



# TaxNewsFlash

United States



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## Proposed regulations: Additional guidance on environmental justice solar and wind capacity limitation under section 48(e)

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-110412-23) providing additional guidance on the program under section 48(e) to allocate environmental justice solar and wind capacity limitation with respect to certain solar and wind facilities placed in service in connection with low-income communities, established under H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)).

The program was launched under Notice 2023-17, which provided initial program guidance for potential applicants for allocations of calendar year 2023 capacity limitation. Read [TaxNewsFlash](#)

The [proposed regulations](#) [PDF 297 KB] (35 pages) would supplement the guidance provided in Notice 2023-17 to outline the specific application procedures, additional allocation criteria, and applicable definitions, among other information, necessary to submit an application to request an allocation of the capacity limitation for calendar year 2023 under the program. The proposed regulations are proposed to apply to tax years ending on or after the date the proposed regulations are finalized.

The application process will be managed by the Department of Energy (DOE); however, the application period is not yet open. 2023 projects that are placed in service prior to the receipt of an allocation from DOE are not eligible for a credit allocation.

### Comments requested

The Treasury Department and the IRS request comments on these proposed definitions and requirements, as well as their potential application in future years. The Treasury Department and the

IRS anticipate further evaluating the program for 2023 to determine what further guidance may be helpful or necessary in the future.

Comments on the proposed regulations are due by June 30, 2023.

Read a related IRS release—[IR-2023-107](#) (May 31, 2023)

Read a related [Treasury release](#) (May 31, 2023)

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