

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2021-04-13** | Period of Report: **2021-04-08**  
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FILER

**Advanced Emissions Solutions, Inc.**

CIK: **1515156** | IRS No.: **275472457** | Fiscal Year End: **1231**  
Type: **8-K** | Act: **34** | File No.: **001-37822** | Film No.: **21823452**  
SIC: **2890** Miscellaneous chemical products

Mailing Address

8051 E. MAPLEWOOD AVE.,  
STE 210  
GREENWOOD VILLAGE CO  
80111

Business Address

8051 E. MAPLEWOOD AVE.,  
STE 210  
GREENWOOD VILLAGE CO  
80111  
720-598-3500

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): April 8, 2021

**ADVANCED EMISSIONS SOLUTIONS, INC.**

(Name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation)

**001-37822**

(Commission File Number)

**27-5472457**

(I.R.S. Employer Identification  
Number)

**8051 E. Maplewood Avenue, Suite 210,  
Greenwood Village, CO**

(Address of principal executive offices)

**80111**

(Zip Code)

Registrant's telephone number, including area code: **(720) 598-3500**

**Not Applicable**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Class	Trading Symbol	Name of each exchange on which registered
Common stock, par value \$0.001 per share	ADES	NASDAQ Global Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for   
complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**Item 1.01            Entry into a Material Definitive Agreement.**

On April 9, 2021, Advanced Emissions Solutions, Inc. (the "Company"), a Delaware corporation, entered into the Fourth Amendment to Tax Asset Protection Plan (the "Fourth Amendment") between the Company and Computershare Trust Company, N.A. (the "Rights Agent") that amends the Tax Asset Protection Plan dated May 5, 2017, as amended (the "TAPP") between the Company and the Rights Agent.

The Fourth Amendment amends the definition of "Final Expiration Date" under the TAPP to extend the duration of the TAPP and makes associated changes in connection therewith. Pursuant to the Fourth Amendment, the Final Expiration Date shall be the close of business on the earlier of (i) December 31, 2022 or (ii) December 31, 2021 if stockholder approval has not been obtained prior to such date.

The foregoing description of the Fourth Amendment is qualified in its entirety by reference to the full text of the Fourth Amendment, attached hereto as Exhibit 4.5 and incorporated herein by reference.

**Item 3.03            Material Modification to Rights of Security Holders.**

See the description set out under "Item 1.01 - Entry into a Material Definitive Agreement," which is incorporated by reference into this Item 3.03.

**Item 5.02            Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers;  
Compensatory Arrangements of Certain Officers.**

On April 8, 2021, Brian Leen resigned from his position as member of the Company's Board of Directors (the "Board"). Mr. Leen's resignation was not the result of any disagreements with the Company on any matters relating to the Company's operations, policies or practices. Mr. Leen served on the Board since February 27, 2019.

On April 9, 2021 the Board voted unanimously to reduce the size of the Board from seven members to five members, effective as of April 9, 2021. There are no changes to the membership on the standing committees of the Board – the Audit Committee, the Compensation Committee, and the Nominating and Governance Committee – in light of the director departure and the reduced size of the Board.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

Exhibit No.      Description

4.5      [Fourth Amendment to Tax Asset Protection Plan dated as of April 9, 2021, by and between the Company and Computershare Trust Company, N.A., as rights agent.](#)

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: April 13, 2021

**Advanced Emissions Solutions, Inc.**

Registrant

/s/ Greg Marken

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Greg Marken

Interim Chief Executive Officer

## FOURTH AMENDMENT TO TAX ASSET PROTECTION PLAN

This FOURTH AMENDMENT TO TAX ASSET PROTECTION PLAN (this “Amendment”) is entered into as of April 9, 2021, by and between Advanced Emissions Solutions, Inc., a Delaware corporation (the “Company”), and Computershare Trust Company, N.A., a federally chartered trust company (the “Rights Agent”). All capitalized terms used herein and not otherwise defined herein shall have the meaning(s) ascribed to them in that certain Tax Asset Protection Plan dated as of May 5, 2017, by and between the Company and the Rights Agent, as amended by the First Amendment to Tax Asset Protection Plan, dated as of April 6, 2018, the Second Amendment to Tax Asset Protection Plan, dated as of April 5, 2019 and the Third Amendment to Tax Asset Protection Plan, dated as of April 8, 2020 (collectively, the “TAPP”).

### RECITALS

WHEREAS, the Company and the Rights Agent are parties to the TAPP; and

WHEREAS, pursuant to Section 26 of the TAPP, the Company and the Rights Agent desire to amend the TAPP as set forth in this Amendment.

### AGREEMENT

NOW, THEREFORE, in consideration of the promises and the mutual agreements herein set forth, the parties hereto hereby agree as follows:

1. Amendment of Section 1(w). The definition of “Final Expiration Date” set forth in Section 1(w) of the TAPP is hereby amended and restated to read in its entirety as follows:

“(w) “Final Expiration Date” shall mean the Close of Business on the earlier of (i) December 31, 2022 or (ii) December 31, 2021 if Stockholder Approval has not been obtained prior to such date.”

