April 6, 2026

Hon. Scott Bessent
Secretary
Department of the Treasury
Hon. Frank Bisignano
Chief Executive Officer
Internal Revenue Service
CC:PA:01:PR (REG-121244-23)
Room 5503, P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Docket No. IRS-2026-0133-0001

Re: Clean Fuels Alliance America comments on the section 45Z Clean Fuel Production Credit Proposed Rulemaking

Secretary Bessent and Mr. Bisignano,

Clean Fuels Alliance America (Clean Fuels) is the U.S. trade association representing the entire biodiesel, renewable diesel, and sustainable aviation fuel supply chain, including producers, feedstock suppliers and fuel distributors. Made from an increasingly diverse mix of resources including soybean oil, canola oil, distillers corn oil, recycled cooking oil, and animal fats, clean fuels are a proven, integral part of America's energy future.

Clean Fuels welcomes the proposed regulations issued by the Treasury Department (Treasury) and the Internal Revenue Service (IRS) implementing the section 45Z Clean Fuel Production Credit[1] to implement the revisions enacted as part of the One Big Beautiful Bill Act (OBBBA).[2] While the credit has technically been available since January 2025, producers and farmers have struggled to capitalize on it with only minimal guidance. The Proposed Regulations accurately responds to taxpayer comments on the prior guidance

[1] Section 45Z Clean Fuel Production Credit. REG-121244-23, 91 Fed. Reg. 5160 (proposed Feb. 4, 2026) – https://www.federalregister.gov/d/2026-02246 (Proposed Regulations). Unless otherwise noted, all references to "section" or "§" are to the Internal Revenue Code of 1986, as amended (Code).
[2] Pub. L. 119-21 (July 4, 2025).

and provides additional certainty for the industry as we move forward with the formal rulemaking process.

While the Proposed Regulations provides much-needed market certainty for biodiesel and renewable diesel producers, Clean Fuels and its members request additional clarity in some areas as outlined below.

Production

The Proposed Regulations provide much-needed certainty with respect to the term "production" to ensure that eligibility for the section 45Z credit is limited to bona fide domestic fuel producers that are transforming feedstock into finished fuel. Clean Fuels and our members appreciate that the definition of "production" accurately clarifies that minimal processing would not qualify as production for purposes of the section 45Z credit. The clarification to appropriately prevent imported semi-finished fuels from claiming the credit for minimal processing or without chemical transformation is appreciated.

Qualified Sale "sold for use in a trade or business"

The Proposed Regulations appropriately reflect that sales between related persons that are ultimately sold to an unrelated person qualify under section 45Z. We ask that the final regulations adopt the clarification that the term "sold for use in a trade or business" includes the sale of fuel to an unrelated person that subsequently resells the fuel in its trade or business without further modifications.

Transportation Fuel

Clean Fuels appreciates the Proposed Regulations' clarity regarding "transportation fuel" as a fuel that is "suitable for use as a fuel in a highway vehicle or aircraft." We agree with the Proposed Regulations' interpretation of "suitable for use as a fuel in a highway vehicle or aircraft" (suitable for use) to mean that the fuel has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft, or may be blended into a fuel mixture that has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft. We support the inclusion of the additional language specifying that the actual use as a fuel in a highway vehicle or aircraft is not required. Clean Fuels also appreciates the inclusion of marine fuel as an example of eligible for use. In that same vein, we ask that Treasury also include renewable heating fuels (e.g., Bioheat® fuel) as an additional example of "transportation fuel" that are "suitable for use as a fuel in a highway vehicle or aircraft."[3] We ask that Treasury finalize the rule providing that eligibility for the section 45Z credit is determined at the time of production, based on whether the fuel is "suitable for use as a fuel in a highway vehicle or aircraft," regardless of its actual end use, benefiting producers that sell to industrial customers.

