

LEGAL UPDATES

PUBLISHED: JULY 8, 2025

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New Executive Order Targets Wind and Solar Tax Credits

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On July 7, 2025, President Trump signed the executive order “Ending Market Distorting Subsidies for Unreliable, Foreign-Controlled Energy Sources.” The EO directs the Secretary of the Treasury to “strictly enforce” the termination of Section 45Y production tax credits and Section 48E investment tax credits for wind and solar facilities, and to issue updated guidance within 45 days—specifically aimed at clarifying and tightening the “beginning of construction” rules for energy projects.

Currently, the Internal Revenue Service recognizes two methods to establish the commencement of construction—the “Physical Work Test” and the “Five Percent Safe Harbor”—as outlined in Notices 2013-29 and 2018-59. The EO aims to prevent manipulation of these rules, such as artificially accelerating project milestones or relying on broadly defined safe harbors without demonstrating genuine progress. Notably, while the One Big Beautiful Bill Act codified the begin-construction rules from these notices, this codification appears to apply only with respect to the determination of foreign entities of concern restrictions. As such, developers of solar and wind projects should closely monitor forthcoming guidance.

Additionally, the Treasury Secretary is required to promptly implement more stringent restrictions on foreign entities of concern, as mandated by the new law. The Secretary of the Interior must also review and revise all relevant regulations and policies within 45 days to ensure that wind and solar projects do not receive preferential treatment over dispatchable energy sources.

Contact us

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If you have any questions about this executive order, please contact Doug Jones, Jason Reschly, Robert Romashko, Dimitri Zografis, or your Husch Blackwell attorney.