April 10, 2025

Internal Revenue Service
Attn: CC:PA:01:PR (Notice 2025-10)
P.O. Box 7604, Room 5203
Ben Franklin Station
Washington, DC 20044

Submitted via www.regulations.gov (IRS-2025-0002)

Subject: Comments on Notice 2025-10 - Section 45Z Clean Fuels Production Credit

Dear Sir or Madam:

On behalf of the National Energy & Fuels Institute (NEFI), I appreciate the opportunity to comment on the U.S. Department of the Treasury and the Internal Revenue Service's notice of intent to propose regulations implementing the clean fuels production income tax credits under §45Z of the Internal Revenue Code.

NEFI represents predominantly small and mid-sized family-owned businesses that provide essential heating fuels and related home comfort services to millions of American homes and businesses across Northeast and Mid-Atlantic states. Our members have invested billions of dollars in renewable fuels infrastructure to support energy diversity, reliability, and security while meeting the ever-evolving demands of a competitive market.

The Section 45Z credit structure presents significant challenges for small businesses in the downstream liquid fuels industry. The shift from the now-expired blenders' credit to a domestic production credit particularly impacts the Northeast heating oil market, where limited production capacity necessitates supplemental fuel imports to meet growing demand for cleaner fuels.

We strongly recommend that the current blending incentive codified in Section 40A be allowed to continue. The 40A credit successfully supports both domestic production and fuel distribution without disadvantaging regions that require supplemental imports. This approach better aligns with free market principles, supports continued private sector investment, and ensures reliable and affordable supplies for millions of American consumers of liquid heating fuels.

Given current market conditions, immediate action is imperative. The December 31, 2024 expiration of pre-IRA incentives, combined with the absence of final comprehensive guidance for the Section 45Z credit, has created substantial market uncertainty for small businesses. An extension of current renewable fuel incentives would maintain market stability, protect consumers from potential supply disruptions, and allow our members to remain competitive in states with mandated electrification policies.

For a more detailed analysis of these concerns, we encourage the Treasury Department and IRS to review our response to the House Ways & Means Committee Majority's Request for Information on IRA Renewable Fuel Tax Incentives, which we have attached to this submission.

NEFI and its members welcome the opportunity to discuss these issues and any other matters affecting the liquid heating fuels and home comfort industries. My contact information is below.

Sincerely,

James M. Collura
President & CEO
(202) 441-8857
jim.collura@nefi.com

National Energy & Fuels Institute, Inc. - NEFI
DC Office: 1629 K Street NW, Ste. 300, Washington, DC 20006
MA Billing Office: 36 Jonspin Rd, PO Box 822 Wilmington, MA 01887
Phone: (617) 924-1000 • Fax: (508) 373-2740 • www.nefi.com

NEFI Responses to House Ways & Means Committee Republicans' Request for Information (RFI) on IRA Renewable Fuel Tax Incentives
Published on November 18, 2024
Answers due by Midnight on December 13, 2024

Final answers as submitted

NOTE: The Ways & Means Committee is not accepting formal response letters. Instead, responses must be submitted via an online form, available at https://forms.office.com/g/GVWEs9xJ4g.

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?

The Section 45Z credit structure presents significant challenges for the liquid fuels industry and threatens to undermine private sector progress in renewable fuel adoption. The shift from a blender credit to a domestic production credit particularly impacts the Northeast heating oil market, where limited production capacity necessitates supplemental fuel imports to meet growing demand and evolving state requirements. The existing biodiesel and renewable diesel blender tax credit framework has proven more effective at driving market-based adoption while maintaining affordability and reliability for consumers.

We strongly recommend the current blending incentive codified in Section 40A be allowed to continue. The 40A credit successfully supports both domestic production and fuel distribution without disadvantaging regions that require supplemental imports. This approach better aligns with free market principles, supports continued private sector investment in renewable fuel infrastructure, and ensures reliable fuel supplies for the millions of homes and businesses that rely on liquid heating fuels in the Northeast and Mid-Atlantic states.

