continues to urge businesses, tax-exempt organizations and others considering applying for this credit to carefully review the official requirements for this limited program before applying. In the meantime, the IRS continues to intensify compliance activities involving ERC claims.

With more than 2.5 million claims coming in since the program was enacted IRS claims processing slowed due to the complexity of the amended returns. The IRS has made substantial progress on these claims this year, with 99 percent of claims approximately three months old as of mid-July. The additional effort has been critical in helping legitimate businesses receive the money they can claim legally under the law.

However, the IRS has growing concerns about scams and potential fraud within the ERC program given the troubling increase in false and misleading public advertisements and scams taking advantage of taxpayers.

<https://www.irs.gov/newsroom/irs-commissioner-signals-new-phase-of-employee-retention-credit-work-with-backlog-eliminated-additional-procedures-will-be-put-in-place-to-deal-with-growing-fraud-risk>

*As of July 26, 2023*

# IRS Tip: Warning Signs of ERC Scam

## **Warning signs of an ERC scam include:**

- Unsolicited calls or advertisements mentioning an "easy application process."
- Statements that the promoter or company can determine ERC eligibility within minutes or before any discussion of the employer's tax situation. The Employee Retention Credit is a complex credit that requires careful review before applying.
- Large upfront fees to claim the credit.
- Fees based on a percentage of the refund amount of ERC claimed.
- Promoters telling businesses to claim the ERC because they have nothing to lose. Those who improperly receive the credit could have to repay it – along with substantial interest and penalties.
- Promoters telling businesses to ignore the advice of their trusted tax professional.

These promoters may lie about eligibility requirements. In addition, anyone using these promoter's services could be at risk of someone trying to steal their identity or use their information to take a cut of the improperly claimed credit.



# IRS Updates ERC FAQ Guidance

## **Q5. Was my business or organization fully or partially suspended if I had a supply chain issue? (added July 28, 2023)**

A5. A supply chain issue, by itself, does not qualify you for the ERC.

The IRS provided a narrow, limited exception if an employer was not fully or partially suspended but their supplier was. However, it applied only when the employer absolutely could not operate without the supplier's product and the supplier was fully or partially suspended themselves.

In addition to having the supplier's governmental order, you will need to show that:

- The government order caused the supplier to suspend operations,
- You couldn't obtain the supplier's goods or materials elsewhere (regardless of cost), and
- It caused a full or partial suspension of your business operations.

You should be wary of anyone who says you qualify for ERC based on supply chain issues without asking for specific information about how your business or organization was affected, your supplier's situation and documentation. For more information and examples see legal memo [AM-2023-005](#) [PDF](#).

# OIRA Reviewing DoD CMMC NPRM

**DOD/OS**

**RIN:** 0790-AL49

**Publication ID:** Spring 2023

**Title:** Cybersecurity Maturity Model Certification (CMMC) Program

**Abstract:**

DOD is proposing to implement the Cybersecurity Maturity Model Certification (CMMC) Framework, to help assess a Defense Industrial Base (DIB) contractor's compliance with and implementation of cybersecurity requirements to safeguard Federal Contract Information (FCI) and Controlled Unclassified Information (CUI) transiting non-federal systems and mitigate the threats posed by Advanced Persistent Threats--adversaries with sophisticated levels of expertise and significant resources.

**Agency:** Department of Defense(DOD)

**Priority:** Economically Significant

**RIN Status:** Previously published in the Unified Agenda

**Agenda Stage of Rulemaking:** Proposed Rule Stage

**Major:** Yes

**Unfunded Mandates:** Private Sector

**CFR Citation:** [32 CFR 170](#)

**Legal Authority:** [5 U.S.C. 301](#) [Pub. L. 116-92, sec. 1648](#)

**Legal Deadline:** None

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/2023	

# OIRA Reviewing Apprenticeship Rule

DOL/ETA

RIN: 1205-AC13

Publication ID: Spring 2023

Title: National Apprenticeship System Enhancements

Abstract:

The regulations at 29 CFR part 29 addressing labor standards of apprenticeship and the governance of the National Apprenticeship System were last updated in October 2008 to increase administrative flexibility, ensure program quality, and promote registered apprenticeship opportunity. The Department plans to revise these regulations to strengthen, expand, modernize, and diversify the National Apprenticeship System by enhancing worker protections and equity, improving the quality of registered apprenticeships, revising the state governance provisions, and more clearly establishing critical pipelines to registered apprenticeships such as pre-apprenticeships so that the National Apprenticeship System is more responsive to current worker and employer needs. The Department will also make technical and conforming adjustments to the current text of 29 CFR part 30 (governing equal employment opportunity in apprenticeships) as appropriate.

Agency: Department of Labor(DOL)

RIN Status: Previously published in the Unified Agenda

Major: Yes

CFR Citation: [29 CFR 29](#) [29 CFR 30](#)

Legal Authority: [The National Apprenticeship Act, as amended \(50 Stat. 664\) 29 U.S.C. 50](#)

Legal Deadline: None

Timetable:

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule Stage

Unfunded Mandates: No

Action	Date	FR Cite
NPRM	08/00/2023	

# DoL Formula Apprenticeship Grants

DEPARTMENT OF LABOR AWARDS \$65M TO HELP STATES INCREASE, EXPAND ACCESS TO REGISTERED APPRENTICESHIPS IN HIGH-GROWTH, HIGH-DEMAND INDUSTRIES

*Grants will support people from underrepresented communities in 45 states*

**WASHINGTON** – The U.S. Department of Labor today announced the award of more than \$65 million in grants to 45 states to increase their ability to serve, improve and strategically expand their Registered Apprenticeship programs and pre-apprenticeships leading to Registered Apprenticeships to enhance the National Apprenticeship system.

# Executive Order on Gov't R&D Investments

- Improves transparency, cut red tape, and streamline reporting requirements in the Federal R&D process to better track progress towards our domestic manufacturing goals
- Boosts the incentive to manufacture new inventions in the United States when those inventions are developed using Federal funds.
- Encourages the expansion of domestic production for critical industries while maintaining flexibility to build strong international R&D partnerships

