

IRS & Treasury Release Proposed 45Z Rules (REG-2026-02246)

The IRS and Treasury opened the first week in February by releasing proposed regulations for the 45Z Clean Fuel Production Tax Credit. The proposal reflects statutory changes made by the One Big Beautiful Bill passed by Congress last summer and adds several important clarifications for producers.

Changes from the 2025 legislation now reflected in the rule

- Indirect Land Use Change (ILUC) **penalty removed** for transportation fuel produced starting in 2026
- **SAF no longer receives a higher credit value** starting in 2026 — SAF and non-SAF fuels are now treated the same:

2026 credit values (subject to inflationary adjustments):

- \$0.20/gallon base credit
- \$1.00/gallon increased credit if prevailing wage and apprenticeship requirements are met
- **Negative emissions rates limited to manure-based fuels** beginning in 2026
- **45Z extended through 2029**
- **Feedstock sourcing restriction starting in 2026:** only fuels made from feedstocks grown in the U.S., Canada, or Mexico qualify
- **Clarification on “qualifying sales”:** fuel sold to an unrelated party who then resells the fuel for use in a trade or business qualifies

Additional clarifications and new provisions in the proposed rule

- **Undenatured ethanol qualifies** for the 45Z credit
- **Updated incrementality rules for Energy Attribute Certificates (EACs/RECs):**

A producer's facility is treated as "placed in service" in the first taxable year it produces transportation fuel, meaning fuel with a carbon intensity score below 50. The electricity generation facility tied to an EAC must have a commercial operations date no more than **36 months before the first day of the taxable year** in which the fuel facility first produces qualifying transportation fuel (fuel below a 50 CI score).

- **Climate-Smart Agriculture (CSA) practices:**

Treasury and IRS are recognizing feedstock carbon intensity in the 45Z framework. The agencies plan to incorporate USDA's Feedstock Carbon Intensity Calculator (FD-CIC) into DOE's 45ZCF-GREET model, so producers can claim CI reductions tied to certain agricultural practices.

Although the FD-CIC model is expected to be released in 2026, Treasury and IRS anticipate allowing its use for fuel produced and sold in 2025 (2024 crop).

- **Safe Harbor for producer reregistration:**

If a producer must reregister under IRC §4101 (Form 637) due to a change in ownership or EIN, the producer may claim the 45Z credit starting from the date the IRS receives the reregistration application — even if approval has not yet been issued. The original registration remains valid until revoked and replaced.

- **Safe Harbor for emissions rate substantiation (non-SAF fuels):**

Producers using the 45ZCF-GREET model may rely on a safe harbor if they obtain third-party certification in substantially the same form and manner as required for SAF fuels.

- **Safe Harbor for substantiating a qualified sale:**

Producers may rely on a purchaser certificate, signed under penalty of perjury, confirming qualifying use of the fuel, applicable in tax years ending on or after final regulations are published regardless of when the sale occurred. .

- For single purchases, the certificate must be obtained at or before sale.
- For ongoing purchases, it must be obtained at or before the first sale covered.
- The producer must retain it in their records.

- **Provisional Emissions Rate (PER) process clarified**

Before submitting a PER petition, a producer must:

1. Submit an **Emissions Value Request (EVR)** to DOE
2. Receive a **Calculated Emissions Value Letter (CEVL)**
3. Then submit a PER petition to the IRS.

Please note, the DOE and IRS will reject EVRs or PER petitions based on a facility rather than on a **fuel type or category**. The PER process will not be available until final regulations are published.

- **Verification and Metering Requirements**

Third-party verification/certification remains **mandatory only for SAF fuels**, but most renewable fuel producers are pursuing verification anyway — whether to access the emissions rate safe harbor, satisfy purchaser requirements when transferring the credit, or support defensible tax positions.

As part of verification, the **Qualified Facility Statement** must confirm that all metering devices used to support production data:

- Had their accuracy and calibration tested within the year prior to the verifier's observation.

These are some of the key highlights from the proposed 45Z regulations. If you have questions about how any of the 45Z changes affect your facility or compliance approach, please reach out to a member of our team.