



April 10, 2025

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Washington, D.C. 20220

The Honorable Melanie Krause  
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**RE: Section 45Z Clean Fuel Production Credit; Request for Public Comments**

Secretary Bessent, Acting Commissioner Krause, Acting Assistant Secretary Leonard, and Acting Chief Counsel Mello:

As the representatives of America's fuel retailers, distributors, and consumers, including the primary blenders of renewable fuels, our organizations<sup>1</sup> respectfully submit these comments in response to the notice of intent to propose regulations ("Notice 2025-10" or the "Notice") addressing the Clean Fuel Production Credit of Section 45Z of the Internal Revenue Code of 1986 (the "45Z Credit"),<sup>2</sup> as enacted under the Inflation Reduction Act of 2022 ("IRA").<sup>3</sup> We welcome the opportunity to meet with the Treasury Department ("Treasury") and the Internal Revenue Service ("IRS", collectively the "Agencies") to discuss our perspective in greater detail, or to answer any questions that you have.

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<sup>1</sup> The American Trucking Associations (ATA) is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our nation's freight. The National Association of Convenience Stores (NACS) is an international trade association representing the convenience store industry with more than 1,500 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO currently represents approximately 5,000 travel plazas and truckstops nationwide, comprising both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel. Together, NACS, NATSO and SIGMA members represent more than 90 percent of retail sales of motor fuels. The Truckload Carriers Association (TCA) represents dry van, refrigerated, flatbed, tanker, and intermodal container carriers operating throughout North America.

<sup>2</sup> See Notice 2025-10, "Section 45Z Clean Fuel Production Credit; Request for Public Comments", January 10, 2025; available at <https://www.irs.gov/pub/irs-drop/n-25-10.pdf>

<sup>3</sup> See Section 13704 of Public Law 117-169, 136 Stat. 1818 (Aug. 16, 2022).

The advanced biofuels industry today is at a crossroads. The industry is hemorrhaging jobs as plants begin to shut down, and retail diesel prices (and thus all consumer goods that are moved by truck) are facing upward pressure. These developments are a direct, traceable market response to the transition away from the longstanding ‘Section 40A’ Biodiesel Tax Credit (“BTC”) at the end of last year to the novel 45Z Credit that the Agencies are tasked with implementing. The 45Z Credit evidently (and predictably) cannot facilitate sufficiently favorable blending economics to prompt our associations’ members to purchase more biofuels.

After more than two years of regulatory reviews, various comment periods, copious stakeholder input, and administrative delays, the prior administration failed to design and put forth workable regulations implementing this credit. The half-measure that was ultimately issued by the Agencies – to which these comments respond – violates the underlying statute in multiple ways and, if pursued further, will likely lead to litigation and further market dislocation. Though there are several ways that the 45Z Credit can be incrementally improved relative to the Notice, our industries have serious concerns **that the broader transition away from the BTC to the 45Z Credit is inherently inflationary with respect to diesel fuel prices.** The Agencies should pursue the 45Z Credit’s implementation — and ongoing congressional reexamination — with that reality in mind.

**Moving forward, the Agencies should: (i) adhere to statutory modeling requirements for “sustainable” aviation fuel by providing distinct carbon intensity (“CI”) modeling for jet fuel; and (ii) minimize the inflationary attributes of the 45Z Credit by enabling credit value transparency.**

No stakeholders in the diesel fuel market are satisfied with the 45Z Credit as it exists today. It is complex, extraordinarily disadvantageous to certain feedstocks (*e.g.*, soybeans), and has not lowered prices for consumers. To that end, Congress is actively considering changes to biofuel tax policy to rectify the damage to diesel markets wrought by the transition to the 45Z Credit. Regardless of any specific adjustments that are made to existing law, the Agencies should take care to ensure that the 45Z Credit – or any future iterations – does not continue to result in the volatility and chaos that biofuel markets are enduring today. That goal is best served by (i) ensuring that biofuel feedstocks flow to their most efficient use-case, and (ii) maximizing the extent to which consumers and end-users can access the 45Z Credit’s value via lower retail fuel prices.

The 45Z Credit creates winners and losers within the biofuels and broader liquid fuel supply chain. For example, renewable fuels derived from feedstock on American farms that do not implement expensive, climate-oriented farming practices will be at a substantial competitive disadvantage relative to those that do implement them. American biofuel production plants that derive their electricity from coal or natural gas sources rather than wind or solar are similarly disadvantaged.<sup>4</sup> The ultimate loser is the end user, *i.e.*, the American consumer, who will not realize any of the benefits under the 45Z Credit in the form of lower prices at the pump.

