

## Part III - Administrative, Procedural, and Miscellaneous

### Energy Community Bonus Credit Amounts under the Inflation Reduction Act of 2022

Notice 2023-29

#### SECTION 1. PURPOSE

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to propose regulations (forthcoming proposed regulations) addressing the application of the rules that taxpayers must satisfy to qualify for the energy community bonus credit under §§ 45, 45Y, 48, and 48E of the Internal Revenue Code (Code).<sup>1</sup> Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA), amends §§ 45 and 48 to provide increased credit amounts or rates if certain requirements pertaining to energy communities are satisfied, and adds new §§ 45Y and 48E, which provide increased credit amounts or rates for certain qualified facilities, energy projects, or energy storage technologies that satisfy similar requirements and that are placed in service after December 31, 2024.<sup>2</sup> This notice describes certain rules that the Treasury Department and the IRS intend to include in the forthcoming proposed regulations for determining what constitutes an energy community as defined in § 45(b)(11)(B) and as adopted by §§ 45Y(g)(7), 48(a)(14), and 48E(a)(3)(A) and for determining whether a qualified facility, an energy project, or an energy storage technology is located in an energy community. The Treasury Department and the IRS also intend to propose that the regulations will apply to taxable years ending after April 4, 2023. Until the issuance of the forthcoming proposed regulations, taxpayers may rely on the rules described in sections 3 through 6 of this notice.

#### SECTION 2. BACKGROUND

For purposes of this notice, an “EC Project” refers to:

- (1) a qualified facility eligible for a credit determined under § 45 (§ 45 credit) or determined under § 45Y (§ 45Y credit) that is located in an energy community;
- (2) an energy project eligible for a credit determined under § 48 (§ 48 credit), which may include qualified property for which a taxpayer has made a valid irrevocable election under § 48(a)(5) to treat such qualified property as energy property under § 48, that is placed in service within an energy community; or

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<sup>1</sup> Unless otherwise specified, all “section” or “§” references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

<sup>2</sup> See § 13101(g) of the IRA for the energy community provisions under § 45(b)(11), § 13102(o) of the IRA for the energy community provisions under § 48(a)(14), § 13701(a) of the IRA for the energy community provisions under § 45Y(g)(7), and § 13702(a) of the IRA for the energy community provisions under § 48E(a)(3)(A).

(3) a qualified investment with respect to a qualified facility or an energy storage technology eligible for a credit determined under § 48E (§ 48E credit) that is placed in service within an energy community.

Sections 45(b)(11), 48(a)(14), 45Y(g)(7), and 48E(a)(3)(A) provide the energy community bonus credit requirements that taxpayers must satisfy to qualify EC Projects for increased credit amounts or rates under those provisions of the Code. Section 45(b)(11)(A) provides that in the case of a qualified facility located in an energy community, the § 45 credit (determined after the application of § 45(b)(1) through (10), without the application of § 45(b)(9) (domestic content bonus credit amount)) is increased by 10 percent. Section 45Y(g)(7) provides a similar rule with respect to a qualified facility that is eligible for a § 45Y credit.

Section 48(a)(14) provides that in the case of an energy project placed in service within an energy community, the energy percentage used to determine the rate of the § 48 credit is increased by 2 percentage points. Section 48E(a)(3)(A) provides a similar rule for qualified investments with respect to a qualified facility or energy storage technology eligible for a § 48E credit that is placed in service within an energy community. In the case of a taxpayer also satisfying the prevailing wage and apprenticeship requirements (described in §§ 48(a)(10) and (11) and 48E(d)(3) and (4)) or meeting one of the other project requirements (described in §§ 48(a)(9)(B) and 48E(a)(2)(A)(ii) and (2)(B)(ii)), the rate of the § 48 credit or § 48E credit, as applicable, is increased by 10 percentage points.<sup>3</sup>

On October 24, 2022, the Treasury Department and the IRS published Notice 2022-51, 2022-43 I.R.B. 331, requesting comments on bonus credit amounts enacted by the IRA, including the energy community bonus credit provisions. Section 3.04 of Notice 2022-51 specifically requested comments on whether clarification is needed for the requirement that a facility be “located in” an energy community; the sources of information that the Treasury Department and the IRS should consider to determine metropolitan statistical areas (MSAs) and non-metropolitan statistical areas (non-MSAs) (including to determine whether an MSA or non-MSA has met the threshold for direct employment or local tax revenue related to the extraction, processing, transport, or storage of coal, oil, or natural gas) and to determine which “census tracts” (as defined by the U.S. Census Bureau (Census Bureau)) had a coal mine closure or coal-fired electric generating unit retirement in the relevant time periods; and whether any changes to the definition, scope, boundary, or status of a brownfield site, an MSA or non-MSA, or a census tract should be considered during the relevant credit period. Comments received in response to Notice 2022-51 were considered in the drafting of this notice.

