December 2, 2022

VIA ELECTRONIC SUBMISSION AT: www.regulations.gov (IRS-2022-0058)

Office of the Associate Chief Counsel
U.S. Internal Revenue Service
CC: PA: LPD: PR (Notice 2022-58)
Room 5203
PO Box 7604
Ben Franklin Station
Washington, DC 20044

Re: *Notice 2022-58: Credits for clean hydrogen and clean fuel production*

Dear Sir or Madam:

Neste appreciates the opportunity to provide these comments regarding the anticipated guidance to implement the clean fuel production credit (CFPC) under § 45Z of the Internal Revenue Code (Code), as added by § 13704 of Public Law 117-169, 136 Stat. 2003 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA). Neste applauds the IRA's recognition that renewable fuels play a vital role in tackling the climate crisis. We support the legislation's extension of the "Blender's Tax Credit" as well as the creation of a separate tax credit for sustainable aviation fuel (SAF).The Treasury's interpretation and application of these statutory and other statutory provisions will be critical to transitioning to a low- or no greenhouse gas (GHG) emissions economy in a manner that meets the United States' international trade obligations.

INTRODUCTION

Neste is the world's largest producer of renewable diesel (RD) and sustainable aviation fuel (SAF). Our renewable fuels significantly reduce GHG emissions in the U.S.from medium and heavy-duty vehicles on the road and planes in the sky. Consistent with the IRA's goals, Neste aims to reduce carbon emissions by making our global production operations carbon-neutral by 2035.

Neste is a significant supplier of RD and SAF to the United States. Neste produced 3.21 million tons of renewable products in 2021 (or 1.2 billion U.S. gallons), with 35% of sales volume serving the North American market, helping U.S. businesses and cities reduce GHG emissions by around 3.8 million tons. Our California joint venture (Martinez Renewable Fuels) and significant investments in our Singapore and Rotterdam refineries will dramatically increase Neste's ability to supply the U.S. market with renewable fuels achieving up to 80% GHG emissions reductions on a lifecycle basis.

- A $1.7 billion investment to expand our Singapore refinery will increase Neste's renewable products production capacity by 1.3 million tons annually, bringing our total global renewable product capacity close to 4.5 million tons per year in 2023.
- The Singapore expansion will increase Neste's current SAF production capacity from 34 million gallons per year in 2021 to approximately 515 million gallons of SAF annually by the end of 2023.
- Neste's global SAF production capacity will grow to 750 million gallons per year in 2026 when we complete the expansion of our Rotterdam refinery.

As we expand our North American footprint, we are ready to continue boosting positive climate action and helping more cities and businesses reach climate goals. We believe we play a strategic role in providing a secure supply of cleaner fuels to the U.S. Neste is continually looking to make additional capital investments in the United States for both feedstocks and fuels through acquisitions, new construction, and/or partnerships, and we believe it is crucial to understand eligibility requirements associated with credit opportunities within the IRA and how the credit programs will be administered.

The Treasury Department's upcoming guidance should apply the broadest possible interpretation of "produced in the United States." Allowing U.S.-sourced feedstocks to satisfy the U.S. production requirement would promote the IRA's statutory objectives, create jobs, secure American consumers' uninterrupted access to competitively priced low-carbon fuels, and comply with existing international trade agreements.

Regarding SAF emissions rates, the guidance should confirm that any lifecycle GHG emissions model meeting the Clean Air Act's criteria is acceptable and that taxpayers can recoup investment to lower their fuel's carbon intensity by applying for a provisional emissions rate as soon as they have three months of production data to verify the carbon intensity calculation. At a minimum, Treasury's guidance should permit the use of Argonne National Laboratory's Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model for aviation transportation fuels. Rather than create additional supply chain traceability and information transmission requirements, Treasury can rely on the comprehensive reporting, recordkeeping, and product transfer requirements in the U.S. Environmental Protection Agency's (EPA's) Renewable Fuel Standard (RFS) regulations.