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<sup>4</sup> Compare Executive Order 14154 (Jan. 20, 2025) (“The heads of all agencies shall review all existing regulations, orders, guidance documents, policies, settlements, consent orders, and any other agency actions (collectively, agency actions) to identify those agency actions that **impose an undue burden on the identification, development, or use of domestic energy resources**—with particular attention to oil, natural gas, coal, hydropower, **biofuels**, critical

One of the most inflationary aspects of the 45Z Credit is the disparate credit rate for “sustainable” aviation fuel (“SAF”) relative to over-the-road biofuels. This imbalance, which has only been further aggravated by the implementing guidance issued for the 45Z Credit thus far, will push the market away from the existing, efficient use of biodiesel and renewable diesel in over-the-road transportation toward a costlier, less efficient, less economically compelling use of biofuel in airplanes.<sup>5</sup> Regulators should not warp the market by favoring any particular fuel or fuel consumer over another, including by making certain feedstock imports permissible only for aviation fuels.<sup>6</sup> The underlying statute does not authorize *any* unilateral import limitations. The Agencies should ensure that any restrictions on particular feedstocks are technology neutral and apply to all fuels equally. Diverting existing feedstock supply chains away from over-the-road use toward SAF will result in a *purely negative* fuel supply and emissions outcome, and will inevitably raise prices at the pump.

Another key inflationary provision of the 45Z Credit is the move from a blender’s credit to a producer’s credit. By moving the point at which the credit is given further away from the ultimate consumer of biofuels, the law authorizing the 45Z Credit significantly diminished the amount of that credit that would be transferred into reductions in consumer prices. And, a credit that incentivizes making a product that others in the supply chain may not have a sufficient incentive to buy can skew markets in ways that exacerbate challenging market dynamics. While that in itself is a statutory creation that the Agencies alone cannot solve, we urge you to be mindful of this problem when considering the proposed regulations as any ultimate scheme to be implemented will need to do more work than in the past for a 45Z Credit to have a helpful downward impact on prices at the pump.

Our organizations recognize and appreciate the complexity involved with the implementation of this policy. If designed haphazardly or improperly, *i.e.*, along the lines of Notice 2025-10, forthcoming regulations could inject massive disruption, inefficiencies, and confusion into already volatile motor fuel and biofuels markets. As the Agencies seek to develop and finalize any further rulemakings, **the price that consumers pay at the pump for fuel should serve as the Agencies’ regulatory North Star**. The consequence of continued volatility in biofuels markets will undoubtedly be higher prices at the pump for consumers. Elevated diesel prices inflate the operating costs of trucking companies, which in turn has an inflationary effect on the price of the products that they transport.

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mineral, and nuclear energy resources—or that are otherwise inconsistent with the policy set forth in section 2 of this order, including restrictions on consumer choice of vehicles and appliances.”) (Emphasis added.)

<sup>5</sup> Increased production of biofuel for aviation will mean that less low carbon fuel is consumed domestically in American streets and neighborhoods, and will instead facilitate international ‘ESG’ efforts when jet fuel is used in flights to Europe and other regions pursuing aggressive climate initiatives. The European Union has already instituted a mandate for sustainable aviation fuel consumption, which means biofuel producers who make aviation fuel in the United States will be incentivized to either ship it to Europe or utilize it in European flights.

<sup>6</sup> As discussed in detail below, Notice 2025-10 effectively prohibits the use of imported used cooking oil (“UCO”) for the production of over-the-road renewable fuels, but allows it for SAF. This outcome is inconsistent with the law.

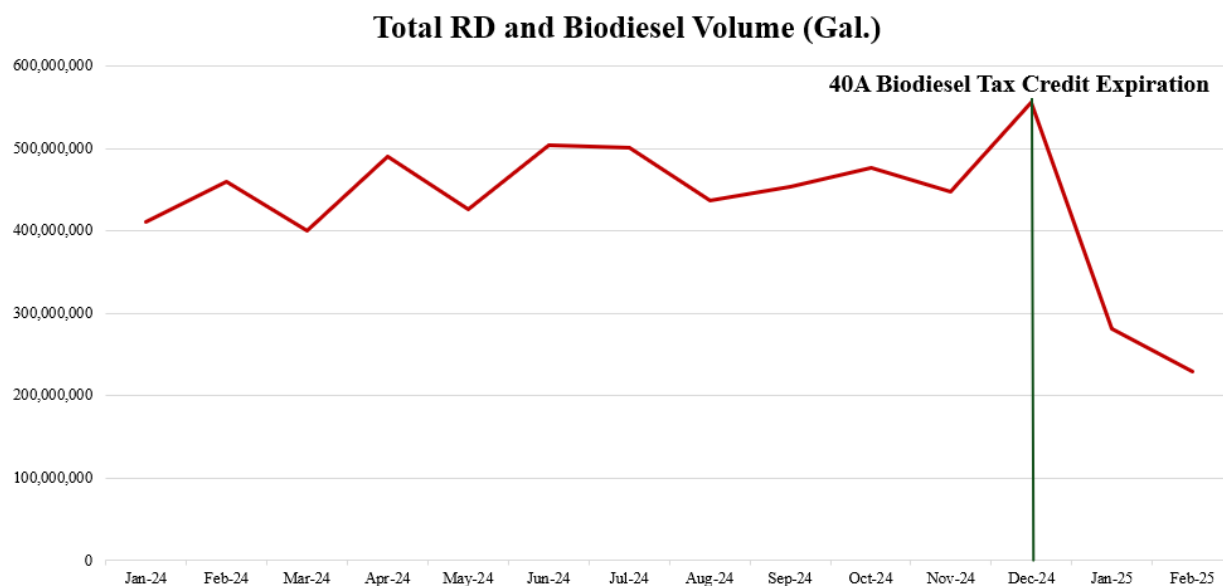
## I. Executive Summary.