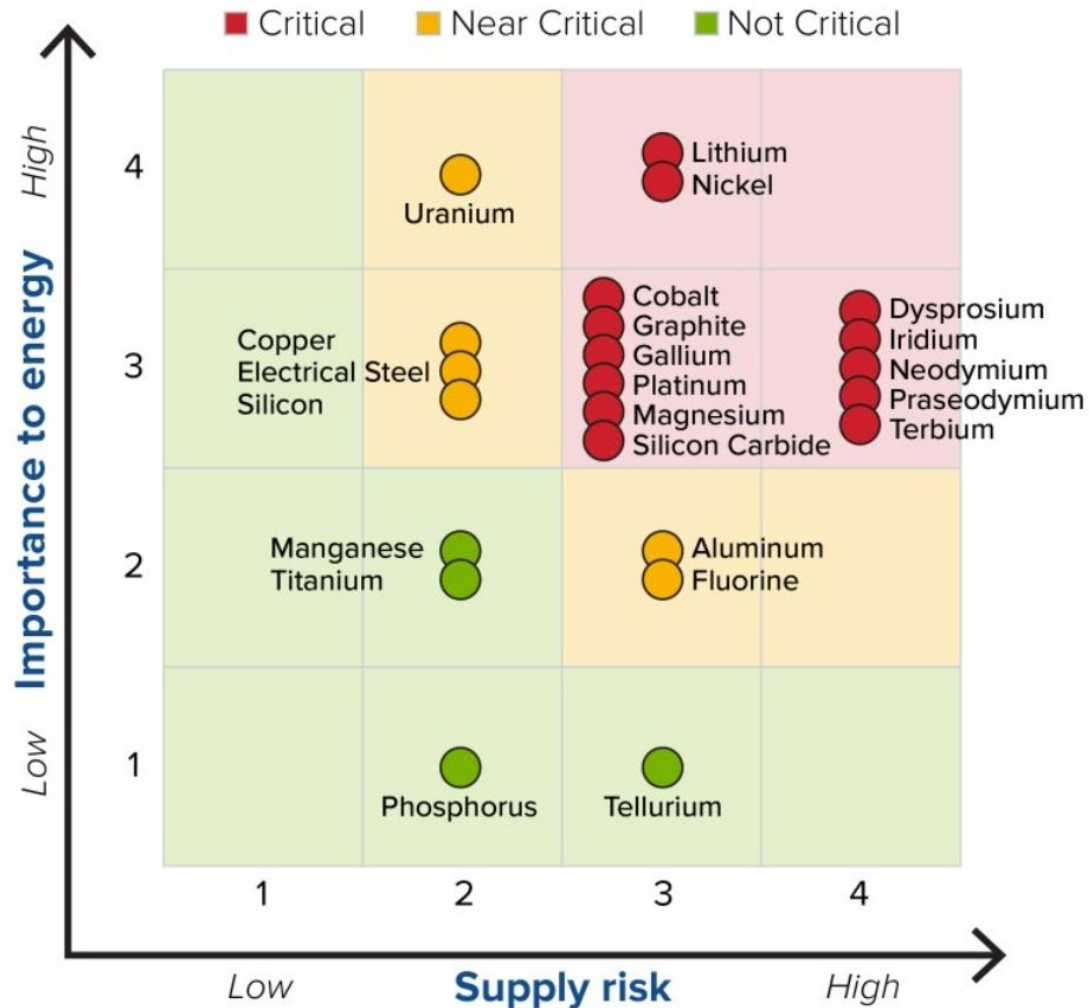
*As of July 28, 2023*

# Trade and Supply Chains



# DoE Adds Copper to Critical Minerals List

## MEDIUM TERM 2025-2035



The U.S. Department of Energy (DOE) released its 2023 Critical Materials Assessment, which evaluated materials for their criticality to global clean energy technology supply chains. Based on the results of the Assessment, DOE has determined the [2023 DOE Critical Materials List](#) of energy-specific critical and near-critical materials through 2035. In addition to informing crosscutting DOE priorities including the Critical Materials Research, Development, Demonstration, and Commercialization Application Program (RDD&CA), the DOE Critical Materials List will inform eligibility for tax credits under the [Inflation Reduction Act 48C](#).

# USTR May Complete 301 Review in Fall

## Tai tells lawmakers Section 301 tariff review nearing completion

July 19, 2023 at 6:11 PM

 Tweet

The Office of the U.S. Trade Representative is nearing the end of a closely watched review of Section 301 tariffs on goods from China imposed by the previous administration, USTR Katherine Tai has told lawmakers.

In [answers to questions for the record](#) submitted to Tai following a March Senate Finance Committee hearing, obtained by *Inside U.S. Trade*, Tai said her office expects to complete the statutorily mandated four-year review of the tariffs – covering hundreds of billions of dollars' worth of goods from China – “in the fall of this year.”

Answers to such questions usually are filed and released within a few weeks of a hearing; in this case, the responses took several months.