COMMENTS

I. "Produced in the United States" should be broadly construed.

Taxpayers should be able to satisfy the "produced in the United States" requirement by demonstrating *either* 25% percent of U.S.-sourced feedstocks are used in the production of transportation fuels or that production of finished fuel took place in the United States. Because feedstocks are an integral component of transportation fuels and only one step back from the finished fuel, it is appropriate for the Treasury Department to issue guidance that transportation fuels made with U.S. feedstocks satisfy the "produced in the United States" requirement.[1]

[1] Federal Trade Commission, *Complying with the Made in America Standard,* at p. 8 (The evaluation of whether a product is made in the U.S. includes raw materials).

A. An expansive interpretation achieves the IRA's statutory objectives

The IRA invests billions of dollars in climate and technology solutions to tackle the climate crisis.[2] The IRA's creation of a new SAF credit and the CFPC recognizes the importance of incentivizing renewable fuel production to immediately reduce carbon emissions. These tax incentives are critical to encouraging investments needed to combat climate change, lower energy costs, and create American jobs. To fully realize the IRA's statutory objectives, we request that Treasury's guidance confirm the use of U.S.-sourced feedstock on a mass balance[3] basis would satisfy the definition of "produced in the United States."

Renewable fuels produced today use a multitude of feedstocks, such as corn, soybean, algae, canola oil, cover crops oil, sugar cane, cottonseed oil, used cooking oil, tallow, distillers corn oil, distiller sorghum oil, waste fats from fish, poultry, and beef processing, switchgrass, municipal solid waste, and cellulosic biomass, to name a few. To scale the production of clean transportation fuels, especially SAF, requires access to as many feedstocks, technologies, and fuels as possible.

Refiners sourcing domestic feedstocks support U.S. jobs and contribute to energy security as much as U.S. producers that import low-cost feedstocks for domestic fuel production. Neste's acquisition of Mahoney Environmental, a collector and recycler of used cooking oil in the United States and headquartered in Illinois, and Agri Trading, an industry leader in trading animal fat waste, used cooking oil, technical corn oil, and other vegetable oils throughout the United States and headquartered in Minnesota, supports more than 500 well-paying jobs and secures domestically sourced feedstock used to produce RD and SAF.

Our U.S.-sourced fats, oil, and greases (FOG) feedstock will be refined into transportation fuels at our California, Singapore, Rotterdam, or Finland refineries. With Martinez Renewable Fuels coming online in 2023 and expanding our Singapore and Rotterdam refineries, Neste expects to increase its use of U.S.-sourced feedstocks and expand sales to the U.S. market. By taking a holistic view of the production process – from feedstock sourcing to final fuel blending – and allowing taxpayers to satisfy the "produced in the United States" by using U.S.-sourced feedstocks or manufacturing finished fuel in the United States, Neste and other global producers would be incentivized to

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[2] House Committee on the Budget, *A win for the people and our planet: How the Inflation Reduction Act lowers costs and acts on climate*. August 11, 2022.

[3] Mass balance is a well-known and accepted method of applying the law of conservation of mass to the renewable fuel production process to calculate, in this instance, the input mass of U.S.-sourced feedstock into the renewable fuel production process, which balances the mass of the output of finished transportation fuel. Given the number of different waste fats, oils, and greases feedstocks available globally, renewable fuel producers would need to apply mass balancing to their fuel production to precisely calculate the quantity of US-sourced feedstocks. The United States Environmental Protection Agency (EPA) permits renewable fuel producers to mass balance feedstocks to determine the emissions reductions and to calculate the renewable identification numbers (RINs) generated for a given batch of renewable fuels.

expand their transportation fuel supply to the United States, which could lower prices, increase use, and achieve more significant carbon reductions.

