Growth Energy™
Expanding America's Bioeconomy

April 10, 2025

VIA REGULATIONS.GOV

Secretary Scott Bessent
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Acting Commissioner Melanie Krause
Internal Revenue Service
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: Growth Energy Comments on IRS Notices 2025-10 and 2025-11 Regarding the Section 45Z Clean Fuel Production Credit

Dear Secretary Bessent and Commissioner Krause:

Thank you for the opportunity to comment on the Internal Revenue Service's (IRS) Notices 2025-10 and 2025-11 to implement the Section 45Z Clean Fuel Production Credit. This credit is an important tool to reduce consumer costs, support the rural economy, increase the global competitiveness of innovative American fuels, and grow American jobs.

Growth Energy is the nation's largest association of biofuel producers, representing 97 U.S. plants that each year produce more than 9.5 billion gallons of low-carbon, renewable fuel; 131 businesses associated with the production process; and tens of thousands of biofuel supporters around the country. Our members are critical to the supply of biofuel in the United States and have substantial interests in ensuring the effective, efficient, and science-based implementation of the Section 45Z Clean Fuel Production Credit. Our industry is poised to assist the administration as it confronts the declared national energy emergency by providing low-cost, innovative, and American-made fuel as we remain committed to helping our country diversify its energy portfolio and provide consumers with better and more affordable choices at the fuel pump.[1]

Section 45Z is one of the most important tools available to support this mission. Growth Energy therefore urges the IRS to swiftly finalize the proposed guidance as the statutory deadline has already passed. As detailed further below, we also request clarifications and corrections in several key areas which would enhance and strengthen the implementation of the credit.

[1] *See* E.O. 14156, *Declaring a National Energy Emergency* (Jan. 20, 2025).

This letter supplements our prior letters dated November 4, 2022,[2] December 2, 2022,[3] July 7, 2023,[4] October 27, 2023,[5] and October 15, 2024,[6] which offered detailed recommendations of how the IRS may structure the Section 45Z program in an effective and efficient manner.

I. The 45Z Credit is Critical to the U.S. Agricultural Economy and U.S. Energy Dominance

The ethanol industry contributed $53 billion to U.S. GDP, generated $28 billion in employment-related income for workers, and supported more than 310,000 jobs in 2024.[7] The industry also provided more than $10 billion in tax revenues to federal and state governments.[8] The majority of these benefits arise in the agricultural sector across America's heartland.[9] A strong and stable agricultural sector sets the foundation for a strong and stable American economy by reducing costs of key commodities across extensive supply chains.[10]

U.S. ethanol reduces consumer costs at the pump by $0.77/gallon on average, for a total savings of $95.1 billion per year for U.S. consumers.[11] U.S. Department of Agriculture (USDA) analysis also shows that ethanol blending reduces price volatility, as a 10 cent/gallon increase in crude oil prices would only result in increases of 2.8 cents/gallon over the short term or 4.2 cents/gallon over the long term for E10[12] at the pump.[13] Ethanol also displaces petroleum gallons from the transportation fuel supply, thereby contributing to U.S. oil reserves in times of surplus and reducing dependence on foreign oil in times of shortage. The Department of Energy (DOE) has acknowledged that by diversifying the supply of domestic liquid fuel, ethanol "strengthens national security by increasing resilience to natural disasters and fuel supply disruptions."[14]

Moreover, emerging markets for aviation and maritime fuels provide enormous growth potential. Backed by the most advanced agricultural industry in the world, U.S. ethanol producers are well-positioned to capture new SAF markets in Europe, for example, and dominate the future of European aviation fuel supply, if sufficient policy support exists at home.

