

Public Comments: IRS Implementation of IRA

Note: these comments were submitted across three separate dockets. They contain comments from both the American Lung Association and Physicians for Social Responsibility.

Clean Vehicles

[Notice 2022-46](#)

.02 Previously Owned Clean Vehicles

(1) What, if any, guidance is needed to address how a taxpayer can verify that a vehicle qualifies as a “previously-owned clean vehicle” as defined in § 25E(c)(1)?

American Lung Association:

In order to assist those purchasing used vehicles, we recommend that information on whether a particular used vehicle qualifies for the tax credit be easily visible at the point of sale, both as part of the printed information on the vehicle window for in-person shoppers and easily identifiable for online shoppers. Customers purchasing in-person should not need to use a smartphone to access this information.

Energy Efficiency of Residential and Commercial Buildings

[Notice 2022-48](#)

.01 Energy Efficient Home Improvement Credit

(1) Section 25C(e)(2) directs the Secretary to prescribe “certification or other requirements” for home energy auditors for credit eligibility. What criteria should the Treasury Department and the IRS consider requiring for certification or other requirements for home energy auditors?

American Lung Association:

There is no need for Treasury to invent its own requirements, as the Department of Energy has laid out guidelines for home energy professionals: <https://www.energy.gov/eere/wipo/guidelines-home-energy-professionals-credentials> As the Department of Energy explains, they “collaborated with trainers and technicians from across the Weatherization Assistance Program (WAP) and home performance industry to develop high-quality, nationally recognized credentials.” The Lung Association suggests that all agencies use this definition and requirement to keep requirements consistent and predictable.

(2) Is guidance needed regarding the definition of “qualified energy property” in 16 § 25C(d)(2) as amended by the IRA, such as definitions for the terms “panelboard” or “feeders”? Specifically, § 25C(d)(2)(B) defines “qualified energy property” to include biomass stoves or boilers, but only those that have “a thermal efficiency rating of at least 75 percent (measured by the higher heating value of the fuel).” Is guidance needed to define the term “thermal efficiency rating”? If so, what testing procedures should the Treasury Department and the IRS consider requiring or permitting to be used by manufacturers to measure thermal efficiency and demonstrate ratings that are valid for purposes of the § 25C credit?

American Lung Association:

The American Lung Association recognizes that pollution from the combustion of wood and other biomass sources poses a significant threat to human health and supports measures to transition away from using these products for heat production. As such, we do not believe biomass stoves or boilers should be considered as part of a qualified energy property regardless of efficiency rating. Studies show substantial health harms from wood burning. Indoor exposure to air pollutants from wood combustion is linked with increased lower respiratory infections in children, and may be associated with upper respiratory infections, wheeze and cough. The particulate matter in woodsmoke has a detrimental effect on children's immune system, leaving them more susceptible to infections.

We have long advocated in support of stronger standards to reduce emissions from wood-burning appliances. It is critical that if IRS does allow biomass stoves or boilers to qualify, you require test methods for qualifying appliances that ensure the devices perform adequately under real-world conditions. The U.S. EPA specifies test methods for standards for residential wood heaters. These can serve as a baseline, but must be strengthened to better ensure that manufacturers are not able to game the system with stoves that perform less efficiently in the home.

Other heating options, such as gas-powered heaters, will soon be required to have efficiency ratings above 90% and we encourage the IRS to ensure the strongest possible standard is applied when developing criteria for tax credits aimed at reducing greenhouse gas emissions and protecting human health.

.03 New Energy Efficiency Home Credit

- (1) Section 45L(b)(3) provides that for purposes of § 45L, the term "construction" includes "substantial reconstruction and rehabilitation." Is guidance defining the term "substantial reconstruction and rehabilitation" needed? If so, how should the term be defined? If needed, should the definition align with requirements or standards used in the qualified Energy Star and Zero Energy Ready Home Programs?

American Lung Association:

Energy Star and the Zero Energy Ready Home programs are longstanding and effective programs. It is important that definitions agree across agencies to allow for greater predictability and planning among groups. In general, the federal government should aim to simplify its definitions of common terms used across agencies.

- (2) Please provide comments on any other topics relating to the § 45L credit that may require guidance. *Note: this tax credit deals with energy efficiency in new homes.*

American Lung Association:

The Lung Association is broadly supportive of tax credits and incentives to help green buildings and reduce indoor air pollution, primarily from gas and wood burning indoors.

Our concern about wood burning is explained elsewhere in this document. Wood burning is a significant source of particulate matter pollution both inside the home and in the communities where it is emitted. For gas-powered appliances, a significant amount of evidence on the detrimental health effects of exposure to air pollution shows that burned gas contributes to adverse health outcomes including an increase in asthma symptoms in children and other vulnerable populations.

Specifically, indoor exposure to nitrogen dioxide from gas appliances can exacerbate asthma symptoms and wheeze in children and may increase lower respiratory tract illnesses and reduce lung function in children. Other chemicals found in gas emissions are associated with upper respiratory infections and cough. When leaked unburned, methane gas and leaks from methane gas appliances and pipelines pose a risk to human health.

When methane gas is burned, the primary pollutants produced are nitrogen dioxide and carbon monoxide, as well as carbon dioxide. Carbon monoxide causes headache, fatigue, unconsciousness and even death. Nitrogen dioxide is a dangerous pollutant damages the respiratory system and cardiovascular system.

Indoor air pollution also contributes to outdoor air and pollution. Outdoor pollution can cause irritation and inflammation of the lungs, and leads to coughing, wheezing, worsening of asthma and lowered resistance to lung infections.

By incentivizing a move away from dirty appliances and toward cleaner and more fuel efficient ones, emissions would decrease, thus mitigating climate change while simultaneously improving human health.

