



December 13, 2024

The Honorable Adrian Smith
The Honorable Michelle Fischbach
The Honorable Carol Miller
The Honorable Randy Feenstra
The Honorable Darin LaHood
The Honorable Claudia Tenney

House Ways and Means Committee
1139 Longworth House Office Building
Washington, DC 20515

Re: Comments to the U.S. Ways and Means Committee Regarding the Importance of Extending the Biofuel Blender’s Tax Credit

Dear Representatives,

The Energy Marketers of America (EMA) appreciates the opportunity to work with the U.S. Ways and Means Committee to promote strategic biofuel incentives that allow energy marketers to continue delivering affordable and reliable motor fuels and heating fuels to American consumers. As a vital link in the motor and heating fuels supply chain,¹ EMA member companies are responsible for supplying 80 percent of all finished motor and heating fuel products nationwide. However, the impending disruption in the biofuel blender’s tax credit regime, brought about by the Inflation Reduction Act, threatens to destabilize biofuel markets, disrupt crucial value chains in the energy sector, and exacerbate inflationary pressures in an already stressed and volatile economic environment.

The 45Z Clean Fuel Production Credit (CFPC) establishes a “one-size-fits-all” unworkable framework for transportation fuels and potentially eliminates incentives for heating oil. For the transportation sector, allowing the 45Z regime to take effect next year would destabilize prices and create market uncertainty as the regime arbitrary blends markets and products without intelligible parameters for implementation. For the heating oil industry, the 45Z regime would make biodiesel and renewable diesel blending unfeasible, spiking prices for consumers and neutralizing carbon reduction efforts.

¹ https://www.energymarketersofamerica.org/pdfs/EMA_LB_SupChain3-24.pdf

To prevent these impacts on critical energy sector components, EMA advocates for a strategic biofuel tax policy that promotes regulatory certainty, energy security and affordability, and environmental benefits:

1. An immediate 1-Year extension of the \$1 per gallon Biodiesel Blender's Tax Credit
2. Amending the 45Z CFPC by providing all transportation and heating oil with the same amount of tax credit available to both producers and blenders
3. Establish a permanent biofuel tax credit regime with a solid foundation that concentrates the benefits of federal subsidies in American pockets

Such a policy framework would allow energy marketers to continue selling a growing portfolio of affordable, efficient, and environmentally friendly liquid fuels that are helping to reduce emissions while propelling Americans forward and lowering heating oil costs.

EMA is grateful for the Committee's willingness to address the deficiencies of the 45Z regime. Please find below detailed our comments about the importance of extending the biofuel blender's tax credit as part of a long-term, thoughtful policy approach.

I. The 45Z CFPC should not be the basis for providing a biofuels tax credit unless properly amended

The 45Z regime establishes an unworkable foundation for biofuel policy because it does not provide equal tax treatment to all transportation fuels and ignores the benefits of incentives in the heating oil sector. 45Z replaces the Internal Revenue Code (IRC) 40A \$1.00 per gallon biodiesel and renewable diesel blender credit for both transportation and heating oil, with a multi-tiered credit for transportation fuels only. Without significant reforms, the 45Z regime would be inflationary and environmentally problematic.

First, 45Z should not eliminate heating fuel from the IRC clean fuel tax credit program because heating fuel incentives yield significant environmental and economic benefits through the use of BioHeat® ranging from 5% biodiesel (B5 Bioheat® fuel) up to 20% biodiesel (B20 Bioheat® fuel). The industry has a plan to continue increasing the percentage of biodiesel in Bioheat® fuel coupled with developing highly efficient heating fuel equipment until it reaches net-zero emission. However, to meet this goal, an extension of the 40A tax credit is critical. Under the current 40A IRC blenders tax credit, heating oil is blended with biodiesel and/or renewable diesel which not only lowers the price of liquid heating oil for customers across the board, but also dramatically reduces carbon emission. To meet such a carbon reduction goal, the industry needs to continue leveraging the 40A blender credit that has been in effect since 2005. Without a tax credit, biodiesel and renewable biodiesel blending will no longer be cost effective, resulting in higher prices for consumers and loss of significant gains in greenhouse gas reductions achieved by the heating oil industry thus far. Despite clear evidence of legislative intent, 45Z does not explicitly identify renewable liquid heating oils for credit eligibility. Codifying the inclusion of heating oils into the tax credit regime is imperative for carbon reduction and consumer choice.