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[2] https://growthenergy.org/2022/11/04/growth-energy-sends-letter-to-treasury-on-action-to-slash-aviation-emissions/
[3] https://growthenergy.org/2022/12/02/growth-energy-comment-clean-fuel-carbon-capture-credits/
[4] https://growthenergy.org/wp-content/uploads/2023/07/Growth-Energy_40B-and-45Z-Response-Letter_US_173815329_15-003.pdf
[5] https://growthenergy.org/2023/10/27/growth-energy-irs-saf-tax-incentives/
[6] https://growthenergy.org/wp-content/uploads/2024/10/2024-10-15-45Z-letter.pdf
[7] *Economic Impact of the U.S. Ethanol Industry*, Renewable Fuels Association. https://ethanolrfa.org/file/2911/Economic%20Contribution%20of%20the%20Ethanol%20Industry%20in%202024%20-%20WEB.pdf
[8] *Id.*
[9] *Id.*
[10] U.S. Chamber of Commerce, *How Agriculture Supports the American Economy and Main Street Businesses* (Aug. 21, 2024) https://www.uschamber.com/security/agriculture-regulations/how-agriculture-supports-the-american-economy-and-main-street-businesses
[11] Zilberman, et. al. *Impact of ethanol on gasoline prices in the U.S.: New evidence* (2023) (evaluating price impacts across 2019-2022).
[12] E10 is composed of up to 10% ethanol and 90% gasoline and is the most common fuel blend sold in the U.S. today. *See* https://afdc.energy.gov/fuels/ethanol-blends
[13] *Pricing of Ethanol Blends at the Pump Differs in the Short Term Compared With the Long Term*, USDA Economic Research Service (Dec. 19, 2024) https://www.ers.usda.gov/amber-waves/2024/december/pricing-of-ethanol-blends-at-the-pump-differs-in-the-short-term-compared-with-the-long-term.
[14] https://afdc.energy.gov/fuels/ethanol-benefits

For over two decades, the U.S. ethanol industry has played a substantial role in the U.S. economy and energy security, and the benefits of U.S. ethanol production are positioned to grow with smart policy choices. Implementing nationwide use of E15[15], for example, would generate an *additional* $17.8 billion in U.S. GDP, $10.5 billion in income, 182,600 jobs, and $3.4 billion in tax revenues.[16] With the support of Section 45Z, the industry can continue to drive rural economic development and help the U.S. progress from energy security to energy dominance for decades to come. To that end, clarity and efficient implementation is critical for the 45Z credit to operate properly. The statutory deadline for issuing final guidance for the 45Z credit passed on January 1, 2025.[17] Further delay will harm the strength and stability of the ethanol market, as producers currently lack sufficient certainty to inform investment decisions. Moreover, farmers have already made planting decisions for the 2025 growing season and will soon make planting decisions for 2026. We therefore urge the agency to finalize guidance for the 45Z credit as soon as possible. With this urgency in mind, Growth Energy proposes below several important but targeted corrections which we encourage the agency to incorporate into the final guidance and ongoing implementation.

II. IRS Should Coordinate with USDA to Accurately Quantify Efficient Farming Practices for 45Z Crediting

Farmers in the U.S. constantly innovate with agricultural practices to identify the best and most efficient techniques for their farms. Often, best practices will vary across individual farms due to the multitude of factors that impact crop production. The 45Z credit should recognize American innovation in the fields and acknowledge the benefits of these practices. These benefits include not only substantial carbon reductions—estimated at up to 71% across the agricultural sector by 2036[18]—but also significant, tangible improvements to local water quality and soil health.[19] We therefore encourage the IRS to collaborate with the USDA to accurately quantify the carbon reductions resulting from a broad array of efficient, climate-smart agricultural (CSA) practices and to properly incorporate these practices into the 45Z credit's lifecycle emissions calculation.

The current 45ZCF-GREET model fails to recognize the important role of CSA practices and, in doing so, suppresses farmer interest in engaging in those practices and makes it more difficult for U.S. biofuel producers to qualify for Section 45Z. As explained in Growth Energy's comments on the USDA Interim Rule,[20] this oversight can be readily corrected by drawing on existing USDA resources that reliably incorporate the benefits of CSA practices. For example, USDA already maintains an expansive, annually-updated list of CSA practices recognized

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[15] E15 is composed of 10.5% to 15% ethanol blended with gasoline. E15 is approved for use in modern vehicles but EPA has imposed unnecessary regulatory barriers to block E15 sales in summer months without a waiver.
[16] https://growthenergy.org/wp-content/uploads/2021/06/Nationwide-E15-Use-Economic-Impact-Final.pdf
[17] 26 U.S.C. § 45Z.
[18] Northrup, et al. *Novel technologies for emission reduction complement conservation agriculture to achieve negative emissions from row-crop production*, Argonne National Laboratory (June 21, 2021), https://doi.org/10.1073/pnas.2022666118.
[19] *Procedures for Quantification, Reporting, and Verification of Greenhouse Gas Emissions Associated With the Production of Domestic Agricultural Commodities Used as Biofuel Feedstocks*, 89 Fed. Reg. 53,585 (June 27, 2024).
[20] *Growth Energy Comments on the USDA Interim Rule: Technical Guidelines for Climate-Smart Agriculture Crops Used as Biofuel Feedstocks (Docket No. USDA-2024-0003)* (Mar. 17, 2025) https://growthenergy.org/wp-content/uploads/2025/03/2025-03-17-Growth-Energy-USDA-comment-dkt.-no.-2024-0003.pdf

