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裝

主旨：函轉駐美國代表處經濟組函報美國財政部發布「降低通膨法」(IRA)有關潔淨車輛條款之最終規則，以及美國能源部發布有關「有疑慮之外國實體」(foreign entity of concern, FEOC)定義之最終指導原則，請卓參。

訂

說明：依據駐美國代表處經濟組113年5月3日經美字第1130000408號函辦理。

正本：台灣區車輛工業同業公會、台灣區電機電子工業同業公會、台灣車聯網產業協會、台灣先進車用技術發展協會、台灣智慧移動產業協會、台灣電能車輛發展協會、台灣智慧電動車及綠能科技協會、台灣電池協會
副本：駐美國代表處經濟組 電子公文交換章 2024/05/10 11:24:03

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113. 5. 13
車輛公會收文總號 279

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受文者：經濟部國際貿易署

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訂

主旨：陳報美國財政部發布「降低通膨法」(IRA)有關潔淨車輛條款之最終規則，以及美能源部發布有關「有疑慮之外國實體」(foreign entity of concern, FEOC)定義之最終指導原則，敬請查參。

經濟部
貿易署

說明：

一、相關文號：本組上(112)年12月4日經美字第1120001164號函；本組本(113)年4月17日經美字第1130000349號函。

線

二、美財政部本(5)月3日發布IRA有關潔淨車輛條款之最終規則，以降低消費者成本、促進美國製造業繁榮，以及與盟友和合作夥伴建立韌性供應鏈加強能源安全，要點略以：

(一)為製造商及納稅人提供確定性：依本(3)日發布之最終規則，財政部和國稅局將提供有關納稅人可獲得潔淨車輛稅額扣抵及以前已取得稅額扣抵之相關定義和

國際貿易署　113/05/06

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規則；亦涉及關鍵礦物、電池零件和FEOC要求，以符合稅額扣抵之條件。

（二）出售車輛時獲稅額扣抵機制：依據30D節高達7,500美元的稅額扣抵及25E節以前已取得高達4,000美元的稅額扣抵，將可轉讓予註冊的經銷商，該機制使消費者在買車時即可獲得稅額扣抵，而無需在報稅時扣抵。

（三）追蹤關鍵礦物之附加價值比例：為確認關鍵礦物符合稅額扣抵條件之比例，最終規則提供「追蹤附加價值測試」(traced qualifying value add test)，製造商須建立詳細供應鏈追蹤系統，以確認提煉、加工和回收之實際附加價值比例，實際比例將用以決定是否符合關鍵礦物比例條件。

（四）限制FEOC：自2024年起，電動車包含由FEOC製造或組裝之電池零件，將不符合稅額扣抵條件；自2025年起，電動車電池包含由FEOC提煉、加工及回收之關鍵礦物，將不符合稅額扣抵條件。

三、美能源部於同日發布「有疑慮之外國實體」(foreign entity of concern,FEOC)定義之最終指導原則，要點略以：

（一）DOE本日發布有關「兩黨基礎建設法」(BIL)第40207節FEOC定義之指導原則，旨在限制FEOC參與國內電池供應鏈，並促進國內和友岸電池材料的加工及製造。

（二）財政部本日發布前述第30D節潔淨車輛稅額扣抵之最終規則，引用DOE對FEOC的定義，DOE將與財政部及國稅局密切合作，確保該定義指導原則在BIL第40207節補助計畫及IRA第30D節潔淨車輛稅額扣抵下執行。

（三）在BIL有關FEOC定義為「由涵蓋國家之政府所擁有、控制、管轄或持有的實體」，涵蓋國家定義為中國、

俄羅斯、伊朗和北韓。依據DOE本日發布指導原則，解釋 FEOC定義包括：實體的總部、註冊地或從事相關活動位於所涵蓋國家；涵蓋國家的政府擁有該實體25%或以上投票權、董事會席位或股權；實體透過與FEOC簽訂許可證或合約而受FEOC有效控制。

四、檢附財政部及能源部發布新聞稿(如附件)，併請查參。

正本：經濟部國際貿易署、經濟部能源署

副本：行政院經貿談判辦公室、經濟部陳政務次長辦公室(請經濟部代陳)、經濟部產業發展署(均含附件) 電子公文交換章 2024/05/06 08:32:50

部國際 騎縫章

U.S. DEPARTMENT OF THE TREASURY

U.S. Department of the Treasury Releases Final Rules to Lower Consumer Costs, Continue U.S. Manufacturing Boom in Batteries and Clean Vehicles, Strengthen Energy Security

May 3, 2024

WASHINGTON – Today the U.S. Department of the Treasury and Internal Revenue Service (IRS) released final rules on the clean vehicle provisions of the Inflation Reduction Act (IRA) that are lowering costs for consumers, spurring a boom in U.S. manufacturing, and strengthening energy security by building resilient supply chains with allies and partners. Since President Biden was elected, $173 billion in private-sector investment has been announced across the U.S. clean vehicle and battery supply chain.

