

## Part III - Administrative, Procedural, and Miscellaneous

### Section 45J Credit for Production of Electricity from Advanced Nuclear Power Facilities

Notice 2023-24

#### **SECTION 1. PURPOSE**

.01 This notice provides guidance under § 45J of the Internal Revenue Code (Code), relating to the credit for the production of electricity from advanced nuclear power facilities (§ 45J credit). In response to the amendments to certain requirements for the § 45J credit made by § 40501 of the Bipartisan Budget Act of 2018 (2018 Act), Public Law. 115-123, Div. D, Title I, 132 Stat. 64, 153 (February 9, 2018), this notice provides: (i) guidance for computing the § 45J credit; (ii) the amount of the unutilized national megawatt capacity limitation (NMCL) (as defined in § 45J(b)(5)(B)); (iii) the procedures for taxpayers to apply for allocations of, and that the Internal Revenue Service (IRS) will use to allocate, the unutilized NMCL solely with respect to facilities that the Department of Energy (DOE) previously certified as “advanced nuclear facilities” (as defined in § 45J(d)(2)) under Notice 2013-68, 2013-46 I.R.B. 501; and (iv) the procedures for a “qualified public entity” (as defined in § 45J(e)(2)(A)) to elect, pursuant to § 45J(e), to transfer the § 45J credit to an “eligible project partner” (as defined in § 45J(e)(2)(B)). This notice also requests public comment on topics related to the § 45J credit that may

require guidance.

.02 The Department of the Treasury (Treasury Department) and the IRS intend to issue additional guidance regarding the procedures by which any unutilized NMCL will be allocated to a facility that did not receive a certification from the DOE as an “advanced nuclear facility” under Notice 2013-68.

## **SECTION 2. BACKGROUND**

.01 Section 45J was enacted by § 1306 of the Energy Policy Act of 2005, Public Law 109-58, Title XIII, 119 Stat. 594, 997 (August 8, 2005). Subject to limitations under § 45J(b) and (c), a taxpayer may be allowed a § 45J credit of 1.8 cents for each kilowatt hour of electricity (1) that the taxpayer produces at an advanced nuclear power facility during the eight-year period beginning on the date the facility is placed in service and (2) that the taxpayer sells to an unrelated person during the taxable year (qualifying electricity). See § 45J(a).

.02 Under § 45J(d)(1), an “advanced nuclear power facility” is (i) any nuclear facility the reactor design for which is approved by the Nuclear Regulatory Commission (NRC) after December 31, 1993 (and such design or a substantially similar design of comparable capacity was not approved on or before that date), (ii) that is owned by the taxpayer, and (iii) uses nuclear energy to produce electricity. See § 45J(d).

.03 On May 1, 2006, the Treasury Department and the IRS published Notice 2006-40, 2006-18 I.R.B. 855, to provide guidance on the § 45J credit. Specifically, Notice 2006-40 specified the method that the IRS would use to allocate the NMCL and prescribed the application process by which taxpayers could request such an allocation. The notice also provided guidance on the requirement that electricity be sold to an

unrelated person and on the effect of grants, tax-exempt bonds, subsidized energy financing, and other credits.

.04 On November 12, 2013, the Treasury Department and the IRS published Notice 2013-68, which modified and superseded Notice 2006-40. Notice 2013-68 generally republished the guidance contained in Notice 2006-40, but also provided a new streamlined application process allowing an applicant to submit a single application only to the IRS. The IRS would then obtain necessary certification from the DOE. In addition, Notice 2013-68 provided guidance on the allocation rules for facilities that are directly or indirectly owned by more than one person and the time for filing an application with the NRC.