- **Advanced biofuels production has drastically declined as a result of the expiration of the BTC and the transition to the 45Z Credit.**
  - The expiration of the BTC at the end of 2024, combined with the transition to the 45Z Credit, has created market uncertainty which is decimating advanced biofuels supply chains. Continued volatility in biofuel markets will result in higher fuel prices for the trucking industry, which (until the 45Z Credit replaced the BTC) relied on biodiesel and renewable diesel to keep prices low. Total renewable diesel and biodiesel volumes are down by approximately 58.8% since the end of 2024 and total volumes are down by 50.2% year over year. The drastic decline in domestic advanced biofuel production and consumption since the BTC expired and the 45Z Credit took effect demonstrates the importance of sound policy in this area moving forward.
- **Biofuel feedstocks should be directed to their most efficient fuel use-case.**
  - Finite amounts of feedstock available to biofuel producers means that there is a zero-sum game for advanced renewable fuel production. Feedstock migration from biodiesel and renewable diesel to aviation fuels based on disparate credit rates included in the 45Z Credit will cause diesel prices to increase and will reduce renewable fuel production overall. In other words, taxpayers will pay more for fewer gallons of fuel. This outcome is designed solely to enable the aviation sector to force taxpayers to subsidize their carbon reduction efforts, with no offsetting economic or environmental benefits for consumers.
  - The 45Z Credit's statutory text addresses the preferential treatment for renewable aviation fuels through enhanced modeling requirements for aviation fuel credits. In a clear violation of Congressional intent, Notice 2025-10 would allow aviation fuels to sidestep statutory obligations through lax modeling schemes. Any forthcoming regulations for the 45Z Credit must include additional stringency for aviation fuels' modeling requirements relative to non-aviation fuels' modeling requirements. In other words, the modeling provided for aviation and non-aviation fuels must be separate and distinct from one another. Any impending regulation that fails to explicitly designate distinct, more rigorous modeling for aviation fuels is likely to be litigated and found to be inconsistent with statutory requirements.
  - Further, any novel models permitted for aviation fuel under the 45Z Credit must be *similarly stringent* to the model explicitly designated for aviation fuels in statute and yield similar results with respect to (i) the calculation of the lifecycle greenhouse gas ("GHG") emissions reduction percentages for individual feedstocks, (ii) the resulting qualification of individual feedstocks for the Section 45Z Credit, and (iii) the resulting calculation of the amount of such Section 45Z Credit for individual feedstocks.

- **“Climate smart” agricultural practices may not be used to siphon feedstocks towards aviation fuel through enhanced credit values.**
  - Conservation and land management practices under the 45Z Credit may be used only to *enhance the stringency* of modeling requirements for “sustainable” aviation fuels. This is what the statute calls for, and adhering to the statute would mitigate 45Z’s inflationary impact on consumers. Congress has not authorized environment, social, and governance (“ESG”) based “climate smart” agriculture practices to make otherwise ineligible gallons of jet fuel suddenly qualify for the 45Z Credit. Extra-statutory subsidies for aviation fuel will result in fewer gallons of on-road renewable *diesel* fuels (since both fuels are made from the same feedstocks), lessening supply and increasing prices at the pump for American truck drivers and anyone who purchases goods delivered by truck.
- **The Agencies should ensure credit value transparency through implementing regulations.**
  - Over the past twenty years, renewable fuel tax policies have succeeded because they lowered prices for consumers at the pump. The 45Z Credit substantially changed those incentive structures. Specifically, Section 45Z directs the IRS to assign unique and bespoke tax benefits to asset-specific characteristics of a given biofuel production facility.
  - The credit value of finished biofuels differs under 45Z depending upon the source energy and feedstocks that are utilized at a given production facility, as well as the facility’s operational parameters and supply chain. In other words, the 45Z Credit has effectively “de-homogenized” what were previously fungible commodities. This threatens to make the 45Z Credit too complex to implement as market participants struggle to know the value of any credit attached to any particular volume of fuel.
  - Unless fuel retailers and trucking companies are able to seamlessly and efficiently ascertain the tax credit value attached to a given gallon of biofuel, they will be unable to access that value by paying less for the fuel. Under the BTC, by contrast, the \$1.00 per gallon credit was distributed efficiently throughout the value chain. This resulted in biodiesel and renewable diesel blends being sold at retail at a *discount* to unblended petroleum-based diesel, even though the renewable fuels were *more expensive to produce*. In a low-margin business where pricing and purchasing decisions often come down to tenths of a cent, the Agencies must take special care to restore the same seamless price-discovery mechanisms that market participants have utilized over the past two decades.
- **Revise the definition of “qualifying sale” of fuel.**
  - Notice 2025-10 appears to have erroneously defined “qualifying sales” under section 45Z(a)(4)(B) to include a requirement that, for certain sales, the buyer must use the purchased fuel “as a fuel,” or in other words, consume the fuel, to meet the definition of a qualifying sale. We encourage the Agencies to revise the language in the implementing regulations to include in the definition of a “qualifying sale” the trade or business of buying fuel for resale.