# U.S.-EU Green Steel, Aluminum Talks

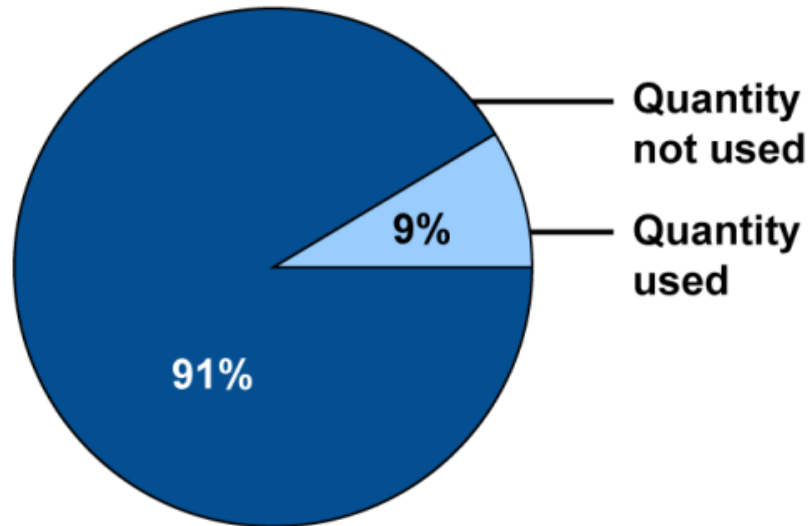
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- U.S.-EU Tariff Rate Quota deal expires October 31, 2023
- 25% tariffs on steel, 10% on aluminum could return if no deal
- U.S. wants to replace TRQ deal with carbon-based tariffs
- U.S. calling for global steel overcapacity limits
- EU concerns about WTO compliance
- EU already has its own carbon-based regime (CBAM)
- Sides could extend talks but EU must go through a process
- Many increasingly skeptical can reach a deal in 2023

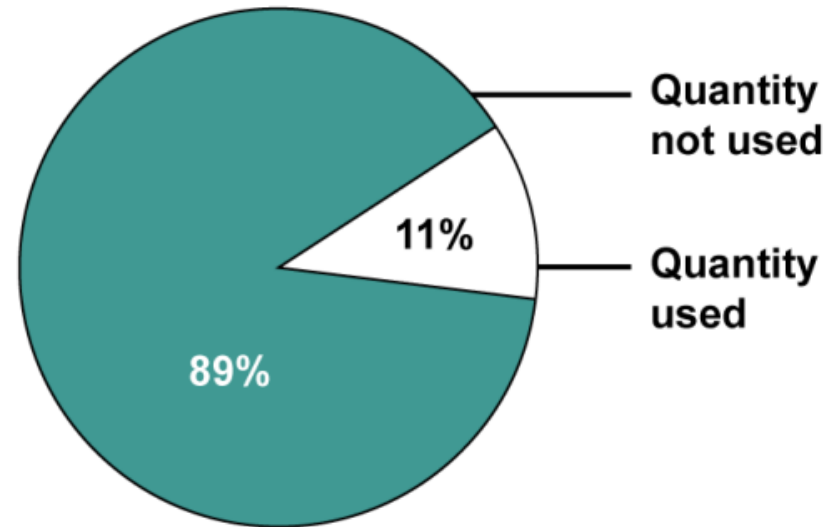
# GAO: Importers Not Using 232 Exclusions