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[3] 168 Cong. Rec. S4165 (daily ed. Aug. 6, 2022) (colloquy between Sen. Margaret Hasson (D-NH) and Sen. Ron Wyden (D-OR), then-Chair of the Senate Finance Committee, in which Sen. Wyden confirms, "The credit is intended to incentivize production of biofuels of a certain quality, usable as fuel for highway vehicles or aircrafts, but not limited only to fuels which are actually used in highway vehicles or aircrafts.").

Moreover, Clean Fuels appreciates Treasury providing a clear statement of the statutory language in the Proposed Regulations that transportation fuel is "not derived from coprocessing an applicable material (or materials derived from an applicable material) with a feedstock which is not biomass." We ask that this provision be finalized without change.

Facility Ownership Not Required (Tolling)
Clean Fuels appreciates Treasury specifying there is no statutory requirement that the producer of the transportation fuel owns the qualified facility. We support the Proposed Regulations' clarification that a taxpayer is not required to own the qualified facility at which it produces transportation fuel for a section 45Z credit to be determined with respect to such fuel. We ask that Treasury specify that parties can determine through their tolling contract[4] or other legal arrangement how to allocate the credit for tax reporting purposes to allow for greater taxpayer flexibility. Further, providing specific examples in the final regulations would be beneficial in assuring taxpayers' full understanding of how the tolling relationship may work in practice by outlining an example of the party that can generate and/or sell the credit while under a tolling contract.

Emissions Rate, Rate Table and Permitted Methodologies
Clean Fuels supports the Proposed Regulations clear reflection of the statutory change in section 45Z(b)(1)(B)(iv)[5] to exclude emissions attributed to indirect land use changes (ILUC) for transportation fuel produced after December 31, 2025. We note that the emissions rate table referenced in the preamble to the Proposed Regulations only lists tallow under fats, oils, and greases.[6] To be consistent with the scope and intent of the Proposed Regulations, we recommend that the IRS Notice be revised either to define tallow to be inclusive of animal fats, or list individually tallow, choice white grease, and mixed animal fats. Additionally, in the forthcoming emissions rate table, we recommend that Treasury and the IRS clarify that all feedstocks currently listed may be sourced from all United States-Mexico-Canada Agreement (USMCA) countries.

While we appreciate that the Proposed Regulations provide taxpayers with optionality as it relates to the emissions rate table, we remain concerned that the proposed rule also states that taxpayers must use the emissions rate table in effect on the first day of their taxable year. As a result, the Proposed Regulations create conflict with Section 45Z(b)(1)(B)(iv), which requires emissions rates to be adjusted to exclude any emissions attributed to ILUC. This may result in some taxpayers' fiscal year ending before Treasury publishes an updated emissions rate table that removes ILUC. If the emission rate table is not updated and published before the end of a taxpayer's fiscal year, they will need to utilize an emissions rate table that continues to reflect ILUC penalties, despite statutory removal which could

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[4] In the context of clean-fuels production, "tolling" refers to a contractual agreement where a refinery processes raw feedstock into biodiesel for a fee, without taking ownership of the material.
[5] OBBBA § 70521(c)(1).
[6] IRS Notice 2025-11, 2025-6 I.R.B. 704 (Jan. 10, 2025).

also result in the taxpayer obtaining a lower credit value for fuel produced after December 31, 2025. This outcome would be inconsistent with Congressional intent as the statute requires ILUC exclusion beginning January 1, 2026, and it does not condition that requirement on the timing of Treasury updates.

45ZCF-GREET Model

We look forward to the updates to the United States Department of Agriculture's (USDA) Feedstock Carbon Intensity Calculator (USDA FD-CIC), which the preamble to the Proposed Regulations indicates will be forthcoming. Once it is available, we urge that the 45ZCF-GREET model be updated and made available to stakeholders as quickly as possible to provide certainty to U.S. biodiesel, renewable diesel, and SAF producers, which are adopting the OBBBA changes and planning to incorporate USDA's FD-CIC when finalized.