## II. The Advanced Biofuel Industry is Facing Unprecedented Disruptions.

The expiration of the BTC, combined with the sluggish onset of the 45Z Credit, is decimating the advanced biofuels industry. Through the first quarter of 2025, dozens of biofuel production facilities, particularly biodiesel plants, have already scaled back or are shutting down entirely.<sup>7</sup> As noted above, total renewable diesel and biodiesel volumes are down by approximately 58.8% since the end of 2024 and total volumes are down by 50.2% year over year.<sup>8</sup> Domestic renewable diesel volumes are down by 51.5% since the end of 2024, and 34% year over year. Domestic biodiesel volumes are down by 58.3% since the end of 2024 and domestic biodiesel volumes are down by 41.8% year over year.<sup>9</sup> The prevailing uncertainty in an industry that requires substantial capital investment is not only resulting in production disruptions, but it is also hampering new investment and reinvestment in existing facilities.



Source: EPA Office of Air and Radiation RINs Generated Transactions

<sup>7</sup> See Karl Plume and Ed White, “North American Biofuels Sector Contracts amid Trade and Policy Uncertainty,” *Reuters*, March 20, 2025, <https://www.reuters.com/>; Donnelle Eller, “Iowa Biodiesel Plants Idled...,” *The Des Moines Register*, January 15, 2025, <https://www.desmoinesregister.com/>; Noël Fletcher, “Iowa Shuttters Biodiesel Output on Federal Policy Uncertainty” *Transport Topics*, March 5, 2025, <https://www.ttnews.com/>; Robert Brelsford, “Chevron to Shutter Two US Biodiesel Plants,” *Oil & Gas Journal*, March 7, 2024, <https://www.ogj.com/>; Iowa Biodiesel Board, “Iowa Biodiesel Producers Struggle amid Federal Policy and Market Challenges” *Biodiesel Magazine*, February 28, 2025, <https://biodieselmagazine.com/>; Cami Koons, “Iowa Biofuel Producers ‘Stuck in Neutral’...” *The Des Moines Register*, January 11, 2025, <https://www.desmoinesregister.com/>; “Frustrating to Watch: Biodiesel Industry Suffers due to Policy Uncertainties,” *RFD-TV*, March 5, 2025, <https://www.rfdtv.com/>; Jared White, “Many Biodiesel Plants Have Paused Production,” *Brownfield Ag News*, January 23, 2025, <https://www.brownfieldagnews.com/>.

<sup>8</sup> EPA Office of Air and Radiation, “RINs Generated Transactions,” February 2025, <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rins-generated-transactions>.

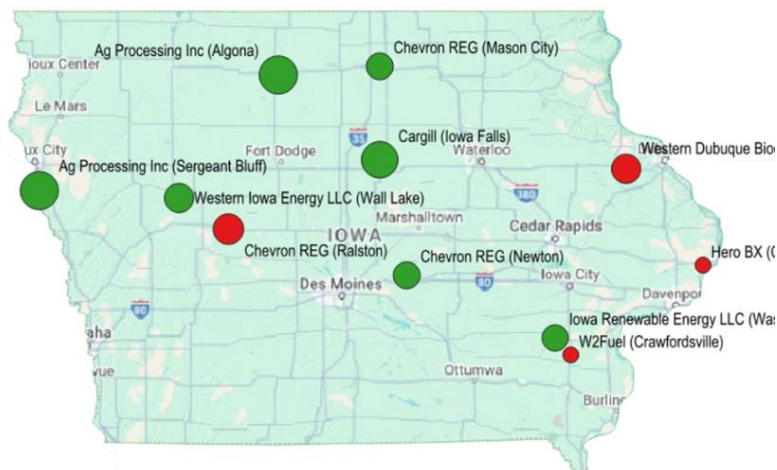
<sup>9</sup> *Id.*

Dozens of facilities in the U.S. have confirmed they will be shutting down, reducing capacity substantially, or idling production this year until further notice.<sup>10</sup> Collectively, these facilities represent nearly 900 million gallons per year of biodiesel and renewable diesel capacity (about 18% of the market).