through the Natural Resources Conservation Service (NRCS).[21] For many of the practices on the NRCS list, the carbon intensity reduction potential can already be quantified using the USDA Feedstock Carbon Intensity Calculator (FD-CIC) tool within DOE's GREET model.[22] These modeling tools have undergone extensive peer review and are the gold standard of current scientific understanding regarding agricultural practices. The IRS can—and should—rely on these pre-existing USDA and DOE resources to incorporate CSA practices into the 45ZCF-GREET model without delay.

We also urge the IRS to maximize the flexibility available for farmers to determine which practices are best for the unique set of circumstances affecting their farms. The effectiveness of any particular agricultural practice may vary based on the region, type of crop, local weather patterns, topography, soil type, water resources, and numerous other factors. Put simply, farmers have a better understanding than government agencies regarding how this complex mix of factors affects their particular farms and which agricultural practices are likely to be more or less effective. We support a broader list of agricultural practices, without a bundling requirement, to be eligible for CI reductions under Section 45Z. For example, biological products such as microbes and enzymes should be recognized under Section 45Z as important tools for farmers to enhance nutrient uptake and solubilize phosphorus, which make crops more efficient at using commercial fertilizer and provide new sources of nutrients. In sum, IRS should take a broad, technology-neutral approach that allows farmers to choose which CSA practices are best for them. This wholistic crediting framework—based on verifiable emissions reduction calculations in FD-CIC—would incentivize significantly broader adoption of CSA practices than the rigid, one-size-fits-all approach previously imposed by the IRS for the Section 40B credit.

In addition, we encourage the IRS to reduce unnecessary regulatory burdens when verifying that feedstocks were produced using CSA practices. Either a mass-balance or book-and-claim approach could be used to track sustainability attributes and commodity embedded carbon intensity values of feedstocks. Because functional characteristics of the crop do not change with the method of production, there is no need for identity preservation or further segregation. Given varying supply chain and logistics approaches across the ethanol industry, those choosing to use a mass-balance approach should be able to do so across an entire enterprise including operators of multiple biorefineries. Workable traceability requirements should allow verification of CSA contracts to be passed through intermediaries, such as feedstock providers and biofuel producers, without requiring a direct contract between farmers and the final fuel processor. Longer term, a book-and-claim system could be established that would allow the value to be detached from the crop and potentially monetized by the grower. This system could operate similarly to other markets such as renewable energy certificates (RECs). These common-sense approaches will allow CSA practices to be reliably verified without imposing unworkable costs on farmers and biofuel producers.

III. Corrections to the 45ZCF-GREET Model and Emissions Rate Table

Growth Energy thanks the IRS, along with its partners at the DOE, USDA, and other agencies, for publishing the 45ZCF-GREET model and emissions rate table. In many respects this model reflects the best available science on lifecycle greenhouse gas emissions analysis for biofuel production. As the science in this field evolves rapidly and both farmers and biofuel

[21] https://www.nrcs.usda.gov/sites/default/files/2023-10/NRCS-CSAF-Mitigation-Activities-List.pdf
[22] https://www.usda.gov/usda-fdcic

producers are continuously innovating to further reduce carbon emissions, we encourage IRS and its partner agencies to regularly update the 45ZCF-GREET model. We also encourage the agencies to continue improving upon this model in future versions by incorporating certain corrections and expansions described below.

