



ZERO EMISSION
TRANSPORTATION
ASSOCIATION

December 3, 2022

United States Department of Treasury

1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

SUBMITTED VIA [https:// www.regulations.gov](https://www.regulations.gov)

Docket No. IRS-2022-56

ELECTRONIC MAIL TO: [regulations.gov](https://www.regulations.gov)

RE: REQUEST FOR COMMENTS ON IRS NOTICE 2022-56

The Zero Emission Transportation Association (ZETA) is an industry-backed coalition of member companies spanning the entire electric vehicle (EV) supply chain. Together with its members, ZETA advocates for 100% EV sales by 2030. ZETA is committed to enacting policies that drive EV adoption, create hundreds of thousands of jobs, drastically improve public health, and significantly reduce carbon pollution.

The tax credits provided in the Inflation Reduction Act, specifically 26 U.S.C. § 30C and § 45W, are critical to many ZETA members and will help ensure the continued availability of products necessary for a fully-electrified transportation sector. ZETA thanks the Biden Administration for considering the following comments on these two sections.

Section 45W: Qualified Commercial Clean Vehicles Credit

- 1. What factors should be considered, and what data sources should be relied on, to determine whether a vehicle is “comparable in size and use” for purposes of the comparable vehicle definition in § 45W(b)(3) to determine incremental cost?**

Defining a comparable vehicle for Vehicle Classes 1-3 (those under the 14,000 lb weight limit) is complicated, as numerous vehicles are categorized under each greenhouse gas regulation division. To address this complexity, ZETA recommends that all Class 1-3 vehicles receive the maximum incremental cost credit of \$7,500 at a flat rate. This will allow IRS to easily administer the program, support more EV deployment, and prevent OEMs from having to complete onerous incremental cost justifications.

While developing an appropriate mechanism to determine comparable vehicles for Class 4-8 vehicles (those over 14,000 lbs), we ask that Treasury work with corresponding federal agencies to create a public database with frequent, scheduled updates. When configuring the database, ZETA requests that Treasury ask manufacturers to identify an appropriate

comparable vehicle and submit the available purchase price to Treasury for consideration. For example, a taxpayer seeking a qualified clean vehicle should be able to determine the comparable vehicle by obtaining a base price quote, or through a self-certified manufacturer quote in cases where there is no comparable vehicle in a model year. Also, ZETA would like to note that a weight comparison alone is not an accurate metric for analyzing clean vehicles against their internal combustion engine (ICE) corollaries: EVs of the same style and intended use-case are often heavier than a comparable ICE vehicle due to the battery pack.

As it relates to identifying the price of such comparable vehicles, ZETA recommends that Treasury use existing state-based frameworks when formulating comparable costs—for example, [California’s Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project \(HVIP\)](#) or [NYSERDA’s Truck Voucher Program](#). Similar to the issue of using weight alone as a metric, comparing ICE and EV commercial vehicles is not always straightforward; in many cases, commercial vehicles are custom-built for fleet customers. As a result, accurate comparisons must be made in a way that provides a variety of models to benchmark against. Where clear comparables do not exist from the vendor/manufacturer, ZETA recommends determining “comparable size and use” if the vehicles have substantially the same body configuration, functional capacity based on volumetric and payload capacity, and intended use.

- 2. Section 45W(d)(3) provides that no § 45W credit is allowed with respect to any vehicle for which a credit was allowed under § 30D. What, if any, guidance is required to ensure that the allowance of credit under § 30D precludes the allowance of a credit under § 45W for the same vehicle?**

ZETA urges Treasury to require that IRS maintain a robust database of information regarding the taxpayer claiming a tax credit and to track vehicle identification numbers (VINs) to avoid duplication.

- 3. The definition of qualified commercial clean vehicle in § 45W(c)(1) contains several requirements including that the vehicle be made by a qualified manufacturer as required by § 30D(d)(1)(C), as amended by the IRA. What, if any, guidance is necessary for qualified manufacturers to comply with the requirements of § 45W(c)(1)?**

As required by statute, manufacturers who meet the definition of “qualified manufacturer” in 30D(d)(3), referenced in 30D(d)(1)(C), should also be considered qualified manufacturers for the purposes of Section 45W. ZETA also asks for clarification if qualified manufacturers may include those who retrofitted internal combustion vehicles to clean vehicles. In the case of retrofitted internal combustion vehicles, the VIN would not be an adequate tool to determine eligibility. Broad definitions of qualified manufacturers will grant taxpayers a wider variety of options to meet sustainability goals and reduce operating costs while accelerating transportation electrification.

- 4. Section 45W(c)(3)(A) requires that a qualified commercial clean vehicle must either (i) satisfy the requirements under § 30B(b)(3)(A) and (B) for being a new qualified fuel cell motor vehicle, or (ii) be propelled to a significant extent by an electric motor which draws electricity from a battery that has a capacity of not less than 15 kilowatt hours (or, in the case of a vehicle which has a gross vehicle weight rating of less than 14,000 pounds, 7 kilowatt hours) and is capable of being recharged from an external source of electricity. How should “significant extent” be defined for this purpose?**

ZETA urges Treasury to interpret the phrase “significant extent” to describe a vehicle that can operate solely on electric battery power at any time during its operation. Such an understanding will ensure that battery-powered vehicles models will qualify for the credit.

