



**ZERO EMISSION  
TRANSPORTATION  
ASSOCIATION**

March 30, 2026

Office of the Associate Chief Counsel, Energy, Credits, and Excise Tax  
Internal Revenue Service  
U.S. Department of the Treasury  
1111 Constitution Ave., NW  
Washington, DC 2022

**RE: Notice 2026-15**

**“Guidance to Apply Interim Safe Harbors for Purposes of Determining a Taxpayer’s Material Assistance from a Prohibited Foreign Entity; Other Prohibited Foreign Entity Guidance.”**

*Submitted via Rulemaking Portal: <http://www.regulations.gov>.*

The Zero Emission Transportation Association (ZETA) is an industry coalition that represents the domestic electric vehicle (EV) and battery energy storage supply chain end-to-end, including raw and processed critical mineral and material producers, cell and battery manufacturers, vehicle manufacturers, charging companies, EV supply equipment (EVSE) providers, utility companies, and battery recyclers.

As a coalition, ZETA advocates for policy solutions that will unleash the full potential of American industry to compete globally, counter market dominance from adversarial nations such as China, and lead in next-generation manufacturing. Our companies are proud to invest in the United States by opening facilities across the country, creating American jobs, and onshoring manufacturing processes for a range of advanced technologies. ZETA would like to express our appreciation to the Trump Administration for the opportunity to comment on Notice 2026-15, “Guidance to Apply Interim Safe Harbors for Purposes of Determining a Taxpayer’s Material Assistance from a Prohibited Foreign Entity; Other Prohibited Foreign Entity Guidance.”

ZETA is aligned with the Administration’s focus on the strategic importance of processed critical minerals and derivative product supply chains, which include batteries and EVs. ZETA member companies are committed to creating a resilient, diversified supply chain and are highly motivated to certify domestic and allied suppliers of critical minerals. Confidence in a robust domestic market for EVs and batteries has been, and will continue to be, a primary driver of private-sector investment in domestic upstream capacity for critical minerals and material mining and processing. For example, projections suggest that 55-60 percent of neodymium demand will come from energy technologies, with around 40 percent from EVs alone. Another example is lithium, where 88 percent of the global demand is due to the market for EVs.<sup>1</sup> Policies like the

---

<sup>1</sup> USGS Mineral Commodity Study. 2026. <https://pubs.usgs.gov/periodicals/mcs2026/mcs2026.pdf>.

§45X Advanced Manufacturing Production Tax Credit provide the targeted support that U.S. industry requires to scale and compete globally in key technologies. Under current law, manufacturers' eligibility for §45X is contingent on compliance with the Prohibited Foreign Entity (PFE) rules outlined in Public Law 119-21, and further clarified in Notice 2026-15. Overall, ZETA members appreciate the clarity and optionality provided by the interim guidance. Clear PFE rules are necessary to facilitate the continued build-out of domestic advanced manufacturing capacity as companies work to align supply chains with the intent of the law.

As questions regarding specific portions of the Prohibited Foreign Entity requirements persist, ZETA requests further clarifications on the areas that are yet to be defined and encourages continued engagement with the industry. Below, ZETA has provided initial feedback on areas where additional clarity is needed in order to ensure the industry's ability to confidently comply with the statute and any forthcoming regulations.

### ***Items Requiring Additional Clarification***

#### *Supplier Certification*

ZETA requests clarity on several elements of the supplier certification process, particularly the extent to which the guidance requires taxpayers to certify suppliers beyond Tier 1 of their value chain. ZETA members also request clarification on which documentation is acceptable for certifying a supplier. Standard industry practice has historically limited supplier certification to Tier 1. As a result of this and sensitivity to market competition, suppliers are likely to be unresponsive to requests for certification information related to their own supply chain, particularly when requested by smaller manufacturers.

We also request further clarification regarding the supplier certification date to determine effective control and the supplier's status as a PFE. In the interim guidance, Section 7701(a)(51)(A)(ii)(I) indicates that the status would be determined on the last day of such taxable year, but this may vary for Foreign Influenced Entities, as in Section 7701(a)(51)(D)(i)(I). However, ZETA would like to note that non-PFE suppliers may restructure ownership after the material acquisition date, which could be in the middle of a tax year. In such cases, a supplier may be a PFE on the last tax day of the year, but was not when a procurement agreement was entered into contractual obligations. ZETA recommends that Treasury should retain the determination within the last day of the taxable year to reduce administrative burden and ensure compliance with the statutory requirements.

---

### *Publicly-Traded Debt*

Section 7701(a)(51)(E)(iii)(II) reads, “...such [public] entity has issued debt, as part of an original issuance, in excess of 15 percent of its publicly-traded debt to 1 or more specified foreign entities.” We request clarification that this language is intended to read as: “...such [public] entity has issued publicly-traded debt, as part of an original issuance, in excess of 15 percent of its publicly-traded debt to one or more specified foreign entities.” For context, multinational organizations often have global treasury operations to broker and lend money for projects as a standard business practice. Without further clarification, such operations may be unnecessarily subject to PFE rules even though such publicly-traded debt activities have no bearing on the foreign ownership these rules intend to target. ZETA would like Treasury to confirm that the statutory term “issued debt” refers to publicly traded debt to Specified Foreign Entities as a percentage of total publicly traded debt.