2. Amendment of Exhibit B (Form of Rights Certificate). The introductory paragraph of Exhibit B to the TAPP is hereby deleted and replaced with the following:

“NOT EXERCISABLE AFTER THE EARLIER OF (I) DECEMBER 31, 2022 OR (II) DECEMBER 31, 2021 IF STOCKHOLDER APPROVAL HAS NOT BEEN OBTAINED PRIOR TO SUCH DATE, OR SUCH EARLIER DATE AS PROVIDED BY THE TAX ASSET PROTECTION PLAN. THE RIGHTS ARE SUBJECT TO REDEMPTION AND EXCHANGE AT THE OPTION OF THE COMPANY, ON THE TERMS SET FORTH IN THE TAX ASSET PROTECTION PLAN. UNDER CERTAIN CIRCUMSTANCES AS SET FORTH IN THE TAX ASSET PROTECTION PLAN, RIGHTS THAT ARE OR WERE BENEFICIALLY OWNED BY AN ACQUIRING PERSON OR ANY AFFILIATE OR ASSOCIATE OF AN ACQUIRING PERSON (AS SUCH TERMS ARE DEFINED IN THE TAX ASSET PROTECTION PLAN) MAY BECOME NULL AND VOID.”

3. Amendment of Exhibit C (Summary of Rights). Exhibit C to the TAPP is hereby amended in that the section titled “Expiration” is deleted and replaced with the following:

“*Expiration*. The Rights and the Plan will expire on the earlier of (i) the Close of Business on the earlier of (a) December 31, 2022 or (b) December 31, 2021 if Stockholder Approval has not been obtained prior to such date, (ii) the time at which the Rights are redeemed pursuant to the Plan, (iii) the time at which the Rights are exchanged in full pursuant to the Plan, (iv) the effective date of the repeal of both Section 382 and Section 383 of the Internal

Revenue Code, or any successor provisions or replacement provisions, if the Board determines that the Plan is no longer necessary

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for the preservation of Tax Benefits or (v) the beginning of a taxable year of the Company for which the Board determines that the Company has or will have no Tax Benefits.”

4. Agreement as Amended. The term “Agreement” as used in the TAPP shall be deemed to refer to the TAPP as amended. Except as set forth herein, the TAPP shall remain in full force and effect and otherwise shall be unaffected hereby, and each of the Company and the Rights Agent shall continue to be subject to its terms and conditions.

5. Severability. If any term, provision, covenant or restriction of this Amendment is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Amendment shall remain in full force and effect and shall in no way be affected, impaired or invalidated; provided, however, that if such excluded terms, provisions, covenants or restrictions shall adversely affect the rights, immunities, liabilities, duties, responsibilities or obligations of the Rights Agent, then the Rights Agent shall be entitled to resign immediately.

6. Governing Law. This Amendment shall be deemed to be a contract made under the laws of the State of Delaware and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts made and to be performed entirely within such State.

7. Counterparts. This Amendment may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument. A facsimile or .pdf signature delivered electronically shall constitute an original signature for all purposes.

8. Descriptive Headings. Descriptive headings of the several Sections of this Amendment are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

*[Signature Page Follows]*

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be duly executed as of the date first above written.

**ADVANCED EMISSIONS SOLUTIONS, INC.,**

By: /s/ Greg Marken  
Name: Greg Marken  
Title: Interim Chief Executive Officer

**COMPUTERSHARE TRUST COMPANY, N.A.**

By: /s/ Kathy Heagerty  
Name: Kathy Heagerty  
Title: Manager, Client Management

[Cover \[Abstract\]](#)

<a href="#">Document Type</a>	8-K
<a href="#">Document Period End Date</a>	Apr. 08, 2021
<a href="#">Entity Registrant Name</a>	ADVANCED EMISSIONS SOLUTIONS, INC.
<a href="#">Entity Incorporation, State or Country Code</a>	DE
<a href="#">Entity File Number</a>	001-37822
<a href="#">Entity Tax Identification Number</a>	27-5472457
<a href="#">Entity Address, Address Line One</a>	8051 E. Maplewood Avenue
<a href="#">Entity Address, Address Line Two</a>	Suite 210
<a href="#">Entity Address, City or Town</a>	Greenwood Village
<a href="#">Entity Address, State or Province</a>	CO
<a href="#">Entity Address, Postal Zip Code</a>	80111
<a href="#">City Area Code</a>	720
<a href="#">Local Phone Number</a>	598-3500
<a href="#">Written Communications</a>	false
<a href="#">Soliciting Material</a>	false
<a href="#">Pre-commencement Tender Offer</a>	false
<a href="#">Pre-commencement Issuer Tender Offer</a>	false
<a href="#">Title of 12(b) Security</a>	Common stock, par value \$0.001 per share
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<a href="#">Security Exchange Name</a>	NASDAQ
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