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**ENERGY POLICY IN
THE TRUMP ADMINISTRATION:**

CHANGES TO ENERGY POLICY & ENERGY TAX INCENTIVES IN THE HOUSE RECONCILIATION BILL

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Reconciliation State-of-Play

Reconciliation: Key Points

- 2-step process: budget resolution (with instructions)/reconciliation bill
- “Vote-o-rama” both times
- Overcomes Senate filibuster
- Subject to the Byrd Rule and other restrictions

Reconciliation Status: 6/12/2025

- On May 21, the House of Representatives passed H.R. 1, the “One Big Beautiful Bill Act.”
 - The House is currently amending sections of the bill in the Rules Committee to preserve “privileged” status in the Senate.
- The Senate is currently drafting their corresponding version of the budget reconciliation bill.
 - Several Senate Committees, including the Energy and Natural Resources, Environment and Public Works, and Commerce, have published their texts
 - The Senate Finance Committee is finalizing their portion of the bill and have signaled publication late this week or early next week.

Limits on Reconciliation

- In 1984, Senator Robert Byrd (D-WV) worked to pass the “Byrd Rule,” which prohibits including “**extraneous provisions**” in reconciliation bills.
- A provision is **extraneous** if it meets any one of the following tests:
 - It **does not have a budgetary effect**.
 - It is **outside the jurisdiction** of the committee reporting the relevant title of the bill.
 - It has a budgetary effect that is **merely incidental** to the non-budgetary effect.
 - It increases the deficit in the “**out-years.**”
 - It affects the **Social Security** program.

H.R.1 Energy Tax Provisions

Clean Energy Incentives

- Clean energy provisions are not fully repealed, but in many cases *effectively* repealed
- *Very clever* approach
 - Claw back on dates
 - Some almost immediate
 - PIS/BOC
 - Greatly expanded FEOC rules
 - Difficult to avoid Prohibited Foreign Entity taint
 - Accelerated end dates for transferability

Foreign Entity of Concern Rules

- Prohibited Foreign Entity
 - Specified Foreign Entity (think of as “direct”)
 - Foreign-influenced Entity (think of as “indirect”)
 - Material Assistance Rules
 - Components
 - Subcomponents
 - Constituent Materials
 - Licensing agreements
 - Certain payments to PFEs
- Hodge podge of effective dates
 - Some almost immediate

Clean Energy Incentives

- 45Y Clean Electricity Production Tax Credit
 - Facilities beginning construction after 60 days after enactment or placed in service after Dec. 31, 2028 are ineligible
 - Exception: Advanced nuclear facilities and expansions exempt from these PIS/BOC requirements but must begin construction before January 1, 2029
 - Strict FEOC requirements
- 48E Clean Electricity Investment Tax Credit
 - Facilities beginning construction after 60 days after enactment or placed in service after Dec. 31, 2028 are ineligible
 - Same exception as for 45Y for advanced nuclear facilities and expansions
 - Strict FEOC requirements
- 45X Advanced Manufacturing Production Tax Credit
 - Eliminated for wind components sold after Dec. 31, 2027
 - Eliminated for all other components sold after Dec. 31, 2031
 - Strict FEOC requirements
 - Transferability ends for components sold after December 31, 2027

Clean Energy Incentives

- 45U Zero-Emission Nuclear Power Production Credit
 - Repealed for electricity produced after Dec. 31, 2031
 - FEOC restrictions
- 45V Clean Hydrogen Production Tax Credit (and related ITC)
 - Repealed for facilities beginning construction after December 31, 2025
- 45Z Clean Fuel Production Tax Credit
 - Credit extended for fuel sold through December 31, 2031
 - Transferability ends for fuel produced after December 31, 2027
 - Feedstocks limited to US, Mexico and Canada
 - Modifies life-cycle analysis to exclude indirect land use changes
 - FEOC restrictions
- 45Q Carbon Oxide Sequestration Credit
 - Transferability ends for beginning of construction two years after date of enactment
 - FEOC restrictions
- 48 Geothermal Heat Pumps
 - Beginning of construction moved up to December 31, 2031
 - Base rates phased down
 - FEOC restrictions
 - Transferability ends for beginning of construction two years after date of enactment