1. A broad interpretation is vital to scaling SAF production and achieving the SAF Grand Challenge's ambitious goals.

The SAF Grand Challenge sets the ambitious goal of annually producing three billion gallons of SAF by 2030 and attaining zero-carbon (35 billion gallons per year by 2050). The roadmap to achieve this goal acknowledges an early focus on commercially ready conversion technologies and feedstocks, most notably lipid-based pathways, to scale up the SAF industry for a viable path to the goal.[4]

With a current production capacity of 3.3 million tons per year, Neste is the world's largest producer of SAF from 100% waste and residues, including waste FOGs sourced from the United States. Neste supplies SAF to U.S. airlines and cargo companies using U.S.-sourced feedstocks, including United, American, Alaska, JetBlue, DHL, Southwest, Delta, WestJet, Signature Flight Support, and Avfuel. We also provide SAF to Los Angeles International airport , where we recently delivered 500,000 gallons, San Francisco International, Oakland International, and a limited supply to Dallas-Ft. Worth airports.

Expanding our Singapore refinery will increase Neste's SAF production capacity from 34 million gallons per year in 2021 to approximately 515 million gallons of SAF annually by the end of 2023. Our global SAF production capacity will grow to 750 million gallons per year in 2026 when we expand our Rotterdam refinery. With increased production, Neste expects to deliver higher volumes to the U.S. market.[5] Should Treasury guidance limit access to the CFPC to only those taxpayers manufacturing in the United States, global SAF manufacturers using U.S.-sourced feedstocks may find it difficult to supply the U.S. market. Furthermore, such restriction could impact existing U.S. blending and production partners. Without these secure supplies of SAF, efforts to reach the Grand Challenge's 3 billion gallon goal by 2030 will be undermined.

2. Foreign produced finished fuel that is feedstock for a U.S. facility meets the definition of "produced in the United States."

As discussed above, Neste sources U.S. feedstocks to produce renewable diesel in its California, Finland, Singapore, and Rotterdam refineries. Per an EPA-approved pathway, the Neste Porvoo

[4] Page ix of the SAF Grand Challenge Roadmap – Flight Plan for Sustainable Aviation Fuel, https://www.energy.gov/sites/default/files/2022-09/beto-saf-gc-roadmap-report-sept-2022.pdf, identifies critical actions in support of 2030 and 2050 production and GHG reduction goals. Key Actions To Support 2030 Production Given the limited time—less than eight years—to meet the 2030 goal requires an immediate focus on commercially ready conversion technologies and feedstocks. *Lipid-based pathways (fats, oils, and greases) are likely to be the primary fuel pathway leading up to 2030, with a minor contribution from waste, forest and agricultural residue, and alcohol pathways by 2030*." (Emphasis added).

[5] https://simpleflying.com/neste-500000-gallons-saf-lax-airport/

refinery produces renewable diesel (which is a transportation fuel) by hydrotreating biogenic fats, oils, and greases (FOGs) feedstock, much of it sourced from the United States. A U.S. company, Texmark, purchases renewable diesel from Neste Porvoo and fractionates the renewable diesel at their facility in Galena Park, Texas, to produce SAF, a product with a different use and name from the renewable diesel feedstock. Neste requests that the Treasury confirm that fractionating renewable diesel into SAF in the United States meets the statutory requirement of "produced in the United States." Such an interpretation is consistent with other provisions of the Internal Revenue Code.

Per Section 263A regulations, property produced for the taxpayer under a contract with another party is treated as property produced by the taxpayer to the extent that the taxpayer makes payments or otherwise incurs costs with respect to the property.[6] In general, courts and Treasury have determined that a taxpayer "produced" property under Section 263A where it is considered an owner of the property produced under federal income tax principles and it exercised a significant level of control over the production process.[7] Similar definitions were used in the IRC section 199 Domestic Production Activities program. Neste recommends that Treasury adopt similar broad definitions for the purpose of determining who is the producer of transportation fuel including an extension of the definition to producers that contract with third-parties to produce products where the producer controls and participates in the manufacturing process. Such clarity would allow for flexibility in the clean fuels production process by aligning with the commercial reality that some producers are not vertically integrated and instead rely to some extent on third-parties in the U.S. for key elements of the production process. A broad construction is also vital to supporting the SAF Grand Challenge.