Section 30C: Alternative Fuel Vehicle Refueling Property Credit

- 1. Is guidance necessary to clarify the meaning of the term “property of a character subject to an allowance for depreciation” for purposes of § 30C?**

ZETA requests additional clarification with respect to this definition given its importance to calculating the amount of the section 30C credit. In particular, we urge Treasury to institute a broad definition of any such item to include any electric vehicle supply equipment (EVSE) that may need to be upgraded as the technology improves. Furthermore, Electric Vehicle Service Providers (EVSPs) face costs that are critical to installation projects even as they may be indirectly related to vehicle charging.

ZETA encourages Treasury to clarify that the definition includes all EVSE infrastructure that is essential and integral to the operation of the energy dispenser (discussed in more detail below), which can include items such as concrete pads, lighting, solar power generation, and batteries. Similar to Notice 2007-43, ZETA also urges Treasury to clarify that the language covers all costs required to be capitalized under federal tax principles, including indirect costs and the cost of installing the energy dispenser. Finally, we urge Treasury to institute a broad definition that includes EVSE capable of modifying an existing energy dispenser, as this is a technology that may be put in service in the future.

- 2. Section 30C(b) provides that the credit is allowed with respect to any single item of qualified alternative fuel vehicle refueling property. How should “single item” be defined for this purpose?**

Treasury should define “single item” uniformly with the definition of “port” in the Infrastructure Investments and Jobs Act’s National Electric Vehicle Infrastructure (NEVI) Formula Program’s proposed minimum standards. Under the proposal, a charging port is defined “as the system within a charger that charges one EV. A charging port may have

multiple connectors, but it can only provide power to charge [a single EV through one connector at a time](#).” In the case of a charging unit with two co-located energy dispensers or connectors which can simultaneously charge two vehicles, we encourage Treasury’s guidance to consider these as two distinct single items. Some equipment and infrastructure can be shared by two or more energy dispensers or connectors. For example, a location with multiple energy dispensers can be powered by the same equipment used to power the dispensers themselves. The definition of "port" under the NEVI Formula Program includes all upstream equipment and infrastructure and, in the case of shared items, the cost is divided amongst the ports it serves. ZETA urges the same approach under section 30C. Under this definition, the costs of shared infrastructure and equipment would be allocated to each charging port for the purpose of calculating the credit amount. This definition of "single item" also allows flexibility for variations in site and design characteristics. ZETA also urges Treasury to consider how it can future-proof its useability to apply to future technological developments while defining this term.

Furthermore, we ask that Treasury to define the credit allocation to include customer-funded equipment or utility system upgrades required to install one or more charging stations measured by one meter.

- 2. Section 30C(c)(2) provides that property does not fail to be qualified alternative fuel vehicle refueling property solely because such property is capable of charging the battery of a motor vehicle propelled by electricity, and allows discharging electricity from such battery to an electric load external to such motor vehicle. What factors and definitions should be considered in developing guidance for qualified alternative fuel vehicle refueling property that is also bidirectional charging equipment?**

Bidirectional charging equipment is an emerging technology and will develop over time; as such, any definition formulated should be flexible. Treasury should affirm, for example, that bidirectional charging equipment includes—but is not limited to—equipment that charges a motor vehicle’s battery, whether onboard the vehicle or stationary, even if such equipment can also be used to export electricity from a motor vehicle's battery for other beneficial uses.

- 3. Section 30C(e)(3) requires qualified alternative fuel vehicle refueling property to be placed in service in an eligible census tract. What guidance, if any, is needed to clarify the definition of eligible census tract?**

ZETA urges Treasury to provide a public, interactive map, accompanying list, and other necessary information so taxpayers can easily identify the location of eligible census tracts. Specifically, taxpayers should be able to enter an address and quickly determine if the location qualifies. Under the information available through a provided map, we request that Treasury share clear eligibility criteria for the census tract requirements. The information provided to the taxpayer should not restrict a taxpayer from making their own determination

of an eligible census tract qualification based on tax return findings and must be made available as soon as possible given Section 30C's effective date.

Treasury must also clarify the definition of eligible census tracts as it relates to urban areas. The statute defines an eligible census tract as any population census tract which is not an urban area. However, the Secretary of Commerce designates urban or rural areas by census blocks, not census tracts. In other words, a census tract can have many blocks, both urban and rural. The definition of eligible census tracts as it relates to urban areas is critical, as it will significantly impact how many taxpayers can access the tax credit. Unfortunately, the Secretary of Commerce has not yet released the results of its most recent decennial census. This release is expected this month.

The most recent designations of urban areas from the Secretary of Commerce are from 2010, making them outdated. Moreover, the Department of Commerce changed its 2010 methodology for determining which areas to designate as urban in 2020, so we request that Treasury use data from the forthcoming 2020 report to calculate an appropriate percentage threshold within a census tract to determine eligibility. Ultimately, ZETA encourages regulatory approaches that are supported by the statute and meet the legislative intent of incentivizing widespread charging infrastructure and maximizing access to the credit. However, until the 2020 data is released, it is difficult to make a specific recommendation on the most appropriate interpretation to be used in determining whether a census tract is urban.

Finally, ZETA urges Treasury to clarify whether the eligible census tract restriction applies to residential vehicle refueling property and urges flexibility designed to encourage residential charging.

Conclusion

ZETA appreciates the opportunity to provide this important feedback and stands ready and able to assist the Treasury and the IRS as they work through the guidance process on the qualified commercial clean vehicle credit and the alternative fuel vehicle refueling property credit.

Sincerely,



Joe Britton
Executive Director
Zero Emission Transportation Association