

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220



TO: Ohman, Associate Administrator, Office of Information and Affairs

FROM: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records

SUBJECT: Justification for Emergency Processing: Revenue Procedure 2022-42

The Department of the Treasury and the Internal Revenue Service (IRS) are requesting a revision to OMB Control Number 1545-2371, Form 8936, Qualified Plug-in Electric Drive Motor Vehicle Credit under emergency procedures in connection with provisions of sections 13401, 13402, and 13402(a) of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA).

Sections 30D, 45W, and 25E provide a tax credit for the acquisition and placing in service of clean vehicles, including new vehicles, commercial vehicles, and previously owned vehicles, respectively. Sections 30D, 45W, and 25E each provide that for a vehicle to qualify for such credits, it must be manufactured by a qualified manufacturer. Sections 30D and 25E also impose additional reporting requirements by the seller of such vehicles. This revenue procedure sets forth the procedures under § 30D(d)(3) of the Internal Revenue Code (Code) for qualified manufacturers to enter into a written agreement with the Secretary of the Treasury or her delegate (Secretary) under which such a manufacturer agrees to make periodic written reports to the Secretary providing vehicle identification numbers and such other information related to each vehicle manufactured by such manufacturer as the Secretary may require. Vehicles eligible for the credit for qualified commercial vehicles under § 45W and vehicles eligible for the credit for previously owned clean vehicles under § 25E of the Code, respectively, must be manufactured by a qualified manufacturer as described in § 30D(d)(1)(C) and (d)(3) of the Code. See §§ 45W(c)(1) and 25E(c)(1)(D)(i). This revenue procedure also provides the procedures for persons selling vehicles to report the information required to be reported the Internal Revenue Service (IRS) in order for a vehicle to be eligible for the clean vehicle credit under §§ 30D or 25E.

The IRS needs to publish Revenue Procedure 2022-42 before December 16, 2022, so that manufacturers of qualified clean vehicles can enter into a written agreement with the Secretary to become a qualified manufacturer and provide written reports to certify that their clean vehicles qualify for the applicable tax credits under sections 30D, 45W, and/or 25E in advance of the amended or new Code sections taking effect on January 1, 2023. Manufacturers need time before January 1, 2023, to enter into a written agreement with the IRS to become a qualified manufacturer, so consumers can shop with confidence that a clean vehicle is made by a qualified manufacturer and is eligible for the applicable tax credit. Further, manufacturers need time to identify eligible vehicles and compile reports on eligible vehicles. If the revenue procedure is not published before December 16, 2022, taxpayers may not have the information they need to

purchase a clean vehicle and claim the applicable tax credit. Once IRA passed in August 2022, IRS and Treasury began an inter-agency effort to provide guidance to taxpayers for the clean vehicle tax credits, including the Department of Energy (DOE), Department of Transportation (DOT), Environmental Protection Agency (EPA) and the Executive Office of the President (EOP). Given the changes to section 30D, and the new sections 45W and 25E, all set to take effect less than five months after the IRA passed, it was not possible to prepare this Revenue Procedure with sufficient time to solicit public comment in advance of issuance.

Following normal Paperwork Reduction Act clearance procedures would thus result in harm to manufacturers, dealers, and sellers of qualified clean vehicles who would be unable to submit their certifications that they are qualified manufacturers or requires sales reports starting January 1, 2023. Therefore, due to the extraordinary circumstances and statutory deadlines for implementing the sections 30D, 45W, and 25E tax credits, the Treasury and IRS request emergency processing of this information collection request by December 9, 2022. Given the inability to seek public comment during such a short timeframe, IRS also respectfully requests a waiver from the requirement to publish a notice in the Federal Register seeking public comment during the period of Office of Management and Budget review. However, public comment will be solicited in conjunction with the subsequent extension of the approval to collect this information.