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COMMITTEE ON ENERGY AND COMMERCE
COMMITTEE ON AGRICULTURE

Congress of the United States
House of Representatives
Washington, DC 20515-2302

May 20, 2024

Dear Secretary Vilsack,

I write today on behalf of Minnesota family farmers and ethanol producers regarding the recent 40B guidance[1] from the Sustainable Aviation Fuel (SAF) Interagency Working Group (IWG) and the upcoming 45Z Clean Production Tax Credit guidance. The final guidance on eligibility and the updated 40B SAF GREET 2024 model released by the Biden-Harris Administration on April 30, 2024, failed the Minnesota agricultural communities I represent and the farmers this Administration has committed to supporting.

The SAF market offers tremendous growth opportunities for Minnesota farmers and biofuels producers and a once-in-a-lifetime opportunity to decarbonize the aviation sector. This Administration has stated its goal to scale up production of SAF to 35 billion gallons per year by 2050[2] but the 40B guidance issued will cripple the SAF market before it's able to get off the ground at the expense of Minnesota's farmers and ethanol producers.

I recognize there are positive aspects of this announcement - this guidance represents the first time the federal government has formally recognized that the conservation practices utilized by our nation's farmers can reduce the carbon intensity (CI) of ethanol production in lifecycle carbon modeling. However, this critical step in the right direction is overshadowed by the guidance's limited and prescriptive approach to the climate smart practices available to farmers for reducing their emissions under the 40B GREET Model.

The Climate Smart Agriculture pilot program within the 40B guidance only includes three out of the USDA's more than 200 designated climate smart farming practices for corn (cover crops, no-till and enhanced efficiency fertilizer). As you know, these practices must be "bundled" on the same acreage to receive a 10 CI point reduction under your guidance. This all or nothing approach to bundling climate smart agriculture practices is an egregious misstep and unworkable for Minnesota corn farmers.

The northern corn belt is known to have a short growing season due to temperatures dropping earlier in the year. Cover crops are notoriously difficult to establish in states like Minnesota because the growing season is too short. According to USDA's 2022 Ag Census only 4.1% of

[1] https://home.treasury.gov/news/press-releases/jy2307
[2] https://www.energy.gov/eere/bioenergy/sustainable-aviation-fuel-grand-challenge

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cropland acres in Minnesota utilized cover cropping.[3] USDA has been telling farmers they will contribute to the SAF market and have access to these credits, but this Administration published a rule that prevents their very access to the opportunity. We should be creating pathways to move crop-based feedstocks into the SAF supply chain, instead this guidance chooses winners and losers in market access based on geography.

Additionally, I have serious concerns about the undue burden on ethanol plants under the 40B guidance requirements related to supply chain traceability for climate smart feedstocks. These rules will create challenges for grain purchasers in local and regional commodity markets because they are inconsistent with the way grain is currently marketed, bought, sold and moved from farmgate to commercial grain aggregators, agricultural cooperatives and ethanol plants. While these certification and traceability rules are certainly needed, there is also a lack of clarity on who is responsible for compliance and enforcement. To utilize the U.S. corn alcohol-to-jet ethanol (ATJ-Ethanol) pathway, a farmer will need to contract with both an ethanol plant and a SAF producer, raising questions around whether the responsibility for the additional certification, verification and paperwork requirements will be on the SAF producer or the ethanol plant. The 40B guidance clearly states that the SAF producer is the obligated party for registration and traceability requirements, but in practice those regulatory checks will likely fall on the ethanol plant to enforce.

Lastly, official guidance on qualifications for the 40B SAF tax credit was significantly delayed and released 17 months after the tax credit went into effect. Even if ethanol plants and SAF producers can participate, they have already made business decisions for the following fiscal year and farming season. Any future tax credit guidance must be done in a timely manner that gives farmers and ethanol producers enough time to fortify their business plans to meet the requirements.

I encourage the Administration to rework the 40B guidance and to keep the following in mind when determining the upcoming 45Z guidance:

- The uncertainty surrounding the timing for 45Z guidance is impeding investment. Guidance must be completed September 1st, 2024**.** The statutory intent of this tax credit was to incentivize and build the low-carbon liquid fuels market and if this timeline is delayed it will further penalize ethanol producers.

[3] https://www.nass.usda.gov/Publications/AgCensus/2022/index.php#full_report

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- De-bundle climate smart agriculture practices and allow additional practices to qualify that don't penalize farmers based on their geography.
- Guidance should not unnecessarily limit the options available to ethanol plants and corn growers for lowering their GHG emissions. I encourage you to implement additional at-the plant and on-the-farm carbon reducing technologies and practices in the lifecycle modeling for 45Z.

I acknowledge and appreciate the effort that went into the 40B announcement, but I urge this Administration to hold itself accountable to our nation's farmers and keep these sentiments in mind when determining 45Z tax credit guidance. I look forward to welcoming timely 45Z guidance that supports Minnesota's family farmers and renewable fuels producers.

Sincerely,

Angie Craig

Angie Craig
Member of Congress