



# TaxNewsFlash

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## Proposed regulations: Guidance on clean hydrogen production credit under section 45V and related energy credit under section 48(a)(15)

The U.S. Treasury Department and IRS today released proposed regulations (REG-117631-23) regarding the credit for production of clean hydrogen under section 45V and the associated energy credit under section 48(a)(15), as established and amended by H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)), respectively.

As explained in the related IRS release—[IR-2023-248](#) (December 22, 2023)—the IRA provides a production credit for each kilogram of qualified clean hydrogen produced by a taxpayer at a qualified clean hydrogen production facility. The credit amount is dependent on the emissions intensity of the hydrogen production process and the taxpayer’s compliance with prevailing wage and apprenticeship requirements during the qualified clean hydrogen production facility’s construction, alteration, and repair.

The [proposed regulations](#) [PDF 555 KB] (36 pages) would provide definitions and procedures for administering and claiming this credit. In particular, the proposed regulations would provide rules for:

- Determining lifecycle greenhouse gas emissions rates resulting from the hydrogen production processes
- Petitioning the IRS for a provisional emissions rate
- Verifying production and sale or use of qualified clean hydrogen
- Modifying or retrofitting existing hydrogen production facilities to obtain a new placed in service date for purposes of the credit
- Using electricity from certain renewable or zero-emissions sources to produce qualified clean hydrogen
- Electing to treat part of a specified clean hydrogen production facility instead as property eligible for the energy credit

The proposed regulations are proposed to apply to tax years beginning after the proposed regulations are published in the Federal Register (December 26, 2023). Taxpayers may rely on the proposed regulations for tax years beginning after December 31, 2022, and before the date the final regulations are published in the Federal Register, provided the taxpayers follow the proposed regulations in their entirety and in a consistent manner.

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Comments on the proposed regulations must be received by February 26, 2024. The public hearing is scheduled to be held on March 25, 2024. Requests to speak and outlines of topics to be discussed must be received by March 4, 2024. If no outlines are received by March 4, 2024, the public hearing will be cancelled. Requests to attend the public hearing must be received by March 18, 2024.

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