First, the current 45ZCF-GREET model inappropriately excludes corn wet mill production pathways for ethanol. Congress intended the 45Z credit to be a technology-neutral incentive, as the statute ties the incentive directly to a fuel's lifecycle emissions rate without any categorical exclusions or inclusions.[23] Fuel production pathways should therefore only be prevented from generating 45Z credits if they fail to meet the quantitative carbon intensity threshold. However, devoid of a statutory basis, the 45ZCF-GREET model categorically excludes corn wet milling pathways, and attempts to justify this exclusion by claiming that wet milling is "unlikely" to meet the quantitative carbon intensity threshold.[24] Whether a corn wet milling pathway can generate credits under Section 45Z should be borne out by the actual lifecycle emissions calculations for that pathway, where there are many conceivably pathways for such fuels to qualify. For example, corn wet mill producers may be capable of achieving the required emissions threshold through a variety of pathways, such as dextrose-based pathways, or if other low-carbon practices are adopted, such as carbon capture and sequestration (CCS). As such, corn wet mill producers should be afforded the opportunity to demonstrate their lifecycle emissions using the 45ZCF-GREET model.

In addition, Growth Energy encourages the IRS to clarify key issues related to accounting for CCS under the 45Z credit. CCS provides enormous potential for ethanol producers to reduce the carbon intensity of their products.[25] Approximately 25% of the ethanol industry already captures carbon dioxide, and a growing number of facilities plan to install the technology in the near future. Carbon dioxide captured from ethanol facilities is used in a wide and growing variety of applications, spanning the food and beverage industry, building materials, municipal water treatment, dry ice for medical storage, and even additional types of transportation fuels.[26] Using carbon dioxide generated by ethanol production as an ingredient or feedstock in a product or industrial process may result in permanent sequestration of the carbon—just as if the carbon were stored underground—and potentially displaces extraction of carbon dioxide for such uses.[27] In addition, enhanced oil recovery (EOR) uses captured carbon dioxide to unlock additional energy production from partially depleted fields. We encourage the IRS to clarify that carbon dioxide used in EOR operations and other utilization pathways is included as an option for reducing the emissions rate of fuel pathways. We also urge the IRS to confirm that taxpayers

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[23] 26 U.S.C. §45Z(b)(1)(A)(i).

[24] *Guidelines To Determine Life Cycle Greenhouse Gas Emissions of Clean Transportation Fuel Production Pathways Using 45ZCF-GREET*, U.S. DOE (Jan. 2025) [hereinafter "45ZCF-GREET Guidelines"] https://www.energy.gov/sites/default/files/2025-01/45zcf-greet_user-manual.pdf

[25] *See, e.g., Q&A With Governor Doug Burgum on Carbon Neutrality*, Future Farmer Magazine (May 2021) https://futurefarmermag.com/qa-with-governor-doug-burgum-on-carbon-neutrality/

[26] Growth Energy, *Putting Carbon to Work: Biorefineries' Critical Contributions to Net-Zero* (June 2022) https://growthenergy.org/wp-content/uploads/2022/06/GROW-22019-Issue-Brief-Carbon-Capture-2022-06-22-R8.pdf

[27] *See, e.g.,* Thielges, et. al. Committed to implementing CCU? A comparison of the policy mix in the US and the EU, Front. Clim. (Oct. 20, 2022) (recommending "a public commitment to CCU…in the US [to] incentivize related R[esearch] & D[evelopment] investments at the firm-level.")

may interchangeably from year-to-year elect the Section 45Z and Section 45Q tax credits, which the statute allows.

Finally, we encourage the IRS to expand the emission rate table to include a wider range of established, currently-used pathways for production of low carbon intensity biofuels. The table should include, at a minimum, (1) ethanol produced from corn kernel fiber, (2) biodiesel/renewable diesel produced from sorghum oil, (3) corn oil produced from wet mills, and (4) proso millet and other secondary feedstocks. Each of these pathways are sufficiently established and have substantial environmental benefits and so should be given default pathways under Section 45Z. Growth Energy and its members would be happy to provide the IRS with any additional information needed to establish default values for these pathways.

IV. IRS Should Update the Definition of "Low-GHG Ethanol" to Include Exported Undenatured Ethanol

The proposed regulations define "low-GHG ethanol" as "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 CO2e per mmBTU."[28] ASTM D4806 applies to "denatured fuel ethanol intended for blending with unleaded or leaded gasolines for use as a spark-ignition automotive engine fuel."[29] While ethanol used in U.S. transportation fuels is primarily denatured, ethanol exported for use in foreign transportation fuel markets is often undenatured. The proposed regulations appear to inadvertently omit from credit eligibility this undenatured ethanol through cross-reference to the ASTM D4806 standard, contrary to the inclusive approach taken in the statute.