Indirect Land Use Change

The latest published 45ZCF-GREET model includes significant indirect emissions from land use, crop production, and livestock.[7] However, under the OBBBA changes, indirect land use change (ILUC) has now been excluded under section 45Z. Congress rightfully removed ILUC from determining the section 45Z credit value as it does not measure carbon emissions nor prevent actual land use change – it simply penalizes U.S. farmers and rural economies for this overseas risk. Without including this important update, U.S. agricultural feedstocks will be disadvantaged under the section 45Z production credit and U.S. clean fuel producers will not be able to maximize their credit value. We ask that Treasury ensure that the updated 45ZCF-GREET model eliminates ILUC from the calculation of the section 45Z credit as quickly as possible.

FD-CIC

Clean Fuels appreciates Treasury's commitment to incorporating USDA FD-CIC and allowing its application to fuel produced and sold in 2025 despite not being published until 2026. As noted in our previous comments to USDA regarding the inclusion of FD-CIC in the context of section 45Z, the final regulations should provide farmers with maximum flexibility to implement a wide range of practices based on what works best for their farm. Moreover, the final regulations and corresponding IRS guidance must ensure the credit does not exclude farmers from participating by imposing unnecessary red tape or overly prescriptive requirements.

Specifically, we recommend that all feedstocks used in approved fuel pathways under the Renewable Fuels Standard (RFS) program[8] should be considered by USDA in its analysis to quantify the emissions associated with regenerative agriculture practices. Additionally, feedstocks under individual RFS Completed Pathway Assessments should also be

[7] U.S. Department of Energy, *45ZCF-GREET: Section 45Z Clean Fuel Production Credit Model* (May 2025) – https://www.energy.gov/eere/greet.

[8] *See* 40 CFR part 80 subpart M.

considered. Other pathways should include intermediate oilseeds that may not yet have approved RFS pathways – such as winter canola and domesticated pennycress (e.g., CoverCress) – but are imperative to modeling efforts to take full advantage of regenerative agriculture.

In our aforementioned comments to USDA, we developed an initial list of 32 farming practices, which we recommended that USDA adopt.[9] The list serves as a foundation for applicable farming practices for biofuel feedstocks to take advantage of established programs and incentivize regenerative agriculture practices.

We recognize that there are additional farming practices that either are not in these reference documents or are emerging regenerative agriculture practices. As a result, our list would serve as an initial list of practices for consideration knowing that USDA is expected to expand the list of practices as more data becomes available.

Energy Attribute Certificates (EACs)

As the 45Z-CF GREET Model is finalized, we ask that Treasury and the IRS allow for the continued use of Energy Attribute Certificates (EACs) as part of the carbon intensity score calculation for biodiesel, renewable diesel, and sustainable aviation fuel with some modifications. The availability of the EAC system is important to cost effectively reduce the carbon intensity of clean fuels, accelerate their market demand, and unlock investment in sustainable infrastructure. As such, we recommend the following clarifications and revisions to the Proposed Regulations to further bolster this system and the tax credit.

First, the Proposed Regulations state that emissions accounting for EACs for electricity will follow similar rules to those under the regulations to section 45V, including rules on incrementality, geographic proximity, and time matching, unless otherwise specified by the 45ZCF-GREET model. As to the incrementality requirement, the Proposed Regulations tie the "placed in service" date to the first year that a facility produces a "transportation fuel." Under section 45Z, however, a fuel is only a "transportation fuel" if it has an emissions rate of 50 kg CO_2e/MMBtu or less, and emissions rates must be determined using the 45ZCF-GREET Model (for non-aviation fuel that is described in the 45ZCF-GREET Model). It is unclear how a taxpayer should determine the emissions rate of a facility for years prior to 45ZCF-GREET's release, assuming the taxpayer even has the necessary data to do so. This creates significant uncertainty for taxpayers and limits a taxpayer's ability retrospectively to apply any EACs that may have been acquired with respect to the relevant taxable year. Instead, the final regulations should use the date on which the facility first produced fuel "suitable for use" in a highway vehicle or aircraft, regardless of emissions rate, for emissions accounting purposes, which would provide a more workable standard.