## Use of Approved Section 232 Exclusion Quantities, March 2018–September 2021

### Steel



### Aluminum



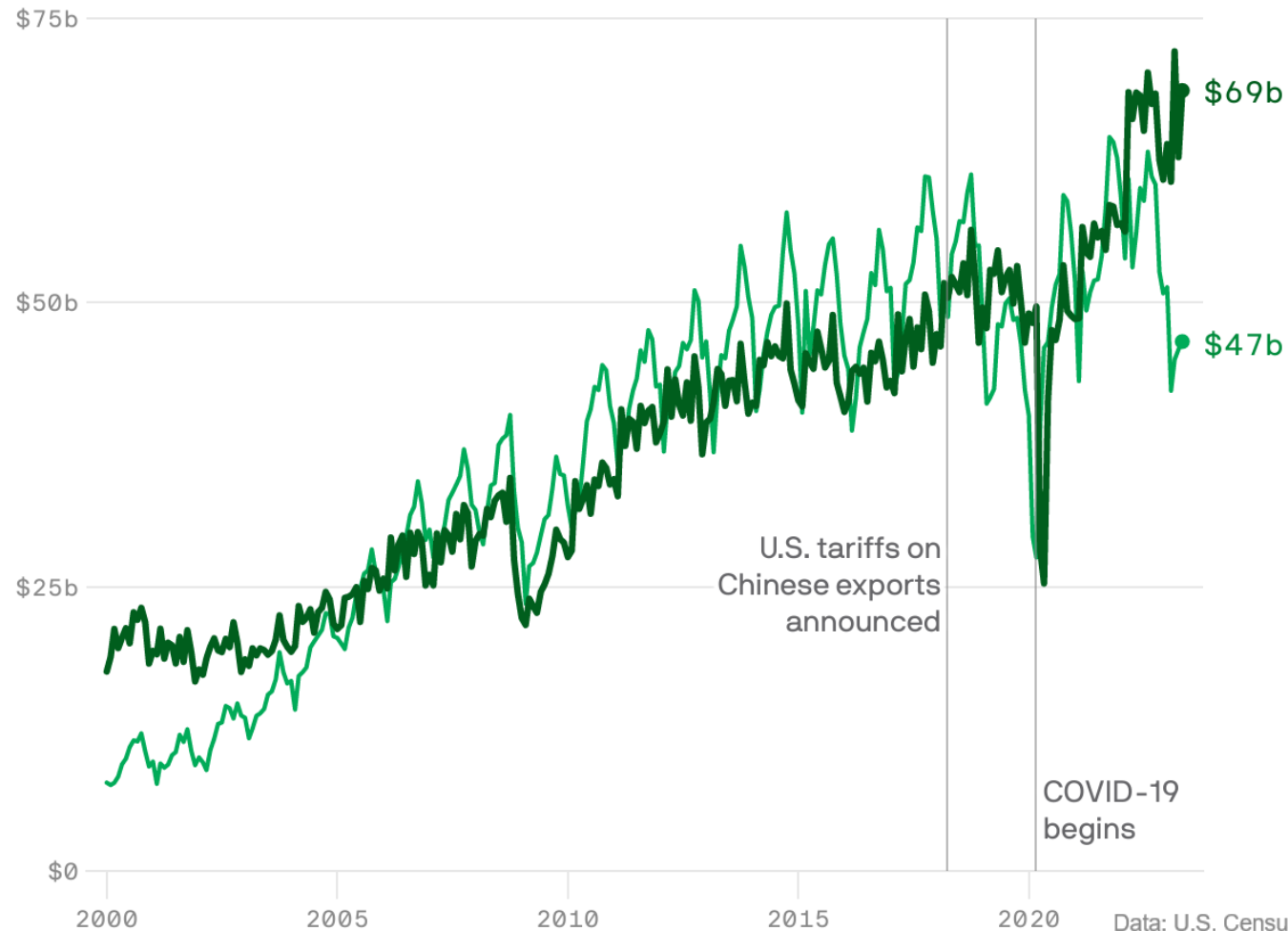
Source: GAO analysis of U.S. Department of Commerce Bureau of Industry and Security (BIS) and U.S. Department of Homeland Security Customs and Border Protection (CBP) data. | GAO-23-105148

Note: This figure presents exclusion use data available as of November 2021.

