

When “Voluntary” Becomes Hard to Ignore: What Regenerative Agriculture Could Mean for Farmers

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Overview

On June 30, the White House issued an Executive Order 14414 entitled, *Advancing Regenerative Agriculture and Strengthening American Farm Resilience*.¹ It represents the federal government’s launching of a major new initiative encouraging regenerative agriculture through tax incentives rather than direct regulation. It’s designed to tie into the IRC §45Z clean fuel production tax credit. On paper, participation is voluntary. In practice, however, many farmers may eventually feel that opting out is no longer a realistic business choice.

Economic and Tax Incentives

The program centers on the federal clean fuel tax credit under IRC §45Z. Fuel producers, including ethanol plants, can potentially receive larger tax credits when they use feedstocks with lower lifecycle greenhouse gas emissions. That creates a financial incentive for processors to purchase grain from farmers who can document qualifying conservation practices such as no-till farming, cover crops, or improved nutrient management.

Those incentives do not stop at the ethanol plant. Grain elevators, merchandisers, and other buyers may also begin favoring grain that comes with the documentation needed to support the tax credit. Farmers who participate could receive preferred marketing opportunities or price premiums. Those who do not may find fewer buyers willing to pay top dollar, even if their grain is identical in quality.

Consider two neighboring corn farmers who produce the same crop with the same yields. One documents qualifying regenerative practices through the USDA verification system. The other does not. The grain itself is the same, but the documented grain may carry additional value because it helps support a processor's tax credit. Over time, the second farmer may receive lower bids simply because the paperwork is missing. That is how a voluntary program can become economically difficult to avoid.

Disproportionate Burden and Agency Involvement

The burden of participation also may not fall equally on every operation. Recordkeeping, verification, legal advice, accounting assistance, and compliance systems all carry costs. Many of those expenses are largely fixed regardless of farm size. Larger operations can spread those costs over many more acres, while smaller family farms often cannot. As a result, the economics may favor larger, vertically integrated businesses.

Another source of uncertainty is that several federal agencies are involved. The Department of Energy recently updated its GREET emissions model, and the USDA has developed tools to measure the carbon intensity of farming practices. Those are important technical developments, but they do not answer the legal question that matters

¹ 91 Fed. Reg. 39,841 (Jun. 30, 2026).

most to producers: what documentation will the IRS ultimately require before allowing a taxpayer to benefit from the §45Z credit?

At present, that answer remains uncertain because final Treasury regulations have not yet been issued. Farmers considering long-term investments in new production practices, recordkeeping systems, or marketing arrangements are making decisions before the governing tax rules are fully established. If the final regulations differ from current expectations, producers—not the government—could bear the financial consequences.

The issue also raises broader questions about administrative law. Executive orders and agency guidance can influence policy, but agencies generally must operate within the authority granted by Congress. Recent Supreme Court decisions have reinforced that principle by emphasizing that agencies cannot expand their regulatory authority beyond what Congress has authorized.

Conclusion

For agriculture, predictability matters. Producers make investments that often last for decades, and lenders, landowners, and agribusinesses all rely on stable legal rules. While encouraging conservation through tax incentives is a legitimate policy choice, those incentives work best when participants clearly understand the legal standards that govern them.

Whether the regenerative agriculture initiative ultimately succeeds will depend on more than its environmental goals. It will also depend on whether farmers receive clear, binding rules that allow them to make informed business decisions with confidence. Until final Treasury regulations are issued, many producers will continue weighing the potential benefits of participation against the costs and uncertainties that remain.

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