Part III – Administrative, Procedural, and Miscellaneous

Beginning of Construction Requirements for Purposes of the Termination of Clean Electricity Production Credits and Clean Electricity Investment Credits for Applicable Wind and Solar Facilities

Notice 2025-42

SECTION 1. PURPOSE

This notice provides guidance, consistent with Executive Order 14315 of July 7, 2025, *Ending Market Distorting Subsidies for Unreliable, Foreign-Controlled Energy Sources*, 90 F.R. 30821 (Executive Order 14315), regarding when construction of an applicable wind facility or applicable solar facility (each as defined in section 2.02 of this notice) has begun for purposes of determining whether such facility is subject to credit termination provisions added to §§ 45Y and 48E of the Internal Revenue Code (Code)[1] by §§ 70512 and 70513 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA). Section 70512(a) and (l)(4) of the OBBBA terminates the clean electricity production credit determined under § 45Y (§ 45Y credit), and § 70513(a) and (g)(5) of the OBBBA terminates the clean electricity investment credit determined under § 48E (§ 48E credit), in the case of an applicable wind facility or applicable solar facility that is placed in service after December 31, 2027

[1] Unless otherwise specified, all "section" or "§" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

(credit termination date). The credit termination date applies to applicable wind and solar facilities the construction of which begins after July 4, 2026 (beginning of construction deadline), the date that is 12 months after the date of enactment of the OBBBA.

SECTION 2. BACKGROUND

.01 Overview of pre-OBBBA §§ 45Y and 48E.

Sections 45Y and 48E were added to the Code by §§ 13701(a) and 13702(a), respectively, of Public Law 117-169, 136 Stat. 1818, 1982 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022. The § 45Y credit is determined with respect to electricity produced by a taxpayer at a "qualified facility" and either sold by the taxpayer to an unrelated party during the taxable year or, if the facility is equipped with a metering device which is owned or operated by an unrelated person, sold, consumed, or stored by the taxpayer during the taxable year. The § 48E credit is determined with respect to a taxpayer's "qualified investment" in a qualified facility. A taxpayer's qualified investment in a qualified facility is determined with respect to the taxpayer's basis in "qualified property" placed in service by the taxpayer that is part of the qualified facility as well as expenditures paid or incurred for certain qualified interconnection property.

Sections 45Y(b)(1)(A) and 48E(b)(3)(A) define a "qualified facility" for purposes of §§ 45Y and 48E, respectively, as a facility which is used for the generation of electricity, which is placed in service after December 31, 2024, and for which the greenhouse gas emissions rate (for § 45Y) or anticipated greenhouse gas emissions rate (for § 48E) is not greater than zero. The Department of the Treasury (Treasury Department) and the

Internal Revenue Service (IRS) published final regulations under §§ 45Y and 48E on January 15, 2025 (90 FR 4006). Sections 1.45Y-2 and 1.48E-2 clarify the definition of a "qualified facility" for purposes of §§ 45Y and 48E, respectively.

Section 45Y(b)(2)(C)(i) requires that the Secretary of the Treasury or the Secretary's delegate annually publish a table that sets forth the greenhouse gas emissions rates for types or categories of facilities, which a taxpayer must use for purposes of § 45Y. The Treasury Department and the IRS published the initial annual table required by § 45Y(b)(2)(C)(i) in Revenue Procedure 2025-14, 2025-7 I.R.B. 770. That table lists both wind facilities and solar facilities as having a greenhouse gas emissions rate of not greater than zero.

As noted in section 2.02 of Notice 2022-61, 87 FR 73580, 2022-52 I.R.B. 560, the IRS has issued several notices, collectively referred to in this notice as the "IRS Notices,"[2] which provide that taxpayers may establish the beginning of construction using the "Physical Work Test" or the "Five Percent Safe Harbor," and may satisfy either the "Continuity Requirement" or the "Continuity Safe Harbor," with respect to the credits determined under §§ 45, 45Q, and 48.