B. A broad view of "produced in the United States" will ensure this credit does not jeopardize U.S. compliance with existing trade agreements.

As members of the World Trade Organization (WTO), Finland and the United States are subject to multiple trade agreements such as The General Agreement on Tariffs and Trade (GATT), The Agreement on Subsidies and Countervailing Measures (Subsidies Agreement), and the Agreement on Trade-Related Investment Measures (TRIMS). The United States also has a free trade agreement with Singapore. A narrow interpretation of "produced in the United States" that allows only domestic transportation fuel manufacturers to qualify for CFPC could run afoul of these existing trade obligations. Thus far, the European Union and South Korea have already voiced their concern.

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[6] Treas. Reg. § 1.263A-2(a)(1)(ii)(B)(2).

[7] See *Suzy's Zoo v. Comm'r*, 273 F.3d 875, 879 (9th Cir. 2001) holding that a taxpayer who exhibited a significant degree of control over the production process is the producer of the product even though it did not maintain the risk of loss throughout the production process.

1. The General Agreement on Tariffs and Trade (GATT)

The GATT sets forth fundamental principles governing international trade among WTO signatory countries. A bedrock principle established by GATT Article III is that each country accord “most favored nation” (MFN) status” and “national treatment” to imports as compared to its domestic goods. See Article III(4) ("[t]he products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.") This principle recognizes that all countries benefit from equal, non-discriminatory treatments of local and imported commodities.

If foreign producers using U.S. - sourced feedstocks are ineligible for the CFPC , then the credit would more broadly discriminate against transportation fuels to the detriment of the U.S. market and international trade. In the words of Article III, the CFPC would run afoul of the GATT by "affecting [the]… internal sale, offering for sale, purchase . . . distribution or use of transportation fuels "to afford protection to domestic production." Moreover, a limited interpretation of “produced in the United States” would violate the GATT by according imports of transportation fuel "treatment" that would be "less favorable than that accorded to like products of [U.S.] national origin in respect of all laws, regulations, and requirements . . . ."

While GATT Article III(8)(b) states the national treatment rule "shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges," the U.S. government cannot enact a "prohibited " or "actionable" subsidy in violation of the Subsidy Agreement.

2. The Subsidy Agreement

The Subsidy Agreement sets specific rules for using government subsidies and the application of remedies when those subsidies have adverse commercial effects. There is little question that the CFPC is a "subsidy." Article 1 of the Subsidies Agreement defines subsidy as (1) "a financial contribution by a government or any public body . . . or any form of income or price support" (2) where "a benefit is thereby conferred," including foregone government revenue (e.g., a tax credit). The CFPC is a tax credit (forgone government revenue) to taxpayers producing transportation fuels meeting specific emissions and sales requirements. However, to obtain the CFPC, fuels must be "produced in the United States." If Treasury’s guidance allows transportation fuel producers that use US-sourced feedstocks to qualify for the CFPC, then more entities could access the CFPC and adverse commercial impacts would be mitigated. Conversely, a narrow construction of the domestic manufacturing requirement to exclude foreign manufactured transportation fuels produced from U.S.-sourced feedstock would be a "specific" subsidy provided to U.S. transportation fuel producers that is prohibited and actionable under the Subsidies Agreement. In this instance,

- The PTC would be a “prohibited” subsidy under Article 3.1 because it is contingent "upon the use of domestic over imported goods,” specifically domestically manufactured

transportation fuels over imported ones. This so-called import substitution subsidy is forbidden per se regardless of a showing of harm to the parties producing the competing imported goods.

