

Congress of the United States

Washington, DC 20515

November 18, 2024

Dear Stakeholders:

Thank you to those who submitted comments to the Ways and Means tax teams by the October 15th deadline. As we continue to work through these submissions, the Supply Chains and Rural America tax teams invite stakeholders to provide additional input on specific policy questions related to biofuels. As members of the Ways and Means Committee representing districts interested in domestic energy production and rural economic development, we want to better understand from stakeholders whether these biofuel tax provisions are designed to maximize their impact on these important policy objectives.

As you know, Public Law 117-169, enacted in 2022, temporarily reauthorized one biofuel tax credit while creating two other credits on a temporary basis:

- It extended the 40A Biodiesel Tax Credit through December 31, 2024, which provides a \$1 per gallon tax credit for each gallon of biodiesel utilized for a business purpose or sold at retail.
- It created a new 40B Sustainable Aviation Fuel (SAF) Tax Credit, available from January 1, 2023, through December 31, 2024, providing \$1.25 to \$1.75 per gallon for SAF produced and fueled into aircraft in the United States.
- It created a new 45Z Clean Fuel Production Credit (CFPC). This credit was authorized from January 1, 2025, through December 31, 2027, with base credits of \$0.20 per gallon for non-aviation fuel and \$.035 per gallon for aviation fuel, with bonus credits for emissions reductions and prevailing wage requirements.

Although modernizing biofuels credits has drawn bipartisan support, parties across the supply chain have expressed serious concern about the drafting of P.L. 117-169 by congressional Democrats and implementation of the law by the Biden-Harris administration. Expressed concerns about the law include:

- Certain features of the credits' design fail to consider American agricultural producers, taking into consideration or domestic value-addition but not the sourcing of inputs.
- Implementation of these credits by the Biden-Harris administration has moved very slowly, creating uncertainty for producers, blenders, retailers, and consumers ahead of the January 1, 2025, start date for the 45Z credit.
- P.L. 117-169 only specifies the use of the International Civil Aviation Organization's CORSIA model, but allows for "similar models," such as the U.S. Department of Energy's GREET Model. While the 40B guidance allowed for a limited, prescriptive list

of practices to qualify, it failed to provide the flexibility necessary for many farmers to participate.

- The disparity in credit value between aviation and non-aviation fuels, which may distort the market and supply chain for traditional biofuels.
- The delay in implementing regulations for 45Z has created particular uncertainty for the biodiesel industry as they attempt to adapt to an emissions-based credit after years of consistently receiving a credit of known value.
- Because the 45Z credit was drafted as a three-year credit, the biofuels supply chain will enter another period of uncertainty regarding the credit's future even after the Treasury Department releases 45Z regulations.

Given these concerns, we are seeking additional information from stakeholders throughout the biofuel economy to identify opportunities to improve biofuel tax policy. In particular, we seek to address the following questions:

General Questions

- Should 45Z continue to be the basis for providing a biofuels tax credit after 2027? If so, what is the appropriate extension length for 45Z and why?
- What does success look like for the tax credit? How should the credit be phased out at the end of the extension?
- If modifications are made to the 45Z tax credit, the Department of the Treasury will need to publish new guidance. Given the delay in publishing guidance for the current credit, what are the risks and benefits of immediate modifications to the 45Z tax credit? What if the modifications took effect at a sufficiently delayed period to allow for new guidance to be published?

Credit Eligibility

- What products or practices are not currently allowed as a Climate Smart Agriculture Practice when calculating a feedstock producers Carbon Intensity score, but should be?
- How should new and emerging agricultural products or practices be considered for eligibility?
- What are the benefits or risks of the following modifications:
 - Requiring that only feedstocks produced domestically may qualify for the production of Clean Fuel for 45Z
 - Requiring that foreign feedstocks must obtain a higher standard of verification
 - Limiting feedstocks to domestic, but allowing certain trade partners (such as those with trade agreements, or those who do not currently discriminate against biofuels)

- Modifying how indirect land use change is considered for the purposes of determining the CI score of a feedstock producer
- Utilizing Direct Land Use
- Allowing foreign feedstock to participate in and benefit from 45Z, but at a lower credit amount
- In general, what modifications should we consider to ensure that American farmers can participate in and benefit from the 45Z Clean Fuel Production Tax Credit?
- What forms of fuel or transportation modes are currently excluded from 45Z, but should be considered for inclusion?

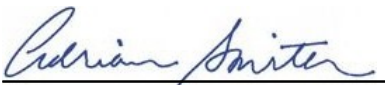
Airlines

- What potential does sustainable aviation fuel that meets GREET standards, but not ICAO’s CORSIA standards, have for utilization in international flights?
- Would GREET compliant SAF, but not CORSIA compliant, be restricted to domestic utilization? How feasible would such a restriction be in the marketplace?
- Do you anticipate the supply of SAF that is compliant with CORSIA to meet the scale of anticipated demand for SAF in 2030 and 2050? Do you expect the domestic supply of CORSIA-compliant SAF to meet domestic demand in that time frame?

Please visit the form linked below to submit your responses by December 13, 2024.

<https://forms.office.com/g/GVWEs9xJ4g>

Sincerely,



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Member of Congress



Randy Feenstra
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Michelle Fischbach
Member of Congress



Darin LaHood
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