Section 5 of Notice 2022-61 provides guidance, in part, to determine when construction begins for purposes of the credit determined under §§ 45Y and 48E. Section 5 of Notice 2022-61 states that principles similar to those under Notice 2013-29 regarding the Physical Work Test and Five Percent Safe Harbor apply, and taxpayers

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[2] *See* 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; Notice 2020-12, 2020-11 I.R.B. 495.

satisfying either test will be considered to have begun construction. Section 5 of Notice 2022-61 additionally provides, in part, that principles similar to those provided in the IRS Notices regarding the Continuity Requirement and the Continuity Safe Harbor apply for purposes of §§ 45Y and 48E, and that taxpayers may rely on the Continuity Safe Harbor provided the facility is placed in service no more than four calendar years after the calendar year during which construction began.

.02 Overview of OBBBA Changes to §§ 45Y and 48E.

Sections 70512(a) and 70513(a) of the OBBBA added new §§ 45Y(d)(4) and 48E(e)(4), respectively, to the Code. These new Code provisions terminate the § 45Y credit and the § 48E credit, respectively, for applicable wind and solar facilities placed in service after December 31, 2027. For purposes of this notice, the term "applicable wind facility" means an applicable facility as provided in §§ 45Y(d)(4)(B)(i) and 48E(e)(4)(B)(i) (except as provided in § 48E(e)(4)(C) relating to energy storage technology) and "applicable solar facility" means an applicable facility as provided in §§ 45Y(d)(4)(B)(ii) and 48E(e)(4)(B)(ii) (except as provided in § 48E(e)(4)(C)). Sections 70512(l)(4) and 70513(g)(5) of the OBBBA provide that the amendments made by §§ 70512(a) and 70513(a) of the OBBBA, respectively, apply to facilities the construction of which begins after the date which is 12 months after the date of enactment of the OBBBA (that is, July 4, 2026).

.03 Executive Order 14315.

Section 3(a) of Executive Order 14315 directs the Secretary of the Treasury, within 45 days following enactment of the OBBBA, to take action he deems necessary and appropriate to strictly enforce the termination provisions with respect to the § 45Y

credit and the § 48E credit for wind and solar facilities. Such action includes issuing new and revised guidance for applicable wind and solar facilities to ensure that policies concerning "beginning of construction" are not circumvented, including guidance to prevent the artificial acceleration or manipulation of eligibility and to restrict the use of broad safe harbors unless a substantial portion of an applicable wind or solar facility has been built.[3]

The Treasury Department and the IRS have determined that the guidance contained in this notice is necessary and appropriate to properly enforce the credit termination date for applicable wind and solar facilities. Congress provided a beginning of construction deadline after which the new credit termination date for applicable wind and solar facilities applies. This notice provides beginning of construction guidance to prevent taxpayers from circumventing the statutory credit termination date, prevent the artificial manipulation of eligibility for the § 45Y credit and § 48E credit for applicable wind and solar facilities, and ensure that a substantial portion of any applicable wind or solar facility not subject to the credit termination date is built by the beginning of construction deadline. Accordingly, except as provided in section 6 of this notice, the Five Percent Safe Harbor provided under the IRS notices is not available for purposes

[3] In addition, § 3(b) of Executive Order 14315 directs the Secretary of the Treasury, within 45 days following enactment of the OBBBA, to take prompt action as the Secretary of the Treasury deems appropriate and consistent with applicable law to implement the enhanced "Foreign Entity of Concern" restrictions in the OBBBA (also known as "Prohibited Foreign Entities"). Section 70512 of the OBBBA added those new restrictions regarding certain foreign entities in order to qualify for the § 45Y credit and the § 48E credit, among others, and included separate beginning of construction rules for those new provisions. See § 7701(a)(51) and (52) of the Code. The guidance in this notice is not intended to address the beginning of construction rules for the purposes of those foreign entity restrictions. The Treasury Department and the IRS are currently drafting additional guidance as is necessary and appropriate to implement those restrictions, as enacted by the OBBBA.

of determining whether an applicable wind or solar facility has met the beginning of construction deadline and, thus, is not subject to the credit termination date.