- The PTC would constitute an "actionable" subsidy under Article 5 because it would cause "adverse effects" or “serious prejudice” to the interests of Finland, a signatory country. Such adverse effects include injury to Finland's or Singapore's domestic industries that produce transportation fuels that could be imported into the United States.

3. Agreement on Trade-Related Investment Measures (TRIMS)

TRIMS generally prescribes "trade related investment measures" that discriminate in favor of the production or use of domestic products. Such measures are inconsistent with the provisions of GATT governing "National Treatment" (Article III) or addressing "Elimination of Quantitative Restrictions" (Article XI).

The Annex to TRIMS precludes trade-related investment measures that "are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III of GATT 1994." The Annex also prohibits domestic laws that require: "(a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products or terms of a proportion of volume or value of its local production." Granting a CFPC to only domestic transportation fuel manufacturers violates TRIMS by favoring investment in transportation fuel production facilities in the United States to the detriment of similar investments abroad.[8]

4. United States-Singapore Free Trade Agreement (SFTA)

The U.S.-Singapore Free Trade Agreement (SFTA) reaffirms the United States and Singapore's "existing rights and obligations with respect to each other under existing bilateral and multilateral agreements to which both Parties are party, including the WTO Agreement, SFTA Article 1.1. A narrow reading of the CFPC could violate the SFTA’s requirement that each Party “accord national treatment to the goods of the other Party per Article III of GATT 1994, including its interpretative notes." Article 2.1. The SFTA clarifies that the national treatment principle applies "to taxation measures to the same extent as GATT 1994 Article III." Section 21.3(3). Here, granting a subsidy in the form of the CFPC to U.S. manufacturers of transportation fuel would accord preferential tax treatment to U.S.-produced transportation fuel over imports from Singapore.

Neste Singapore currently supplies renewable diesel to the United States. After Neste Singapore’s expansion adds at least 340 million gallons of SAF production capacity by the end of 2023, it plans to make SAF sales to the U.S. market. Should Treasury prevent Neste from claiming the CFPC because the manufacturing process took place in Singapore despite using US-sourced feedstocks, then that construction may violate the SFTA's national treatment provision.

[8] While TRIMS also permits production subsidies under GATT Article III(8)(b), TRIMS would be violated if the subsidy constitutes a “prohibited” or “actionable” subsidy under the Subsidies Agreement. Because the CFPC is likely to be viewed as a subsidy under the Subsidies Agreement, it would also violate TRIMS.

As the agency responsible for interpreting statutory language, Treasury can diminish violations of these trade agreements by allowing taxpayers to demonstrate either they used 25% percent of U.S.-sourced feedstocks in producing transportation fuels or that manufacturing of the finished fuel occurred in the United States.

II. Establishment of an Emissions Rate for SAF

Treasury's request for comments seeks input on which lifecycle GHG emission calculation methodology. According to the IRA, SAF lifecycle GHG emissions calculation methodologies shall follow CORSIA or the Clean Air Act Section 211(o)(1)(H). The Clean Air Act Section 211(o)(1)(H) allows the use of any lifecycle model that (1) calculates the aggregate lifecycle emissions (including direct and indirect emissions such as emissions from land use changes) related to the fuel's entire lifecycle (from feedstock extraction or generation through the distribution and use of finished fuel), and (2) adjusts the mass values for all GHGs to account for their relative global warming potential satisfies Section 211(o)(1)(H).”

While Neste agrees that Argonne GREET should be allowed for LCA calculations for SAF credits since it incorporates direct and significant indirect emissions from land use changes for the full life cycle (from feedstock production through end use), Neste also proposes that Treasury rely on the plain language of the IRA and Clean Air Act to allow the use of any lifecycle emissions methodologies for SAF that meet the Clean Air Act Sect Section 45Z(b)(1)(B)(iii). Treasury's upcoming guidance should confirm that in calculating the SAF emissions rate, the Secretary may accept any lifecycle GHG emissions calculation methodology found by EPA and the Departments of Agriculture and Energy, to satisfy Section 211(o)(1)(H).