Given current market conditions, immediate congressional action is imperative. The December 31, 2024 expiration of pre-IRA incentives, combined with the absence of final comprehensive guidance for the Section 45Z credit and potential policy changes in the 119th Congress, has created substantial market uncertainty. Even if the current administration releases comprehensive guidance before January 20, it is highly unlikely that it will address all the questions and concerns of NEFI and other stakeholders. The bipartisan Biodiesel Tax Credit Extension Act (H.R. 9060) provides an excellent model for near-term action while longer-term policies are developed. An extension of current renewable and alternative fuel incentives through at least 2025 would maintain market stability, protect consumers from potential supply disruptions, and support continued progress in reducing heating sector emissions through market-based solutions.

What does success look like for the tax credit? How should the credit be phased out at the end of the extension?

A successful renewable fuel tax framework must support continued market-driven emissions reductions while preserving energy security, affordability, and consumer choice. This requires maintaining a competitive marketplace that enables sustained private sector investment in renewable fuel infrastructure and technology. The framework should recognize and support various business models, including both production and blending activities, particularly in regions like the Northeast where both are essential for increased renewable fuel adoption.

Success should be measured by market stability, continued business investment, and achievement of emissions reduction goals without compromising energy affordability or reliability. The framework must provide certainty for businesses making long-term infrastructure investments while supporting existing state renewable fuel programs. Connecticut, New York, Pennsylvania, and Rhode Island have established statewide renewable fuel blending requirements for distillate fuels, making policy stability particularly crucial for the Northeast.

Any phase-out of federal tax incentives for renewable fuels must be gradual and predictable to avoid market disruption and allow businesses to properly plan infrastructure investments, secure long-term supply contracts, and adapt their business models while ensuring continued compliance with state mandates.

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?

Given the December 31, 2024 expiration of current renewable fuel tax incentives and ongoing uncertainty regarding Section 45Z implementation, any immediate modifications would create additional market complications. The absence of final comprehensive guidance on the current Section 45Z framework already makes it difficult for businesses to properly value renewable fuels beyond 2024. Even if comprehensive guidance is released before January 20, it is highly unlikely to address our many outstanding questions. Adding new modifications before fully resolving these questions and concerns would compound this uncertainty.

We instead recommend that Congress first extend current renewable fuel tax incentives for at least one year. This would provide market stability while allowing the new administration and 119th Congress adequate time to thoroughly evaluate the merits of the Section 45Z credit and obtain substantive feedback from market stakeholders, especially fuel distributors and end users. Once the new Congress has established its preferred approach, it is imperative that adequate time be provided for implementation and the issuance of comprehensive guidance, and to allow fuel distributors to properly plan their businesses and ensure continuity of service to their customers.

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?

We defer to agricultural stakeholders and feedstock producers on the specific practices that should be recognized.

How should new and emerging agricultural products or practices be considered for eligibility?

The framework should encourage continued innovation in renewable fuel development by supporting next-generation fuels that utilize diverse feedstocks. Promising cellulosic biofuel technologies are emerging in the Northeast that could utilize locally sourced materials, such as sustainably harvested wood products and agricultural residues, to produce negative carbon liquid heating fuel. These innovative technologies represent an important opportunity for reducing emissions while supporting regional economic development and energy independence.

NEFI strongly believes that support for American agriculture is imperative to ensuring adequate domestic supplies of renewable fuels and feedstocks. However, limiting renewable fuel incentives to only domestic products would significantly impact the Northeast. Section 45Z currently requires the transition away from a blending incentive to a production credit, effectively prohibiting imported renewable fuels from credit eligibility. This will shift incentives away from regions where these fuels are primarily blended and consumed rather than produced, such as the Northeast, to production regions like the Midwest. Such restrictions particularly impact states with existing biofuel blending requirements, including Connecticut, Pennsylvania, Rhode Island, and New York, where fuel dealers rely on diverse supply chains to meet their obligations.

A balanced approach should maintain support for blending activities regardless of feedstock origin while encouraging development of new domestic production capacity. The framework should reward fuels based on their emissions reduction benefits rather than their geographic origin, allowing market forces to drive innovation and efficiency. This will ensure continued renewable fuel availability while supporting the development of promising new technologies that could enhance American energy independence and environmental leadership.

