

United States Senate

WASHINGTON, DC 20510

October 27, 2023

The Honorable Danny Werfel
Commissioner of the Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Dear Commissioner Werfel,

Plastics, throughout their lifecycle, pose significant risks to human health and especially the communities that are on the frontline of production. If the lucrative tax credits available in the Inflation Reduction Act (IRA) are not implemented correctly, they have the potential to subsidize the plastics industry, including plastic-to-fuel facilities, and worsen the environmental harms caused by the industry. We are writing to urge the Internal Revenue Service to not allow fuels derived through petroleum products, especially plastic feedstocks, to qualify for the sustainable aviation fuel (SAF) tax credits available under IRA Section 40B Sustainable Aviation Fuel Credit (Section 40B credit) and IRA Section 45Z Clean Fuel Production Credit (Section 45Z credit).

Plastics are harmful from cradle to grave, including facilities that take plastic-based waste and refine it into chemicals used to make fuel, including aviation fuel. These facilities emit toxic air pollution, and produce chemicals that raise significant concerns from the communities that are exposed. The petrochemical industry is increasing development of such facilities, and is poised to accelerate those efforts in the United States. There have been numerous studies of the health of communities located near petrochemical facilities which have demonstrated the heightened risk of toxic chemical exposure and increased levels of health issues.^{1 2 3}

Companies are proposing to manufacture aviation fuel from sources that include significant amounts of plastic waste, and are claiming that it is sustainable. That is incorrect. These proposals involve gasification or pyrolysis refineries that process plastic waste into either synthetic gas or pyrolysis oils, and then turn those products into synthetic crude oil, which can then be used to make jet fuel. These energy-intensive processes produce significant greenhouse gas (GHG) emissions, and raise questions about the resultant chemicals found in the petroleum-derived fuels.

The plain language of the IRA is clear that petroleum products do not qualify for the SAF tax incentives, and that should disqualify plastic-based fuels. Both the Section 40B and Section 45Z credits include restrictions on the type of aviation fuel that is eligible to qualify for the tax incentives, and state that the fuel must not be “derived from . . . petroleum.” These fuels made from plastic concentrated feedstocks are derived from petroleum, because plastic is a petroleum product. Raw feedstocks most commonly derived from fossil fuels are a basic building block in the plastics manufacturing process. If plastic-derived waste is processed to create aviation fuel, it is still a petroleum-based product being used to create the fuel. Just because the petroleum has

¹ <https://sph.lsuhsce.edu/wp-content/uploads/2021/10/Fenceline-communities-and-Air-Pollution.pdf>

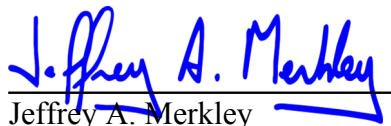
² <https://www.sciencedirect.com/science/article/pii/S2542519622000900?via%3Dihub#bib1>


³ <https://academic.oup.com/jncics/article/4/6/pkaa088/5919078?login=true>


gone through additional layers of processing does not change the reality that the end product is a petroleum-derived product.


In closing, we want to emphasize how important it is to get IRA implementation right, including these SAF tax incentives. Thanks to the clean energy investments made in the IRA, we have the opportunity to combat climate chaos through, in part, transitioning to sustainable fuels. However, we can't get there if the petroleum industry is allowed to obfuscate their products and take advantage of the generous SAF tax incentives available in the IRA.

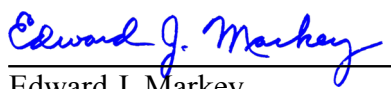
Sincerely,

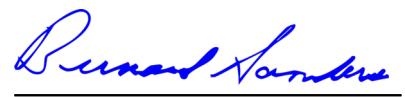

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