### SECTION 3. ENERGY COMMUNITY CATEGORIES

.01 In General. Section 45(b)(11)(B) identifies the following location-based categories of energy communities for purposes of §§ 45, 45Y, 48, and 48E:

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<sup>3</sup> Notice 2022-61 (published in 87 FR 73580 (November 30, 2022) as corrected in 87 FR 75141 (December 7, 2022)); 2022-52 I.R.B. 560 (December 27, 2022) provides guidance with respect to the prevailing wage and apprenticeship requirements.

(1) **Brownfield Category.** This category includes a brownfield site (as defined in § 101(39)(A), (B), and (D)(ii)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. § 9601(39)). See section 3.02 of this notice for a description of this category of energy community, which this notice refers to as the “Brownfield Category.”

(2) **Statistical Area Category.** This category includes an MSA or non-MSA that: (i) has (or had at any time after December 31, 2009) 0.17 percent or greater direct employment (Fossil Fuel Employment) or 25 percent or greater local tax revenues (Fossil Fuel Tax Revenue) related to the extraction, processing, transport, or storage of coal, oil, or natural gas (as determined by the Secretary of the Treasury or her delegate (Secretary)), and (ii) has an unemployment rate at or above the national average unemployment rate for the previous year (as determined by the Secretary). See section 3.03 of this notice for a description of this category of energy community, which this notice refers to as the “Statistical Area Category.”

(3) **Coal Closure Category.** This category includes a census tract (or a census tract directly adjoining such census tract): (i) in which a coal mine has closed after December 31, 1999, or (ii) in which a coal-fired electric generating unit has been retired after December 31, 2009. See section 3.04 of this notice for a description of this category of energy community, which this notice refers to as the “Coal Closure Category.”

.02 **Brownfield Category.** A brownfield site for purposes of the Brownfield Category is defined in 42 U.S.C. § 9601(39)(A) as real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant (as defined under 42 U.S.C. § 9601) and certain mine-scarred land (as defined in 42 U.S.C. § 9601(39)(D)(ii)(III)). A brownfield site does not include the categories of property described in 42 U.S.C. § 9601(39)(B).

.03 **Statistical Area Category.**

(1) **In General.** The Statistical Area Category includes MSAs and non-MSAs.

(a) **Determination of MSAs.** In general, MSAs are groups of counties or county-equivalents that are grouped according to standards determined by the Office of Management and Budget (OMB), within the Executive Office of the President. The OMB updates these standards every 10 years in accordance with the decennial census of the United States. MSA delineations provided by ~~the~~ OMB in Bulletin No. 18-03 (April 18, 2018) are used for all purposes of this notice. These delineations reflect the OMB Standards for Delineating Core Based Statistical Areas for the 2010 Decennial Census.<sup>4</sup>

(b) **Determination of non-MSAs.** In general, non-MSAs are defined as nonmetropolitan areas as identified in the May 2021 Metropolitan and Nonmetropolitan Area Definitions<sup>5</sup> published by

<sup>4</sup> See 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas, 75 FR 37245 (June 28, 2010), available at: <https://www.federalregister.gov/documents/2010/06/28/2010-15605/2010-standards-for-delineating-metropolitan-and-micropolitan-statistical-areas>.

<sup>5</sup> Available at May 2021 OEWS Metropolitan and Nonmetropolitan Area Definitions (bls.gov).

the Occupational Employment and Wages Statistics division of the U.S. Bureau of Labor Statistics (BLS). The BLS works in conjunction with individual states to determine nonmetropolitan area definitions. MSAs are first delineated, and then counties outside of MSAs are grouped together as nonmetropolitan areas. For purposes of this notice, the boundaries of non-MSAs in the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont have been determined according to the boundaries of counties in a BLS-defined nonmetropolitan area that have no portion in ~~an~~ MSA.<sup>6</sup> For each of the Island Territories of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, the whole territory is grouped as one non- MSA. Appendix A contains the delineations of MSAs and non-MSAs that are used for all purposes of this notice.