### *Contractual Timing and Obligations*

Finally, Section 7701(a)(52)(D)(iv) addresses treatment of existing supplier contracts for any manufactured product, component, constituent element, material, or subcomponent of an eligible component entered into by the taxpayer prior to June 16, 2025, and placed into service before January 1, 2030, in a facility the construction of which began before August 1, 2025, or in the case of a constituent element, material, or subcomponent, used in a product sold before January 1, 2030. The guidance indicates that previously established agreements (effectively “grandfathered” in) would be subject to a separate set of qualifications; however, changes in economic conditions may require some businesses to alter existing agreements while preserving the underlying contract. Forthcoming guidance should clarify how binding written contracts with suppliers entered into before June 16, 2025, but amended thereafter, may be treated for the purposes of certification to ensure that companies are best able to comply with requirements when managing ongoing updates to their supply chains.

### *Safe Harbor Tables*

ZETA appreciates the optionality provided to taxpayers in determining their material assistance cost ratio (MACR). Preserving this optionality in further guidance is important as it allows taxpayers with varying battery chemistry and business structures to comply with the rules in the manner most feasible and with the least administrative burden.

Preserving optionality is particularly important given the lack of safe-harbor tables for battery cells, which may create uncertainty for manufacturers. Safe harbor tables provide much-needed certainty to manufacturers and significantly lower compliance costs associated with data-reliant direct cost calculations. Lithium batteries, however, have many different architectures (prismatic,

cylindrical, and pouch being the most dominant), each of which has significantly different costs for canisters and cap assemblies. Additionally, changing the chemistry of the anode or cathode can result in significant direct cost increases. Variation of battery cell chemistries and form factors may require more than one safe harbor table for battery cells. Attempting a stringent one-size-fits-all approach with estimated cost ratios would prove to be inaccurate for the vast majority of cells while potentially providing undue benefits for certain cells that exploit these inaccuracies in their MACR calculations. For complex eligible components, such as battery cells, Treasury may consider developing an identification safe harbor table without establishing specific cost percentages.

ZETA also requests that safe harbor tables be provided for all eligible components under §45X. This would align with the approach taken in Notice 2026-15 for other listed eligible components and would provide manufacturers with a clear and administrable method for determining the MACR under all eligible battery module applications. Notably, there are often differences between battery modules used in energy storage and electric vehicle applications. For example, EV battery modules are designed with enhanced safety measures to address the potential for vehicle collisions. Because of this, these modules have additional packaging costs, potentially warranting modified safe harbor tables from those already listed.

### ***Licensing Agreements***

ZETA appreciates Treasury's approach to licensing agreements in the interim guidance, and we believe it accurately interprets the intent of the statute. As the Department considers its rulemaking later this year, ZETA hopes to continue engaging with the Administration on how it will solidify and enforce its requirements for licensing agreements.

### ***Direct Cost***

ZETA appreciates the Trump Administration's understanding that security for critical minerals and advanced manufacturing in the U.S. demands a whole-of-government approach. ZETA encourages Treasury to employ an interagency process to ensure that tax strategies are harmonized across all federal programs and directives. Specifically, we would like to raise concerns that the effectiveness of §45X might be negatively affected by ongoing efforts to address supply chain resilience across other agencies.

In particular, compliance with the PFE rules is determined in part by a MACR calculation that identifies the percentage of the total direct cost of a qualified facility or component associated with a PFE. The interim guidance states that "freight-in and tariffs paid or incurred by the taxpayer generally are direct material costs" (within the meaning of §461 and regulations issued under §263A). The Office of the U.S. Trade Representative (USTR) is currently considering (per

the Federal Register Notice 91 FR 9686) new mechanisms to affect the price of critical minerals, which, if enforced through tariffs, would further increase tariff costs for U.S. battery producers, thereby reducing the domestic manufacturing incentives codified in the changes to §45X in Public Law 119-21.

In many cases, U.S. end users of critical minerals are actively working with and investing in qualifying non-PFE suppliers of critical minerals to incorporate them into their value chains as soon as technologically feasible. Imposition of additional tariffs would not affect the speed at which end users can accomplish this, but—given the current guidance on the §45X MACR calculation—would diminish the benefits of this critical financial tool in supporting full supply chain reorientation.

### ***Conclusion***

The §45X credit has been immensely beneficial to the industry’s efforts to continue onshoring EV and battery supply chains. Since November 2021, companies have invested \$178 billion in private dollars that could generate up to 165,000 jobs here in the United States.<sup>2</sup> Industry has worked vigorously to comply with the credit’s requirements in order to see these investments through and grow our domestic manufacturing base to meet the needs of consumers in America and worldwide.

We look forward to continuing to work with the Administration on the development of guidance regarding PFEs throughout this year. Notice 2026-15 offers a helpful and encouraging starting point, which we hope can be built upon and refined through the public comment process. This will help ensure any forthcoming rule would meaningfully strengthen the resilience of U.S. manufacturing and its associated supply chains here and abroad.

Sincerely,



Albert Gore  
Executive Director

---

<sup>2</sup> Zero Emission Transportation Association. February 2026. ZETA.org