.05 As originally enacted in 2005, § 45J(d)(1) required all advanced nuclear power facilities to be placed in service before January 1, 2021, to be eligible for a § 45J credit. Accordingly, section 6 of Notice 2013-68 provided that the amount of the NMCL allocated to a facility under Notice 2013-68 will be withdrawn if the facility is not placed in service before January 1, 2021, or if the DOE informs the IRS that the DOE certification for the facility has been withdrawn. However, effective for taxable years beginning after its February 9, 2018, date of enactment, § 40501 of the 2018 Act added new § 45J(b)(5) to the Code, which, in part, eliminates the requirement for a facility receiving an allocation of unutilized NMCL pursuant to § 45J(b)(5) to be placed in service before January 1, 2021, to qualify as an advanced nuclear power facility.

.06 Under § 45J(b)(1) and (3), a taxpayer may be allowed a § 45J credit for qualifying electricity only if an amount of NMCL has been allocated to the facility, in the

manner prescribed by the Secretary of the Treasury or her delegate (Secretary).<sup>1</sup> The aggregate amount of NMCL allocated by the Secretary cannot exceed 6,000 megawatts. See § 45J(b)(2).

.07 As added by § 40501 of the 2018 Act, § 45J(b)(5)(A) directs the Secretary to allocate any unutilized NMCL (as defined in § 45J(b)(5)(B)) as rapidly as is practicable after December 31, 2020, as follows: (i) first to facilities placed in service on or before December 31, 2020, to the extent that such facilities did not receive an allocation equal to their full nameplate capacity under the procedures provided in Notice 2013-68, and (ii) then to facilities placed in service after December 31, 2020, in the order in which such facilities are placed in service. Section 45J(b)(5)(B) defines the term “unutilized NMCL” as the excess (if any) of 6,000 megawatts over the aggregate amount of NMCL allocated by the Secretary before January 1, 2021, reduced by any amount of such limitation that was allocated to a facility that was not placed in service before January 1, 2021. Under § 45J(b)(5)(C), any allocation of the unutilized NMCL is treated for purposes of the § 45J credit in the same manner as an allocation of the NMCL.

.08 The 2018 Act also added new § 45J(e) to the Code effective for taxable years beginning after February 9, 2018. Section 45J(e) permits a “qualified public entity” to make an election for any taxable year with respect to all or any portion of its § 45J credits to transfer such credits to one or more eligible project partners specified in the election. With respect to any § 45J credits transferred by a qualified public entity to an eligible project partner, the credit must be taken into account in the first taxable year of

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<sup>1</sup> The amount of the § 45J credit allowed a taxpayer under § 45J(a) for a taxable year may be (i) limited (after the application of § 45J(b)) by an annual limitation under § 45J(c)(1) applicable to each facility and (ii) reduced under § 45J(c)(2) based on an inflation adjusted reference price for electricity described in § 45(e)(2)(C) of the Code.

the eligible project partner ending with, or after, the qualified public entity's taxable year with respect to which the credit was determined.

.09 Section 45J(e)(2)(A) defines the term "qualified public entity" to mean (i) a Federal, State, or local government entity, or any political subdivision, agency, or instrumentality thereof; (ii) a mutual or cooperative electric company described in § 501(c)(12) or § 1381(a)(2) of the Code; or (iii) a not-for-profit electric utility which had or has received a loan or loan guarantee under the Rural Electrification Act of 1936.

.10 Section 45J(e)(2)(B) defines the term "eligible project partner" to mean any person who (i) is responsible for, or participates in, the design or construction of the advanced nuclear power facility to which the § 45J credit relates; (ii) participates in the provision of the nuclear steam supply system to such facility; (iii) participates in the provision of nuclear fuel to such facility; (iv) is a financial institution providing financing for the construction or operation of such facility; or (v) has an ownership interest in such facility.

.11 In the case of a § 45J credit determined at the partnership level, a qualified public entity is treated as the taxpayer with respect to its distributive share of the § 45J credit, and the term "eligible project partner" includes any partner of the partnership. See § 45J(e)(3)(A).

