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Navigating the One Big Beautiful Bill Act: A Practical Guide

WRITTEN BY

Adam C. Kobos | Joel M. Post | Roger S. Reigner Jr. | Mitchell T. Emmert | Anne C. Loomis | McKenzie L. Bayliss | Camille M. Mennen | Tsitsi M. Mangosho | Andrew P. Nelson | John C. Nelson, Jr.

On July 4, 2025, H.R. 1 — the One Big Beautiful Bill Act (the OBBBA) was enacted into law. We discussed the version of the bill that passed in the House in May (the House bill) in our previous update. On July 1, the Senate passed the OBBBA, which was then passed in the House on July 3 and signed into law by the president on July 4.

The OBBBA includes significant changes to the timing and availability of several clean energy tax credits, including the clean energy ITC (CEITC) and PTC (CEPTC), the clean hydrogen PTC, the advanced manufacturing credit, and the zero-emission nuclear PTC, as well as restrictions related to foreign entities applicable to such credits and to the carbon capture sequestration credit. The OBBBA includes various timeframes for grandfathering renewable energy projects from such changes.

A chart of key dates for solar, wind, and battery projects under the OBBBA can be downloaded here.

Key Changes

This alert focuses on issues of particular significance to the energy industry and the timeframes for beginning construction before the relevant effective dates and is not intended to be comprehensive. Four key changes discussed below include:

- Accelerated phase-out of various clean energy tax credits;
- New restrictions related to foreign entities of concern (FEOC);
- Adoption of existing beginning of construction guidance for purposes of the FEOC restrictions; and
- Denial of CEITC and CEPTC for small wind leasing arrangements.

Accelerated Phase-Out/Sunset of CEPTC, CEITC, Clean Hydrogen PTC, and Advanced Manufacturing Credits

Sections 45Y (the CEPTC) and 48E (the CEITC)

For solar and wind projects that begin construction after July 4, 2026 (the date which is 12 months after enactment), the OBBBA phases out the CEPTC and CEITC for projects placed in service after 2027.

Prior to the enactment of the OBBBA, the phase-out period for the CEPTC and the CEITC for all projects (including solar and wind) would have occurred over three calendar years, commencing upon the later of 2032 and the year in which greenhouse gas emissions from electricity production have been reduced by 75% from 2022 levels.

- Troutman Pepper Locke Insight: The one-year "beginning of construction" standard is much more accommodating than both the 60-day standard in the House bill and the "date of enactment" standard in an early draft of the OBBBA in the Senate. The early draft of the OBBBA in the Senate also included an excise tax that applied to solar and wind projects based on use of foreign materials, which is no longer included in the OBBBA. We note that the 2027 placed in service deadline is unlikely to apply to many utility-scale solar and wind projects given typical project development timelines.
- Troutman Pepper Locke Insight: The final OBBBA does not include the elimination of five-year MACRS for CEITC and CEPTC property that was included in early drafts of the Senate bill.

Section 45V (Clean Hydrogen PTC)

The OBBBA accelerates the phase-out for the clean hydrogen PTC by revising the beginning of construction deadline to January 1, 2028.

Prior to the enactment of the OBBBA, the beginning of construction deadline for the clean hydrogen PTC was January 1, 2033.

- Troutman Pepper Locke Insight: It may be more challenging for clean hydrogen projects to meet the beginning of construction deadline than wind or solar projects, given that the industry is still nascent and many developers are not yet able to procure significant equipment. However, the December 31, 2027, deadline is much more accommodating than the House bill, which included a December 31, 2025, deadline.

Section 45X (Advanced Manufacturing Credits)

The Section 45X advanced manufacturing credit applies different credit rates to the production of different eligible components.

For tax years beginning after enactment, the OBBBA modifies the relevant phase-out and termination dates for certain types of eligible components and the requirements for battery modules.

Metallurgical coal was added as an applicable critical mineral, but the advanced manufacturing credit rate is only 2.5% (as opposed to the 10% rate for other applicable critical minerals).

For applicable critical minerals (except for metallurgical coal), the OBBBA adds a phase-out that begins in 2031 (prior law included no phase-out or termination for critical minerals). The OBBBA terminates the credit for wind energy components and metallurgical coal. For wind energy components, the advanced manufacturing credit is terminated for components produced and sold after December 31, 2027. For metallurgical coal, the advanced manufacturing credit is terminated for metallurgical coal produced after December 31, 2029.

Prior to the enactment of the OBBBA, the phase-out period for the advanced manufacturing credit was set to begin in 2030 for eligible components other than critical minerals, with the complete phase-out for components sold after 2032.

- Troutman Pepper Locke Insight: The accelerated phase-out for wind components is consistent with the Administration's other policies, including a presidential memorandum targeting wind energy and an order to stop work on the Empire Wind 1 Project.