[9] Clean Fuels Alliance America, comments on USDA Procedures for Quantification, Reporting, and Verification of Greenhouse Gas Emissions Associated with the Production of Domestic Agricultural Commodities Used as Biofuel Feedstocks, Docket No. USDA-2024-0003, (ID USDA-2024-0003-0118, posted July 25, 2024) – https://www.regulations.gov/comment/USDA-2024-0003-0118.

Section 1.45V-4(d) of the Proposed Regulations provides that after December 31, 2029, eligible EACs for electricity will be required to match the date and hour for the fuel produced. Should section 45Z be extended beyond 2029, this hourly matching requirement is impractical and overly burdensome for fuel producers. Under the terms of section 45Z, tax credits for any given year are calculated based on the *annual* average emissions rate for the fuel production facility. Hence, moving from the current annual matching requirement for electricity EACs to an hourly matching requirement is inconsistent as all other variables in the emissions rate calculation are based on annual inputs. Moreover, fuel production facilities do not currently track fuel production on an hourly basis – but would have to, should they need to match EAC purchases to actual fuel production operations, adding a significant unnecessary administrative burden. Increasing the requirements for electricity EACs would also constrain the EAC marketplace, while any additional third-party verification of appropriate EAC procurement would be an additional administrative burden.

Each of these implementation considerations would add substantial cost to employing electricity EACs without commensurate benefits in the fuel production. For the foregoing reasons, Clean Fuels recommends that Treasury make the requirement of annual matching for electricity EAC use permanent in the final regulations, which would continue its application should section 45Z be extended beyond 2029.

Renewable Natural Gas (RNG)
Similarly, the restrictions for using RNG in section 45V should not be applied to fuels produced under section 45Z as it would unnecessarily restrict the ability of fuel producers to reduce their emissions, which runs counter to the purposes of the clean fuels production credit. In particular, the final regulations should allow RNG that is intended for use as a process input by a clean-fuel producer, to be distributed and tracked through the natural gas commercial pipeline system under a mass balance approach. Taxpayers utilizing RNG as a process input could rely on the existing documentation and tracking system under the U.S. Environmental Protection Agency's RFS regime to establish sales and deliveries of RNG.

Lastly, the regulations under section 45V also require verification by a "qualified verifier," while the Proposed Regulations require certification by a qualified certifier with similar but not identical requirements.[10] This inconsistency creates significant uncertainty and confusion for taxpayers where the Proposed Regulations would impose requirements by cross-referencing section 45V without considering the variations between the two credits. Accordingly, we recommend that the final regulations clarify that the use and retirement of EACs should be verified by a qualified certifier, as defined in Proposed Regulation section 1.45Z-5(b)(3), and they should expressly state that a separate verification report by a "qualified verifier" is not necessary.

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[10] Prop. Treas. Reg. § 1.45Z-5(b).

Pro-Rata Allocation
The Proposed Regulations provides that taxpayers selling transportation fuel that is held in common storage with other fuels that have different emissions rates are treated as selling a pro-rata portion of each fuel produced after December 31, 2024, and held in such common storage. However, as a practical matter, terminals traditionally will commingle fuel from different company production facilities (qualified and unqualified), as well as products from other companies. When fuel from different companies is commingled, the pro-rata calculation gets exponentially more complicated. The result is that the producer will be able to claim only a percentage of the earned credit.

We recommend that the section 45Z credit be available for its full value – as it is intended to be a production credit – based on the amount of qualified fuel that is actually produced rather than being dependent on whether it is comingled with other fuel with which it is stored. This result is especially important given that the producer frequently has no control over what other fuel might be stored in the same terminal.