.12 Section 38(b)(21) includes the § 45J credit as a current year business credit. Section 39(a)(1) provides, in part, that if the amount of the current year business credit for the taxable year exceeds the amount of the limitation imposed by § 38(c) for the taxable year (unused credit year), the excess results in a 1-year business credit carryback to the taxable year preceding the unused credit year, and a business credit

carryforward to each of the twenty (20) taxable years following the unused credit year. Section 39(a)(2)(A) provides that the entire amount of the unused credit for an unused credit year is carried to the earliest of the twenty-one (21) taxable years to which the credit may be carried. Section 39(a)(2)(B) provides that the amount of the unused credit for the unused credit year is carried to each of the other twenty (20) taxable years to the extent that such unused credit may not be taken into account under § 38(a) for a prior taxable year because of the limitations of § 39(b) and (c).

### **SECTION 3. DETERMINATION OF THE § 45J CREDIT**

.01 In general. Under § 45J(a), (b)(1), and (c), the § 45J credit allowed to a taxpayer for a taxable year with respect to qualifying electricity is the lesser of:

(1) the tentative credit for the facility for the taxable year (determined under section 3.02(1) of this notice) multiplied by the taxpayer's credit percentage (determined under section 3.02(2) of this notice), or

(2) \$125,000,000 per 1,000 megawatts of the facility limitation determined under section 5.03(1) and (2) of this notice that is allocated to the taxpayer under section 5.03(3), (4), and (5) of this notice.

#### .02 Tentative credit; credit percentage

(1) A facility's tentative credit for the taxable year is equal to 1.8 cents multiplied by the kilowatt hours of qualifying electricity.

(2) The credit percentage for each taxpayer that has been allocated all or part of the amount of the facility limitation is determined by dividing the facility limitation that is allocated to the taxpayer under section 5.03(3), (4), and (5) of this notice by the nameplate capacity of the facility.

.03 Credit determination for partnerships and S corporations. If a facility is owned by a partnership or S corporation, then the partnership or S corporation, and not the partners or shareholders, will be treated as the taxpayer that owns the facility for the purposes of this notice. In such cases, the § 45J credit must be allocated to the partners or shareholders in accordance with § 1.704-1(b)(4)(ii) of the Income Tax Regulations, in the case of partnerships, or § 1.1366-1(a)(2)(v) of the Income Tax Regulations, in the case of S corporations. If the facility is owned through an organization that has made a valid election under § 761(a) of the Code (§ 761(a) election), each member's undivided ownership share in the facility will be treated for purposes of this notice as a separate facility owned by such member.

.04 Sale of Electricity to Unrelated Person. The § 45J credit is allowed only for qualifying electricity that the taxpayer produces and sells to an unrelated person, as defined in § 45(e)(4). Solely for purposes of § 45J, electricity will be treated as sold to an unrelated person if the ultimate purchaser of the electricity is not related to the person that produces the electricity. Thus, the requirement of a sale to an unrelated person will be treated as satisfied if the producer sells the electricity to a related person for resale by the related person to a person that is not related to the producer.

.05 Effect of Grants, Tax-Exempt Bond Proceeds, Subsidized Energy Financing, and Other Credits. The amount of the § 45J credit with respect to any facility for any taxable year is not reduced by the amount of any grants, tax-exempt bond proceeds, subsidized energy financing, or other credits (as described in § 45(b)(3)) used for, or in connection with, the facility.

#### **SECTION 4. DETERMINATION OF THE UNUTILIZED NATIONAL MEGAWATT CAPACITY LIMITATION**

After consultation with the DOE, the Treasury Department and the IRS have determined that no advanced nuclear power facility that received an allocation of the NMCL under Notice 2013-68 was placed in service before January 1, 2021. Therefore, in accordance with section 6 of Notice 2013-68 and § 45J(b)(5)(B), all previous allocations of the NMCL are withdrawn and the total unutilized NMCL is 6,000 megawatts. The unutilized NMCL is available for allocation as provided in section 5 of this notice.