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?***

While supporting American agriculture is vital, overly restrictive domestic feedstock requirements would severely impact renewable fuel availability and affordability in the Northeast. Our region has limited production capacity and relies on diversified supply chains, including imports, to meet growing demand and state blending requirements. Section 45Z's transition from a blending incentive to a production credit already effectively prohibits imported renewable fuels from credit eligibility, shifting incentives away from areas where these fuels are blended and consumed toward production regions.

The timing of these proposed modifications is particularly concerning, as our members will be in the midst of the 2024-2025 heating season when the new Congress convenes in January. They are already experiencing substantial market uncertainty due to the December 31, 2024 expiration of current incentives and the absence of final comprehensive Treasury guidance for Section 45Z. Additional verification requirements or reduced credit values for foreign feedstocks would arbitrarily constrain supply chains and increase costs for both mandatory compliance and voluntary blending programs.

These restrictions would particularly impact states with mandatory biofuel blending requirements, including Connecticut, Pennsylvania, Rhode Island, and New York. Long Island, for example, which utilizes significant volumes of liquid heating fuels and faces unique geographic and infrastructure constraints, would face particular challenges in securing adequate renewable fuel supply under restrictions on foreign feedstocks.

The proposed modifications could have several serious unintended consequences. Renewable fuel producers might prioritize other markets, such as California or Europe, where incentive programs are more accommodating of diverse feedstock sources. Additionally, reduced supply and higher costs could force suppliers to scale back or eliminate voluntary blending programs, undermining both environmental goals and existing private sector investments in renewable fuel infrastructure. Stricter domestic requirements could strain existing production capacity, potentially leading to supply shortages during peak heating seasons when fuel security is most critical.

Regarding land use considerations, we recommend maintaining flexibility in how these factors are evaluated. Different feedstocks and production methods can achieve significant environmental benefits through various pathways. Overly prescriptive requirements could unnecessarily exclude promising technologies and feedstock sources that could contribute to emissions reduction goals.

A balanced approach incentivizes domestic production while maintaining flexibility for fuel suppliers to access cost-effective and reliable sources of renewable fuel. This could include recognizing established trading relationships, particularly with partners who maintain comparable environmental standards and support reciprocal market access for American biofuels. We recommend Congress first extend current renewable fuel tax incentives, such as through the Biodiesel Tax Credit Extension Act (H.R. 9060) while these broader policy issues are thoroughly evaluated. Such an approach would provide much needed market stability while supporting continued progress toward environmental goals without compromising energy security or affordability.

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?

While our association's expertise is primarily in renewable fuel distribution and heating applications rather than agricultural production, we recognize the importance of ensuring American farmers can fully participate in and benefit from renewable fuel markets. However, we caution that modifications focused solely on domestic agricultural interests must be balanced against the need to maintain adequate and affordable renewable fuel supplies for all regions of the country.

The Northeast heating fuel market provides a valuable example of why this balance matters. Our region has limited production capacity and relies on diverse supply chains to meet growing demand and state renewable fuel requirements. Overly restrictive domestic content requirements, while well-intentioned for supporting American agriculture, could inadvertently reduce renewable fuel availability and increase costs for millions of households, as well as municipalities, schools, hospitals, etc., that rely on these fuels for essential space and water heating and energy reliability.

We encourage the Committee to consider approaches that support American agriculture while maintaining the flexibility needed for successful renewable fuel adoption across all regions and sectors. This could include incentivizing domestic production without disadvantaging fuel blending and distribution activities that are crucial for market development, particularly in regions far from agricultural production centers.

What forms of fuel or transportation modes are currently excluded from 45Z, but should be considered for inclusion?

The Section 45Z framework must explicitly recognize renewable liquid heating fuels used in residential and commercial space and water heating applications. While congressional intent for such inclusion was confirmed during floor consideration of the Inflation Reduction Act through a colloquy between Senators Hassan and Wyden, codifying this eligibility is crucial for continued private sector investment in renewable fuel infrastructure and technology. This clarity is particularly important for states like Connecticut, New York, and Rhode Island that have established renewable fuel requirements for heating oil.