"President Biden's Inflation Reduction Act has unleashed an investment and manufacturing boom in the United States. I've seen firsthand in Tennessee, North Carolina, and Kentucky how ecosystems have developed in communities nationwide to onshore the entire clean vehicle supply chain so the United States can lead in the field of green energy," said **Secretary of the Treasury Janet L. Yellen.** "The Inflation Reduction Act's clean vehicle credits save consumers up to $7,500 on a new vehicle, and hundreds of dollars per year on gas, while creating good-paying jobs and strengthening our energy security."

"Today's actions from Treasury and DOE provide clarity and certainty to an EV marketplace that's rapidly growing," said **John Podesta, Senior Advisor to the President for International Climate Policy.** "The direction we're headed is clear—toward a future where many more Americans drive an EV or a plug-in hybrid and where those vehicles are affordable and made here in America."

"Since his first day in office, President Biden has bet on America, invested in our competitiveness, and stood with U.S. auto workers," **said Assistant to the President and National Climate Advisor Ali Zaidi.** "We are seeing the impact of that leadership. Under President Biden, the U.S. went from laggard to leading the rest of the world in EV manufacturing investment. EV sales have quadrupled. New factories are opening up, including 15 gigafactories commissioned to bring back jobs manufacturing batteries invented here in America. Driven by the President's vision and leadership, the sector is experiencing a manufacturing boom – and it's reaching every corner of the country. These credits for clean vehicles are the latest action by the Biden-Harris Administration to save consumers thousands of dollars and ensure the future of the auto industry is made in America by American workers."

The final rules being issued today strengthen and secure supply chains and provide certainty for manufacturers and taxpayers. After careful consideration of the extensive public feedback received in response to the proposed rules, the Treasury Department and the IRS are providing definitions and rules regarding taxpayer and vehicle eligibility for the credit for new clean vehicles and the previously-owned clean vehicle credit. The rules also address the critical minerals and battery components requirements and Foreign Entity of Concern (or "excluded entity") restriction that were added to the clean vehicle credit by the IRA. Concurrently with today's final rules, the Department of Energy (DOE) is also releasing final interpretive guidance related to the definition of Foreign Entity of Concern for purposes of the 30D clean vehicle credit and the battery manufacturing grant program created by the Bipartisan Infrastructure Law.

Today's release also includes rules for transferring the 30D clean vehicle credit of up to $7,500 and 25E previously owned clean vehicle credit of up to $4,000 to registered dealers. This mechanism created by the IRA is already extending the reach of the credits by making the credit available at the point of sale rather than when buyers file their taxes. Researchers have found that consumers overwhelmingly prefer an immediate rebate at point of sale. So far this year, more than 100,000 credits have been transferred at the point of sale, representing more than $700 million in upfront savings for consumers.

These rules provide for robust program integrity measures, including upfront review of compliance with both critical mineral and battery component requirements and the FEOC restrictions starting this summer. The IRS, with analytical assistance from DOE, will conduct upfront review of documentation and certifications addressing materials sourcing requirements to ensure that qualified manufacturers are accurately representing their battery contents. In addition, the final rules confirm that taxpayers may rely on vehicle eligibility information provided by manufacturers so that taxpayers are not penalized for manufacturers mistakes.

CALCULATING $3,750 CRITICAL MINERALS CREDIT

For determining qualifying critical mineral content for purposes of the critical minerals requirement, today's release provides a new test, the traced qualifying value add test. Under this test, manufacturers must conduct a detailed supply chain tracing to determine the actual value-added percentage for extraction, processing, and recycling. The actual percentage is used to determine the value for the applicable critical mineral that is qualifying. Manufacturers may continue to use the 50 percent roll up described in the proposed regulations as a transition rule until 2027.