### **Biomass-Based Diesel Facility Closures, Conversions, Idles**

Location	Company	Capacity (million gallons per year)
El Segundo, CA	Chevron REG	184
Mobile, AL	Vertex Energy	115
Cleburne, TX	Delek Renewables	12
Crossett, AR	Delek Renewables	15
New Albany, MS	Delek Renewables	12
Clinton, IA	HeroBX	10
Erie, PA	HeroBX	50
Moundville, AL	HeroBX	20
Washington, IA	Iowa Renewable Energy LLC	36
San Diego, CA	New Leaf Biofuel LLC	12
Hoquiam, WA	Chevron REG	107
DeForest, WI	Chevron REG	28
Ralston, IA	Chevron REG	49
El Paso, TX	Rio Valley Biofuels LLC	15
Adrian, MI	W2Fuel	15
Crawfordsville, IA	W2Fuel	10
Farley, IA	Western Dubuque Biodiesel LLC	36
Camp Hill, PA	World Energy	40
Natchez, MS	World Energy	72
Rome, GA	World Energy	20
		<b>Total: 858</b>

These disruptions are particularly impactful in the Midwest, most notably in Iowa. At the start of 2024, Iowa – which used to be the biodiesel production capital of the country – was home to 10 operating biodiesel facilities with a total production capacity in the range of 400 to 450 million gallons per year (approximately 20% of the biodiesel market). The industry alone



<sup>10</sup> Eamon Cullinane, “U.S. Biofuel: Boom to Bust?,” Turner, Mason & Company, March 25, 2025, *available at* <https://www.turnermason.com/blog/u-s-biofuel-boom-to-bust/>; and public statements issued by various facilities.

supported 5,670 local jobs with a direct impact of \$851 million on Iowa's 2023 GDP.<sup>11</sup> The majority of these plants have been operating for 15-20 years, but are now in jeopardy of permanently shutting down.

Our organizations have repeatedly cautioned that the transition to 45Z threatens the market's ability to produce and consume biofuels.<sup>12</sup> Actual production volumes are the best heuristic for the confidence of biofuels markets in the regulations issued by the prior Administration.

To be clear, these production challenges are not a result of incomplete regulatory guidance. The issuance of the preliminary regulations in conjunction with the Argonne 45ZCF-GREET model and the Biden Administration's ESG-focused "climate smart" agriculture regulations provided biofuel producers with the necessary tools to calculate the 45Z Credit once it is finalized.<sup>13</sup> The issue is not uncertainty as much as the structure and amount of the *incentive itself*, which was enacted as part of legislation with the ultimate objective of expeditiously transitioning transportation energy away from liquid fuels and toward electrification.

### III. Statutory Requirements for Aviation Fuels SAF Under the Section 45Z Credit.

"Sustainable" aviation fuel (as its proponents refer to it), renewable diesel, and biodiesel generally utilize the same feedstocks (*e.g.*, soybeans, used cooking oil). Finite amounts of feedstock mean that there is a zero-sum game for advanced renewable fuel production. Feedstock migration from biodiesel and renewable diesel to SAF caused by disparate credit rates prompt diesel prices to increase and less renewable fuel production overall.

The SAF production process is significantly less efficient than the biodiesel/renewable diesel production process.<sup>14</sup> **For every unit of feedstock used to produce renewable fuel, fewer**

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<sup>11</sup> ABF Economics.

<sup>12</sup> See ATA, NACS, NATSO, TCA, SIGMA statement on the preliminary proposed regulations issued by the Agencies in January 2025, "Today's piecemeal, preliminary proposal is a classic case of 'too little, too late' for a supply chain that needed clear, unambiguous direction months ago... It fails to provide the market with the certainty needed to mobilize new capital, and as a result we expect that potential investments in clean fuel will be sidelined." available at <https://www.natso.com/natso-sigma-nacs-ata-tca-statement-on-irs-treasury-preliminary-proposed-rule-for-implementation-of-the-clean-fuel-production-tax-credit/>,

<sup>13</sup> See statement from Clean Fuels Alliance America, "The 45ZCF-GREET model and associated documentation provide needed clarity on how producers can calculate the credit and include its value in negotiating fuel sales and feedstock contracts." (Jan. 16, 2025) available at <https://cleanfuels.org/clean-fuels-reacts-to-release-of-45zcf-greet-model-and-climate-smart-ag-calculator/>; See also statement from the Renewable Fuels Association, "Today's USDA guidelines finally create a much-needed structure for properly assessing, valuing, and integrating the carbon reduction benefits of certain farming practices into lifecycle analysis." (Jan. 15, 2025) available at <https://ethanolrfa.org/media-and-news/category/news-releases/article/2025/01/rfa-welcomes-usda-interim-rule-on-climate-smart-ag-guidelines>; See also statement from Growth Energy, "This new CSA rule hits all the right notes and will help set American ethanol up to deliver a more affordable, low carbon, homegrown energy solution to American drivers... This rule offers a path forward for all of these stakeholders." (Jan. 15, 2025) available at <https://growthenergy.org/2025/csa-rule-usda/>.

<sup>14</sup> SAF requires more processing than renewable diesel due to the lower freezing point; this requires greater hydrogen input for SAF compared to renewable diesel, which in turn requires more natural gas usage. See LMC International, *Comparative Economic Analysis of Renewable Jet Fuel and Renewable Diesel* (Sept. 2021).



**gallons of SAF can be produced relative to gallons of biodiesel/renewable diesel. That means taxpayers will pay more for fewer gallons of fuel.**

Disparate tax incentives for SAF will push the market away from the existing, efficient use of biodiesel/renewable diesel in trucking, rail, and home heating oil use cases toward a costlier, less efficient, less economically compelling use of SAF in airplanes.<sup>15</sup> In other words, diverting existing feedstock supply chains away from over-the-road and rail uses toward SAF will result in a *purely negative* fuel supply and emissions outcome.