(2) Fossil Fuel Employment. For purposes of determining whether an MSA or non-MSA is in the Statistical Area Category based on Fossil Fuel Employment, the relevant direct employment is determined by the number of people employed in the industries identified below by 2017 North American Industry Classification System (NAICS) industry code<sup>7</sup>:

2017 NAICS code	Description
211	Oil and Gas Extraction
2121	Coal Mining
213111	Drilling Oil and Gas Wells
213112	Support Activities for Oil and Gas Operations
213113	Support Activities for Coal Mining
32411	Petroleum Refineries
4861	Pipeline Transportation of Crude Oil
4862	Pipeline Transportation of Natural Gas

The Fossil Fuel Employment rate is determined as the number of people employed in the industries identified by the 2017 NAICS codes specified above and as listed in the annual County Files of the County Business Patterns (CBP) published by the Census Bureau,<sup>8</sup> divided by the total number of people employed in that area. The Fossil Fuel Employment and total employment for each county in an MSA or non-MSA is aggregated for each year to determine whether the MSA or non-MSA meets the Fossil Fuel Employment threshold of 0.17 percent. The list of MSAs and non-MSAs (by county) that have (or had any time after December 31, 2009) 0.17 percent or greater direct employment related to the extraction, processing, transportation, or storage of coal, oil, or natural gas is available in Appendix B.

(3) Unemployment Rate. For purposes of determining whether an MSA and non-MSA has an unemployment rate at or above the national average unemployment rate for the previous year, the unemployment rates are determined using the Local Area Unemployment Statistics (LAUS) annual data for counties from the BLS<sup>9</sup> and the comparison is made using unemployment rates

<sup>6</sup> The boundaries of counties are defined in the 2020 TIGER/Line Geodatabases as defined by the Census Bureau.

<sup>7</sup> Available at [https://www.census.gov/naics/reference\\_files\\_tools/2017\\_NAICS\\_Manual.pdf](https://www.census.gov/naics/reference_files_tools/2017_NAICS_Manual.pdf).

<sup>8</sup> Available at CBP Datasets (<https://www.census.gov/programs-surveys/cbp/data/datasets.html>).

<sup>9</sup> BLS Local Area Unemployment Statistics (LAUS) data for counties is available at <https://www.bls.gov/lau>.

for the previous calendar year. The county tables report the total number of individuals in the labor force and the total number unemployed. These amounts are then summed for each county within an MSA or non-MSA to determine the total labor force and total number of unemployed individuals. The unemployment rate is calculated by dividing the total number of unemployed individuals within the MSA or non-MSA by the total labor force.

Annual unemployment rates for a calendar year generally are released in April of the following calendar year. The Treasury Department and the IRS intend to issue a listing identifying the MSAs and non-MSAs that qualify in the Statistical Area Category based on Fossil Fuel Employment after the unemployment data for 2022 becomes available. The Treasury Department and the IRS intend to update the listing of the Statistical Area Category based on Fossil Fuel Employment annually. These updates generally will be issued annually in May. The first listing of the Statistical Area Category based on Fossil Fuel Employment will apply to the period beginning on January 1, 2023. Each subsequent annual release will determine the MSAs and non-MSAs that will qualify under the Statistical Area Category based on Fossil Fuel Employment for the 12-month period starting in May through April of the following year. For example, the energy communities defined by the 2022 unemployment rates will be designated in May of 2023 and will remain in place until the next update, which would likely be in May 2024 after the necessary data becomes available. The update in May 2024 will use 2023 annual unemployment data and will remain in place until the next update, likely in May 2025. This approach is used because of the lag in availability of annual county unemployment rates.

(4) Fossil Fuel Tax Revenue. The Statistical Area Category may include MSAs or non-MSAs based on Fossil Fuel Tax Revenue. Determining the level of Fossil Fuel Tax Revenue for an MSA or non-MSA presents certain data challenges because such data is not readily available from public sources, MSAs and non-MSAs may cover multiple localities that are sometimes, in the case of MSAs, located in different states, and each locality may have a different local tax regime. The Treasury Department and the IRS invite public comments addressing the possible data sources, revenue categories, and procedures to determine whether an MSA or non-MSA qualifies under the Statistical Area Category based on Fossil Fuel Tax Revenue.

.04 Coal Closure Category.