SECTION 3. METHOD FOR ESTABLISHING BEGINNING OF CONSTRUCTION

.01 In general. For purposes of the beginning of construction deadline in §§ 70512(l)(4) and 70513(g)(5) of the OBBBA, a taxpayer may establish that construction has begun before July 5, 2026, by satisfying the Physical Work Test as described in section 3.02 of this notice. Except as provided in section 6 of this notice, the Physical Work Test described in section 3.02 of this notice is the sole method that a taxpayer may use for these purposes. The Physical Work Test also requires that a taxpayer maintain a continuous program of construction (Continuity Requirement). Section 4 of this notice discusses the Continuity Requirement and section 4.04 of this notice provides a safe harbor for satisfying this requirement (Continuity Safe Harbor).

.02 Physical Work Test. Construction of an applicable wind or solar facility begins when physical work of a significant nature begins. Work performed by the taxpayer and work performed for the taxpayer by other persons under a binding written contract that is entered into prior to the manufacture, construction, or production of the applicable wind or solar facility for use by the taxpayer in the taxpayer's trade or business (or for the taxpayer's production of income) is taken into account in determining whether construction has begun. See section 5.01 of this notice. Whether physical work of a significant nature has begun with respect to an applicable wind or solar facility before July 5, 2026, will depend on the relevant facts and circumstances.

.03 Physical work of a significant nature. The Physical Work Test requires that physical work of a significant nature be performed. This test focuses on the nature of

the work performed, not the amount or the cost. Provided that physical work performed is of a significant nature, there is no fixed minimum amount of work or monetary or percentage threshold required to satisfy the Physical Work Test. Both off-site and on-site work (performed either by the taxpayer or by another person under a binding written contract) may be taken into account for purposes of demonstrating that physical work of a significant nature has begun.

(1) Off-site physical work of a significant nature. Generally, off-site physical work of a significant nature may include the manufacture of components, mounting equipment, support structures such as racks and rails, inverters, and transformers and other power conditioning equipment.

(2) On-site physical work of a significant nature. The following non-exclusive list of examples is intended to illustrate what constitutes on-site physical work of a significant nature for applicable wind and solar facilities:

(a) Applicable wind facility. On-site physical work of a significant nature begins with the beginning of the excavation for the foundation, the setting of anchor bolts into the ground, or the pouring of the concrete pads of the foundation. If the applicable wind facility's wind turbines and tower units are to be assembled on-site from components manufactured off-site by a person other than the taxpayer and delivered to the site, physical work of a significant nature begins when the manufacture of the components begins at the off-site location, but only if: (i) the manufacturer's work is done pursuant to a binding written contract (as described in section 5.01(1) of this notice); and (ii) these components are not held in the manufacturer's inventory (as described in section 3.05 of this notice). If a manufacturer produces components for multiple applicable facilities,

a reasonable method must be used to associate individual components with particular applicable facilities.

(b) Applicable solar facility. On-site physical work of a significant nature may include the installation of racks or other structures to affix photovoltaic (PV) panels, collectors, or solar cells to a site.

.04 Preliminary activities. Physical work of a significant nature does not include preliminary activities, even if the cost of those preliminary activities is properly included in the depreciable basis of the applicable wind or solar facility. Generally, preliminary activities for applicable wind or solar facilities include, but are not limited to:

(a) planning or designing;

(b) securing financing;

(c) exploring;

(d) researching;

(e) conducting mapping and modeling to assess a resource;

(f) obtaining permits and licenses;

(g) conducting geophysical, gravity, magnetic, seismic and resistivity surveys;

(h) conducting environmental and engineering studies;

(i) clearing a site;

(j) conducting test drilling to determine soil condition (including to test the strength of a foundation);

(k) excavating to change the contour of the land (as distinguished from excavation for a foundation); and

(l) removing existing foundations, turbines, and towers, solar panels, or any components that will no longer be part of the applicable wind or solar facility (including those on or attached to building structures).