Subjecting SAF to separate and distinctly more stringent lifecycle emission standards relative to over-the-road fuels is a fundamental underpinning of congressional intent in establishing the 45Z Credit. The lifecycle GHG modeling requirements for various fuels are clearly outlined in Section 45Z. The previous administration flagrantly violated those statutory requirements by allowing SAF credits to be calculated utilizing an alternative version of the Argonne GREET model, and inappropriately applying convoluted climate metrics to liquid fuel agricultural feedstocks.

Any forthcoming implementing regulations for the 45Z Credit must include additional stringency requirements for the model that calculates the lifecycle emissions of aviation fuels relative to the model that calculates the emissions of non-aviation fuels. The Agencies should take care not to exceed their Congressionally delegated authority in any further implementing guidance on the modeling requirements for the Section 45Z Credit. Similarly, we urge the Agencies not to repeat the previous Administration’s unlawful approach by improperly applying any newly developed climate-focused standards to pre-existing tax incentives.<sup>16</sup>

***a. Treasury Notice 2025-10 Exceeds the Agency’s Statutory Authority***

Notice 2025-10 is inconsistent with the statutory language contained in 45Z because it provides preferential treatment for SAF relative to biodiesel and renewable diesel.

Under Section 45Z, the lifecycle GHG emissions reduction percentage for aviation fuels is determined in accordance with either (a) the most recent Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization with the agreement of the United States (“CORSIA” methodology), or (b) any (i) “similar methodology” that (ii) satisfies criteria under section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of enactment.

Under the prior administration, the Agencies acknowledged that the original GREET model in place at the time Section 45Z was enacted was not sufficiently “similar” CORSIA and

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<sup>15</sup> See Environmental Protection Agency “Renewable Fuel Standard (RFS) Program: Standards for 2023–2025 and Other Changes; Response to Comments” (June 2023); available at <https://www.govinfo.gov/content/pkg/FR-2023-07-12/pdf/2023-13462.pdf>. (“[G]iven the limitations on the available feedstocks for renewable diesel and SAF production we generally agree that future increases in SAF production ... will likely result in less renewable diesel production than we would expect in the absence of increased SAF production.”).

<sup>16</sup> See generally, *Loper Bright Enterprises v. Raimondo*, No. 22-451, 600 U.S. \_\_\_\_ (2023), overturning *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

thus couldn't be used to claim preferential tax incentives for SAF.<sup>17</sup> To circumvent this outcome, the prior administration developed a new emissions model known as "45ZCF-GREET" that it claimed would satisfy the requirements of Section 45Z. We strongly disagree with that approach, and with the policy ramifications if it is allowed to stand.

i. 45ZCF-GREET is not "Similar" to CORSIA

As noted above, the lifecycle GHG emission reduction percentage is defined in 45Z as the percentage reduction in lifecycle GHG emissions achieved by SAF as compared to petroleum-based jet fuel, as defined in accordance with CORSIA or "*any similar methodology*" which satisfies the CAA requirement.

45ZCF-GREET does not purport to adopt the CORSIA methodology; therefore, the only way for it to comply with Section 45Z is through the second "similar methodology" prong. In that regard, the Agencies have asserted that 45ZCF-GREET meets that requirement because it is a "similar methodology" to CORSIA *and* satisfies the CAA requirement. Notice 2025-10 states that it is appropriate to use 45ZCF-GREET to calculate the lifecycle GHG emissions reduction percentage of SAF under Section 45Z.

This outcome is inconsistent with the statute. The 45ZCF-GREET model is not, in fact, a "similar methodology" to CORSIA. For instance, the ILUC methodology under CORSIA takes an adjusted average from two separate ILUC models – GTAP-BIO with emissions factors from AEZ-EF *and* the Global Biosphere Management Model ("GLOBIOM"), which provides higher ILUC values for oilseed pathways (e.g. 50 g/MJ for soy HEFA SAF). This approach results in substantially lower ILUC emissions for aviation fuels under 45ZCF-GREET than CORSIA. Said another way, it results in "dissimilar" ILUC emissions relative to CORSIA.<sup>18</sup>

Depending on whether the 45ZCF-GREET model or CORSIA is used, the amount of tax credit calculated per gallon of SAF varies significantly. Table 1 and Table 2 provide a comparison of approximate 45Z Credit values developed using the 45ZCF-GREET<sup>19</sup> and CORSIA<sup>20</sup> methodologies, respectively. As shown, SAF produced from ethanol may, in some cases, qualify for the 45Z Credit using the 45ZCF-GREET methodology; but without dramatic CI score reductions attributed through technologies such as carbon capture, ethanol-SAF is ineligible under CORSIA. Similarly, soy HEFA (Hydrotreated Esters and Fatty Acids) would easily qualify for the

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<sup>17</sup> The prior administration acknowledged that the GREET model in place at the time 45Z was enacted did not satisfy the requirements to calculate the lifecycle GHG emissions reduction percentage under Section 40B(e)(2) (And later, in Notice 2025-10, the 45Z Credit).

