



## MEMORANDUM

To: Growth Energy Members  
From: Growth Energy Policy, Legal, and Regulatory Team  
Date: May 31, 2024

### RE: IRS GUIDANCE ON NECESSARY 45Z REGISTRATION

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On May 31, 2024, the Internal Revenue Service (IRS) and the Treasury Department issued guidance on registration requirements for producers intending to claim the section 45Z tax incentive, known also as the Clean Fuel Production Credit.

Most importantly, **ethanol producers who want to be eligible to claim 45Z for either SAF or non-SAF fuels production at the start of the 45Z credit period beginning on January 1, 2025, need to have completed the registration for IRS form 637 before July 15 to allow IRS to process your registration request.** IRS states that if you have not completed the registration by July 15, your eligibility for the 45Z credit could be delayed. The 45Z legal language in the IRA requires that a taxpayer must have a signed registration letter from the IRS dated on or before January 1, 2025, for the taxpayer to be eligible to claim the 45Z credit for production starting January 1, 2025.

**Registration form (pending an update):** [Form 637 \(Rev. December 2022\) \(irs.gov\)](#)

**Information on form 637:** [About Form 637, Application for Registration \(For Certain Excise Tax Activities\) | Internal Revenue Service \(irs.gov\)](#)

**IRS Guidance:** [Notice 2024-49, Section 45Z Clean Fuel Production Credit; Registration \(irs.gov\)](#)

### Summary of Key Provisions

- IRS urges fuel producers to apply for registration **as soon as possible** to give the IRS sufficient time to process registration applications.
- EPA intends to issue registrations effective January 1, 2025, to eligible producers whose applications are received by July 15, 2024.
  - Direct from the guidance: *“The IRS intends to process completed applications for registration received by July 15, 2024, such that an eligible taxpayer can receive its letter of registration by January 1, 2025.”*
- Applications received after July 15, 2024, are less likely to receive a registration by January 1, 2025, and may experience delays.
- Fuel Producers cannot claim the 45Z credit for any transportation fuel produced and sold by the taxpayer before they receive their letter of registration, even if it's after Jan. 1, 2025, and all other statutory requirements for the 45Z credit are satisfied prior to that date.
- Treasury and IRS “intend to issue additional guidance on other aspects of the § 45Z credit at a later date.”
- Treasury and IRS “will provide guidance regarding the emissions rate table and provisional emissions rate petition procedures at a later time.”
- Registration is only one component of claiming the 45Z credit.
  - Direct from the guidance: *“A registration letter is not a determination by the IRS that the registrant may claim the § 45Z credit.”*

- The guidance includes a definition for “Low-GHG ethanol”. The term “low-GHG ethanol” means ethyl alcohol that is a liquid fuel that meets the specifications of ASTM International D4806 for denatured fuel ethanol for blending with gasolines and that has an emissions rate that is not greater than 50 kg of CO<sub>2</sub>e per mmBTU.
- The guidance starts the process of differentiating between “SAF” and “non-SAF” fuels as the law has differing requirements for each fuel. In particular, “non-SAF” fuels are required to use the Argonne GREET model. A footnote in the guidance references the GREET notation in law, specifically discussing how the GREET noted in the law is now “R&D GREET”; however, the law does allow for a “successor model” and IRS has discussed how it intends to have a 45Z GREET model in other communications around 45Z.

### **Specific Instructions Related to Form 637**

- The form has not yet been updated to reflect 45Z, but when filling out the form, Activity Letter “CN” is for a producer of non-SAF transportation fuel, while activity letter “CA” is for a producer of SAF.
- Until the revised form is released, IRS asks that applicants write in the applicable Activity Letter. The guidance does not contain a timeline for an updated form that will include the new activity letters.
- The guidance lists several requirements for non-SAF producers (activity letter “CN”):
  - (A) Each type of non-SAF transportation fuel and the annual volume of each type of non-SAF transportation fuel the applicant produces. If a type of non-SAF transportation fuel the applicant produces is not described in the IRS notice, state “Other” and provide a description of the fuel;
  - (B) The feedstock(s) and country of origin of each feedstock used to produce each type of non-SAF transportation fuel the applicant produces;
  - (C) The location(s) and a description of the applicant’s production facilities;
  - (D) Each production facility’s annual fuel production capacity, and whether the applicant’s production facilities are operational and currently producing volumes of non-SAF transportation fuel;
  - (E) The names and addresses of any person(s) acting for the applicant as an agent or broker in buying, selling, or transporting any non-SAF transportation fuel;
  - (F) The business entities to which the applicant sells non-SAF transportation fuel;
  - (G) The business entities from or with which the applicant buys, trades, transfers, or exchanges any non-SAF transportation fuel;
  - (H) The annual volume of non-SAF transportation fuel the applicant buys, sells, trades, transfers, or exchanges; and
  - (I) A statement indicating under which ASTM standard(s), SAE standard(s), or both, the applicant produces non-SAF transportation fuel.
  - Direct from the guidance: “The IRS will register an applicant with Activity Letter “CN” only if the IRS (A) concludes that the applicant is engaged as a producer of non-SAF transportation fuel that may be eligible for the § 45Z credit, or is likely to become so engaged within a reasonable time after being registered; and (B) is satisfied with the filing, deposit, payment, reporting, and claim history for all federal taxes of the applicant and any related person (as defined in § 48.4101-1(b)(5)).”
- In the guidance under appendix A, there is a long list of feedstock types for completing the questions in the previous bullet around feedstock. Please note the feedstock type “starch crop” which includes “corn grain” and “grain sorghum” is the intended descriptor for non-SAF

fuel. The feedstock type “ethanol” appears to reference SAF fuels made with ethanol as a bio-intermediate feedstock.

- Requirements for SAF producers are similar to those for non-SAF producers.
- It is likely that ethanol producers have previously completed IRS Form 637 for other tax and business purposes, but this guidance references several criteria related to 45Z that have likely not been submitted in the past, which are noted above. In particular, the guidance notes several other activity letters:
  - (A) Activity Letter “SA” (producers or importers of sustainable aviation fuel as defined in § 40B);
  - (B) Activity Letter “S” (enterer, position holder, refiner, terminal operator, or throughputter of gasoline, diesel fuel (including a diesel-water fuel emulsion), or kerosene, or industrial user of gasoline);
  - (C) Activity Letter “M” (blenders of gasoline, diesel fuel (including a diesel-water fuel emulsion) or kerosene, producing a taxable fuel outside the bulk transfer/terminal system, including blenders of alcohol fuel mixtures, alternative fuel mixtures, biodiesel mixtures, and renewable diesel mixtures);
  - (D) Activity Letter “AB” (producers and importers of agri-biodiesel);
  - (E) Activity Letter “AF” (producers and importers of alcohol);
  - (F) Activity Letter “NB” (producers and importers of biodiesel (other than agribiodiesel) and renewable diesel); and
  - (G) Activity Letter “SB” (producers of second generation biofuel)

***If you have any questions, please contact Growth Energy VP of Government Affairs John Fuher at [jfuher@growthenergy.org](mailto:jfuher@growthenergy.org). For technical questions related to your business or tax status, you may wish to talk to your relevant tax professional.***