

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220



TO: [redacted], Associate Administrator, Office of Information and Affairs

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

SUBJECT: Justification for Emergency Processing: Notice 2022-XX

The Department of the Treasury and the Internal Revenue Service (IRS) are requesting a revision to OMB Control Number 1545-1835, Form 637, Application for Registration (For Certain Excise Tax Activities) and Questionnaires under emergency procedures in connection with provisions of section 13203 of Pub. L. 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA).

Section 13203 of the IRA created a new sustainable aviation fuel credit under § 40B, and related credit and payment rules under §§ 34, 38, 6426(k), and 6427(e)(1) (SAF credit). The SAF credit is available for producing certain fuel mixtures containing sustainable aviation fuel (qualified mixture) for certain sales or uses in calendar years 2023 and 2024.

Pursuant to section 13203 of the IRA, the IRS plans on releasing Notice 2022-XX. The notice explains the requirements for the fuel to be eligible for the SAF credit, the various methods in which a claimant may claim the credit, and which parties must be registered for the different activities in the process. The notice also asks for public comments on various aspects of the statute.

IRS Notice 2022-XX will require:

- A producer or importer of sustainable aviation fuel (further clarified in the notice as either a producer or importer of a SAF synthetic blending component or a U.S. producer of a SAF co-processed qualified mixture) is required to register with the IRS. This requirement is statutory, and is a condition for a producer of a qualified mixture to claim the SAF credit. See §§ 40B(f), 4101(a), and 6426(k)(3). A producer or importer will register by submitting a Form 637, “Application for Registration (For Certain Excise Tax Activities)” that the IRS will update to included activity letter “SA” (for Sustainable Aviation fuel).
- Section 40B(d)(1), (e), and (f)(2) require certain certifications to demonstrate that the qualified mixture meets certain sustainability requirements. To that end, the producer or importer of a SAF synthetic blending component will need to complete a certificate (called a Certificate for SAF Synthetic Blending Component) to give to its buyer. If the SAF synthetic blending component is resold (without creating a qualified mixture), the reseller will need to provide a reseller statement (called a Statement of SAF Synthetic

Blending Component Reseller) to its buyer. This is a third-party disclosure requirement under the PRA.

- The producer of a SAF qualified mixture (i.e., the person who can claim the SAF credit for a mixture of SAF synthetic blending component and kerosene) will need to complete a declaration (called a Declaration for SAF Qualified Mixture), to state under penalties of perjury that to best of its knowledge, the sale or use requirements set forth by § 40B will be met.
- A person claiming a SAF credit for a SAF qualified mixture will include the certificate, reseller statement (if applicable), and declaration as an attachment to its claim form (Forms 720; 4136; Schedule 3 (Form 8849); or 8864). The buyers will then include the certificates as part of submitting their returns to the IRS. These forms are approved under OMB 1545-0023, 1545-0162, 1545-0074, 1545-1420, 1545-1924, and 1545-0123; however, the burden for the certificates will be included in 1545-1835.

The IRS needs to publish Notice 2022-XX before December 16, 2022, so that producers or importers of sustainable aviation fuel mixture may register with the IRS as required by statute. In addition, the Certificate for SAF Synthetic Blending Component, Statement of SAF Synthetic Blending Component Reseller, and Declaration for SAF Qualified Mixture will demonstrate qualified mixture complies with the requirements in § 40B. The information will be used by the IRS to verify that the claimants are making proper credit or payment claims under the statutes. It also gives claimants verification that certain statutory requirements were met before the claimant became involved in the process.

Following normal Paperwork Reduction Act clearance procedures would thus result in harm to potential SAF credit claimants as no one would be able to claim the credit because no one would be able to register with the IRS. In addition, allowing claims for the SAF credit to be made without requiring the inclusion of the certificate, reseller statement (if applicable), and declaration, would mean the IRS could not verify that claimants are making proper credit and payment claims.

Therefore, due to the extraordinary circumstances and statutory deadlines for implementing the SAF credit, the Treasury and IRS request emergency processing of this information collection request by December 16, 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.