Specifically, there is no statutory basis for excluding undenatured ethanol exports from the 45Z credit. As explained above, Section 45Z is a technology-neutral incentive which is available to any fuel that is (1) "suitable for use as a fuel in a highway vehicle or aircraft," (2) has an emissions rate not greater than 50 kgCO2e/mmBTU, and (3) is not derived from certain coprocessing pathways not relevant here.[30] Undenatured ethanol is "suitable for use" as a transportation fuel in many markets. For example, many E.U. member states stipulate that ethanol used in transportation fuel *must* be undenatured.[31] EPA has also previously acknowledged, in the context of the U.S. Renewable Fuel Standard (RFS) Program, that undenatured ethanol is used in transportation fuel.[32]

Moreover, excluding undenatured ethanol exports from the 45Z credit would be contrary to this Administration's stated goal of increasing liquid fuel exports.[33] The U.S. exported a record 1.96 billion gallons of ethanol in 2024, with primary markets including Canada, Mexico, the UK, and the EU. These exports not only bring additional revenues into the U.S., but also help to secure the U.S.'s position as a dominant global leader in energy production.

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[28] IRS Notice 2024-49, §3.03(5) (emphasis added); *see also* 45ZCF-GREET Guidelines at Table 3.
[29] https://store.astm.org/d4806-21a.html
[30] 26 USC § 45Z(d)(5).
[31] *European Union Market Profiles*, U.S. Grains Council, https://grains.org/bioethanol/ethanol-market-profiles/european-union/
[32] "Foreign ethanol producer means a foreign renewable fuel producer who produces ethanol *for use in transportation fuel*, heating oil, or jet fuel but *who does not add ethanol denaturant to their product* as specified in paragraph (2) of the definition of "renewable fuel" in this section." 40 C.F.R. §80.2 (emphasis added).
[33] *See* E.O. 14154, *Unleashing American Energy* (Jan. 20, 2025).

We urge the IRS to correct its proposed regulations by clarifying that undenatured ethanol may generate 45Z credits. This correction is both necessary to conform with the statute and consistent with current U.S. energy policy.

V. IRS Should Swiftly Promulgate a Streamlined Provisional Emissions Rate Process

Producers of transportation fuels for which an emissions rate has not been established under the 45ZCF-GREET model may file a petition to establish a provisional emissions rate (PER).[34] This PER process is intended to be a swift and efficient process for approving technology pathways. Yet the proposed regulations defer issuing guidance on the PER process until an undefined "later time" while noting that the agency "will not accept requests for PER determinations…until after such guidance is published."[35] This approach thwarts Section 45Z's statutory direction to issue guidance regarding implementation, "including calculation of emissions factors" by January 1, 2025.[36] The purpose of the PER process is to provide a mechanism for fuel suppliers to obtain certainty regarding 45Z credit generation notwithstanding the absence of a published value. Indefinite delay in clarifying the PER process therefore undermines the very purpose of the PER. We urge IRS to promptly promulgate guidance to implement the PER process.

Moreover, the PER process outlined in the proposed regulations is unnecessarily burdensome and time-consuming. Under the proposed framework, producers must obtain approvals from *both* the DOE (to establish an "emissions value") and the IRS (to approve the PER petition).[37] It is not clear how this multi-step, multi-approval PER process would be any quicker or less onerous than establishing a final emissions rate by updating the 45ZCF-GREET model. We urge the IRS to revise and consolidate the PER process into a single, streamlined framework with specific deadlines for the agency to issue PER determinations. The IRS should also publish guidance delineating the basic requirements that will ensure efficient processing of applications.

We urge the IRS to ensure the PER process is nimble. IRS has proposed to prevent producers from submitting a PER petition if the "pathway or primary feedstock" is included in the 45ZCF-GREET model.[38] However, there may be valid reasons a PER is appropriate in such circumstances. For example, if the background data incorporated into the model does not accurately reflect a particular fuel's carbon intensity, producers should be able to use the PER process to demonstrate the errors in the model.

Relatedly, if EPA has approved a fuel as RFS-eligible and evaluated its lifecycle GHG emissions consistent with that program (either on-road or SAF), IRS should allow reliance on EPA's modeling process, rather than requiring a new PER application. Section 45Z explicitly defines "lifecycle greenhouse gas emissions" by reference to the RFS program "as described in section 211(o)(1)(H) of the Clean Air Act."[39] Reliance on EPA's RFS modeling processes is therefore consistent with the statute and will promote government efficiency by avoiding the re-evaluation of already-approved pathways.

