



441 G St. N.W.
Washington, DC 20548

B-338090

February 23, 2026

The Honorable Mike Crapo
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of the Treasury, Internal Revenue Service: Section 45Z Clean Fuel Production Credit*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule¹ promulgated by the Department of the Treasury, Internal Revenue Service (IRS) titled “Section 45Z Clean Fuel Production Credit” (RIN: 1545-BR30). We received the rule on February 4, 2026. It was published in the *Federal Register* on February 4, 2026. 91 Fed. Reg. 5160. The effective date of the rule is February 4, 2026.²

According to IRS, this document contains proposed regulations regarding the clean fuel production credit enacted by the Inflation Reduction Act of 2022 and amended by the One, Big, Beautiful Bill Act.³ IRS stated that these proposed regulations would provide rules for determining clean fuel production credits, including credit eligibility rules, emissions rates, and certification and registration requirements. 91 Fed. Reg. at 5160. IRS also stated that the rule

¹ The document IRS submitted to us as a major rule under the Congressional Review Act (CRA) is identified in the *Federal Register* as a notice of proposed rulemaking and public hearing (hereinafter referred to as rule or proposal). *But see* B-325553, May 29, 2014 (noting GAO and OMB prior guidance that proposed rules are not subject to the CRA).

² The rule does not provide a stated effective date. However, we are treating the date of publication in the *Federal Register* as the effective date because the rule states that taxpayers may rely on these proposed regulations until a final rule is published “provided taxpayers follow them in their entirety and in a consistent manner.” 91 Fed. Reg. at 5181.

³ See generally 26 U.S.C. § 45Z (clean fuel production credit).

would amend three sets of final regulations, which include the elective payment election regulations and the credit transfer election regulations, to clarify language relating to ownership of clean fuel production facilities, and the federal excise tax registration regulations, to make them clearer and more consistent with the rule's clean fuel production credit registration requirements. *Id.* IRS stated further that taxpayers "may rely on these proposed regulations until final regulations are published in the *Federal Register*, provided taxpayers follow them in their entirety and in a consistent manner." *Id.* at 5181.

The Congressional Review Act (CRA) generally requires that a major rule may not take effect until 60 days after the later of its publication in the *Federal Register* or its receipt by Congress. 5 U.S.C. § 801(a)(3)(A). This rule was published in the *Federal Register* on February 4, 2026. 91 Fed. Reg. 5160. The House of Representatives received the rule on February 6, 2026. 172 Cong. Rec. H2117 (daily ed. Feb. 10, 2026). The Senate received the rule on February 9, 2026. 172 Cong. Rec. S551 (daily ed. Feb. 11, 2026). The effective date of the rule is February 4, 2026. Therefore, the rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of IRS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.

A handwritten signature in cursive script that reads "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Oluwafunmilayo Taylor
Section Chief
Internal Revenue Service

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE
TITLED
“SECTION 45Z CLEAN FUEL PRODUCTION CREDIT”
(RIN: 1545-BR30)

(i) Cost-benefit analysis

The Department of the Treasury, Internal Revenue Service (IRS) prepared an analysis of the costs and benefits of this rule. 91 Fed. Reg. 5160, 5183 (Feb. 4, 2026). According to IRS, this rule would provide needed clarity and consistency for taxpayers claiming the section 45Z credit. *Id.* at 5183, 5185. IRS explained that this clarity would improve tax administration, support accurate filings, and facilitate informed investment decisions. *Id.* at 5183, 5186. IRS stated that it lacked sufficient data to quantify economic effects. *Id.* at 5183. IRS also stated that impacts from definitional choices, such as adopting a gasoline gallon equivalent, are expected to be minimal given the small share of non-liquid fuels in the transportation fuel market. *Id.* at 5184–5185. IRS stated further that overall that the proposed regulations would improve tax administration and provide needed guidance without imposing significant additional costs. See *id.* at 5183, 5186, 5187.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

IRS stated that it has not yet determined whether this rule, when finalized, will likely have a significant economic impact on a substantial number of small entities. 91 Fed. Reg. at 5187. IRS noted that such determination requires further study; however, because there is a possibility of significant economic impact on a substantial number of small entities, it prepared an Initial Regulatory Flexibility Analysis. *Id.*

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

IRS determined that this rule does not include any federal mandate that may result in expenditures by state, local, or tribal governments, in the aggregate, or by the private sector, in excess of the Act’s inflation-adjusted threshold of \$100 million in any one year. 91 Fed. Reg. at 5188.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

IRS stated that this rule contains proposed regulations. 91 Fed. Reg. at 5188. However, IRS also stated that “[t]axpayers may rely on these proposed regulations until final regulations are published in the *Federal Register*, provided taxpayers follow them in their entirety and in a consistent manner.” *Id.* at 5181. IRS stated further that before finalizing the proposed

regulations, it will consider comments timely submitted and that it plans to hold a public hearing. *Id.* at 5188

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

IRS determined that this rule contains information collection requirements under the Act. 91 Fed. Reg. at 5186.

Statutory authorization for the rule

IRS promulgated this rule pursuant to sections 45Z, 4101, and 7805 of title 26, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

IRS stated that the Office of Information and Regulatory Affairs has determined that this rule is economically significant under the Order and has reviewed it. 91 Fed. Reg. at 5181.

Executive Order No. 13132 (Federalism)

IRS determined that this rule does not have federalism implications. 91 Fed. Reg. at 5188.