Qualified Facility
The Proposed Regulations would define a "qualified facility'' as a single production line that produces a transportation fuel and would include all components that function interdependently to produce a transportation fuel. We recommend that the single production line be clarified to mean all steps in the production process of transportation fuel only, but not the production of any feedstock.

In the case of biodiesel, the single production line would begin with the transesterification process, and any processing or purification of soybeans or soybean oil prior to the transesterification process should be treated as the production or purification of the feedstock – i.e., U.S. soybean oil – and not part of the fuel production process.

Further, "refinement" should also be excluded from the definition of a qualified facility, as it is the purification of soybean oil to ready it for transesterification – the pathway for biodiesel, not the actual production of biodiesel.

We recommend that clarifying language be added in the final regulations along with an example, such as the one below, to dispel ambiguity as it applies to section 45Z.

> Example: Soybean oil extraction (i.e., crush) and purification of soybean oil to ready it for transesterification is excluded from the definition of a qualified facility, because it is the production of the feedstock.

Prevailing Wage and Apprenticeship
The ambiguity around the "qualified facility" definition also interacts with the prevailing-wage and apprenticeship (PWA) requirements as they apply under section 45Z. For example, if PWA applies only after the point at which the refined feedstock is introduced into the biofuel production facility, it would be consistent for all aspects of various

biodiesel producers, feedstocks, and facilities. However, if the PWA requirement applies to integrated biodiesel facilities at the front gate of the oilseed crush plant, how does that align with PWA requirements for another producer buying refined oil from an outside party? Such inconsistences between integrated and non-integrated fuel producers will create confusion among taxpayers and increase compliance costs and burdens. For example, without clarification, an integrated biodiesel facility that must comply with the PWA requirements at the production gate will be subject to additional regulatory requirements and scrutiny that would not be the case for facilities that purchase soybean oil from an unrelated oilseed processor, which is not subject to PWA requirements.

Another area in which clarity of the PWA requirements would reduce compliance burdens and increase certainty relates to the definition of "alteration or repair." While the PWA rules generally rely on precedents from the Department of Labor for the application of prevailing wage mandates, those rules do not align well with the tax rules for repairs and maintenance under sections 162 and 263 of the Code.

Biodiesel, renewable diesel, and sustainable aviation fuel facilities must be actively maintained on both a daily and routine basis and many parts are subject to periodic replacement protocols. For example, many parts have a commonly accepted useful life but are typically replaced only when they fail, which avoids incurring the significant waste and capital cost of procuring replacement parts before they are necessary. While the labor-law definition of maintenance is so narrow as to classify many of these regular maintenance activities as a "repair," this expenditure typically would not prolong the useful life or otherwise constitute an improvement to the equipment or facility that would preclude such costs from being currently deductible under normal tax principles.

Accordingly, we recommend that Treasury further refine the definition of "alteration or repair" under the PWA rules to align with long-standing tax principles. This could be achieved by clarifying that "maintenance" is treated as amounts that would not be capitalized to the qualified facility, and "repair or alteration" includes only costs that may be capitalized to the qualified facility, in each case, under existing income tax capitalization requirements.

Provisional Emissions Rate (PER)

Clean Fuels appreciates Treasury's effort to ensure there will be a PER process for fuel producers that are not building new facilities but plan to generate fuel using novel feedstocks that are not yet recognized in 45Z-CF GREET, including winter canola oil and brown grease. A PER option that allows additional feedstocks to generate fuels qualifying for the section 45Z credit can create important additional market opportunities for farmers.

We urge Treasury and the IRS to work with the Department of Energy (DOE) to provide a PER process for the section 45Z credit, along with guidance and procedures for submitting emissions value requests. We recommend that the PER process does not require Class 3 Front-End Engineering and Design (FEED) studies when the applicant is not building new

facilities but rather plans to produce qualifying fuel using novel feedstocks that results in an emissions rate not yet captured in 45ZCF-GREET model.