While clarity on Argonne GREET is needed immediately for both the Sustainable Aviation Fuel credit in 2023 and for the CFPC, we request that Treasury refrain from preparing a definitive list of methodologies until EPA, in consultation with the Departments of Agriculture and Energy, completes their assessment of lifecycle assessment methodologies. On February 28-March 1, 2022, EPA hosted a virtual workshop to solicit information on the current understanding of GHG modeling of land-based crop transportation fuels used in the transportation sector. The public also submitted written comments from March 1-April 1, 2022. EPA is currently comparing the models discussed and will publish results when available.

III. Provisional Emissions Rate

The credits available to fuel producers under the CFPC depend on a calculation of the total lifecycle carbon emissions of the production and use of a particular fuel. The credit amount is calculated by multiplying the applicable amount per gallon of transportation fuel produced at a qualified facility and sold during the taxable year by the fuel’s emissions factor, which is based on the fuel’s emissions rate. The emissions rate can be established by the Treasury Secretary (Section 45Z(b)(1)(B)(i)), or the taxpayer can apply for a provisional emissions rate (Section 45Z(b)(1)(D)). Neste recommends the guidance should include processes for: (1) the Secretary to develop specific

values for feedstocks and fuel types in setting the annual default values, and (2) taxpayers to petition for a provisional emissions rate.

Provisional emissions rates should be available for pathways not covered by Secretary's publication of annual default emissions rates for specified fuel types and feedstocks, and for producer-specific pathways where the producer can demonstrate better lifecycle emissions reductions than those published by the Secretary. A single default emissions rate set by the Secretary may not accurately reflect the carbon intensity of transportation fuels produced by a taxpayer. As fuel producers invest in feedstock research, technology, and process improvements to reduce their fuel's carbon intensity, they should be permitted to file a petition to promptly realize the benefits of their investments. Moreover, some renewable fuel producers use multiple feedstocks in varying proportions to produce a single fuel. It is unlikely a general default value for a fuel type would accurately reflect the carbon intensity of a specific fuel using multiple feedstocks in varying proportions. In those instances, the taxpayer should be allowed to petition for a provisional emissions rate.[9]

Neste suggests that taxpayers be permitted to petition for a provisional emission rate any time after the producer has three months of actual production data to verify carbon intensity values. This timing is similar to California's low-carbon fuel standard program. To minimize Treasury's regulatory burden, it could require verification of provisional emissions rates by a third party or accept taxpayer information documenting that the EPA or a state with a low carbon fuel standard approved the transportation fuel's pathway and the carbon intensity calculation using a compliant lifecycle GHG emissions calculation methodology (e.g., Argonne GREET, CORSIA, or any other methodology meeting the Clean Air Act criteria). For example, under the International Sustainability and Carbon Certification (ISCC) certification scheme, the ISCC approves qualified certification bodies (CBs), such as the SCS Global Services. These CBs validate the carbon intensity calculations and the underlying process data. To cover costs associated with Secretary's review and approval of a petition, Treasury may rely on the Independent Offices Appropriation Act to charge petitioners a fair and reasonable fee to review and approve the petition for a provisional emissions rate.[10] Allowing taxpayers to petition for a provisional emissions rate when a third party or U.S. regulator verifies the emissions rate using three months of production data encourages taxpayers to invest in new feedstocks, technology, and process improvements to lower their fuel's carbon intensity.

[9] EPA permits renewable fuel producers to generate RINs for a single fuel produced from multiple feedstocks, provided the producer follows the specified RIN generation formula. See 40 CFR § 80.1426(f)(3)(vi).

[10] 31 U.S.C. § 9701

IV. Special Rules

Section 45Z(f)(1) requires third-party compliance with supply chain traceability requirements and certification of SAF.

