

SUPPORTING STATEMENT

Internal Revenue Service (IRS)

REG-108920-24, Guidance on Clean Electricity Low-Income Communities Bonus Credit Amount Program

OMB Control Number 1545-NEW

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 13702 of Public Law 117-169, 136 Stat. 1818, 1921 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA), added new section 48E(h) to the Internal Revenue Code (IRC) to authorize the Secretary of the Treasury or her delegate (Secretary) to establish a program for calendar years 2025 and succeeding years to award allocations of environmental justice capacity limitation (Capacity Limitation) that increase the amount of the new clean electricity investment credit determined under IRC section 48E(a) (section 48E credit) with respect to eligible property that is part of an applicable facility.

The amount of section 48E credit for a taxable year generally is calculated by multiplying the qualified investment for such taxable year with respect to any qualified facility placed in service during that taxable year by the applicable percentage (as defined in IRC section 48E(a)(2)). If an applicable facility is awarded an allocation of Capacity Limitation, IRC section 48E(h) increases the amount of the section 48E credit with respect to the applicable facility by increasing the applicable percentage used to calculate the amount of the section 48E credit (section 48E(h) Increase). The term “applicable facility” is defined in IRC section 48E(h)(2) to mean any qualified facility that (i) is not described in IRC section 45Y(b)(2)(B) (relating to combustion and gasification facilities); (ii) has a maximum net output of less than 5 megawatts (MW) (as measured in alternating current (AC)); and (iii) is described in at least one of four categories in IRC section 48E(h)(2)(A)(iii).

IRC section 48E(h)(4)(A) directs the Secretary, not later than January 1, 2025, to establish a program to allocate amounts of Capacity Limitation to applicable facilities and to “provide procedures to allow for an efficient allocation” of Capacity Limitation to applicable facilities. Accordingly, the Treasury Department and the IRS are issuing this notice of proposed rulemaking (NPRM) to establish the Clean Electricity Low-Income Communities Bonus Credit Amount Program (Program).

This is a new Program under section 48E(h), which is similar to the low-income communities bonus credit program established under IRC section 48(e). On August 15, 2023, final regulations for the low-income communities bonus credit program under IRC section 48(e) were published in the Federal Register, 88 FR 55506.

The Department of Energy (DOE) will provide certain administration services for the Program. Among other things, DOE will establish a website portal to review the applications for eligibility criteria and will provide recommendations to the IRS regarding the selection of applications for an allocation of Capacity Limitation. The application will include attestations and supporting documentation that allow IRS and DOE to verify a project is eligible for the credit enhancements under the Program and to certify that a project is placed into service.

2. USE OF DATA

The website portal will be used for taxpayers to apply for an allocation of Capacity Limitation under IRC section 48E(h) and to confirm that an eligible project has been placed in service.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS and DOE are in the process of establishing the website portal to collect the attestations and application documents.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The IRS also seeks input regarding the burden estimates from the public via notices and tax product instructions. The IRS will continue to as applicable find ways to reduce the burden on small businesses or other small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

A less frequent collection could consist of taxpayers unable to claim the allocation under IRC section 48E(h).

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

A notice of proposed rulemaking (NPRM) is published in the Federal Register soliciting comments September 3, 2024 (89 FR 71193). Comments will be addressed in the final rule.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this

request as part of the “Business Master file (BMF)” and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 – Electronic Filing Records; IRS 24.030 – Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. The Internal Revenue Service PIA’s can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The recordkeeping requirements mentioned within this proposed regulation are considered general tax records under Treasury Regulations section 1.6001-1(e). These records are required for IRS to validate that taxpayers have met the regulatory requirements and are entitled to receive section 48E(h) Increase. General tax records are already approved by OMB under 1545-0123 for business filers, 1545-0074 for individual filers, and 1545-0047 for tax-exempt organizations

We estimate that between 1 and 70,000 individual, business, tax-exempt, and other qualifying taxpayers may meet the underlying credit criteria for Sections 6417 and 6418 annually over the next ten years. Although Sections 48 and 48E are not the only underlying credits included in that analysis, we do not have sufficient data to estimate the specific number of taxpayers who may qualify for these underlying credits, nor how many claimants of Sections 48 and 48E will meet the qualifications for the Program. For these reasons, we estimate that the number of impacted taxpayers for the Program to be between 1 and 70,000.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
IRC § 48E(h)	Initial applications	70,000	1	70,000	1	70,000
IRC § 48E(h)	Follow-up documentation	70,000	1	70,000	1	70,000
IRC § 48E(h)	Projects placed in service	70,000	1	70,000	1	70,000
Totals		70,000		210,000		210,000

The following regulations impose no additional burden. Please continue to assign OMB number 1545-NEW to these regulations.

1.48E(h)-1

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, the IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, the IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The IRS does not currently have an estimate for annualized government costs. The IRS will update this information once the web portal is developed and finalized.

15. REASONS FOR CHANGE IN BURDEN

This is a new collection due to enactment of the section 13702 of the Inflation Reduction Act of 2022.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation expires as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.