## **SECTION 5. ALLOCATION OF THE UNUTILIZED NATIONAL MEGAWATT CAPACITY LIMITATION**

.01 Application Limited to Facilities Certified by DOE. The IRS will allocate the unutilized NMCL only to advanced nuclear power facilities (within the meaning of § 45J(d)(1)(A)) for which the DOE provides certification to the IRS that the facility qualifies as an “advanced nuclear facility.” For purposes of this notice, each nuclear power reactor located on a multi-reactor site is a separate facility. At this time, only an owner of an advanced nuclear power facility that (i) either (I) previously received a certification from the DOE under Notice 2013-68 that such facility qualified as an “advanced nuclear facility” or (II) acquired the facility after the IRS had provided a previous owner of the facility a letter stating that the DOE had certified that facility as an “advanced nuclear facility” under Notice 2013-68, and (ii) maintains an active NRC construction permit or license or combined license, may apply for an allocation of the unutilized NMCL pursuant to this notice. In addition, the rule in section 4.04(3) and (5) of Notice 2013-68 that undivided ownership shares in a facility would be treated as separate facilities for purposes of that notice is disregarded for purposes of determining

whether a facility previously received a DOE certification under Notice 2013-68.

.02 Application Required. The IRS will not allocate the unutilized NMCL to any owner of an advanced nuclear power facility unless such owner submits a completed application in accordance with section 6 of this notice.

.03 Allocation Method. The unutilized NMCL will be allocated as follows:

(1) Each facility that meets the requirements of sections 5 and 6 of this notice (qualified facility) will be allocated an amount of the unutilized NMCL equal to its nameplate capacity in the order in which such facilities are placed in service (provided the application deadline specified in section 6.02 of this notice is met). The amount of the unutilized NMCL allocated to a qualified facility is referred to as the facility limitation.

(2) The IRS will continue to allocate the unutilized NMCL equal to the nameplate capacity of a qualified facility until all the unutilized NMCL is allocated. The final recipient(s) of the remaining unutilized NMCL may receive only a portion of the unutilized NMCL for which it applied even if it otherwise meets the requirements under this notice to receive a full allocation.

(3) If only one taxpayer owns a direct interest in a qualified facility, the entire facility limitation is allocated to such taxpayer. If more than one taxpayer owns a direct interest in a qualified facility, each taxpayer's undivided ownership share in the qualified facility will be treated for purposes of this notice as a separate qualified facility owned by such taxpayer. In such cases, a taxpayer's application must identify the portion of the total nameplate capacity of the qualified facility that is equal to its undivided ownership share in the qualified facility.

(4) Except as provided in sections 3.03 and 5.03(5) of this notice, if a qualified

facility is owned by a partnership or S corporation, then the partnership or S corporation, and not the partners or shareholders, will be treated as the taxpayer that owns the qualified facility for the purposes of this notice. In such cases, the § 45J credit must be allocated to the partners or shareholders in accordance with § 1.704-1(b)(4)(ii), in the case of partnerships, or § 1.1366-1(a)(2)(v), in the case of S corporations.

(5) If the qualified facility is owned through an organization that has made a valid § 761(a) election, each member's undivided ownership share in the qualified facility will be treated for purposes of this notice as a separate qualified facility owned by such member. In such cases, a member's application for an allocation must identify the portion of the total nameplate capacity of the qualified facility that is equal to its undivided ownership share in the qualified facility.

## **SECTION 6. APPLICATION FOR ALLOCATION OF UNUTILIZED NATIONAL MEGAWATT CAPACITY LIMITATION**

.01 In general. (1) A taxpayer must submit, for each facility for which an allocation of the unutilized NMCL is requested, an application to the IRS for an allocation of the unutilized NMCL under § 45J(b)(5) (Application for § 45J Allocation).