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[34] 26 U.S.C. § 45Z(b)(1)(D).
[35] IRS Notice 2025-11 at § 4.06.
[36] 26 U.S.C. § 45Z(e).
[37] IRS Notice 2025-11 at § 4.06; IRS Notice 2025-10 at proposed §1.45Z-2(f)(2).
[38] IRS Notice 2025-10 at proposed §1.45Z-2(f).
[39] 26 U.S.C. § 45Z(b)(1)(B).

VI. Foreign Feedstocks Present Risks of Improper Recordkeeping

The U.S. agricultural industry is the most advanced and sophisticated in the world. Feedstock producers are subject to numerous recordkeeping and verification requirements that are highly effective in preventing fraud or other misuse of regulatory incentives. As such, the risks of mislabeling for U.S. feedstocks is extremely low.

In contrast, the safeguards applicable to foreign feedstocks vary wildly. Some nations may impose protections that are comparable to the U.S., but many nations do not. IRS recognized these "significant concerns" with respect to imported used cooking oil (UCO) due to a "lack of transparency regarding the local sources" of foreign UCO.[40] To address this risk, IRS proposed that fuel pathways using foreign UCO will not be eligible to generate credits until IRS has promulgated "appropriate substantiation and recordkeeping requirements."[41] This proposal is an appropriate response to the legitimate substantiation and recordkeeping concerns regarding foreign feedstocks. We encourage IRS to also evaluate other foreign feedstocks, for example Brazilian sugarcane ethanol, to ensure that such feedstocks are subject to equivalent substantiation and recordkeeping requirements as U.S. feedstock producers. Any feedstock not subject to equivalent requirements as U.S. producers should not be eligible for U.S. incentives including 45Z credits.

VII. Rethinking Limitations on RECs

IRS has proposed that the 45ZCF-GREET model would impose "rules similar to the rules under Section 45V" for purposes of emissions accounting of electricity inputs to the production process.[42] We encourage the IRS to reconsider this position. The 45V "three pillar" requirements of incrementality/additionality, temporal matching, and geographic deliverability are a case study in over-regulation that has already greatly stifled investment in the hydrogen industry. The requirements lack grounding in science and have been publicly rebuked by numerous members of Congress, including "the primary Congressional authors of the 45V credit."[43]

Regardless of whether the "three pillar" restrictions on the use of RECs may be appropriate for the hydrogen industry, the restrictions are neither necessary nor appropriate for ethanol production. IRS and EPA's previously-stated basis for imposing REC restrictions in the Section 45V rules was to address the concern of "induced grid emissions."[44] The notion of "induced grid emissions" is based on a theory that increases in electrolytic hydrogen production will create such a significant increase in demand for renewable electricity that it will force increases in non-renewable electricity generation in order to maintain a sufficient supply of electricity on the grid.[45] In contrast, ethanol production processes consume a vastly smaller amount of electricity than electrolytic hydrogen production processes. As such, an ethanol producer's electricity consumption will not have any meaningful impact on grid-wide electricity

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[40] IRS Notice 2025-10 at § 3.05.
[41] *Id.*
[42] IRS Notice 2025-10 at § 3.04(3)(b)
[43] *See* Senate Letter to Secretary Yellen (July 10, 2024) https://www.cantwell.senate.gov/imo/media/doc/letter_to_secretary_yellen-section_45v_credit_for_production_of_clean_hydrogen_final.pdf; Congressional Letter to Secretaries (Nov. 12, 2024) https://fletcher.house.gov/uploadedfiles/gulf_coast_45v_proposed_rules_letter_nov_2024.pdf
[44] 90 Fed. Reg. 2,224, 2,254 (Jan. 10, 2025).
[45] *Id.*

demand, and so would not "induce" any significant amount of new, non-renewable electricity generation.

Section 45Z, incorporating Section 211(o)(h) of the Clean Air Act, requires accounting of *"significant* indirect emissions."[46] Any *de minimis* induced grid emissions from ethanol producers' use of renewable electricity falls far short of this "significant" threshold. Ethanol producers should therefore be allowed to utilize any RECs that are properly registered and validated in existing certificate tracking systems, irrespective of the "three pillar" restrictions that IRS previously imposed for Section 45V.