(1) Census Tracts. The Census Bureau defines census tracts as relatively permanent small-area geographic divisions of a county or statistically equivalent entity defined for the tabulation and presentation of data from the decennial census and selected other statistical programs.<sup>10</sup> For purposes of determining whether a census tract is an energy community, the term census tract is defined and delineated by the Census Bureau for purposes of the 2020 Decennial Census (as described in 83 FR 56277).<sup>11</sup>

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<sup>10</sup> Census Tracts for the 2020 Census—Final Criteria, 83 FR 56277 (November 13, 2018), available at: <https://www.federalregister.gov/documents/2018/11/13/2018-24567/census-tracts-for-the-2020-census-final-criteria>.

<sup>11</sup> The boundaries of the 2020 census tracts are defined in the 2020 TIGER/Line Geodatabases as defined by the Census Bureau.

(2) Other Definitions Pertaining to Coal Closure Category.

(a) Closed Coal Mine. The term closed coal mine means a coal mine classified as a surface or underground mine that has ever had for any period of time, since December 31, 1999, a mine status of abandoned or abandoned and sealed by the U.S. Department of Labor’s Mine Safety and Health Administration (MSHA) in the Mine Data Retrieval System (MDRS). Closed coal mines listed in the MSHA MDRS are excluded from the Coal Closure Category if they have irregular location information. This includes closed coal mines with listed latitude and longitude coordinates that do not place the mines in the listed county and state, and mines with latitude and longitude coordinates that only extend to the tenths place. Taxpayers with evidence to correct irregular location information of coal mines abandoned or abandoned and sealed since December 31, 1999, may provide that evidence to the MSHA. In the event that data corrections are verified by the MSHA, the IRS will include this correction in an annual ministerial notice. The MSHA will not determine tax credit eligibility.

(b) Retired Coal-Fired Electric Generating Unit. The term retired coal-fired electric generating unit means an electric generating unit classified as retired at any time since December 31, 2009, by the U.S. Energy Information Administration (EIA) of the U.S. Department of Energy in the Preliminary Monthly Electric Generator Inventory (EIA Form 860M) or the Electric Generator Inventory (EIA Form 860).<sup>12</sup> At the time of being listed as retired, the generating unit must be characterized as a coal-fired electric generating unit.

An electric generating unit is a coal-fired generating unit according to its classification in the EIA data. An electric generating unit is a generating unit if it is classified in the Preliminary Monthly Electric Generator Inventory (EIA Form 860M) for years 2016 to 2022 or the Electric Generator Inventory (EIA Form 860) for years 2010 to 2015. For years 2014 to 2022, coal-fired electric generating units are those listed in EIA Form 860M or EIA Form 860 data as having a “Technology” of “Conventional Steam Coal” or “Coal Integrated Gasification Combined Cycle.” For years 2010 to 2013, coal-fired electric generating units are those listed in EIA Form 860 data as having a primary fuel source code of anthracite coal, bituminous coal, lignite coal, refined coal, coal-derived synthesis gas, subbituminous coal, and waste/other coal.<sup>13</sup>

Retired coal-fired electric generating units listed in the EIA data are excluded from the Coal Closure Category if they have irregular location information. Taxpayers must coordinate with the EIA to address potential issues related to irregular location information.

(c) Directly Adjoining. Census tracts are directly adjoining if their boundaries touch at any single point. There are many cases where multiple census tracts meet at a single point. If a closed coal mine or retired coal-fired electric generating unit is located in one of the census tracts, then other census tracts sharing the single point would be considered directly adjoining.

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<sup>12</sup> A coal-fired electric generating unit may operate in a plant with multiple such units. A retirement after December 31, 2009, of a single coal-fired electric generating unit in such a plant would cause the census tract in which such retired unit is located to be included in the Coal Closure Category.

<sup>13</sup> EIA, Electric Power Annual 2021, November 2022, Technical notes, p. 6, available at <https://www.eia.gov/electricity/annual/pdf/epa.pdf>.

(3) Census tracts in the Coal Closure Category are listed in Appendix C.

#### SECTION 4. GENERALLY APPLICABLE RULES FOR DETERMINING WHETHER LOCATION REQUIREMENT IS MET

##### .01 Timing.

(1) In General. Under §§ 45 and 45Y, a qualified facility must be “located in” an energy community, and under §§ 48 and 48E an energy project, qualified facility, or energy storage technology, as applicable, must be “placed in service” within an energy community, to qualify for the bonus credit amounts or rates.

