

BCSE Comments on the Clean Fuel Production Tax Credit Proposed Regulations, Section 45Z

April 6, 2026

The Business Council for Sustainable Energy (BCSE) respectfully submits comments to the U.S. Department of the Treasury and the Internal Revenue Service (IRS) regarding the proposed regulations implementing Section 45Z of the Internal Revenue Code, the Clean Fuel Production Tax Credit (REG-121244-23).

Section 45Z, enacted under the Inflation Reduction Act and subsequently amended, establishes a technology-neutral, production-based tax credit for clean transportation fuels produced domestically and sold between 2025 and 2029. The proposed regulations provide detailed rules for eligibility, lifecycle greenhouse gas (GHG) emissions accounting, credit calculation, registration, and compliance.

BCSE supports the Administration's efforts to implement Section 45Z and clear guidance is essential to enable project financing, reduce compliance risk, and support deployment at scale.

Projects eligible for the Section 45Z credit are being developed and financed today. BCSE urges Treasury and the IRS to finalize key elements of the rule expeditiously and ensure that taxpayers can rely on guidance in effect at the time of investment decisions. Regulatory certainty is critical to maintaining investment signals and supporting domestic energy supply growth.

The comments that follow provide general perspectives on the proposed rule. BCSE encourages the Department of Treasury and IRS to review the more detailed comments submitted by the American Biogas Council, the Biomass Power Association, the RNG Coalition and Gevo for more detailed and technical information in response to the proposal.

45Z and the GREET Model

BCSE supports the use of a standardized lifecycle emissions framework, but the agencies should ensure that the selected methodology works for the real-world range of clean fuel pathways now operating and under development. The proposed rule would require use of 45ZCF-GREET as the successor model for non-SAF fuels and explains that Treasury and the IRS view that model as better tailored than R&D GREET for tax administration. At the same time, it is noted that the R&D GREET already models certain pathways and mixed-feedstock project configurations that may not yet be fully reflected in 45ZCF-GREET. BCSE therefore recommends that Treasury and DOE make clear that 45ZCF-GREET must be updated on a continuous and transparent basis so that it captures commercially relevant fuel pathways without undue delay.

In particular, BCSE recommends that Treasury and DOE prioritize updates that address RNG derived from mixed feedstocks, including projects that combine animal manure with food waste or other organic materials. Mixed-feedstock projects can be modeled in R&D GREET and are often central to project viability in rural communities, especially where smaller livestock operations cannot support a manure-only project on a commercial scale. If 45ZCF-GREET does not promptly incorporate those pathways, the rule could understate emissions performance, distort credit values, and discourage projects that Congress intended to support.

BCSE also recommends that Treasury preserve flexibility when the emissions-rate table does not yet include a relevant fuel category. The proposed rule appropriately provides that if an allowed methodology is updated during the calendar year to add a type or category of fuel, that fuel is treated as included in the applicable

emissions-rate table for the full year. That principle should be retained and supplemented with a more efficient pathway-update process and a streamlined Per Review Process (PER) process so that taxpayers are not penalized while waiting for DOE to incorporate additional RNG pathways.

Of note, BCSE supports the Treasury Department's inclusion of procedures describing the process for requesting PER determination. The establishment of a clear and administrable PER framework is a critical step in providing regulatory certainty for fuels and production pathways that are not yet incorporated into the 45ZCF-GREET model.

More broadly, BCSE encourages Treasury to avoid importing the 45V Clean Hydrogen Production Tax Credit accounting constructs into Section 45Z in a way that restricts legitimate clean fuel use cases, including RNG.

Specifically, there are concerns with the proposed treatment of 'natural gas alternatives (as a production input or as the transportation fuel produced)' and argues that the 45ZCF-GREET guidelines should be revised, and the model updated if necessary, so that RNG accounting reflects the commercial pipeline system and established verification practices rather than a rigid point-to-point delivery construct.

Treasury should clarify that 45Z can be claimed for alternative natural gas that is subsequently used as a process energy for another fuel that claims 45Z. Allowing alternative gaseous fuels to qualify as process energy inputs is critical to ensuring that 45Z achieves its full potential. Gaseous fuels are an essential input in many industrial and fuel production pathways. Providing clear and explicit eligibility for RNG as a process fuel will support investment in the U.S. agricultural sector, waste-to-energy and methane abatement projects, and align 45Z implementation with existing market practices for environmental attribute accounting. Absent such clarity, developers may face uncertainty that discourages deployment and limits the ability of the credit to drive energy production.

Additional RNG Considerations

BCSE supports the proposed rule's general approach of treating the processor that upgrades raw biogas into pipeline-quality gas as the producer, rather than a downstream compressor. BCSE also supports the proposed rule's recognition that RNG can qualify once it is interchangeable with fossil natural gas, but believes additional clarification is needed on distribution and accounting rules so that the final regulations align with how RNG is actually produced, transported, and used in the market.

Alternative Natural Gas as a Process Energy Input

Treasury should clarify that 45Z can be claimed for alternative natural gas that is subsequently used as a process energy for another fuel that claims 45Z. Allowing alternative gaseous fuels to qualify as process energy inputs is critical to ensuring that 45Z achieves its full potential. Gaseous fuels are an essential input in many industrial and fuel production pathways. Providing clear and explicit eligibility for RNG as a process fuel will support investment in the U.S. agricultural sector, waste-to-energy and methane abatement projects, and align 45Z implementation with existing market practices for environmental attribute accounting. Absent such clarity, developers may face uncertainty that discourages deployment and limits the ability of the credit to drive energy production.