VIII. Prevailing Wage Determinations

Like most provisions of the Inflation Reduction Act, Section 45Z imposes prevailing wage requirements for the construction, alteration, or repair of a qualified facility in the "locality in which such facility is located," as established by Davis-Bacon Act (DBA) wage determinations issued by the Department of Labor.[47] Although many of the DBA wage IDs for jobs relevant to construction, alteration, or repair of bioethanol facilities are issued at the county level, some are not, resulting in wage determinations for broader geographical areas that do not reflect local job markets and hiring conditions. We ask that Treasury work with the Department of Labor to issue county-specific wage determinations for all counties in which bioethanol facilities are located. Additionally, Treasury should account for the unique geography of biofuels production and provide as much flexibility as possible to meet these requirements and interpret the definition of "repair" narrowly to ensure that ordinary maintenance of biofuels facilities does not trigger prevailing wage requirements.

IX. Definition of Qualifying Sale

The Notice defines a qualifying sale, in part, as the "sale of transportation fuel by the taxpayer to an unrelated person if . . . [t]he fuel is sold for use in the production of a fuel mixture by such person."[48] The definition should not be interpreted to impose a requirement that taxpayers guarantee that the first sale of otherwise eligible fuel is to a buyer that uses the fuel in the production of a fuel mixture. Such a restriction is unnecessarily constraining and unworkable, and it ignores the reality of the renewable fuels market. As long as a fuel meets production and carbon intensity reduction requirements, producers of the fuel should be eligible for the credit without having to guarantee that the first buyer of the fuel uses it in the production of a fuel mixture. For the avoidance of doubt, IRS should consider revising the definition of "qualifying sale" as follows:

> (25) Qualifying sale—(i) In general. As provided in section 45Z(a)(4), the term qualifying sale means a sale of transportation fuel by the taxpayer to an unrelated person if the taxpayer has the reasonable belief that —
>
> (A) The fuel will be used ~~is sold for use~~ in the production of a fuel mixture ~~by such person~~,
>
> (B) The fuel will be used ~~is sold for use~~ in a trade or business ~~by such person~~, or

[46] 42 U.S.C. § 7545(o)(1)(H); as incorporated by 26 U.S.C. § 45Z(b)(1)(B).
[47] 26 U.S.C. § 45Z(f)(6)(A); 26 U.S.C. § 45(b)(7).
[48] IRS Notice 2025-10 at proposed § 1.45Z-1(b)(25) (emphasis added).

(C) Such person sells such fuel at retail to another person and places such fuel in the fuel tank of such other person.

X. Reliance on Notices 2025-10 and 2025-11

The Section 45Z credit has been in effect for almost 4 months, and many taxpayers are already making business decisions in reliance of the Notices. Until Section 45Z regulations are issued (whether in proposed or final form), taxpayers should be able to rely for their tax planning purpose on the guidance set forth in Notices 2025-10 and 2025-11, including the draft text of the forthcoming proposed regulations, the emissions rate set forth therein, and the concurrently promulgated 45Z GREET model. The IRS should also administer Section 45Z in a manner consistent with the rules described in such notices. Additionally, to the extent that any future regulations issued by Treasury (whether proposed or final) conflict with the guidance set forth in Notices 2025-10 and 2025-11, such regulations should apply prospectively from the time they are published in the Federal Register, and not retroactively to the period that Notices 2025-10 and 2025-11 are effective. Finally, given that the January 1, 2025, statutory deadline for Treasury to provide guidance on the implementation of Section 45Z has passed, Treasury and the IRS should move quickly to finalize the Section 45Z regulations following the end of the 90-day comment period in the notices.

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Growth Energy appreciates the IRS's consideration of this input as it develops Section 45Z guidance. We look forward to engaging further on this important work and would be happy to meet with your staff to present on these issues in more detail and answer any questions.

Sincerely,

Chris Bliley
Senior Vice President of Regulatory Affairs
Growth Energy

CC:

The Honorable Brooke Rollins, Secretary, U.S. Department of Agriculture

The Honorable Chris Wright, Secretary, U.S. Department of Energy

The Honorable Sean Duffy, Secretary, U.S. Department of Transportation

The Honorable Lee Zeldin, Administrator, U.S. Environmental Protection Agency