FOREIGN ENTITY OF CONCERN

For the Foreign Entity of Concern (FEOC) restriction, the final regulations make permanent the allocation-based accounting rules for applicable critical minerals contained in a battery cell. The final regulations also identify certain impracticable-to-trace battery materials. As tracing standards and capabilities develop, qualified manufacturers may temporarily exclude these battery materials from FEOC due diligence and FEOC compliance determinations until 2027.

To take advantage of the FEOC transition rules for impracticable-to-trace battery materials, qualified manufacturers must submit a report during the upfront review process noted above, demonstrating how the qualified manufacturer will comply with the FEOC restriction once the transition rule is no longer in effect.

Clean Vehicle Credit Requirement	2024	2025
Foreign Entity of Concern Restriction for Battery Components (to receive any credit)	YES	YES
Foreign Entity of Concern Restriction for Critical Minerals (to receive any credit)	NO	YES
Battery Component Applicable Percentage (to receive $3,750)	60%	60%
Critical Minerals Applicable Percentage (to receive $3,750)	50%	60%

The Biden-Harris Administration is committed to using every tool available to build secure, resilient, trusted supply chains for EVs and EV batteries, and to creating good-paying and union jobs throughout the EV supply chain in the United States. The White House, working with the Department of Treasury and Department of Energy, intends to convene domestic critical minerals producers, battery manufacturers, and automakers in the coming weeks to identify additional opportunities to accelerate growth in this sector in the United States, including through offtake agreements between domestic critical mineral producers and battery and EV manufacturers.

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Department of Energy

DOE Releases Final Interpretive Guidance on the Definition of Foreign Entity of Concern

MAY 3, 2024

Energy.gov » DOE Releases Final Interpretive Guidance on the Definition of Foreign Entity of Concern

Final Guidance Provides Clarity on Terms that Restrict FEOCs from Clean Vehicle Tax Credits and Support Growth of Domestic Battery Materials Processing and Manufacturing

WASHINGTON, D.C. — Today, the U.S. Department of Energy (DOE) **finalized** its guidance interpreting the statutory definition of "foreign entity of concern" (FEOC) in Section 40207 of the Bipartisan Infrastructure Law (BIL). The FEOC interpretive guidance is designed to limit the participation of FEOCs in domestic battery supply chains and bolster the growth of domestic and friend-shored battery materials processing and manufacturing. It is finalized largely as originally proposed in December, with refinement and clarifications that take into account public comments and will aid automakers and other stakeholders in identifying FEOCs in their battery supply chains.

Additionally, today the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) **released** their final rule implementing the Section 30D Clean Vehicle Tax Credit in the Inflation Reduction Act. This rule cross-references DOE's FEOC interpretive guidance. DOE worked closely with Treasury and the IRS to ensure that the FEOC interpretive guidance is administrable in the context of the BIL Section 40207 grant program and the IRA Section 30D Clean Vehicle Tax Credit.

Plug-in electric vehicle (EV) sales have quadrupled since President Biden took office, hitting record numbers last year and with U.S. sales projected to reach 1.9 million in 2024, **according** to Bloomberg New Energy Finance (BNEF). So far in 2024, each month has seen a higher EV market share than the previous year.

Even as EV sales grow, the U.S. still depends on foreign sources for many of the processed critical minerals needed to produce EV batteries. Through the President's Investing in America agenda, the Biden-Harris Administration has taken swift action to secure a reliable and sustainable battery supply chain sourced predominantly in America and allied trading partners. A key element of this action is the implementation of the FEOC provision in the BIL.

The BIL defines a FEOC in part, as an entity that is "owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation." Covered nations are defined in BIL as China, Russia, Iran, and North Korea. Pursuant to DOE's guidance today interpreting this phrase, an entity is considered a FEOC if it is headquartered, incorporated or performing relevant activities in a covered nation, if 25% or more of its voting rights, board seats, or equity interest are held by the government of a covered nation, or if the entity is effectively controlled by a FEOC through a license or contract with that FEOC.

Pursuant to the Treasury and IRS final rule on the section 30D Clean Vehicle Tax Credit, an EV containing battery components manufactured or assembled by a FEOC will be ineligible to receive the tax credit starting in 2024. Similarly, an EV with a battery containing critical minerals extracted, processed or recycled by a FEOC will be ineligible to receive this tax credit starting in 2025.

In DOE's Battery Materials Processing and Manufacturing grant program, the Office of Manufacturing and Energy Supply Chains (MESC) will prioritize applications that will not use battery material supplied by a FEOC.

For questions on DOE's final interpretive guidance, stakeholders may reach out to: **FEOCguidance@hq.doe.gov**