# Mexico Now Top U.S. Trade Partner

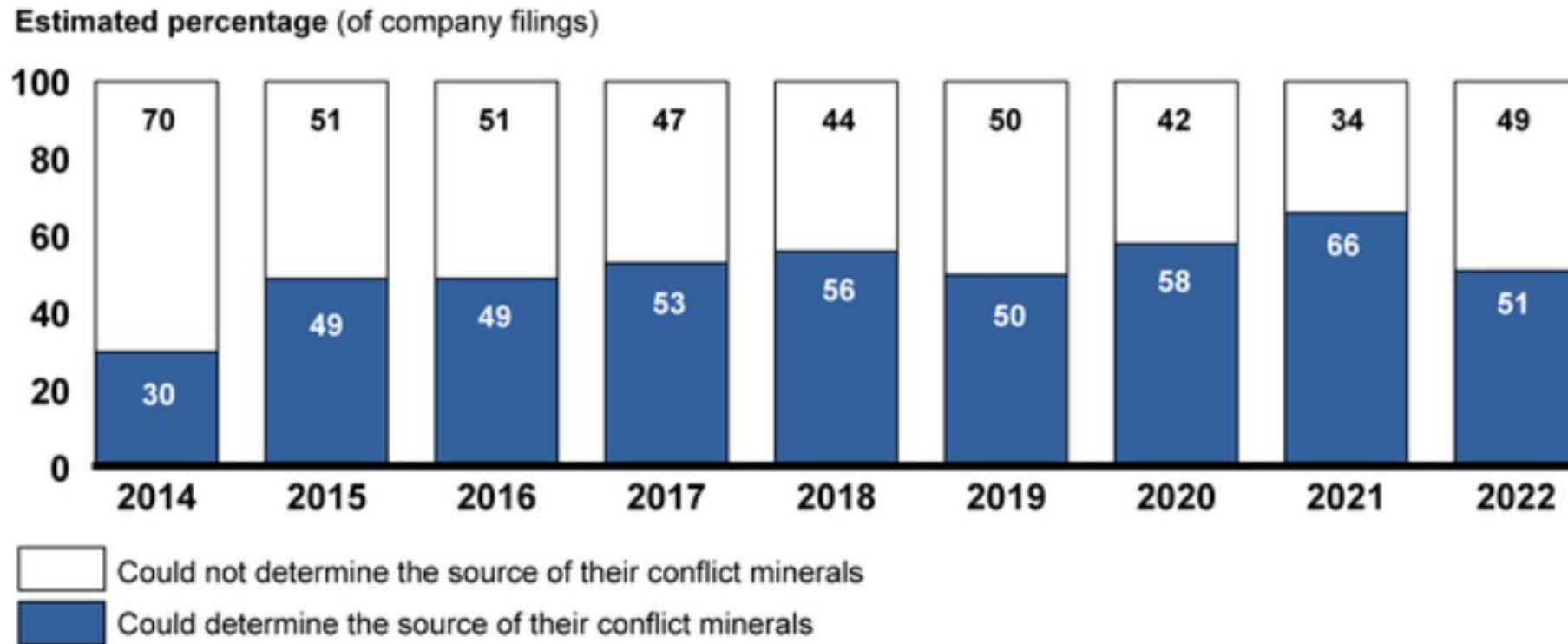
## U.S. trade with Mexico and China

Monthly; January 2000 to May 2023



# Annual GAO Conflict Minerals Report

Source of Conflict Minerals in Products as Preliminarily Determined by Companies' Reasonable Country-of-Origin Inquiries, Reporting Years 2014-2022

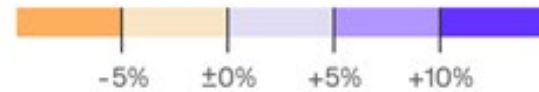


Source: GAO analysis of Securities and Exchange commission filings. | GAO-23-106295