Energy Generation
[Notice 2022-49](#)

.04 IRA Addition of the Clean Electricity Production Credit

(2) Section 45Y(b)(2)(C)(i) requires the Secretary to annually publish a table that sets forth the greenhouse gas emissions rates for types or categories of facilities. What should the Treasury Department and IRS consider in publishing this table, including considerations around scope and the factors?

American Lung Association:

When determining if a facility is truly net zero greenhouse gas emissions, it must take into account the lifecycle emissions of the facility, including extraction, refining and transportation of the fuel if applicable. In particular, we urge IRS to fully account for the carbon impacts of burning biomass for electricity, including the heavy carbon footprint of producing wood pellets. (More information is available in this study: <https://www.nrdc.org/media/2021/211013>).

The Lung Association strongly favors a transition to non-combustion electricity generation. Combustion-based generation necessarily emits harmful air pollution irrespective of whether it is net-carbon neutral.

Physicians for Social Responsibility:

When considering a facility's emissions rate, the IRS should factor in the technology used to achieve the reductions. This production tax credit encourages polluting facilities to ratchet down their point source emissions but does not set standards for the auxiliary emissions that occur due to carbon capture technology. In the case of facilities that use carbon capture utilization and storage technology, both upstream and downstream emissions should be counted as part of the facilities' emissions rates. This would include leaks of greenhouse gases emitted in operation of the CCS technology itself, leaks from the transport of the captured CO₂, including from pipelines and compression stations handling the

transported CO₂, and the greenhouse gas emissions associated with any oil recovery conducted with the captured CO₂.

.06 IRA Addition of Special Programs for Certain Facilities Placed in Service in Connection with Low-income Communities (§§ 48(e) and 48E(h))

(Background from IRS: Section 13103 of the IRA amended § 48 to add new § 48(e), which establishes a special program for certain solar and wind facilities placed in service in connection with low-income communities, effective January 1, 2023. Section 13702(a) of the IRA also enacted § 48E(h), which provides a similar special program for certain facilities placed in service in connection with low-income communities in calendar years after 2024.)

- (1) Sections 48(e)(4)(A) and 48E(h)(4)(A) require the Secretary to establish a program to allocate amounts of environmental justice capacity limitation to applicable facilities. In establishing such program, the Secretary must provide procedures to allow for an efficient allocation process.
 - (a) What should the Treasury Department and the IRS consider in providing guidance regarding the application process for taxpayers seeking an allocation of the environmental justice capacity limitation?
 - (b) How can the application procedures and application process be made accessible to taxpayers?
 - (c) How can the process incorporate community input, engagement, and benefit for projects seeking an allocation of the environmental justice capacity limitation?

American Lung Association: In our experience engaging with federal agencies, some ideas for community engagement include ample virtual and in-person opportunities to interact and ask questions; opportunities for those without reliable internet access to engage by phone or in person and clear materials in a variety of languages. We appreciated the helpful information session for environmental and public health organizations on how to engage with IRS and encourage more sessions to help equip non-profit and community organizations to help their audiences engage with IRS.

- (3) What methods currently exist or need to be designed for a taxpayer to certify that a project is being built in a low-income community, on Indian land, or as part of a low-income residential building project or a qualified low-income economic benefit project?

American Lung Association:

In our joint [comments](#) to the Council on Environmental Quality on their draft Climate and Economic Justice Screening Tool, we applauded the effort as a major step forward in identifying people at risk from environmental justice and climate threats at a hyper-local scale. We suggested the tool be improved by including race as a key indicator, because studies show that race is a social determinant of health, with people of color suffering worse health outcomes than others even when controlling for incomes. Studies looking at the differences in harm from air pollution have also found that race is an independent risk factor. We also urged for the consideration of additional health indicators beyond those included in the draft, including preterm birth or low birthweight as maternal health indicators and a child blood lead level indicator. We also urged for tiers of need as opposed to a binary indicator to reflect the fact that not all disadvantaged communities have the same level of need. Finally, we urged

for communities with high student populations to be labeled separately rather than automatically considered not to be low-income to avoid masking disadvantages of full-time, non-student residents.

Physicians for Social Responsibility:

To determine whether a project is built in a low-income or environmental justice community the IRS should consider a variety of factors whether that community is disproportionately burdened by oil and gas infrastructure, its proximity to other polluting infrastructure (highways, roadways, industrial facilities, etc.), was disinvested due to redlining policies, and/or already bears disproportionate impacts from storm damage, heat waves, flooding, drought, wildfires, infectious and/or waterborne disease, or any other impacts made more frequent due to climate change.

Additional, overarching feedback for IRS' work on IRA implementation:

Physicians for Social Responsibility:

The IRS should prioritize electric appliances over fossil fuel appliances when considering tax incentives for improving the energy efficiency of residential and commercial buildings. To mitigate climate change, protect public health, and reduce burdens incurred by low-income and environmental justice communities, our nation must eliminate our dependence on fossil fuel energy, not incentivize the adoption of more-efficient appliances fueled by methane or other fossil fuels. Gas stoves have been found to be especially dangerous to children, who are more at risk from indoor air pollution due to their still-developing respiratory and immune systems, active lifestyles, and rapid respiratory rate. Furthermore, the indoor air pollution emitted by gas stoves disproportionately burdens those in low-income neighborhoods and communities of color. It is estimated that a typical U.S. home can cut its heating-related climate pollution by 45 to 72 percent by swapping out a gas-fired furnace for an efficient, all-electric heat pump.

American Lung Association:

To maximize the public health and equity benefits of the Inflation Reduction Act, tax credits should whenever possible prioritize truly clean, non-combustion sources of electricity and zero-emission transportation. Technologies that reduce greenhouse gas emissions but still emit harmful conventional air pollution are a missed opportunity to improve public health.