These fuels warrant inclusion because they provide immediate, substantial emissions reductions through existing infrastructure. Unlike other decarbonization approaches that require costly equipment conversions or extensive infrastructure development, renewable liquid heating fuels can be used in current heating systems with minimal modification. This makes them particularly valuable for older homes and buildings in colder climates where heat pump conversion would be impractical or prohibitively expensive, offering a cost-effective path to emissions reduction that preserves consumer choice and energy security.

The framework should also maintain support for fuel blending activities, which are essential for renewable fuel adoption in regions with limited production capacity. Many heating fuel retailers have invested significantly in blending infrastructure and technology, demonstrating the private sector's commitment to emissions reduction through market-based solutions. Explicit inclusion of these fuels and activities in Section 45Z would support continued progress while protecting these investments.

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?

While our organization primarily focuses on the residential heating sector, some of our members also supply aviation fuels. That said, NEFI members have expressed concerns that the Inflation Reduction Act's SAF provisions will inadvertently create artificial competition for renewable fuels between essential home heating needs in the Northeast and commercial aviation. This concern is amplified by Section 45Z's creation of an uneven playing field through two key provisions: first, by offering an incentive for aviation fuels that is 75 percent larger than for non-aviation fuels, and second, by potentially allowing more generous greenhouse gas emissions scoring methodologies for SAF compared to CORSIA standards.

Furthermore, the IRA's failure to explicitly mention renewable heating fuels in establishing the Section 45Z credit creates uncertainty about their eligibility, even as it provides clear advantages for aviation applications. This disparity is particularly concerning given that home heating is an essential service necessary for public health and safety, while air travel is a luxury.

Given the critical importance of liquid heating fuels to millions of Northeast households and the demonstrated ability of oil-fired heating systems to utilize higher renewable fuel blends, NEFI recommends development of a targeted incentive for the heating sector. At minimum, to ensure market fairness, renewable liquid fuels intended for heating applications should be eligible for incentives equal to those provided for SAF. This balanced approach would help maintain affordable heating options for Northeast consumers while supporting continued investment in American energy infrastructure and distribution networks.

ADDITIONAL COMMENTS

The National Energy & Fuels Institute (NEFI) represents predominantly small and mid-sized family-owned businesses that provide essential heating fuels and related home comfort services to millions of homes and businesses across Northeast and Mid-Atlantic states. Our members are at the forefront of America's energy transition, successfully leveraging private investment and existing infrastructure to achieve significant emissions reductions through the deployment of renewable liquid heating fuels and high-efficiency home heating technologies.

At a NEFI-hosted summit in Providence, Rhode Island in September 2019, hundreds of heating fuel industry leaders committed to a voluntary 40% reduction in greenhouse gas emissions by 2030 and net-zero emissions by 2050. This pledge, known as the "Providence Resolution," was our industry's market-based response to state policies across the Northeast and Mid-Atlantic that threaten to force electrification of home heating through costly mandates and incentives. Rather than accept government-mandated electrification that would harm consumers, threaten small businesses, and compromise regional energy security, our industry chose to pursue market-driven solutions that preserve consumer choice, maintain energy reliability, and protect local jobs while achieving environmental goals through private sector innovation.

Our members' successful transition to renewable fuels demonstrates how market-based solutions, supported by appropriate federal tax policy like the current biodiesel and renewable diesel blender tax credit (Section 40A), can achieve environmental objectives while preserving consumer choice and bolstering American energy security. Many have completely rebranded their businesses around renewable liquid heating fuels, making significant investments that provide an immediate, affordable path to emissions reduction without requiring costly conversions to electric heat pumps.

The success of any future framework will depend on its ability to support continued market-driven adoption of renewable fuels while maintaining reliability and affordability. We urge the development of a targeted incentive for renewable liquid heating fuels or, at the very least, an equivalent tax incentive as SAF, to ensure continued market competitiveness as demand for renewable fuels grows in aviation and other sectors. Such an approach would help maintain affordable heating options for millions of Northeast households while supporting continued investment in American energy infrastructure and distribution networks.

NEFI and its members welcome the opportunity to work with the Committee to develop policies that advance these objectives while protecting American small businesses, consumer choice, and energy security. We stand ready to provide additional information or insights from our industry's successful experience with market-based emissions reduction strategies.