



The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Re: Notice 2024-05 - Section 45W credit for qualified commercial clean vehicles

Dear Secretary Yellen:

We, the undersigned companies and private sector-focused organizations, write to express our concerns regarding the implementation of the 45W Commercial Vehicle Credit, as created by the Inflation Reduction Act of 2022 (IRA) and urge the Internal Revenue Service's (IRS) to adopt a more inclusive definition of eligibility as clearly intended by Congress.

The Section 45W Commercial Vehicle Credit (45W) represents one of a very narrow band of current federal policy tools designed to accelerate the electrification of this sector. Furthermore, studies show, [tax incentives are an effective means](#) of building early adoption to new technologies. Without an inclusive and robust 45W incentive, adoption of clean off-road vehicles will be slowed, creating ripple effects that will disincentivize research, development, and production of future clean mobile machinery and equipment.

Unfortunately, many manufacturers have been denied prequalification for 45W on the basis that they do not meet the definition of mobile machinery, as referenced in the statute. This issue was also raised in a letter on behalf of the Association of Equipment Manufacturers (AEM), Associated

Equipment Distributors (AED), and the Truck and Engine Manufacturers Association (EMA) sent to IRS in December of 2022.

When defining eligibility for the credit Congress chose to clarify the intention of a more expansive definition of the credit by adding the parenthetical language in 45W(c)(2)(B) which reads fully:

[A vehicle] is mobile machinery, as defined in [section 4053\(8\)](#) (including vehicles that are not designed to perform a function of transporting a load over the public highways)

This critical addition can only be read to have had the intended purpose of specifically including vehicles designed for off-road use. This additional language is clearly intended to create a category of mobile machinery in addition to vehicles that qualify under section 4053(8). As such, vehicles designed for off-road use should be covered by the definition of mobile machinery, regardless of whether they satisfy the requirements in section 4053(8).

In addition, we believe denial of the credit for this reason is a misinterpretation of the statute and Congressional intent considering the below remarks by Senator Van Hollen when speaking to Senators Wyden, Chairman of the Senate Finance Committee, right before the Senate voted to pass the IRA:

Mobile machinery is a vehicle that is unrelated to transportation, such as a forklift or bulldozer. The qualified clean vehicle credit utilizes an existing statutory definition of mobile machinery, the purpose of which is to provide for an exemption from the excise tax on heavy trucks that is deposited into the highway trust fund. (Congressional Record S4167, August 6, 2022).

As Senator Van Hollen makes clear, Congress intended for many vehicles that are integral to commercial operations such as forklifts, yard trucks, ground support equipment, bulldozers, and agricultural tractors to be eligible for the commercial vehicle credit. These are vehicles that in many cases have competitive electric alternatives and offer a perfect opportunity for the effective application of this policy tool.

Lastly, another related concern with eligibility for 45W has been the requirement of a vehicle identification number as described in the statute. Section 45W(e) requires that taxpayers identify each vehicle by its unique identifying number; while the statute refers to a “vehicle identification number,” off-road vehicles are generally identified by a unique product identification number (PIN) or serial number. Off-road vehicles do not typically have VINs but rather product identification numbers (PINs). PINs are similar to VINs but are not on all off-road products. To ensure the maximal applicability of section 45W, reporting of mobile machinery under 45W(e) should use whichever product identifier is available for each vehicle, whether that is a VIN, PIN, serial number, or other unique identifier.

Failure to take action ensuring 45W credit eligibility for off-road vehicles will result in a drastic reduction in the climate benefits of the credit. The current emissions impacts of mobile machinery

and equipment are significant and the decarbonization of this product category should be a priority.

For these reasons we strongly urge you to change course and adopt new guidance to allow off-road vehicles to qualify as eligible equipment for the 45W tax credit.

Sincerely,

American Rental Association
Associated Equipment Distributors
Association of Equipment Manufacturers
CNH Industrial
DHL Group
Husky Terminal and Stevedoring
IKEA U.S.
Monarch Tractor
New Belgium Brewing
PMTA

Port Houston
Ports America
Scythe Robotics
Shipping Association of New York and New Jersey
Siemens
Sierra Nevada Brewing Co.
SSA Marine
Taylor Machine Works, Inc.
UNFI
Volvo Group North America