.05 Inventory. Physical work of a significant nature does not include work (performed either by the taxpayer or by another person under a binding written contract) to produce a component/part of an applicable wind or solar facility that is either in existing inventory or is normally held in inventory by one selling the component/part to the taxpayer.

SECTION 4. CONTINUITY REQUIREMENT

.01 Continuous program of construction. A taxpayer will satisfy the Continuity Requirement of this section 4 only if the taxpayer maintains a continuous program of construction with respect to an applicable wind or solar facility. A continuous program of construction involves continuing physical work of a significant nature (as described in section 3.03 of this notice). Unless the Continuity Safe Harbor provided in section 4.04 of this notice applies, whether a taxpayer maintains a continuous program of construction to satisfy the Continuity Requirement will be determined by the relevant facts and circumstances.

.02 Excusable disruptions to continuous program of construction. Certain disruptions in a taxpayer's continuous construction to advance towards completion of an applicable wind or solar facility that are beyond the taxpayer's control will not be considered as indicating that a taxpayer has failed to satisfy the Continuity Requirement.

The following is a non-exclusive list of construction disruptions that will not be considered as indicating that a taxpayer has failed to satisfy the Continuity Requirement:

(a) delays due to severe weather conditions;

(b) delays due to natural disasters;

(c) delays in obtaining permits or licenses from federal, state, local, or Indian tribal governments, including, but not limited to, delays in obtaining permits or licenses from the Federal Energy Regulatory Commission (FERC), the Environmental Protection Agency (EPA), the Bureau of Land Management (BLM), and the Federal Aviation Agency (FAA);

(d) delays at the written request of a federal, state, local, or Indian tribal government regarding matters of public safety, security, or similar concerns;

(e) interconnection-related delays, such as those relating to the completion of construction on a new transmission or distribution line or necessary transmission or distribution upgrades to resolve grid congestion issues that may be associated with an applicable wind or solar facility's planned interconnection;

(f) delays in the manufacture of custom components;

(g) delays due to labor stoppages;

(h) delays due to the inability to obtain specialized equipment of limited availability;

(i) delays due to the presence of endangered species;

(j) financing delays; and

(k) delays due to supply shortages.

.03 Timing of excusable disruption determination. In the case of a single project comprised of multiple facilities (as described in section 5.02(2) of this notice), whether an excusable disruption has occurred for purposes of the Continuity Requirement must be determined in the calendar year during which the last of multiple facilities is placed in service. In the case of a single applicable wind or solar facility, whether an excusable disruption has occurred for purposes of the Continuity Requirement must be determined in the calendar year during which the applicable wind or solar facility is placed in service.

.04 Continuity safe harbor: deemed satisfaction of continuity requirement. Except as provided in this section 4.04, if a taxpayer places an applicable wind or solar facility in service by the end of a calendar year that is no more than four calendar years after the calendar year during which construction of the applicable wind or solar facility began (Continuity Safe Harbor Deadline), the applicable wind or solar facility will be considered to satisfy the Continuity Requirement (Continuity Safe Harbor). The excusable disruption rules in section 4.02 of this notice do not apply for purposes of applying the Continuity Safe Harbor. If an applicable wind or solar facility is not placed in service before the end of the fourth calendar year after the calendar year during which construction of the applicable wind or solar facility began, whether the applicable wind or solar facility satisfies the Continuity Requirement under the Physical Work Test will be determined by the relevant facts and circumstances.

