

April 6, 2026

Re: Section 45Z Clean Fuel Production Credit; Proposed Rule

Docket No.: REG-121244-23

Dear Secretary Scott Bessent,

Green Scissors is a coalition of environmental and taxpayer advocates. For 30 years, the coalition has worked to reduce and eliminate wasteful and environmentally harmful government spending. It is in this spirit of fiscal and environmental responsibility that we submit these comments regarding the 45Z Clean Fuels Production Credit.

This rule implements changes to the tax credit that were passed into law through the One Big Beautiful Bill Act in 2025, which are estimated to add over \$25.7 billion in taxpayer costs to this already significant tax credit. We are deeply concerned about the risk of the 45Z credit siphoning billions of taxpayer funds into biofuel production that harms the environment and emits higher levels of emissions than are allowable under this incentive.

We are therefore supportive of the steps that Treasury and the IRS have taken to curtail some of the potential for abuse of this tax credit. Prohibiting allegedly “carbon negative” feedstocks, excluding manure biogas, is an important clarification to the OBBBA language that establishes that manure biogas is the only fuel eligible for a “negative” emissions value. While we have serious doubts about manure biogas claims of “negative” emission, we support the Treasury and IRS rulemaking to prohibit other types of biofuels from making similarly dubious claims.

Treasury and the IRS’s proposed rule to require biofuel producers to use the most recent modeling available at the beginning of the tax year is also an important step to prevent abuse of taxpayer funding. Biofuel producers should not be able to claim outsized subsidies based on outdated science. However, if the model is updated mid-year, we do not believe that biofuel producers should be able to pick and choose whatever version benefits them the most. We urge Treasury and the IRS to require claimants to use the most up-to-date version of emissions modeling, without exception.

We also support Treasury and the IRS rejecting provisional emissions rates (PER) applications for biofuel production that is based on a facility rather than a category of fuel. Allowing producers to claim special rates based only on their boutique data of facility-level emissions would open this tax credit to significant abuse.

However, despite the steps Treasury and IRS have taken, there are several worrying provisions in this proposed rule that risk high levels of abuse by allowing biofuel producers to misconstrue their actual emissions and claim higher levels of subsidization than they are due.

The 45Z credit was designed to incentivize biofuel producers to lower their emissions. By allowing producers to purchase energy attribute certificates (EAC), Treasury and the IRS are allowing producers to profit by seeking out cheap and questionable offset credits without truly changing the emissions of their biofuel production. Although Treasury and the IRS propose applying similar guardrails to the EAC offsets as the 45V hydrogen tax credit, this draft rulemaking does not provide enough clarity about how these will translate for biofuel production. There are significant risks of fraud with these EAC offsets, and while we believe that these offsets should not be subsidized through the 45Z tax credit at all, we urge the Treasury and the IRS to pause their consideration of EACs until the Agency is able to better flesh out guardrails in a follow-up rulemaking.

Finally, Treasury and IRS's proposal to allow biofuel producers to cherry-pick between energy tax credits that are prohibited from stacking under the Inflation Reduction Act is not aligned with other similar rulemakings. For example, Treasury and the IRS's final rules for the 45V and 45Y tax credits clearly stated that facilities were not eligible for claiming the credit if another credit prohibited from stacking in IRA, such as 45Q, had been claimed in that or any prior taxable years. This was an important guardrail, as these subsidies are intended to support new production of low carbon fuels that supposedly requires taxpayer support to be competitive, not reward blatant profit-seeking behavior. We urge Treasury and the IRS to align the 45Z coordination with other credits with similar language in their other IRA tax credit rules, by ensuring that facilities are only eligible for 45Z if they have not claimed 45Q, 45V, or the 48(a)(15) tax credits in the same or any prior tax years.

We thank you for this opportunity to submit comments and hope that Treasury and IRS ensure that the 45Z credit is protected from abuse in the final rule.

Respectfully,

Friends the Earth
R Street Institute
Taxpayers for Common Sense
Environment America
U.S. PIRG