A. *Traceability*

The Treasury should rely on EPA's implementation and oversight of the Renewable Fuel Standard's (RFS) comprehensive reporting and recordkeeping requirements to ensure supply chain traceability. The RFS regulations require renewable fuel producers:

- Report to the EPA the types and quantities of feedstocks and production processes used to produce transportation fuel (40 CFR § 80.1451(b)(1)(ii);
- To retain records associated with feedstock purchases and transfers that identify the location of feedstocks production and verify that feedstocks are renewable biomass (40 CFR § 80.1454(d);
- Using planted trees, planted crops, tree residue, or crop residue to keep records demonstrating that the land from which the feedstock was obtained was cleared before December 19, 2007, and actively managed on December 19, 2007 (40 CFR § 80.1454(d)(2) and (3);
- Using separated yard waste, separate food waste, separated municipal solid waste, or biogenic waste oils/fats/greases to retain
    - Documents demonstrating the location of any establishment(s) from which the waste stream consisting solely of separated yard waste, separated food waste, or biogenic waste oils/fats/greases are collected (40 CFR § 80.1454(j)(1)); and
    - Contracts and documents memorializing the sale of paper, cardboard, plastics, rubber, textiles, metals, and glass separated from municipal solid waste for recycling and documents demonstrating the amounts by weight purchased of post-recycled separated yard and food waste for use as a feedstock in producing renewable fuel (40 CFR § 80.1454(j)(2)).

The RFS regulations also require renewable fuel producers to provide detailed product information in product transfer documents each time ownership of neat or blended renewable fuels is transferred (except for the final transfer to the end-user). 40 CFR § 80.1453. Rather than create another reporting and recordkeeping requirement, Treasury should depend on the RFS's exacting and detailed supply chain traceability and information transmission requirements to ensure the only compliant SAF received a CFPC. Neste recommends that Treasury's proposed regulations allow taxpayers to substantiate traceability using documentation created in accordance with existing regulatory requirements (e.g., RFS or LCFS programs). Imposing documentation or substantiation standards that do not currently exist in the ordinary course of business could

provide unduly burdensome requirements on taxpayers and ignore already available information that could achieve the same purpose.

B. *SAF Certification*

The IRA does not require that SAF be CORSIA-certified because that would negatively impact the quantity of SAF supplied to the United States.[11] Instead, producers must ensure their SAF is certified by a third party demonstrating compliance with requirements established under CORSIA.

Until the point at which neat SAF is blended, SAF producers using lifecycle GHG emissions using a methodology in accordance with CORSIA should be able to rely on any ICAO-approved third-party certification scheme, such as the Roundtable on Sustainable Biomaterials (RSB) and International Sustainability and Carbon Certification (ISCC), to demonstrate SAF certification.[12] For those SAF producers opting to demonstrate lifecycle GHG emissions reductions using a similar methodology meeting the Clean Air Act criteria, Treasury should accept SAF certifications from non-CORSIA, voluntary third party certification programs as defined by the European Union Renewable Energy Directive, such as ISCC EU, and EPA-approved Quality Assurance Program under the RFS or approved verification bodies under the California Low Carbon Fuel Standard.

We look forward to working with the Treasury Department and the IRS on this and other topics as it implements the Inflation Reduction Act.

Don't hesitate to contact me if you want additional information or have questions regarding our submission.

We appreciate your consideration.

/s/ Leslie Bellas

Federal Regulatory Affairs Manager
Neste US, Inc.

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[11] It is currently unclear whether bodies determining whether SAF is "CORSIA-certified" will allow SAF producers to generate renewable identification numbers (RINs) or low carbon fuel standard (LCFS) credits. Absent the ability to generate RINs or LCFS credits for CORSIA-certified SAF, these taxpayers may be more likely to sell their SAF to non-U.S. markets.

[12] Both RSB and ISCC operate ICAO-approved certification schemes demonstrating compliance with CORSIA requirements https://www.icao.int/environmental-protection/CORSIA/Documents/ICAO%20document%2004%20-%20Approved%20SCSs.pdf