For example, if construction begins on an applicable wind or solar facility on August 20, 2025, and the applicable wind or solar facility is placed in service by December 31, 2029, the applicable wind or solar facility will be considered to satisfy the

Continuity Safe Harbor. If the applicable wind or solar facility is not placed in service before January 1, 2030, whether the Continuity Requirement was satisfied will be determined by the relevant facts and circumstances.

SECTION 5. OTHER RULES

.01 Construction by contract. For property that is manufactured, constructed, or produced for the taxpayer by another person under a binding written contract (as described in section 5.01(1) of this notice), the work performed under the contract is taken into account in determining when physical work of a significant nature begins, provided the contract is entered into prior to the work taking place.

(1) Binding written contract. A contract is binding only if it is enforceable under local law against the taxpayer or a predecessor and does not limit damages to a specified amount (for example, by use of a liquidated damages provision). For this purpose, a contractual provision that limits damages to an amount equal to at least five percent of the total contract price will not be treated as limiting damages to a specified amount. For additional guidance regarding the definition of a binding contract, see § 1.168(k)-1(b)(4)(ii)(A)-(D).

(2) Master contract. If a taxpayer enters into a binding written contract for a specific number of components to be manufactured, constructed, or produced for the taxpayer by another person (a “master contract”), and then through a new binding written contract (a “project contract”) the taxpayer assigns its rights to certain components to an affiliated special purpose vehicle that will own the applicable wind or solar facility for which such property is to be used, work performed with respect to the

master contract may be taken into account in determining when physical work of a significant nature begins with respect to the applicable wind or solar facility.

.02 Qualified facility – (1) In general. Physical work of a significant nature with respect to an applicable wind or solar facility must be performed with respect to property included in a qualified facility, as defined in § 1.45Y-2(b) or § 1.48E-2(d), as applicable.

(2) Single project. Solely for purposes of determining whether construction of an applicable wind or solar facility has begun for purposes of this notice, multiple facilities that are operated as part of a single project (along with any property, such as a computer control system, that serves some or all such facilities) will be treated as a single applicable wind or solar facility. Whether multiple facilities are operated as part of a single project will depend on the relevant facts and circumstances. Factors indicating that multiple facilities are operated as part of a single project include, but are not limited to:

(a) The facilities are owned by a single legal entity;

(b) The facilities are constructed on contiguous pieces of land;

(c) The facilities are described in a common power purchase agreement or agreements;

(d) The facilities have a common intertie;

(e) The facilities share a common substation;

(f) The facilities are described in one or more common environmental or other regulatory permits;

(g) The facilities were constructed pursuant to a single master construction contract; and

(h) The construction of the facilities was financed pursuant to the same loan agreement.

(3) Timing of single project determination. The determination of whether multiple facilities are operated as part of a single project and are therefore treated as a single applicable wind or solar facility for purposes of this notice must be made in the calendar year during which the last of the multiple facilities is placed in service.

.03 Property integral to the applicable wind or solar facility. Only physical work of a significant nature on tangible personal property and other tangible property used as an integral part of the activity performed by the applicable wind or solar facility will be considered for purposes of determining whether a taxpayer has begun construction of an applicable wind or solar facility. This includes property integral to the production of electricity, but does not include property used for electrical transmission. See §§ 1.45Y-2(b)(3) and 1.48E-2(d)(3) for additional descriptions of property integral to a qualified facility.

.04 Application of 80/20 rule to retrofitted applicable wind or solar facilities – (1) In general. A retrofitted applicable wind or solar facility may qualify as originally placed in service even though it contains some used components of property, provided the fair market value of the used components of property is not more than 20 percent of the applicable wind or solar facility's total value (the cost of the new components of property plus the value of the used components of property) (80/20 Rule). See §§ 1.45Y-4(d) and 1.48E-4(c). In the case of a single project comprised of multiple facilities (as described in section 5.02(2) of this notice), the 80/20 Rule is applied to each facility comprising the single project. For purposes of the 80/20 Rule, the cost of a new

applicable wind or solar facility includes all properly capitalized costs of the new applicable wind or solar facility.