<sup>18</sup> To preserve and maintain the integrity of the statutory scheme intended by Congress, any "similar methodology" should contain a similarly rigorous standard as that required under CORSIA.

<sup>19</sup> Credit values (per gallon) are approximated using the sample inputs provided by the 45ZCF-GREET model. Credit values may vary substantially by facility and location (e.g., California fuels may have lower CI scores because on account of a lower carbon electricity grid). These estimated credit values provide a general sense of the range of the credit values for each feedstock.

<sup>20</sup> This analysis was conducted using ICAO Document 06: CORSIA Default Life Cycle Emissions Values for CORSIA Eligible Fuels, published in March 2024.

45Z Credit using 45ZCF-GREET, but not under CORSIA. In addition, the results below demonstrate a substantially higher credit value for corn and soy HEFA SAF should an added bonus be unlawfully applied utilizing the Department of Agriculture’s (“USDA’s”) Climate Smart Agriculture (“CSA”) Pilot Program bonus, as discussed in greater detail below.

These outcomes are in no way “similar” to one another. The prior administration erred in claiming that they were “similar,” and we strongly encourage the Agencies to rectify that outcome.

**Table 1. Corn SAF Credit Comparison**

	Fuel CI, g/MJ	CI w/ CSA, g/MJ	45Z Credit (\$/gal)	45Z Credit w/CSA (\$/gal)
45ZCF-GREET	58.57	48.57	Ineligible	\$0.05
CORSIA	77.9	67.9	Ineligible	Ineligible

**Table 2. Soy HEFA SAF Credit Comparison**

	Fuel CI, g/MJ	CI w/ CSA, g/MJ	45Z Credit (\$/gal)	45Z Credit w/CSA (\$/gal)
45ZCF-GREET	37.71	32.71	\$0.43	\$0.61
CORSIA	64.9	59.9	Ineligible	Ineligible

- ii. Notice 2025-10 Unlawfully Provides a Pathway for Used Cooking Imports to be Claimed for SAF Production, but not Biodiesel or Renewable Diesel Production.

Exacerbating the Notice’s misguided preferential treatment for SAF, Notice 2025-10 effectively prohibits the use of imported used cooking oil (“UCO”) for the production of over-the-road renewable fuels, but allows such imports for SAF. This limitation is unlawful and highly objectionable on policy grounds. The 45Z Credit does not empower regulators to warp the market by favoring any particular fuel or fuel consumer over another outside the bounds of the statute. The underlying statute does not authorize *any* unilateral import limitations for one fuel and not others. At a minimum, the Agencies should ensure that such restrictions are technology-neutral and apply equally to all fuels.

Many proponents of feedstock restrictions have postulated that imports have crowded out demand for domestic feedstocks. These claims are unsupported by actual production data. Soybean consumption for biomass-based diesel, for example, has increased dramatically in recent years despite the growth in use of other feedstocks. The best way to ensure reliable, long-term, demand for domestic feedstocks is to incentivize renewable fuel *consumers* to purchase more gallons of biofuel, regardless of their source.

The market is best suited to identify and rely upon imported feedstocks and fuels when doing so allows U.S. consumers to pay less at the pump. Foreclosing imported feedstocks and biofuel risks distorting the market, particularly in coastal regions where producers rely on imports to stabilize supply. Because the 45Z Credit only applies to domestic biofuel production, imported

biofuel no longer has access to any tax incentives and thus is less economical than the petroleum-based fuels they are designed to displace. Accordingly, biodiesel imports are down by 79.6% since the end of 2024 and biodiesel imports are down by 87.7% year over year.<sup>21</sup> Domestic biofuel producers are not stepping up to fill these voids. It is simply resulting in fewer gallons and higher prices.

The 45Z Credit has also distorted biodiesel and renewable diesel markets by incentivizing domestic biodiesel producers to export product, thereby diminishing U.S. fuel supply while simultaneously raising costs for trucking fleets and for home heating oil. In effect, the U.S. taxpayer is subsidizing clean energy consumption overseas, while paying higher costs for fuel domestically. The Agencies should examine strategies to prevent such a perverse outcome in any forthcoming implementing guidance.

iii. There is no Statutory Authority for Providing Additional Reductions in Calculating the Lifecycle GHG Emissions Reduction Percentage Utilizing “Climate Smart” Agriculture Practices

The additional stringency that Congress required for any model that calculates the lifecycle emissions of aviation fuels must, by law, be reflected in any agricultural standards that implicate such calculation. Notice 2025-10 constitutes a violation of the law in this respect. Specifically, it indicates that the Agencies “intend to propose rules at a future date providing that taxpayers will be able to access additional reductions in calculating the lifecycle greenhouse gas emissions rates of SAF and non-SAF transportation fuels utilizing certain climate smart agriculture (CSA) practices.”<sup>22</sup>

There is no statutory basis for this allowance. The inclusion of this CSA Program bonus would allow feedstocks that would otherwise be ineligible for the aviation fuel credit to become eligible. As shown in Table 2, above, the application of the USDA CSA Pilot Program bonus to soy-based SAF results in the computation of a significantly higher Section 45Z Credit for SAF than the application of the CORSIA methodology would generate. The methodology therefore is not “similar” to CORSIA. Including the CSA Program bonus in the methodology would allow feedstocks that would otherwise be ineligible for the aviation fuel credit to become eligible. This is plainly not permitted.