(2) An Application for § 45J Allocation should be marked or titled "APPLICATION FOR SECTION 45J ALLOCATION" and delivered in the manner provided in section 6.04 of this notice.

(3) Multiple taxpayers owning (or treated as owning) a direct interest in a facility (as described in section 5.03(3) or (5) of this notice) must each file a separate Application for § 45J Allocation with respect to a single facility. See section 6.03(6) of this notice.

(4) No user fee is required for the submission of an Application for § 45J Allocation.

.02 Application Deadline. An Application for § 45J Allocation must be filed no later

than thirty (30) days after the date that the facility is placed in service. A taxpayer may file its Application for § 45J Allocation before the facility is placed in service, but the taxpayer must supplement its application with the statement required under section 6.03(4) of this notice no later than thirty (30) days after the date that the facility is placed in service.

.03 Required Information. An Application for § 45J Allocation must include the following:

- (1) The name, taxpayer identification number (if available), and address of the taxpayer who placed or who will place the facility in service;
- (2) The name and location of the facility;
- (3) The nameplate capacity of the facility;
- (4) A statement signed under penalties of perjury (as provided in section 6.03(8) of this notice) providing the date on which the facility was placed in service, the date the facility received an NRC construction permit or license or combined license, and a statement that such permit or license remains active. If the date on which the facility was placed in service is unknown at the time of the Application for § 45J Allocation, such application may be supplemented at any time prior to the application deadline specified in section 6.02 of this notice;
- (5) The total amount of unutilized NMCL requested (not to exceed the nameplate capacity of the facility);
- (6) If a taxpayer's Application for § 45J Allocation relates to a facility in which more than one person owns (or is treated as owning) a direct interest (as described in section 5.03(3) or (5) of this notice), the taxpayer must submit documentation of its undivided

ownership share in the facility;

(7) If the facility is owned by an organization that has made a § 761(a) election, a copy of the § 761 election;

(8) A declaration, applicable to the Application for § 45J Allocation and any required supplemental submissions, signed by a person currently authorized to bind the taxpayer in these matters, in the following form:

“Under penalties of perjury I declare that I have examined the information contained in this Application for § 45J Allocation and the documents that substantiate this Application for § 45J Allocation, and to the best of my knowledge and belief, it is true, correct, and complete.”

(9) The following additional statement:

“I further declare that I have authority to sign this Application for § 45J Allocation (and any supplemental submissions) on behalf of the taxpayer.”

.04 Where to Submit an Application for § 45J Allocation.

(1) An Application for § 45J Allocation should be sent to the following address:

Internal Revenue Service  
Attn: CC:PSI:6, Room 5114  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

(2) If a private delivery service is used, the address is:

Internal Revenue Service  
Attn: CC:PSI:6, Room 5114  
1111 Constitution Ave., N.W.  
Washington, DC 20224

(3) An Application for § 45J Allocation may also be faxed or e-faxed to (855) 591-7868.

.05 IRS Action. (1) Upon receipt of a taxpayer’s Application for § 45J Allocation, the IRS will determine whether the Application for § 45J Allocation satisfies the

requirements of this notice. If the Application for § 45J Allocation does not satisfy the requirements of this notice, the IRS may advise the taxpayer how to perfect its Application for § 45J Allocation. The IRS will not consider an Application for § 45J Allocation to be complete until the IRS receives all the information requested in this notice. The IRS will confirm that the DOE previously certified the taxpayer's facility as an advanced nuclear facility pursuant to the procedures of Notice 2013-68.

(2) Upon receipt of a completed Application for § 45J Allocation, the IRS will review the taxpayer's Application for § 45J Allocation and will notify the taxpayer, by letter, of its decision. If the IRS accepts the taxpayer's Application for § 45J Allocation, the acceptance letter will state the amount of the facility limitation and the portion of that facility limitation being allocated to the taxpayer.