(2) Beginning of construction. In situations where the 80/20 Rule applies, the Physical Work Test applies only with respect to the work performed on, or amounts paid or incurred for, new components of property used to retrofit an existing applicable wind or solar facility. The total cost of the applicable wind or solar facility does not include the cost of land (including lease payments) or any property that is not part of the applicable wind or solar facility, as described in section 5.03 of this notice.

.05 Transfer of an applicable wind or solar facility – (1) In general. A taxpayer may claim either the § 45Y credit with respect to electricity produced by such taxpayer at an applicable wind or solar facility or the § 48E credit with respect to the taxpayer's qualified investment with respect to an applicable wind or solar facility. Neither § 45Y nor § 48E requires the taxpayer to own the applicable wind or solar facility at the time construction began on the applicable wind or solar facility. Accordingly, except as provided in section 5.05(3) of this notice, a fully or partially developed applicable wind or solar facility may be transferred without losing its qualification under the Physical Work Test for purposes of the § 45Y credit or the § 48E credit.

(2) Relocation of equipment by a taxpayer. A taxpayer may begin construction of an applicable wind or solar facility with the intent to develop the applicable wind or solar facility at a certain site, and thereafter transfer components of property of the applicable wind or solar facility to a different site, complete its development, and place it in service. The work performed or the amounts paid or incurred prior to the site transfer by such a

taxpayer may be taken into account for purposes of determining when the applicable wind or solar facility satisfies the Physical Work Test.

(3) Transfers of equipment between unrelated parties. In the case of a transfer consisting solely of tangible personal property (including contractual rights to such property under a binding written contract) to a transferee not related (within the meaning of §§ 197(f)(9)(C) and 1.197-2(h)(6)) to the transferor, any work performed or amounts paid or incurred by the transferor with respect to such transferred property will not be taken into account with respect to the transferee for purposes of the Physical Work Test.

For example, a developer, X, intends to develop and operate Facility A at a location to be determined. In 2025, X pays or incurs $60,000 to have tangible personal property integral to Facility A manufactured off-site pursuant to a binding written contract. Thereafter, X incurs no further development costs and engages in no further development activity with respect to Facility A. In January 2026, X sells the tangible personal property to another developer, Y, a party unrelated to X. Y is developing and intends to operate Facility B, located on a parcel of land owned by Y. Y incorporates the tangible personal property acquired from X into Facility B. In October 2026, Y places Facility B in service on the parcel of land. The total cost of Facility B is $1,000,000. Work performed for X in 2025 on the tangible personal property cannot be taken into account by Y for purposes of satisfying the Physical Work Test with respect to Facility B, because X and Y are not related persons (within the meaning of §§ 197(f)(9)(C) and 1.197-2(h)(6)) as described in section 5.05(3) of this notice. However, if without regard to the tangible personal property acquired from X, Y has otherwise satisfied the Physical

Work Test with respect to Facility B in 2025, Y will be considered to have begun construction in 2025.

SECTION 6. FIVE PERCENT SAFE HARBOR FOR LOW OUTPUT SOLAR FACILITIES

.01 In general. In the case of a low output solar facility (as defined in section 6.02 of this notice), a taxpayer may establish that construction has begun before July 5, 2026, by satisfying either the Physical Work Test described in section 3.02 of this notice, or by applying principles similar to those provided in section 5 of Notice 2013-29 regarding the Five Percent Safe Harbor (as described in section 2.02(2)(ii) of Notice 2022-61).

.02 Low output solar facility.

(1) Definition. A low output solar facility is an applicable solar facility that has maximum net output of not greater than 1.5 megawatt (MW) (as measured in alternating current) (1.5-Megawatt Maximum). For purposes of the 1.5-Megawatt Maximum, output is measured at the level of the qualified facility.

