



**ZERO EMISSION
TRANSPORTATION
ASSOCIATION**

February 16, 2024

United States Department of the Treasury
Internal Revenue Service
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: IRS Notice 2024-5

Section 45W Commercial Clean Vehicles and Incremental Cost for 2024

Submitted via Rulemaking Portal: <http://www.regulations.gov>.

The Zero Emission Transportation Association (ZETA) is an industry-backed coalition of more than 60 member companies advocating for 100% electric vehicle (EV) sales. ZETA is committed to enacting policies that drive EV adoption, create hundreds of thousands of jobs, dramatically improve public health, and significantly reduce emissions. Our coalition spans the entire EV supply chain including vehicle manufacturers, charging infrastructure manufacturers and network operators, battery manufacturers and recyclers, electricity providers, critical minerals producers, and fleet operators, among others.

We thank the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) for the opportunity to comment on its notice providing a safe harbor regarding the incremental cost of certain qualified commercial clean vehicles placed in service in calendar year 2024 for purposes of the qualified commercial clean vehicles credit under Section 45W of the Internal Revenue Code. The Section 45W Commercial Clean Vehicle Credit (45W) is a key tool to facilitate the deployment of commercial EVs across vehicle classes. As discussed further below, ZETA recommends that the Department of Energy (DOE) continue to model incremental costs for the current representative vehicle models for classes 1-3. However, we also recommend that IRS apply the highest incremental cost value among modeled representative vehicles to all vehicles within class 1-3, similar to the IRS and DOE approach to class 4-6 incremental cost methodology.

The current DOE incremental cost analysis methodology partitions class 1-3 vehicles into four sets of representative vehicle models: Compact cars, Midsize cars, Midsize SUVs, and Pickup trucks.^{1,2} These types of vehicles are predominantly marketed and leased to individual consumers. Therefore simplicity in 45W implementation should be paramount. Establishing 45W incremental costs that distinguish between these classes of vehicles will create variable 45W

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https://www.energy.gov/sites/default/files/2023-12/2023_12_18%20Incremental%20Purchase%20Cost%20Methodology%20and%20Results%20for%20Clean%20Vehicles%20pub%2012-2022%20amd%2012-2023%20Final_2.pdf

² 40 CFR § 600.315-08

incremental cost values as battery costs decline in future years. Such a differentiation in 45W credit incremental cost values is inconsistent with the binary approach taken with respect to the Section 30D New Clean Vehicle Credit, where the value credit is either \$7,500 or \$0, depending on manufacturer, vehicle, and purchaser qualification. Additional complexities in implementing 45W could create an unnecessarily complicated regime for the end consumer, potentially disincentivizing those who may be more inclined to lease an EV due to other reluctances with the technology.

In addition, as battery costs continue to decrease, differentiating 45W incremental cost values at the current level of granularity in class 1-3 vehicles also creates an incentive for manufacturers to produce larger, heavier vehicles in order to capture greater 45W value. There would be similar implications on the demand side as well since consumers could be incentivized to lease larger, heavier vehicles due to the higher incremental cost and corresponding value of the 45W credit. Such an outcome would exacerbate an existing vehicle size and weight growth trend - something the Environmental Protection Agency (EPA) is seeking to address through its proposed rule to set multi-pollutant emissions standards for model years 2027 and later light-duty and medium-duty vehicles.³ In the proposed rule, EPA seeks to flatten the slope of the light-duty vehicle footprint curves over the model year 2027-2032 timeframe: “In developing footprint curves for this proposal, EPA’s intent was to establish slopes that would not (of their own accord) initiate overall fleet upsizing or downsizing as a compliance strategy.”⁴ IRS and DOE’s current 45W incremental cost methodology contradicts this policy objective.

In the interest of streamlining 45W implementation and preventing the establishment of contradictory incentives, ZETA encourages IRS and DOE to modify the current approach to determining the incremental cost for class 1-3 vehicles to align with the approach currently taken for class 4-6 vehicles where a single incremental cost value is applied equally across each individual class for each representative vehicle modeled.

ZETA and its member companies thank you for your attention to these comments and are available should you have any questions.

Sincerely,



Albert Gore
Executive Director
Zero Emission Transportation Association

³ 88 Fed. Reg. 29184

⁴ 88 Fed. Reg. 29235