Clean Energy Incentives

Repealed Dec. 31, 2025

- 30D – Clean Vehicle Credit (slight exception for 2026)
- 25E – Previously-Owned Clean Vehicle Credit
- 30C – Alternative Fuel Vehicle Refueling Property Credit
- 25C – Energy Efficient Home Improvement Credit
- 25D – Residential Clean Energy Credit
- 45L – New Energy Efficient Home Credit



H.R.1 Energy Non-Tax Provisions

Program and Funding Rescissions

- Department of Energy Loan Programs Office
- Tribal Energy Loan Guarantee Program
- Greenhouse Gas Reduction Fund
- Air Pollution Funding
- Methane Emissions Fee Rule
- Clean Vehicle Funding
- Environmental and Climate Justice Block Grants

Permitting and Federal Support

- Expedited natural gas/LNG permitting and approval processes
 - DOE - \$1 million fee to receive public interest determination
 - FERC - \$10 million (or 1% of expected construction costs) for expedited review of federal authorization
- Shortens NEPA environmental review process for project sponsors who pay opt-in fee
- Department of Energy De-Risking Compensation Program
- Energy loan guarantees for Alaska LNG project
- Appropriate additional funding for maintenance and purchase of crude oil for Strategic Petroleum Reserve

Federal Land Management & Royalties

- Resume onshore and offshore oil and gas lease sales
- Increase frequency of geothermal land sales
- Reissue previously cancelled or paused coal leases
- Reduce royalty rates for oil, gas, coal, and geothermal leases on federal land
- Impose acreage rent from solar and wind right-of-way holders
- Directs timber harvest on public Forest Service and BLM lands

H.R.1. Impacts

Will gas and nuclear buildout follow traditional renewable energy models?

- DOE loan guarantees
- Joint Venture Arrangements
- Tax Equity Transactions
- Tax Credit Transfers and Hybrid Structures

How will the 60-day BOC deadline impact deals?

- Safe-Harbor Activity means an upcoming rush to safe-harbor projects
 - 5% Safe-Harbor will be impractical for most projects
 - 3½ month delivery rule
 - Existing supply constraints
 - Greater reliance on Physical Work
- Tax credit insurance may be used more extensively

How might developers alter plans for projects?

- Developers are likely to shift resources to near-term projects
- M&A for development projects is likely to spike
- Equipment and Construction Contracting Impact
- Impact on Project Financing

Industry Recourse: Rescissions & Terminations

Cancellation or Termination of Federal Grants

- The Uniform Grant Guidance, 2 C.F.R. § 200, applies to federal agencies that make federal awards to non-federal and other entities.
- Multiple requirements are imposed on the agency:
 - § 200.340, Agency may terminate a federal award "if the recipient or subrecipient fails to comply with the terms and conditions of the Federal award," or "pursuant to the terms and conditions of the Federal award, including, to the extent authorized by law, if an award no longer effectuates the program goals or agency priorities."
 - § 200.341 – Written notice of termination is required that provides for (a) reason for termination, (b) effective date of termination, and (c) part of the award to be terminated.
 - Agency must provide a process for objections, review, hearings and appeal, § 200.342, and may promulgate more specific regulations. Example 10 C.F.R. § 600.25 for DOE awards

Cancellation or Termination of Federal Grants

- Several challenges are working their way through the courts.
 - *Climate United Fund v. Citibank, N.A.*, 2025 U.S. Dist. LEXIS 73498 (D.D.C. 2025).
 - *Woonasquatucket River Watershed Council v. United States*, C.A. No. 1:25-cv-00097-MSM-PAS (D.R.I. 2025).
 - *Urban Sustainability Directors Network v. United States*, C.A. No. 1:25-cv-1775 (D.D.C. 2025).
- Initial rulings in two of these cases found the government likely failed to follow the required procedures for terminating grants.
- Agencies are subsequently doing a better job of papering the record to try to show compliance with required procedures.

DISCUSSION