(2) Property included in an applicable solar facility. An applicable solar facility includes a unit of a qualified solar facility, which, in turn, includes all functionally interdependent components of property owned by the taxpayer that are operated together and that can operate apart from other property to produce electricity. Components of property are functionally interdependent if the placing in service of each of the components is dependent upon the placing in service of each of the other components to produce electricity. A qualified solar facility also includes property owned by the taxpayer that is an integral part of the qualified solar facility. A component of

property owned by the taxpayer is an integral part of the qualified facility if it is used directly in the intended function of the facility and is essential to the completeness of such function. See §§ 1.45Y-2(b)(3) and 1.48E-2(d)(3) for additional descriptions of property integral to a qualified facility.

.03 Measurement of output.

(1) In general. The maximum net output of an applicable solar facility is measured only by nameplate generating capacity (in alternating current) of the unit of qualified facility (as described in §§ 1.45Y-2(b)(2) and 1.48E-2(d)(2)), which does not include the nameplate capacity of any component that is an integral part (as described in §§ 1.45Y-2(b)(3) and 1.48E-2(d)(3)) of the applicable solar facility, at the time the applicable solar facility is placed in service. The nameplate generating capacity of the applicable solar facility is measured independently from any other applicable solar facility that shares an integral part with the applicable solar facility. Notwithstanding this rule, the nameplate generating capacity of two or more applicable solar facilities having integrated operations are measured in the aggregate for purposes of the 1.5-Megawatt Maximum.

(2) Nameplate capacity. For purposes of section 6.02(1) of this notice, the determination of whether a qualified facility has a maximum net output of not greater than 1.5 MW (as measured in alternating current) is based on the nameplate capacity. The nameplate capacity for purposes of the 1.5-Megawatt Maximum is the maximum electrical generating output in megawatts that the unit of qualified facility is capable of producing on a steady state basis and during continuous operation under standard conditions, as measured by the manufacturer and consistent with the definition of

nameplate capacity provided in 40 CFR 96.202. If applicable, taxpayers should use the International Standard Organization (ISO) conditions to measure the maximum electrical generating output of a unit of qualified facility. For applicable solar facilities that generate electricity in direct current, a taxpayer determines whether an applicable solar facility has a maximum net output of not greater than 1.5 MW (in alternating current) by using the lesser of:

(a) The sum of the nameplate generating capacities within the applicable solar facility in direct current, which is deemed the nameplate generating capacity of the unit of applicable solar facility in alternating current; or

(b) The nameplate capacity of the first component of the applicable solar facility that inverts the direct current electricity into alternating current.

(3) Integrated operations. For the purposes of the 1.5-Megawatt Maximum, an applicable solar facility is treated as having integrated operations with one or more other applicable solar facilities of the same technology type if the facilities are:

(a) Owned by the same or related taxpayers;

(b) Placed in service in the same taxable year; and

(c) Transmit electricity generated by the facilities through the same point of interconnection or, if the facilities are not grid-connected or are delivering electricity directly to an end user behind a utility meter, are able to support the same end user.

(4) Related taxpayers. For purposes of section 6.03(3) of this notice, the term "related taxpayers" means members of a group of trades or businesses that are under common control (as defined in § 1.52-1(b)). Related taxpayers are treated as one taxpayer in determining whether an applicable facility has integrated operations.

SECTION 7. EFFECTIVE DATE

This notice is effective for applicable wind and solar facilities the construction of which did not begin (as determined under section 5 of Notice 2022-61) prior to September 2, 2025.

SECTION 8. EFFECT ON OTHER DOCUMENTS

Except as provided in sections 6 and 7 of this notice, this notice modifies Notice 2022-61 to provide that section 5 of such notice is not applicable for determining whether construction of an applicable wind or solar facility began prior to the beginning of construction deadline in §§ 70512(l)(4) and 70513(g)(5) of the OBBBA.

SECTION 9. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax); however, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice contact (202) 317-6853 (not a toll-free call).