Specific Recordkeeping and Substantiation Requirements
We strongly support the qualified sale certificate safe harbor provided in the Proposed Regulations as it provides much-needed certainty for taxpayers. However, the proposed model certificate for qualifying sales only references use "in a trade or business" without specifying that resale qualifies or that the fuel may be used in non-transportation applications. We recommend that the final regulations revise the requirement to read: “Used by Purchaser in a trade or business whether or not used as a ‘fuel’ and including for resale,” which would provide further certainty to producers.

Additionally, as currently written, the Proposed Regulations lack clarity on how taxpayers can demonstrate that they made qualified sales prior to the publication of the Proposed Regulations. We recommend that the final regulations include a safe harbor provision that specifies that qualified sales, including both fuel sold and sales agreements entered into, prior to the publication of the Proposed Regulations, may use the same qualified-sale model certificate as outlined in the Proposed Regulations. Further, we suggest that final regulations require a once-a-year certification, covering a calendar year, regardless of when the qualified-sale certificate was executed to avoid inadvertent gaps in reporting.

Foreign Feedstocks Including Used Cooking Oil
Clean Fuels recommends that the final regulations allow fuel producers in compliance with the EPA’s RFS program to use their existing recordkeeping and traceability requirements under the RFS to meet any requirements for tracking the source of feedstocks. Using existing industry practices to track feedstock sources would mitigate potential taxpayer burden while improving administrability for the IRS. The RFS has significant civil and criminal penalties for anyone found to be in violation by either importing fraudulent feedstock or generating Renewable Identification Numbers (RINs) on fraudulent feedstocks. Therefore, to ensure the validity of foreign feedstocks, in accordance with Congressional intent, we recommend that the final regulations utilize the existing RFS recordkeeping and traceability requirements to enforce the limitation on the use of used cooking oil under section 45Z.

The notice of proposed rulemaking requested information on whether there are any methods that would indicate a geographic location where seeds originated or crops were grown as a precursor for use as cooking oil. Clean Fuels and its member companies are unaware of any method that would provide this information.

Proposed Applicability Dates and Reliance
Clean Fuels appreciates the safe harbors and reliance clauses included in the Proposed Regulations. However, some uncertainty remains regarding which provisions that can be applied to particular tax years, due to OBBBA’s modifications to the original section 45Z credit and the different dates of enactment and reliance dates for certain provisions. For

example, reliance is allowed for qualified sales, but it remains uncertain if the provisions of the Proposed Regulations apply to qualified sales in calendar year 2026 or if a taxpayer may apply them to calendar year 2025, when section 45Z took effect. We ask that the final regulations provide more specificity on the look-back provisions to allow producers of fuel in 2025 to claim credit for their qualified sales as Congress intended.

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Clean Fuels and its members look forward to working with Treasury and the IRS to finalize the section 45Z regulations to support renewed growth for biodiesel and renewable diesel producers. The biodiesel, renewable diesel, and SAF industry has proven its ability to meet America's demand for secure, affordable transportation fuels and to generate jobs and prosperity for our rural economy. Further, finalizing the regulations for section 45Z advances the Administration's goals for American-made energy as outlined in the President's January 20, 2025, Executive Orders.[11]

Thank you in advance for your consideration of these comments. We appreciate the opportunity to provide our input on the Proposed Regulations and would welcome the opportunity to meet with Treasury and the IRS to discuss them in greater detail or to answer any questions that you may have.

Respectfully submitted,

Kurt Kovarik
Vice President, Federal Affairs
Clean Fuels Alliance America

[11] Exec. Order No. 14154, 90 Fed. Reg. 8353 (published Jan. 29, 2025) and Exec. Order No. 14156, 90 Fed. Reg. 8433 (published Jan. 29, 2025).