Second, 45Z adopts an arbitrary policy that fails to put all fuel technologies on equal footing to achieve economically and environmentally desired outcomes. Unlike the 40A credit regime, all

biofuel blends do not receive equal tax treatment in the transportation sector. The lack of a technology neutral approach limits the portfolio of fuels that could be otherwise produced and sold by marketers based on a variety of complex economic factors other than tax incentives. Biofuel markets should be able to anchor into a stable sediment that disfavors preferential tax treatment. Technology neutrality also ensures that biofuels, such as biodiesel and renewable diesel, are less expensive than petroleum-based fuels, leading to important carbon reduction contributions in the transportation sector.

Third, the 45Z regime should not serve as the basis for biofuel tax credits because it disproportionately benefits producers without establishing incentives for lower retail prices. In other words, federal investments will be allocated exclusively in the hands of producers with minimal impacts on consumers. On the contrary, blender tax incentives yield important benefits throughout the supply chain, ensuring that federal investments reach the pockets of consumers as they battle rising inflationary pressures.

Finally, as it stands, 45Z cannot be the basis for providing biofuel tax credits because it's difficult, if not impossible, to implement, as evidenced by the lack of IRS guidance less than 30 days before the regime takes effect. To be implementable, the regime first must account for the differences among the various feedstocks and fuels, from a technical and market perspective. Blending all the feedstocks, fuels, and actors into one pot is bad energy policy. A targeted approach that accounts for meaningful differences in the fuels market while avoiding preferential treatment, as discussed above, is key for implementation and compliance. As it stands, the regulatory uncertainty caused by the implementation of 45Z would ultimately result in the closing of the biofuel industry, increased prices for consumers, and higher carbon emissions.

For the reasons above, the 45Z regime should not serve as the basis for biofuel tax credits until it is properly amended by providing all transportation and heating oil with the same amount of tax credit available to both producers and blenders.

II. An adequate biofuels tax credit regime should be made permanent to create long-term regulatory certainty in the fuels market

A strategic approach to biofuel tax policy should aim to create stability and predictability in markets while being practical in terms of implementation and compliance. If the foundation of the regime is amended to provide equal tax treatment for all transportation fuels and heating oil and for both blenders and producers in a framework that is practical to implement and comply with, the credits should be issued on a permanent basis.

Establishing a biofuel tax incentive on a permanent basis offers several benefits, primarily by fostering regulatory certainty:

- **Market Stability:** A permanent tax incentive provides a consistent framework for businesses, allowing them to make long-term investment decisions without fear of abrupt policy changes.

- Encourages Innovation: Stability in tax incentives encourages companies to invest in research and development of advanced biofuels, as they can rely on steady support over time.
- Supply Chain Development: A predictable policy environment helps build and sustain robust biofuel supply chains, benefiting farmers, producers, and marketers alike.
- Carbon Reduction Goals: Regulatory certainty supports the consistent adoption of biofuels, aiding efforts to meet carbon emission reduction targets.

By providing clarity and reducing uncertainty, permanent incentives make it easier for stakeholders across the biofuel value chain to plan effectively, ultimately fostering a more sustainable and secure energy future.

III. An adequate biofuels tax credit regime should concentrate benefits in domestic fuel consumption

A strategic approach to biofuel tax policy should ensure that subsidies benefit American taxpayers. From a fiscal and energy security perspective, EMA supports efforts that concentrates the benefits of federal investments domestically while ensuring energy security. A blender tax approach, as opposed to a production one, ensures that taxpayers are not footing the cost of subsidizing clean energy overseas while decreasing domestic fuel supplies.

EMA generally supports credit access with respect to imported products so long as the fuel is consumed domestically and lowers prices for American consumers.

IV. Conclusion

The Biodiesel Blender's Tax Credit has played a fundamental role in propelling American motorists forward and lowering heating oil costs since 2005. Unfortunately, the regulatory uncertainty caused by the 45Z CFPC credit regime is already impacting the ability for energy marketers to sell a growing portfolio of affordable, efficient, and environmentally friendly liquid fuels. Thus, it is important for Congress to act soon to extend the 40A IRC blenders tax credit to give stakeholders market certainty as needed modifications to 45Z goes through the legislative process.

EMA appreciates the opportunity to provide comments on a strategic biofuel tax policy that promotes regulatory certainty, energy security and affordability, and environmental protection. EMA looks forward to working closely with you on this important issue going forward.

Sincerely,



Rob Underwood
President
Energy Marketers of America