Conservation and land management practices, for the purposes of both the Section 40B and Section 45Z Credits, may be used only to enhance the stringency of modeling requirements for aviation fuels. **Congress has not authorized “climate smart” agriculture practices to be used to enable aviation fuels produced with agricultural feedstocks (e.g., domestic corn and**

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<sup>21</sup> EPA Office of Air and Radiation, “RINs Generated Transactions,” February 2025, <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rins-generated-transactions>.

<sup>22</sup> *Supra* n. 2 at p. 23.

domestic soybeans) to become eligible for tax credits if, in the absence of those practices, such fuels would otherwise be ineligible.<sup>23</sup>

Feedstock migration from over-the-road fuel production to aviation use-cases reduces overall supply, leading to increased diesel prices in the United States, and by extension, the price of all consumer goods that are moved by truck. If, as Congress intended, the feedstocks are ineligible for credits if used for SAF, they will continue to be used to produce more efficient over-the-road fuels, rather than migrating toward more costly aviation use cases.<sup>24</sup>

#### IV. Additional Pro-Consumer Considerations for Future Regulatory Activities.

Over the last two decades, the BTC and other renewable fuel incentives have accrued to fuel *blenders*. The 45Z Credit represents a watershed change in biofuel policy away from incentivizing the *consumption* of biofuel (through lower retail prices) to the *production* of fuel. Under a production credit scheme, fuel producers will not be inherently incentivized to price lower-carbon fuels at a discount to petroleum fuels; they will only be motivated to price lower-carbon fuels at *parity* with petroleum fuels in order to maximize their margins. This change is bad policy and will create upward pressure on diesel fuel prices. While that bad choice is part of the statute authorizing 45Z, the Agencies should be aware of the problems they create and do as much as they can to mitigate these anti-consumer outcomes.

##### a. Credit Value Transparency

The Agencies should make public the *precise* value of any credit that is generated for a gallon of biofuel under Section 45Z. This will allow buyers of those clean fuels to demand that the price they pay for lower-carbon fuels reflects an appropriate amount of tax incentives associated with the fuels' production. This value could have a greater chance to then be passed on to consumers in the form of lower prices at the pump, causing consumers to gravitate toward lower-carbon fuels, and thus perpetuating a *virtuous cycle of adoption* where price-motivated consumers gravitate toward more environmentally attractive fuels. Importantly, credit value transparency will also enable feedstock producers to appropriately price their products.<sup>25</sup> Without this clarity, it is very difficult to see any of the value of the credit being transferred through the supply chain and translating into consumer price impacts.

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<sup>23</sup> Under the 45Z Credit, importantly, the stringency limitations Congress imposed upon SAF are not applicable to non-aviation transportation fuels. The accounting of conservation and land management activities may therefore be used to improve the carbon intensity score of non-aviation fuels.

<sup>24</sup> Trucks transport 12 billion tons of domestic freight annually, which is about 67% of total freight tonnage. By contrast, airplanes transport approximately 0.01% of domestic freight each year. See Bureau of Transportation Statistics, "Moving Goods in the United States," (Department of Transportation), available at <https://data.bts.gov/stories/s/Moving-Goods-in-the-United-States/bcyt-rqmu/>.

<sup>25</sup> Credit value should ultimately flow toward the entities in the value chain that need capital support or margin support to facilitate additional biofuel production and consumption. In the context of a production credit scheme, this can only be achieved if there are seamless price discovery mechanisms available to all market participants.

***b. Qualifying Sale Definition***

Notice 2025-10 appears to have erroneously defined “qualifying sales” under Section 45Z(a)(4)(B) to include a requirement that, for certain sales, the buyer must use the purchased fuel “as a fuel,” *i.e.*, consume the fuel, to satisfy the definition of a qualifying sale. This language could improperly exclude from the 45Z Credit eligibility gallons of biofuel that are sold from a producer to a *distributor* or *wholesaler* (rather than to an end-user). This would be immensely disruptive to an industry that, in the regular course of business and supply chain distribution, sells and resells fuel through multiple parties who are not the ultimate end consumer. We encourage the Agencies to revise the language in the implementing regulations to include in the definition of a “qualifying sale” the trade or business of buying fuel for resale.

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Thank you in advance for your consideration of this letter. As noted above, we would welcome the opportunity to meet with Treasury and the IRS to discuss these comments in greater detail or to answer any questions that you may have.

Sincerely,

American Trucking Associations (ATA)  
National Association of Convenience Stores (NACS)  
NATSO, Representing America’s Travel Centers and Truck Stops  
SIGMA: America’s Leading Fuel Marketers  
Truckload Carriers Association