Section 45Z Clean Fuel Production Credit: National Association of Convenience Stores and Other Retail Motor Fuel Organizations Comments on Internal Revenue Service Proposed Regulations

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The National Association of Convenience Stores, National Association of Truck Stop Owners, and SIGMA (collectively, "NACS") submitted April 6th comments on the United States Department of Treasury and Internal Revenue Service (collectively, "IRS") rules published in February regarding the Clean Fuel Production Tax Credit ("PTC") under Section 45Z of the Internal Revenue Code.

The proposed regulations can be relied upon until they are finalized if the taxpayer is guided by them in their entirety and in a consistent manner.

The proposed rules address how to determine clean fuel production credits including:

- Credit eligibility rules.
- Emission rates.
- Certification requirements.
- Registration requirements.
- Elective payment and credit transferability.

The Section 45Z PTC was enacted as part of the Inflation Reduction Act of 2022. The PTC replaced the previous renewable fuel incentives. The objective is to incentivize domestic production of lower carbon alternatives to petroleum-based fuels.

The One Big Beautiful Bill enacted in 2025 extended and modified the credit. It is based on the quantity of clean fuel produced and sold by a domestic producer. The domestic producer must chemically process feedstocks into finished fuel during the time period of January 1, 2025, to December 31, 2027.

The NACS letter describes the three organizations commenting as follows:

- National Association of Convenience Stores (NACS) is an international trade association representing the convenience store industry with more than 1,300 retail and 1,600 supplier companies as members, the majority of whom are based in the United States.

- National Association of Truck Stop Owners currently represents approximately 5,000 travel plazas and truck stops nationwide.
- SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

NACS states that the organizations together represent more than 90 percent of retail sales of motor fuels.

By way of introduction, the NACS comments note in part:

- Final rule will have immediate, direct, and traceable consequences for the price of fuel at retail.
- To the maximum extent possible, the 45Z Credit should facilitate the pass-through of credit value to downstream entities and ultimately to consumers (which would be most effectively accomplished through credit value transparency allowing all purchasers of biofuel to seamlessly assert and pass along the value of the tax incentives realized by producers).
- Achieving the previously reference goal will require changes to the proposed rule.
- The 45Z credit represents a fundamental restructuring of the federal biofuel tax incentive landscape (replaces the previous regime with the PTC constituting a structural shift with significant downstream consequences).
- NACS has traditionally supported biofuel tax incentives benefitting American farmers, but when energy policies are subordinated to agricultural subsidies, it yields fewer benefits for farmers and consumers (most effective/durable support for the agricultural sector will come from policies that increase demand for agriculture-based fuels via lower prices at the pump).
- Substantial majority of the credit will accrue to producers in a way that will not increase demand for biofuel or flow through to consumers.
- Geopolitical backdrop for the rulemaking – characterized by United States adversaries' ongoing assault on global energy markets - underscores the urgency of prioritizing energy price relief through the 45Z Credit.
- NACS has long advocated for technology-neutral fuel incentive policies and, accordingly, commend IRS for remedying a fundamental structural deficiency of the 45Z Credit as originally enacted in the IRA (elimination of the additional credit value for sustainable aviation fuel corrected an economically and environmentally indefensible imbalance within the 45Z Credit that distorted markets/disadvantaged over-the-road consumers by incentivizing less efficient fuel production).

Importance of Credit Value Transparency:

NACS states that over the last two decades, renewable fuel incentives have accrued to fuel blenders, which enabled American consumers (as opposed to fuel producers) to access the value of these policies. It further states that the competitive, transparent, low-margin nature of the retail fuel market compels retailers to pass through cost savings to consumers to maintain and increase their market share. They argue that under the 45Z Credit clean fuel producers are motivated to price cleaner fuels at close to parity with petroleum fuels in order to maximize their margins. Therefore, they state that the final rule should anticipate and guard against producers' incentive to resist credit transparency. It is further argued that what is characterized as an "anti-consumer outcome" can be mitigated by enabling purchasers of clean transportation fuel to ascertain the precise credit value associated with the biofuels they purchase (i.e., enabling them to negotiate prices that reflect that value).

Qualified Sale Definition.

NACS states its support of the qualified sale definition reflected in the proposed rule. They state that the removal of the "use as a fuel" limitation from the definition of "sold for use in a trade or business" appropriately recognizes the commercial reality of the fuel distribution chain, in which producers routinely sell to intermediaries such as wholesalers, terminal operators, and dealers rather than directly to end users. Nevertheless, they argue that consumers and farmers will only benefit from this improvement if the final rule incorporates the credit value transparency mechanisms.

Emissions Rate Determination and Feedstock Eligibility.

NACS supports requiring taxpayers to use the first version of the 45ZCF-GREET model that is publicly available in the taxable year of production - with an option to use an updated version published later in the same taxable year. The basis for their approval is the belief that use of the most current available version ensures that emissions rate determinations reflect the best available science and prevents market participants from being locked into less favorable, dated versions of the model.

NACS further notes:

- Indirect Land Use Change:
- Argues that the IRS should prioritize finalization of the ILUC removal methodology in the final rule and to ensure that updated emissions rate tables reflecting the exclusion are published promptly upon finalization.
- Climate-Smart Agriculture:
- IRS is urged to limit the application of the FD-CIC module to fuel produced after the date on which the module is finalized and published.
- Imported Fuels and Feedstocks:
- IRS is asked to take the time necessary to develop a comprehensive framework for the USMCA feedstock restriction that is workable and guards against fraud.

The comments also address the following topics:

- Sustainable Aviation Fuel.
- Ethanol-to-Jet Anti-Stacking.
- SAF Certification Requirements.
- SAF Emissions Rate Methodology.
- Energy Attribute Certificates.
- Renewable Natural Gas.

A copy of the comments can be found here.