Qualified Sales Definition

BCSE supports the revisions to the definition of “qualified sale” in from the draft proposed definition of “qualifying sales” issued in January 2025. These revisions recognize that qualifying sales may include those done through intermediaries, such as marketers, brokers, resellers and related entities. This is consistent with Congressional intent to give the Treasury Department specific authority to “prescribe additional related person rules,” including rules for related persons with respect to which the taxpayer has reason to believe will sell fuel to an unrelated person in a qualifying sale.

Mass Balance Approach

BCSE recommends that Treasury explicitly affirm the use of a mass balance approach to substantiate delivery and use of RNG for Section 45Z purposes. RNG is commonly transported through the commercial natural gas pipeline network rather than through dedicated physical pathways from a specific production facility to a specific end user. A mass balance framework is therefore the most practical way to connect the environmental attributes of RNG production with downstream transportation fuel use or use as a production input, while still allowing for rigorous auditing and verification.

A workable mass balance framework should allow taxpayers to rely on contractual nominations, meter data, pipeline receipts and deliveries, book-and-claim records where appropriate, and third-party verified tracking systems similar to those already used under other fuel programs. Treasury should confirm that a taxpayer may demonstrate a valid chain of custody through aggregated pipeline accounting over a defined period, so long as the taxpayer can show that corresponding volumes of qualifying RNG were injected, transferred, and ultimately claimed only once.

Agricultural Production Practices

BCSE appreciates Treasury and IRS providing an overview of the actions required to fully include emissions reductions from agriculture feedstock production practices in 45Z and stating Treasury’s intent. As such, the Council urges Treasury and IRS to complete the following regulatory actions to enable the delivery of the full benefits of Section 45Z to farmers who are implementing feedstock production practices.

First, we ask Treasury and IRS to work with USDA to transmit and process the final version of USDA’s Feedstock Carbon Intensity Calculator (USDA FD-CIC) through Office and Management and Budget (OMB) review for publication of the final version of USDA FD-CIC.

Following publication of the final version of USDA FD-CIC, Treasury must direct the DOE to include a Section 45Z-specific version of the Feedstock Carbon Intensity Calculator (FD-CIC) module as an input in DOE’s 45ZCF-GREET model. Following DOE adding the 45ZCF FD-CIC module as an input, fuel producers can then use it to calculate carbon intensity adjustments under 45Z for feedstocks they use that are produced with value-adding agriculture production practices, such as no-till, strip till, cover crops and advanced nutrient management. Fuel producers can use the results of the 45ZCF FD-CIC, without the unnecessary requirement to bundle use of practices included with the former Section 40B pilot program, to inform their fuel emissions rates calculated under the 45ZCF-GREET model.

Finally, Treasury and IRS stated that adoption of 45ZCF FD-CIC is expected to entail additional requirements for use, such as agriculture practice standards, recordkeeping and verification. USDA's technical guidelines for crops used as biofuel feedstocks at [7 CFR 2100, subparts D, E, and F](#) offer Treasury and IRS readily available guidance for these requirements in coordination with 45ZCF FD-CIC. In finalizing the proposed rule, the Council urges the Treasury Department and IRS to incorporate these USDA technical guidelines by reference so that taxpayers may begin utilizing USDA FD-CIC, and later 45ZCF FD-CIC, immediately upon the finalization of those modules without any further action needed from the IRS.

In addition, it is critical to note that farmers are planting crops now that will be harvested in the fall of 2026 and used in fuels produced and sold in 2027, but they do not know which production practices they use this year will be creditable under Section 45Z or which records might be required. Treasury rules should allow feedstock suppliers who implemented value adding agriculture production practices and fuel producers who used feedstock grown with those practices prior to publication of final Section 45Z rules to use attestations or other records to demonstrate use of those practices and benefits.

Double Counting and Fuel Eligibility

Treasury should include provisions to allow feedstocks like RNG and ethanol to be used to produce SAF so that SAF producers are able to claim the credit in a manner consistent with Congressional intent and the statute.

As such, Treasury and IRS could also consider options to provide the marketplace with flexibility to use fuel as a "primary feedstock," while ensuring against double counting. To do so, Treasury and IRS could look to language that was in the draft proposed regulations in Notice 2025-10 (at 14) that would have provided that a qualified sale does not include "*a sale ... for further processing, including use as a primary feedstock to produce another fuel.*" A similar restriction in the proposed rule would protect against a double credit consistent with the statute. This change would give the industry flexibility to sell fuel as a primary feedstock in the appropriate circumstances without risking double credit for the same gallon of fuel. A certification from the feedstock producer that the "fuel" is only being sold for use as a feedstock could also be required to track compliance.

Renewable Energy Certificates (REC) Use

The Proposed Rule permits the use of renewable energy certificates (RECs) for electricity sourcing and applies eligibility rules "similar" to those under Section 45V. This represents a meaningful and constructive development as it recognizes the role of contracted clean electricity in enabling lower lifecycle emissions. As noted above, BCSE supports the inclusion of this flexibility, however, opposes the importation of Section 45V-style restrictions into the 45Z framework.

Thank you for the opportunity to share the BCSE's views and the Council looks forward to continuing to work with the Treasury Department to implement Section 45Z Clean Fuel Production Tax Credit.