

LEGAL UPDATES

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# Updates on Executive and Legislative Developments Impacting Renewable Energy

Executive and legislative actions impacting renewable energy have arisen at an unprecedented rate at the federal, state, and local levels since President Donald Trump took office. In January, we outlined in this legal update the initial energy-related actions taken by the then-new administration in its first weeks. Here, we provide updates on those initial actions, along with a summary of key new renewables-related developments over the last few months (not in chronological order). In spite of all the changes, the renewable energy industry is continuing its trend of rapid growth, finding ways to adapt in this tumultuous environment.

### Altered tax credits under the Inflation Reduction Act

On May 12, tax reform legislation was proposed by the House Ways and Means Committee (bill text available [here](#) and section summary available [here](#)) that would impact the availability of production tax credits (PTC) and investment tax credits (ITC), along with transferability of tax credits, for renewable energy projects under the Inflation Reduction Act (IRA). Our Tax and Banking and Finance teams also published earlier this week a detailed summary of the renewables portions of the proposed bill, available [here](#).

In the bill's current form as of the date of this alert, both the PTC and the ITC would begin to phase out for facilities placed in service after 2028 and would be reduced to zero for facilities placed in service after December 31, 2031. Transferability of both credits would be repealed for facilities where construction begins two years after the date of the bill, and the clean hydrogen credit would sunset for facilities where construction begins after December 31, 2025. In an industry that is used to phase outs and sunsets, these provisions do not cause much concern.

A potentially problematic provision, however, was included in the bill under which projects that commence construction a year after enactment of the bill would not be eligible for PTC or ITC credits where the project receives material assistance from a prohibited foreign entity—specifically, North Korea, China, Russia, and Iran. “Material assistance” is defined as any component, sub-component, critical mineral, “know-how,” or “trade secret,” and there is no de minimis exception included. Whether this provision is retained in the ultimate text remains to be seen, but given the significant support for the IRA credits amongst a large number of Republican senators, it is plausible to expect that these foreign entity restrictions will be softened or removed.

On May 14, the committee voted to pass the proposal. The bill will now go to the House and then the Senate for approval. The Senate would have until its self-imposed deadline of July 4 to amend, reject, or pass the bill as is. We expect there will be alterations—possibly significant—to the renewable tax credit-related provisions as the bill works its way through the House and Senate and ultimately to the president’s desk for signature.

### **Solar tariffs**

The renewable energy industry learned of another significant potential hurdle on April 21, when the U.S. Commerce Department announced plans to impose tariffs of up to 3,521% on imports of solar panels from four Southeast Asian countries—Cambodia, Thailand, Malaysia, and Vietnam. This announcement follows a year-long investigation that began under the Biden administration, prompted when a number of U.S. solar manufacturers voiced concerns about China flooding the solar market with panels at artificially low prices. The International Trade Commission will consider the proposed tariffs and is set to reach its final decision in June.

Any imposed antidumping and countervailing duties imposed on solar panels would presumably be in addition to the other extensive tariffs that the Trump administration has already imposed on products with those respective countries of origin. However, importers of Chinese-origin equipment did recently receive some good news on May 14 when the Trump administration reduced the International Emergency Economic Powers Act (IEEPA) retaliatory tariff rate on imported products of Chinese origin down from 125% to 10%. This rate reduction will last for a period of 90 days while the U.S. and China engage in trade negotiations and then will increase to 34% on August 12, 2025, unless the two countries achieve some sort of resolution before then. Imported products of origin also remain subject to the separate 20% IEEPA fentanyl tariffs for the time being.

### **Changes to corporate tax rates**

There are no announcements or developments yet concerning corporate tax rates. Key provisions of the Tax Cuts and Jobs Act (TCJA) of 2017, which include corporate tax rates, are set to expire in

December. Tax equity investors considering renewable energy projects are watching for possible new corporate tax rates, and President Trump has promised tax cuts by July 4.

### **Wind energy restrictions**

On the president's first day in office, the administration issued an executive action placing restrictions on offshore and onshore wind projects, which we previously outlined in detail here. There have not been any significant executive actions targeting wind energy since January 20. In response to the wind order, U.S. Fish and Wildlife (USFWS) halted the issuance of incidental take permits for renewable energy projects, and the U.S. Army Corps of Engineers (the Corps) went back and forth ceasing and re-starting its issuance of determinations and permits for renewable energy projects. However, it has been business as usual for other federal agencies involved in wind project permitting, including the Federal Energy Regulatory Commission (FERC) and the Federal Aviation Administration, and wind project development and financing have continued despite the attempts to slow its growth. We do note that, with Commissioner Willie Phillips resigning from FERC in April 2025, Trump has an opportunity to nominate a third Republican commissioner immediately, establishing a majority Republican FERC after the new nominee receives Senate confirmation.

On May 5, a coalition of attorneys general from 17 states and Washington, D.C., filed a lawsuit against the Trump administration in federal court, asking the court to declare that Trump's January 20 wind order is unlawful to block federal agencies from implementing the order. That lawsuit is currently pending.