For purposes of §§ 45 and 45Y, whether a qualified facility is located in an energy community (and thus eligible for the increased credit amounts or rates) is determined separately for each taxable year of the qualified facility’s 10-year credit period. For purposes of §§ 45 and 45Y, a qualified facility is treated as located in an energy community during a taxable year if it is located in an energy community during any part of the taxable year.

For purposes of § 48, whether an energy project is placed in service within an energy community (and thus eligible for the increased credit rates) is determined as of the placed-in-service date (the date the credit is determined). Similarly, for purposes of § 48E, whether a qualified facility or energy storage technology is placed in service within an energy community (and thus eligible for the increased credit rates) is determined as of the placed-in-service date (the date the credit is determined).

(2) Special Rule for Beginning of Construction. For purposes of §§ 45, 45Y, 48, and 48E, if a taxpayer begins construction of an EC Project [on or after January 1, 2023](#), in a location that is an energy community as of the beginning of construction (BOC) date, then, with respect to that EC Project, the location will continue to be considered an energy community for the duration of the credit period for §§ 45 and 45Y or on the placed-in-service date for §§ 48 and 48E. For purposes of determining a BOC date for §§ 45 and 48, the IRS has issued notices under §§ 45 and 48 (collectively, BOC Notices) that provide guidance for determining when construction begins.<sup>14</sup> For purposes of determining a BOC date under §§ 45Y and 48E, principles similar to those provided in the BOC Notices apply.

.02 Location. An EC Project is treated as “located in” or “placed in service within” an energy community, if the EC Project satisfies either the nameplate capacity test (Nameplate Capacity Test as described in section 4.02(1) of this notice) or the square footage test (Footprint Test as

<sup>14</sup> Notice 2013-29, 2013-20 I.R.B. 1085; clarified by Notice 2013-60, 2013-44 I.R.B. 431; clarified and modified by Notice 2014-46, 2014-36 I.R.B. 520; updated by Notice 2015-25, 2015-13 I.R.B. 814; clarified and modified by Notice 2016-31, 2016-23 I.R.B. 1025; updated, clarified, and modified by Notice 2017-04, 2017-4 I.R.B. 541; Notice 2018-59, 2018-28 I.R.B. 196; modified by Notice 2019-43, 2019-31 I.R.B. 487; modified by Notice 2020-41, 2020-25 I.R.B. 954; clarified and modified by Notice 2021-5, 2021-3 I.R.B. 479; clarified and modified by Notice 2021-41, 2021-29 I.R.B. 17.

described in section 4.02(2) of this notice).<sup>15</sup> An EC Project that has nameplate capacity must apply the Nameplate Capacity Test. An EC Project that has no nameplate capacity must apply the Footprint Test.

(1) Nameplate Capacity Test. Under the Nameplate Capacity Test, an EC Project that has nameplate capacity is considered located in or placed in service within an energy community if 50 percent or more of the EC Project's nameplate capacity is in an area that qualifies as an energy community. An EC Project's nameplate capacity percentage is determined by dividing the nameplate capacity of the EC Project's energy-generating units that are located in an energy community by the total nameplate capacity of all the energy-generating units of the EC Project.

(a) Determining Nameplate Capacity. Nameplate capacity for an electrical generating unit means the maximum electrical generating output in megawatts (MW) that the unit is capable of producing on a ~~steady-state~~steady state basis and during continuous operation under standard conditions, as measured by the manufacturer and consistent with the definition provided in 40 CFR § 96.202. Energy-generating units that generate direct current (DC) power before converting to alternating current (AC) (for example, solar photovoltaic) should use the nameplate capacity in DC, otherwise the nameplate capacity in AC should be used. For energy storage devices, the nameplate or maximum rated capacity means the storage device's usable energy capacity (MWh). Usable energy capacity is the electric storage device capacity (in MW) multiplied by the duration hours of that storage capacity (h). Where applicable, the International Standard Organization (ISO) conditions are used to measure the maximum electrical generating output or usable energy capacity.

(b) Nameplate Capacity Attribution Rule. If an EC Project with offshore energy generation units has nameplate capacity but none of the EC Project's energy-generating units are in a census tract, MSA, or non-MSA, then the Nameplate Capacity Test for such EC Project is applied by attributing all the nameplate capacity of such EC Project to the land-based power conditioning equipment that conditions energy generated by the EC Project for transmission, distribution, or use and that is closest to the point of interconnection.