(3) The IRS will allocate the unutilized NMCL under this notice based on the information provided in a taxpayer's Application for § 45J Allocation. If the IRS determines upon an examination that a facility was not placed in service on the date the taxpayer specified under section 6.03(4) of this notice, the IRS may subsequently withdraw a facility's allocation of the unutilized NMCL.

## **SECTION 7. TRANSFER OF CREDIT BY QUALIFIED PUBLIC ENTITIES**

.01 In general. Section 45J(e) permits a qualified public entity (as defined in § 45J(e)(2)(A)) to elect to transfer all or a portion of its § 45J credit to an eligible project partner (as defined in § 45J(e)(2)(B)) (§ 45J(e) Election). If a facility is owned by a partnership, a qualified public entity may elect to transfer its distributive share under § 1.704-1(b)(4)(ii) of the credit to an eligible project partner. In addition, if a facility is owned by a partnership, an eligible project partner includes any partner of the

partnership. A § 45J(e) Election may be made by a qualified public entity for a taxable year only if a § 45J credit is determined for the qualified public entity for such taxable year. If a qualified public entity is not required to file an income tax return for the taxable year that the § 45J credit is determined, the qualified public entity is still considered a taxpayer for purposes of making the § 45J(e) Election and its taxable year is treated as the calendar year for purposes of determining the § 45J credit and making such election.

.02 Election Procedures. (1) A qualified public entity may make a § 45J(e) Election by furnishing an eligible project partner with a statement titled "SECTION 45J(e) ELECTION STATEMENT" (§ 45J(e) Election Statement) transferring all or a portion of the qualified public entity's § 45J credit. The statement must be signed under penalties of perjury by an individual with authority to legally bind the qualified public entity. The election statement must also include the written consent of an individual with authority to legally bind the eligible project partner. A qualified public entity must furnish a separate statement to each eligible project partner to whom it transfers any portion of its § 45J credit.

(2) The § 45J(e) Election Statement must include the following information:

- (a) The name, address, and taxpayer identification number (if available) of the qualified public entity;
- (b) The name and location of the facility;
- (c) The nameplate capacity of the facility;
- (d) The date on which the facility was placed in service;
- (e) The full amount of the unutilized NMCL allocated to the qualified public entity

with respect to the facility and a copy of the letter issued by the IRS stating the amount of the unutilized NMCL allocated to the qualified public entity;

(f) The taxable year of the qualified public entity for which the § 45J credit is determined and the election is made;

(g) The name, address and taxpayer identification number of all known eligible project partners receiving any portion of the qualified public entity's transferred § 45J credit;

(h) The total kilowatt-hours of electricity produced by the facility and sold to an unrelated taxpayer during the taxable year of the qualified public entity for which the election is made;

(i) The total amount of the § 45J credit determined with respect to the qualified public entity for the taxable year for which the election is made and the amount of that § 45J credit that the qualified public entity is electing to transfer to the eligible project partner;

(j) A statement providing how the § 45J credit claimant qualifies as an eligible project partner; and

(k) A declaration, applicable to the § 45J(e) Election Statement signed by a person currently authorized to bind the qualified public entity in these matters, in the following form:

“Under penalties of perjury I declare that I have examined the information contained in this § 45J(e) Election Statement and the documents that substantiate this § 45J(e) Election Statement, and to the best of my knowledge and belief, it is true, correct, and complete.”

(l) The following additional statement:

“I further declare that I have authority to sign this § 45J(e) Election Statement on

behalf of the qualified public entity.”

(3) A § 45J(e) Election is an annual election that must be made for each taxable year for which a qualified public entity will transfer the credit to an eligible project partner. A separate election must be made for each eligible project partner for which a qualified public entity will transfer a portion of the § 45J credit.

.03 Due Date for Making Election. The § 45J(e) Election Statement must be furnished to the eligible project partner on or before the due date (including extensions of time) of the eligible project partner’s Federal income tax return on which it claims the transferred § 45J credit for the taxable year ending with, or after, the qualified public entity’s taxable year with respect to which the credit was determined.