# Manufacturing Job Numbers

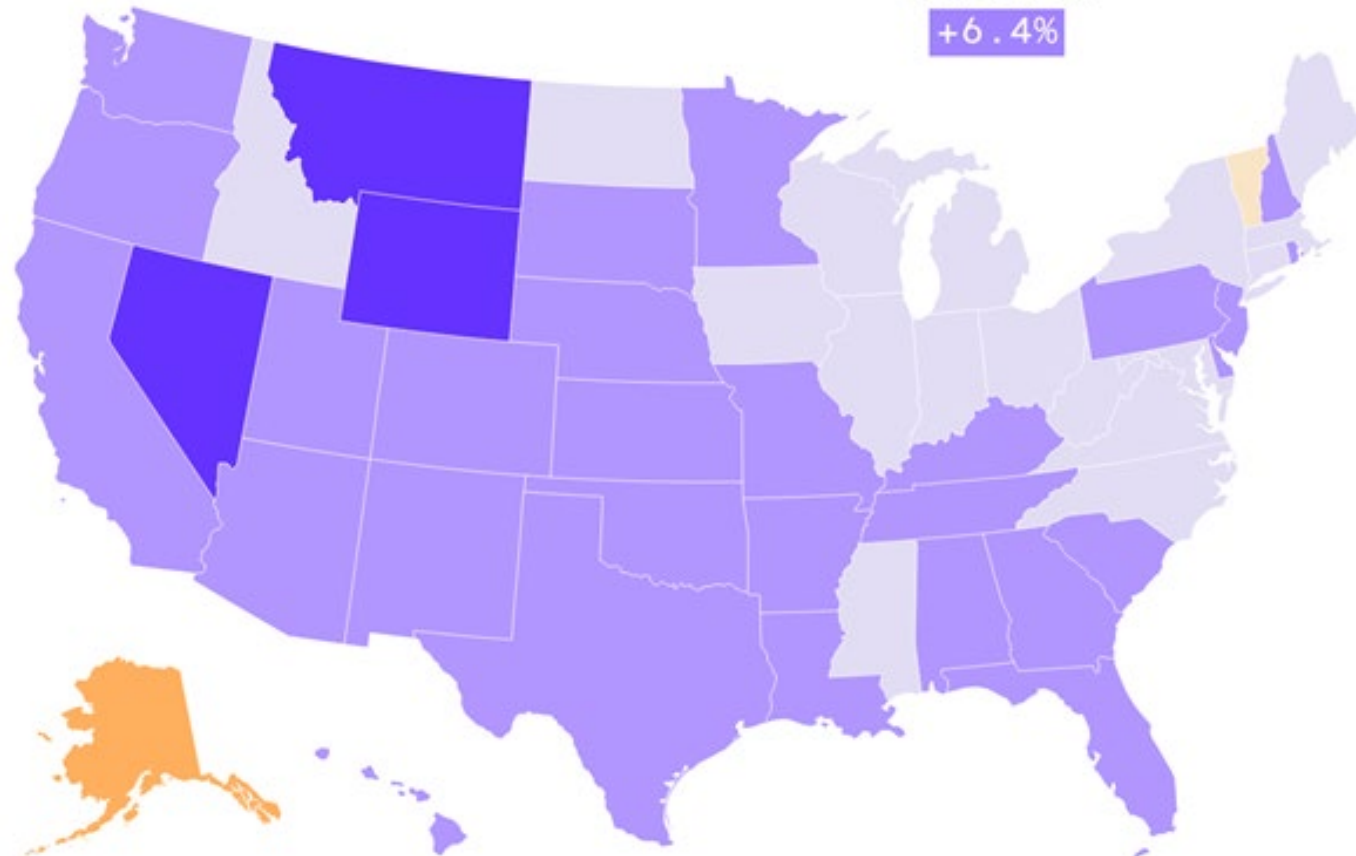
## Change in U.S. manufacturing jobs

January 2021 to May 2023



U.S. overall

+6.4%



Data: Bureau of Labor Statistics. Map: Axios

# U.S. Energy Sources

## Wind and solar beat coal power generation in first half of 2023

Share of U.S. power generation by source, through June

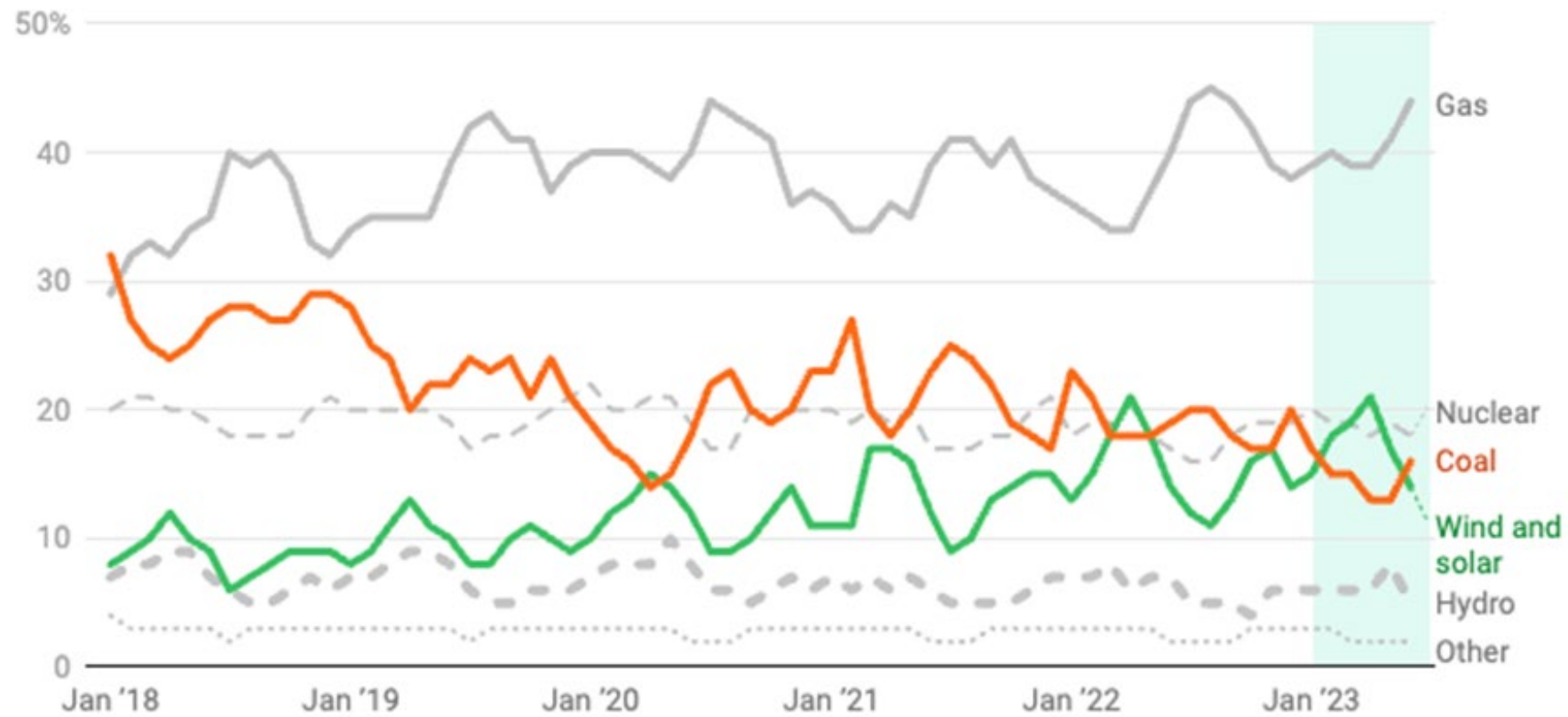


Chart: Canary Media • Source: [Ember Electricity Data Explorer](#) • [Get the data](#)

## ECONOMY

# Economy adds 187,000 jobs in July, showing strong but moderating growth

The unemployment rate fell slightly to 3.5 percent, according to a Bureau of Labor Statistics report released Friday

## Companies Keep Up Crusade to Revive Immediate R&D Expensing (1)



**Lauren Vella**  
Reporter



**Samantha Handler**  
Reporter



# Stay Connected – One Voice Podcast





# Donate to NTMA, PMA to Support 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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