

**AS0067 – Anti-subsidy investigation concerning HVO from the U.S.**

**Additional Comments in Case AS0067**

**24 February 2026**

Diamond Green Diesel LLC (“DGD”) and Valero Energy Ltd (“VEL”) respectfully submit additional comments in relation to:

- (i) The Treasury and IRS Guidance on 45Z PTC and its potential impact on the Statement of Essential Facts (“SEF”) in case AS0067 - HVO originating in the United States of America (“AS0067”) of the Trade Remedies Authority (“TRA”) dated 28 November 2025;<sup>1</sup> and
- (ii) the comments submitted by the Renewable Transport Fuel Association (“RTFA”) on 19 December 2026.<sup>2</sup>

These comments supplement DGD and VEL’s previous submission on the SEF dated 29 December 2025 (“SEF Comments”). They are intended to inform the TRA of subsequent relevant developments and to address a specific point raised in the RTFA’s submission.

**1. NEW TREASURY AND IRS 45Z PTC GUIDANCE**

In the SEF, the TRA asserts that the Clean Fuel Production Credit (“CFPC” or “45Z PTC”) is a replacement subsidy programme for the Biodiesel Tax Credit (“BTC”), and that, due to ongoing development of IRS guidance, it is appropriate to suggest that the benefits under the 45Z PTC are potentially similar to those under the BTC:

*"318. The TRA also notes that IRS guidance on how the CPFC works, and therefore what the potential benefit would be, is still being developed. At this time, the TRA considers that as the CFPC is a replacement subsidy programme, it potentially has similar benefits to the BTC although acknowledging the programmes are not identical. Therefore, the TRA considers the CFPC to be a replacement programme for the BTC meaning that there is a continuing subsidy beyond the POI and given that, it is appropriate to use the verified data of the BTC to calculate the subsidy margins."*

As explained in SEF Comments, DGD and VEL respectfully disagree with the TRA’s assertion that the benefits under the 45Z PTC are similar to those under the BTC, or that the 45Z PTC is a replacement for the BTC.

The purpose of this submission is to address the TRA’s position that *"IRS guidance on how the CPFC works, and therefore what the potential benefit would be, is still being developed"*, which appears to have led the TRA to conclude that the 45Z PTC should be considered *"a replacement programme for the BTC"*.

In this respect, DGD and VEL wish to bring to the TRA’s attention the Notice of Proposed Rulemaking for the 45Z PTC (“NPRM”), published by the Treasury Department and IRS on 3 February 2026.<sup>3</sup> The NPRM provides additional operational details regarding the administration of the 45Z PTC and confirms the limited eligibility and level of benefits as compared to the BTC.

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<sup>1</sup> AS0067 – Statement of Essential Facts (28 November 2025), available [here](#).

<sup>2</sup> Available [here](#).

<sup>3</sup> See attached as Appendix I, or [here](#).

### 1.1 Treasury Department and IRS lack authority to amend 45Z PTC

DGD and VEL wish to underscore that the NPRM merely elaborates on legal acts of Congress. Treasury Department and IRS do not have the authority to make substantive amendments to the underlying law, including with respect to amounts, eligible feedstocks, or labour requirements. Accordingly, the absence of operational guidance cannot serve as a basis for the TRA to defer its obligation to assess the actual benefits conferred under the 45Z PTC. The statutory framework established by Congress – now further operationalised by the NPRM – is sufficient to enable a calculation of the benefits under the 45Z PTC.

### 1.2 Key clarifications under the NPRM

The NPRM confirms, among other matters, the strict eligibility criteria for feedstock,<sup>4</sup> carbon intensity,<sup>5</sup> and feedstock country of origin (i.e., that transportation fuel produced after 31 December 2025 must be exclusively derived from feedstock produced or grown in the U.S., Mexico, or Canada).<sup>6</sup> All of these requirements significantly limit the potential benefits under the 45Z PTC compared to the BTC, as explained in DGD and VEL's comments on the SEF of 29 December 2025.

The NPRM also provides the methodology for calculating lifecycle GHG emissions of fuels, determining the credit amount per gallon, and mechanisms for certification and documentation, including details of the 45ZCF-GREET model used to calculate the fuel's emissions rate.<sup>7</sup> Treasury Department and the IRS will annually publish an emissions rate table for each calendar year. The annual emissions rate table for calendar year 2025 was published in Notice 2025-11.<sup>8</sup>

The NPRM is open for public comment for 60 days, after which final regulations will be issued. Importantly, potential beneficiaries are already entitled to rely on the proposed regulations until the final regulations are published in the Federal Register.

### 1.3 Impact on AS0067 investigation

The NPRM confirms that the benefits available in relation to the goods concerned under the 45Z PTC are significantly lower than those under the BTC, due to limits on feedstock eligibility and carbon intensity penalties.

Accordingly, the publication of the NPRM further supports the determination that the benefits under the two schemes are not similar. It is therefore unequivocal that the 45Z PTC cannot be considered a replacement programme for the BTC, and the 45Z PTC warrants a separate assessment by the TRA.

## 2. TRADING OF TAX CREDITS

In the RTFA comments on the Statement of Essential Facts ("**RTFA Comments**") submitted on 19 December 2025, and published in the case file on 22 January 2026, the RTFA argues that in the context of 45Z PTC, "[s]everal US producers in 2025 have announced they have reached agreements to sell production tax credits to 3rd parties. This proves the system is functional and

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<sup>4</sup> Section 1.45Z-1(b)(34) of the NPRM.

<sup>5</sup> Section 1.45Z-2(c)(1) and Section 1.45Z-2(d)(1) of the NPRM.

<sup>6</sup> Section 1.45Z-4(f)(1) of the NPRM.

<sup>7</sup> Section 1.45Z-2(e) of the NPRM.

<sup>8</sup> Available [here](#).

*US producers are still able to claim a government subsidy, so without a measure injury to UK producers would still be caused. Press articles include:*

- [\*Darling Ingredients announces agreement to sell approximately \\$125 million in production tax credits\*](#)
- [\*Gevo North Dakota Sells Its Remaining 2025 45Z Production Tax Credits for \\$30 Million, Bringing the Contracted Total for the Year to \\$52 Million | Gevo, Inc.\*](#)

In this respect, we wish to note the following:

- It is not disputed that the 45Z PTC programme is operational. However, it is disputed that 45Z PTC is a countervailable subsidy that confers benefits for the goods concerned, and that it is a continuation of the BTC that offers benefits are at a similar level to those under the BTC. As such, the RTFA's submission does not add relevant information in this respect.
- The referenced article explains that Gevo North Dakota sold tax credits associated with the production of ethanol, therefore falling outside the scope of the goods concerned. Darling Ingredients' statement includes no information in this respect. [Confidential: commercially sensitive information]

Further, the trading of tax credits confirms that the benefits are quantifiable at this stage and the TRA has sufficient information to determine that the level of the benefits under the 45Z PTC.

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