Finally, the term "battery module" was modified to clarify that battery modules are comprised of all other essential equipment needed for battery functionality, such as current collector assemblies and voltage sense harnesses, or any other essential energy collection equipment.

Restrictions on Foreign Entities and Investors

The OBBBA includes complex restrictions related to relationships with or assistance from certain FEOCs, which apply to the CEITC, CEPTC, the Section 45Q carbon capture sequestration credit, the Section 45U nuclear PTC, and the advanced manufacturing credit.

For taxable years beginning after the date of enactment of the OBBBA, no such credit is available if the facility is owned by a "specified foreign entity" (SFE). An SFE is defined in the OBBBA to include specifically identified threats to the security of the U.S., Chinese military companies operating in the U.S., entities subject to Uyghur Forced Labor Prevention Act restrictions, and battery-producing entities eligible for Department of Defense contracts as identified by the National Defense Authorization Act for Fiscal Year 2021.

- Troutman Pepper Locke Insight: This definition includes Contemporary Amperex Technology Company (CATL), BYD Company, Envision Energy, EVE Energy Company, Gotion High Tech Company, and Hithium Energy Storage Company, thus impacting significantly all battery energy storage systems.

SFEs also include foreign-controlled entities. An entity will generally be a "foreign-controlled entity" only if it is owned more than 50% by entities or individuals with ties to North Korea, China, Russia, or Iran.

In addition, for taxable years beginning after two years after the date of enactment of the OBBBA, no credit is allowed under Section 45U if the facility is owned by a "foreign-influenced entity" (FIE). Further, no credit is allowed under Section 45Q, Section 45X, Section 45Y, and Section 48E for any taxable year beginning after the date of enactment of the OBBBA if the facility is owned by an FIE. An FIE is one that satisfies one of two tests: first, one of the following conditions must be met during the applicable taxable year: (i) an SFE has authority to appoint a covered officer, (ii) a single SFE owns at least 25% of the entity, (iii) one or more SFEs own in the aggregate 40% or more of the entity, or (iv) at least 15% of the entity's debt is held in the aggregate by one or more SFEs. Second, during the previous taxable year, the entity must have made a payment to an SFE pursuant to a contract, agreement or other arrangement which entitles such SFE (or an entity related to such SFE) to exercise control over (i) any qualified facility or energy storage technology of the taxpayer (or any person related to the taxpayer) or (ii) with respect to any eligible component produced by the taxpayer (or any person related to the taxpayer), (a) the extraction, processing, or recycling of any applicable critical mineral, or (b) the production of an eligible component which is not an applicable critical mineral.

Effectively controlled entities are ineligible for credits. For purposes of defining an FIE, the OBBBA broadens the definition of effective control to encompass licensing agreements and related contractual arrangements with respect to a qualified facility, energy storage technology, or the production of an eligible facility where (i) a contractual counterparty retains any of the following rights to: (A) control sourcing of components and subcomponents, (B) direct operations, (C) restrict the taxpayer's use of intellectual property, (D) receive royalties beyond 10 years of a licensing or similar agreement, (E) direct or otherwise require the taxpayer to enter into service agreements exceeding two years, (ii) such agreement fails to provide the licensee with the technical data and know-how necessary to produce an eligible component independently, without further involvement from the contractual counterparty or an SFE, or (iii) such agreement was entered into after the date of enactment. However, the OBBBA carves out the bona fide purchase and sale of intellectual property from the restrictions, excluding purchases where the intellectual property reverts after a period of time.

The OBBBA provides that the Secretary shall issue such guidance with respect to the FIE provisions no later than December 31, 2026.

- Troutman Pepper Locke Insight: If read literally, the practical effect of the "entered into after the date of enactment" standard is that any licensing agreements executed after July 4, 2025 are deemed to provide the licensee with effective control.
- Troutman Pepper Locke Insight: The OBBBA's omission of the FEOC rules from Section 48 means that geothermal heat pump property that begins construction before January 1, 2035, will not be subject to the FEOC rules if the Section 48 ITC is claimed with respect to such property.

In addition to the ownership-related restrictions described above, new project-level restrictions prevent facilities from being eligible for the CEITC, CEPTC, or advanced manufacturing credits if they begin construction after the end of 2025 (or, in the case of the advanced manufacturing credits in taxable years beginning after the date of enactment of the OBBBA, if an eligible component is used in a product sold before January 1, 2027) and receive "material assistance from a prohibited foreign entity" (PFE). A PFE is an SFE or an FIE. The term "material assistance" from a PFE means that, with respect to any property, a facility has a "material assistance cost ratio" that is less than the applicable threshold percentage.