.04 Election Irrevocable. An election by a qualified public entity to transfer any portion of the § 45J credit is irrevocable once the § 45J(e) Election Statement referred to in section 7.02 of this notice is furnished to the eligible project partner.

.05 Requirement for an Eligible Project Partner to Claim the Credit. An eligible project partner claims the § 45J credit by filing the applicable IRS form for claiming the credit (and including all requested information) and attaching the § 45J(e) Election Statement furnished by the qualified public entity as provided in section 7.02 of this notice.

.06 Carryforwards and Carrybacks of Credits. In the case of any credit or portion thereof with respect to which a § 45J(e) Election is made, the credit must be taken into account under § 38 by the eligible project partner in the first taxable year of the eligible project partner ending with or after the qualified public entity’s taxable year with respect to which the credit was determined. The carryback and carryforward rule provided in

§ 39 regarding unused business credits applies to the eligible project partner.

## **SECTION 8. REQUEST FOR COMMENTS**

.01 Comments Requested. The Treasury Department and IRS request written comments on issues relating to § 45J(b)(5) and (e) and the guidance provided in this notice. In particular, the Treasury Department and the IRS request comments to address the following:

(1) Section 45J(b)(5) provides that the unutilized NMCL is allocated to facilities in the order in which a facility is placed in service in an allocation amount up to the facility's nameplate capacity. The Treasury Department and the IRS intend to issue guidance to provide the procedures for a facility that has not previously received a certification from the DOE as an "advanced nuclear facility" under Notice 2013-68 to be allocated unutilized NMCL. Accordingly, the Treasury Department and the IRS invite comments regarding the procedures for allocating the remaining unutilized NMCL.

(2) Section 45J(c)(2) provides that the § 45J credit phases out based on a ratio of the credit determined in § 45J(a) to the reference price defined in § 45(e)(2)(C). The Treasury Department and the IRS invite comments regarding the method for calculating the reference price for the generation of electricity at an advanced nuclear power facility.

.02 How to Submit Comments. All commenters are strongly encouraged to submit comments electronically. Comments should be submitted in writing by May 8, 2023, and should include reference to Notice 2023-24. Comments may be submitted electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (type IRS-2023-0008 in the search field on the regulations.gov homepage to find this notice and

submit comments). Alternatively, comments may be mailed to: Internal Revenue Service, Attn: CC:PA:LPD:PR (Notice 2023-24), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington D.C. 20044. The Treasury Department and the IRS will publish for public availability any comment submitted electronically or on paper to its public docket on [www.regulations.gov](http://www.regulations.gov).

## **SECTION 9. PAPERWORK REDUCTION ACT**

The collection of information contained in this notice has been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3507) under control number 1545-2000. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in sections 6 and 7. The section 6 requirements are not defined as a collection of information under 5 CFR 1320.3(c). The information collection requirements contained in section 7 will be submitted to OMB for review and approval in accordance with 5 CFR 1320.10.

Section 7 provides procedures for a qualified public entity to make an election to transfer the § 45J credits to an eligible project partner (a third-party disclosure under the PRA). The information will be used to determine the portion of the § 45J credits to which an eligible project partner is entitled. An eligible project partner will use the election statement to claim the § 45J credit. This information is required to be collected and retained for taxpayers to claim the § 45J credit.

The collection of information is required to obtain a benefit. The likely respondents are corporations and partnerships.

The estimated total annual reporting burden is 406 hours.

The estimated annual burden per respondent is 5.07 hours. The estimated number of respondents is 80.

The estimated frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103 of the Code.

#### **SECTION 10. EFFECT ON OTHER DOCUMENTS**

Notice 2013-68 is obsolete.

#### **SECTION 11. DRAFTING INFORMATION**

The principal author of this notice is John M. Deininger of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Mr. Deininger at (202) 317-6853 (not a toll-free call).