(c) Example. A qualified offshore wind facility (Project) with 500 MW nameplate capacity is located on the outer continental shelf. The taxpayer that owns the Project (Taxpayer) elects under § 48(a)(5) to treat the Project as energy property and to claim a § 48 credit. None of the Project's energy-generating units with nameplate capacity are in a census tract, MSA, or non-MSA. The onshore substation that conditions the Project's generated electricity for transmission, distribution, or use and that is located nearest to the point of land-based interconnection is located in an energy community. Taxpayer may attribute the Project's nameplate capacity to that onshore substation under the Nameplate Capacity Attribution Test. As a result, if the Project otherwise meets the requirements for the § 48 credit, the taxpayer may claim an increased credit rate pursuant to § 48(a)(14)(A) for the Project.

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<sup>15</sup> Energy communities must be located within the U.S. or a U.S. territory, including American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.



(2) Footprint Test. If an EC Project does not have a nameplate capacity (for example, qualified biogas property), such EC Project applies the Footprint Test. Such an EC Project is considered located in or placed in service within an energy community if 50 percent or more of its square footage is in an area that qualifies as an energy community. This percentage is determined by dividing the square footage of the EC Project that is located in an energy community by the total square footage of the EC Project.

## SECTION 5. SAFE HARBOR FOR BROWNFIELD SITES

.01 In General. The IRS will accept that a site meets the definition of a brownfield site under 42 U.S.C. § 9601(39)(A) if it satisfies at least one of the conditions described in section 5.02 of this notice and the site is not described in 42 U.S.C. § 9601(39)(B).

.02 Safe Harbor. The conditions described in this paragraph are as follows:

(1) The site was previously assessed through federal, state, territory, or federally recognized Indian tribal brownfield resources as meeting the definition of a brownfield site under 42 U.S.C. § 9601(39)(A). Potential site lists may be found under the category of Brownfields Properties on the EPA's Cleanups in My Community webpage or on similar webpages maintained by states, territories, or for federally recognized Indian tribes;<sup>16</sup>

(2) An ASTM E1903 Phase II Environmental Site Assessment (Phase II Assessment) has been completed with respect to the site in accordance with the most current applicable version of the Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process of ASTM International and such Phase II Assessment confirms the presence on the site of a hazardous substance as defined under 42 U.S.C. § 9601(14), or a pollutant or contaminant as defined under 42 U.S.C. § 9601(33); or

(3) For projects with a nameplate capacity of not greater than 5MW (AC), an ASTM E1527 Phase I Environmental Site Assessment (Phase I Assessment) has been completed with respect to the site in accordance with the most current applicable version of the Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process of ASTM International.

## SECTION 6. SUBSTANTIATION

A taxpayer claiming the increased credit amount or rate for meeting energy community bonus credit requirements must meet the general recordkeeping requirements under § 6001 in order to substantiate that an EC Project is located in or has been placed in service in an energy community. Section 6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, must keep such records as the Secretary may from time to time prescribe. Section 1.6001-1(a) provides that any person subject to income tax must keep such permanent books of account or records as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax. Section 1.6001-1(e) provides that the books and records required by § 1.6001-1 must be

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<sup>16</sup> Available at <https://java.epa.gov/acrespub/stvrp/>.

retained so long as the contents thereof may become material in the administration of any internal revenue law.

## SECTION 7. SUBMISSION OF PUBLIC COMMENTS REGARDING FOSSIL FUEL TAX REVENUE

.01 Written comments addressing the possible data sources, revenue categories, and procedures to determine whether an MSA or non-MSA qualifies under the Statistical Area Category based on Fossil Fuel Tax Revenue (as described in section 3.03(4) of this notice) should be submitted by May 4, 2023. The subject line for the comments should include a reference to Notice 2023-29. Comments may be submitted in one of two ways:

(1) Electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (type IRS-~~2023-0014~~[2023-29](#) in the search field on the regulations.gov homepage to find this notice and submit comments).

(2) Alternatively, by mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2023-29), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

.02 All commenters are strongly encouraged to submit comments electronically. The Treasury Department and the IRS will publish for public availability any comment submitted electronically, or on paper, to its public docket on [regulations.gov](http://regulations.gov).

## SECTION 8. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, call the energy security guidance contact number at (202) 317- 5254 (not a toll-free call).

**Summary report:  
 Litera Compare for Word 11.2.0.54 Document comparison done on  
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<u>Table Insert</u>	0
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<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
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