### **Funding changes**

The January 20 wind order discussed above froze certain federal funding for wind projects. Then, on January 21, OMB Memorandum M-25-11 ordered executive agencies to immediately pause disbursement of funds appropriated under the IRA and the Infrastructure Investment and Jobs Act (IIJA) for projects that are implicated by the Unleashing American Energy Executive Order. The pause caused significant disruption to ongoing projects and was challenged in multiple cases across the country. Many of those cases resulted in interim orders enjoining the federal funding freeze for now while the cases are heard on their merits. On April 15, the U.S. District Court for the District of Rhode Island preliminarily enjoined U.S. Department of Energy (DOE), U.S. Environmental Protection Agency (EPA), U.S. Department of the Interior, U.S. Department of Housing and Urban Development, and U.S. Department of Agriculture "from freezing, halting, or pausing" the payment of funds appropriated under the IRA and IIJA and "to release awarded funds previously withheld or rendered inaccessible." The agencies were also ordered to give notice of the order to all agencies addressed in OMB Memo 25-11 and instruct them "that they may not take any steps to implement, give effect to, or reinstate under a different name" the freeze in Memo 25-11. The administration has

appealed the ruling to the U.S. Court of Appeals for the First Circuit but has not yet sought a stay of the injunction.

### **Boosts to fossil fuels**

Although not directly targeting renewable energy, President Trump has issued a number of executive actions promoting fossil fuel energy sources at the expense of renewable energy:

On January 20, President Trump issued multiple executive orders (EOs) declaring a “National Energy Emergency” and directing various actions be taken to address the alleged emergency, which we previously summarized here.

On February 25, in accordance with the administration’s goal of “Unleashing American Energy,” the Council on Environmental Quality directed federal agencies to revise implementing regulations for the National Environmental Policy Act (NEPA), a development we previously summarized here. NEPA, a federal statute that requires federal agencies to consider the environmental impact of their actions, is triggered by renewable energy projects that involve federal lands or federal funding. No changes have taken effect yet, as the directive asked agencies to complete the revision of their procedures within 12 months of the memorandum.

On March 12, the newly appointed EPA administrator published a deregulation announcement, identifying 31 existing EPA regulations that EPA intends to reconsider to support the administration’s goals, including “Unleashing American Energy.” The energy-related actions include reconsideration of regulations on power plants, certain oil and gas regulations, the Mercury and Air Toxics Standards for coal-fired power plants, the mandatory Greenhouse Gas Reporting Program, Steam Electric Power Generating Industry standards, wastewater regulations for oil and gas development, and a Risk Management Program rule for oil and natural gas refineries and chemical facilities.

On April 23, DOI issued an announcement accelerating permitting timelines under NEPA, the National Historic Preservation Act, and the Endangered Species Act, expediting the permitting process from approximately two years to 28 days at most. This directive, intended “to develop American Energy Dominance,” applies to oil, natural gas, petroleum, uranium, coal, biofuels, critical minerals, geothermal, and hydropower projects, but not wind and solar.

An April 8 EO titled “Protecting American Energy from State Overreach” directed the U.S. attorney general to block enforcement of state and local laws that are obstacles to the production or use of coal, oil, natural gas, hydropower, geothermal, biofuel and nuclear energy. By June 7, the U.S. attorney general must provide a list of such laws and report on the actions that will be taken to address the identified laws. It is not yet known whether state renewable portfolio standards, community solar programs, and low carbon fuel standards in certain states will be on that list.

Another April 8 EO, called “Reinvigorating America’s Beautiful Clean Coal Industry and Amending Executive Order 14241,” issued directives aimed at bolstering the U.S. coal industry.

An April 8 Proclamation titled “Regulatory Relief for Certain Stationary Sources to Promote American Energy” exempted coal-fired power plants from compliance with a Clean Air Act rule.

An April 9 EO, “Zero-Based Regulatory Budgeting to Unleash American Energy,” aimed at lifting restrictions that supposedly impose costs on energy production, directed FERC, the Corps, USFWS, DOE, EPA, the Nuclear Regulatory Commission, the Bureau of Land Management, and other sub-bureaus to add a sunset date of September 30, 2026, to their existing energy and environmental-related regulations. The agencies can decide to extend regulations up to five years, but if not extended the regulations will cease to exist after the sunset date and the federal agencies are directed not to enforce them.

### **State and local anti-renewables laws**

Several states have introduced or passed bills targeting renewable energy development. For instance, numerous bills in Texas are currently pending which could implement new restrictions on renewable energy projects, such as an additional permit requirements and new setbacks. Our Energy Regulation team is following the Texas bills closely; the team presented an April 18 webinar on the bills that is available on demand here, and they are planning to prepare a wrap-up summary of the Texas legislature’s treatment of renewables and potential industry effects after the legislative session ends in June.

Similarly, in Oklahoma, a total of 10 renewables-related bills have been proposed and are up for a vote by the end of the month. Those bills include a new Oklahoma Corporation Commission permitting requirement for renewable energy facilities, additional setbacks for renewable projects, and prohibitions of the use of eminent domain for such projects. The State of Arkansas also passed a law in April establishing major setback restrictions for new wind projects sited in the state and creating a new requirement that wind projects obtain a permit from the Arkansas Public Service Commission.

There are other states proposing and enacting similar restrictions and requirements on renewable energy projects.

We also continue to see local-level restrictions on renewable energy—ranging from onerous setback requirements to outright moratoriums—being proposed and adopted in various counties across the U.S. However, many localities across the country remain supportive of renewable energy project development.

## **The good news**

Despite the multitude of hurdles that have arisen thus far in 2025 impacting renewable energy, the multi-trillion-dollar industry has refused to view these hurdles as true roadblocks, crafting creative strategies and solutions to continue developing and financing projects with incredible sustained growth.

## **Contact us**

We continue to monitor renewable energy developments extremely closely. Reach out to Megan Caldwell, Leah Kaiser, or another member of Husch Blackwell's Energy and Natural Resources team if you have any questions or to request updates.

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