

OFF THE CUFF

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There's been quite a bit of chatter in farm country about the development of Sustainable Aviation Fuel (SAF). Many view it as a huge new domestic market farmers can utilize to increase profitability on their farms. Increase demand coupled with various tax credits through environmental policies could truly uplift many farms across the US.

I found the following article from the American Farm Bureau Federation that lays out the SAF issue in great detail. It's worth a read.

In June the Department of Agriculture (USDA) put out a request for information about "Procedures for Quantification, Reporting, and Verification of Greenhouse Gas Emissions Associated With the Production of Domestic Agricultural Commodities Used as Biofuel Feedstocks." What does that mean and why did they do it? On April 30, the Internal Revenue Service (IRS) announced its guidance on how sustainable aviation fuel (SAF) made with corn or soybeans can qualify, under very limited circumstances, for the Sustainable Aviation Fuel Tax Credit. The guidance is the first time that the IRS has outlined a pathway for any grains to be eligible for this credit. In December 2023, the IRS put out guidance that provided a similar "safe harbor" for soybean-based fuels that met certain standards under the Environmental Protection Agency's Renewable Fuel Standard, but this is the first time that grain has clearly qualified.

This guidance is designated a pilot program that will require a very specific bundle of climate-smart agricultural practices to assure the IRS that the corn and soybeans meet the law's requirement of a 50% greenhouse gas reduction, compared to petroleum-based aviation fuel.

The good news is that this is a first step by the IRS toward recognizing U.S.-grown grains and oilseeds as potential feedstocks for sustainable aviation fuel.

The tax code lays out general eligibility for these credits if the fuel results in 50% less greenhouse gas emissions than petroleum-based fuel; but if the IRS doesn't agree with how you calculated your eligibility, you can be charged with tax fraud and hit with very stiff fines and even jail time. So, complying with IRS guidance can often be the only practical way to safely use such credits.

The April 30 guidance is the first time that any grains have been explicitly included in the Section 40B credit, based on the U.S. Department of Energy's GREET (Greenhouse gases, Regulated Emissions, and Energy use in Technologies) climate model. USDA convinced the IRS to accept a so-called "safe haven" in which very specific sets of cropping practices for corn or soybeans would be assumed to reduce GHG. Specifically, corn growers must have planted a cover crop last fall, planted that corn without tilling, and use a qualifying "enhanced efficiency"

fertilizer. Soybean growers must have planted a cover crop last fall and practiced no-till this planting season.

This credit expires at the end of 2024, so the new guidance will only apply through the 2024 crop year. This means that it may reward a few participants in USDA's Climate Smart Commodities program, but that no corn or soy farmers will adopt a sustainable practice directly as a result of this guidance, since most of the relevant decisions were made before the rules were known. The requirement for cover-cropping also leaves out many farmers whose soil or local climate simply don't allow for it, and the third-party certification requirements could raise barriers for smaller producers.

The recent guidance is important for one thing, though: thanks to a hard push by USDA, the Department of Energy has recognized the potential climate benefits of jet fuel from corn within its model and the IRS has accepted at least one narrow set of circumstances under which they can qualify for sustainable fuel credits. It also provides a pathway for soybeans using the GREET model, in addition to the EPA's RFS standards.

That the IRS calls this a "pilot program" even though it applies to a tax credit that expires at the end of 2024, indicates that they are working on including corn and soybeans more broadly in GREET model validation – and potentially other grains and oilseeds – in the Clean Fuels Production Credit that picks up where this credit leaves off at the end of this year. The so-called Section 45Z credit will apply in 2025 through 2027, and includes sustainable aviation fuel and other fuels.

USDA's Office of the Chief Economist (OCE) has played a critical role in providing the science that has kept the door open for American crops in these tax credit programs.

If the guidance for the 45Z credit is also released in late April next year and if it also has very narrowly defined sets of eligible practices, we'll have roughly the same result: little to no change in practice because it will be too late and too difficult for anyone to respond in 2025. On the other hand, if the 45Z guidance is published this fall, if it allows for a wider and more flexible range of effective sustainability practices and if it has more reasonable recordkeeping requirements, the credit could lead to more sustainable agriculture practices by corn and soybean farmers throughout the country.

Secretary of Agriculture Tom Vilsack has touted sustainable aviation fuel as one of American agriculture's greatest potential contributions to climate solutions. The airline industry generates about 2.6% of net greenhouse gas in the U.S., according to the EPA, and airlines around the world are making commitments to reduce or offset these impacts. American agriculture's opportunity to help in this effort will depend on whether programs like the Clean Fuels Production Credit recognize the value of corn and soybeans, among other U.S. crops, to reduce these emissions, rather than being displaced by otherwise uneconomical imported biofuel feedstocks that only beat domestic row crops in a narrowly defined scoring system for greenhouse gas reduction.