With respect to any qualified facility or energy storage technology, the threshold percentage is 40% in the case of a qualified facility that begins construction in 2026 and is 55% in the case of energy storage technology that begins construction in 2026. The threshold percentage increases 5% each year through 2029. The "material assistance cost ratio" for qualified facilities and energy storage technology is an amount (expressed as a percentage) equal to (i) the total direct costs to the taxpayer attributable to all manufactured products (including components) incorporated into the qualified facility or energy storage technology *other than* the total direct costs attributable to all manufactured products (including components) that are mined, produced, or manufactured by a PFE, divided by (ii) the total direct costs to the taxpayer attributable to all manufactured products (including components) that are incorporated into the qualified facility or energy storage technology.

The OBBBA requires the Secretary to issue safe harbor tables to identify the percentage of total direct costs of any manufactured product or eligible component that is attributable to a PFE and to provide rules necessary to determine the amount of a taxpayer's material assistance from a PFE no later than December 31, 2026. Prior to the issuance of such safe harbor tables, taxpayers may use the tables included in Notice 2025-08 to establish the percentage of the total direct material costs of any listed eligible component and any manufactured product, and rely on a certification by the supplier of the manufactured product, eligible component, or constituent element, material, or subcomponent of an eligible component regarding (i) the total direct costs or the total direct material costs, as applicable, of such product or component that was not produced or manufactured by a PFE, or (ii) that such product or component was not produced or manufactured by a PFE.

- Troutman Pepper Locke Insight: While compliance with the material assistance ratio may not be as burdensome for taxpayers developing projects with domestic content strategies, the compliance burden may be more significant for projects without such strategies in place.
- Troutman Pepper Locke Insight: Certain suppliers may be reluctant to provide certifications since violations of the material assistance ratio resulting from misrepresentations can result a penalty to the person that provides the certification.

Taxpayers may elect to exclude costs from the material assistance cost ratio with respect to a product, component, element, material, or subcomponent that is (i) acquired, manufactured, or assembled pursuant to a binding written contract with a PFE that was entered into before June 16, 2025, and (ii) placed in service before 2030 (or before 2028, in the case of solar and wind property used to generate electricity) in a facility the construction of which begins before August 1, 2025.

- Troutman Pepper Locke Insight: The material assistance ratio is expected to impact nearly all major suppliers of battery storage systems and solar modules.

The OBBBA amends the recapture rules for the CEITC to provide that payments to FEOCs result in recapture of the CEITC. However, unlike the normal ITC recapture rules, this FEOC recapture rule applies during the 10-year period beginning at placed in service, and results in 100% recapture at all points during that period.

- Troutman Pepper Locke Insight: The recapture rule for the CEITC is stricter than the FIE disallowance discussed above as applied to the CEPTC because an applicable payment to an SFE results in the recapture of the entire CEITC. With respect to the CEPTC, such a payment results in the disallowance of the CEPTC for the taxable year following the payment.

Adoption of Existing Beginning of Construction Guidance for Purposes of the FEOC Restrictions

For purposes of the FEOC restrictions, the OBBBA provides that the beginning of construction date is determined pursuant to rules similar to Notice 2013-29 and Notice 2018-59 as well as any subsequently issued guidance in effect on January 1, 2025.

Additionally, the OBBBA directs the Secretary to prescribe regulations and guidance to prevent the circumvention of the FEOC restrictions. Further, on July 7, President Trump issued an executive order directing the Treasury to issue new guidance to ensure that policies concerning the "beginning of construction" are not circumvented, including by preventing the artificial acceleration or manipulation of eligibility and by restricting the use of broad safe harbors unless a substantial portion of a subject facility has been built.

- Troutman Pepper Locke Insight: Taxpayers may find it helpful that the OBBBA adopts a familiar standard for the beginning of construction given the longstanding application of the beginning of construction guidance. However, the anti-circumvention rule and executive order indicate the IRS may change the standard to take a more prohibitive approach.
- Troutman Pepper Locke Insight: For existing "beginning of construction" guidance, please see our prior analysis on Notices 2013-29, 2013-60, 2014-46, 2015-25, 2016-31, 2017-04, 2018-59, 2019-43, 2020-41, and 2021-41.

Denial of Credit for Expenditures for Small Wind Leasing Arrangements

The OBBBA denies the CEITC or CEPTC to solar water heating and wind generation property if the taxpayer rents such property to a third party. Unlike the House bill, solar electric property is not included in the list of prohibited property. Accordingly, residential solar electric property that is leased to customers remains eligible for the CEITC and CEPTC.

Conclusion

As enacted, the OBBBA provides substantive rules and transition rules that are significantly more favorable to the industry than interim versions of the bill that had been proposed. Because certain of the more unfavorable provisions in the OBBBA do not apply to projects that “begin construction” as of certain dates, it is essential to consider and implement “beginning of construction” strategies for applicable projects as soon as possible.

For further assistance or clarification, please contact any of the authors of this advisory.

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