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Blog Post

Coronavirus Relief Package Implications for Renewables: Offshore Wind Wins Big and Other Renewable and Carbon Capture Projects See Extensions

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Congress passed a \$900 billion COVID-19 relief package late Monday night that included multiple tax extension provisions designed to spur investment in solar, wind, carbon capture, and a host of other renewables projects. The legislation – housed in what is titled the [Taxpayer Certainty and Disaster Tax Relief Act of 2020](#) – is expected to be signed by President Trump.

Tax Credit Overview

As a brief overview, most U.S. renewables projects qualify for production tax credits (“PTCs”) or investment tax credits (“ITCs”). These tax credits provide the project owner with a dollar-for-dollar reduction in U.S. federal income tax liability. The PTC is a production-based incentive in which the amount of the credit depends on how much electricity the taxpayer sells to third parties. The ITC is a cost-based incentive in which the amount of the credit depends on how much the relevant project costs to build. Under current tax law, the value of both PTCs and ITCs is subject to a phase-down schedule in which the credit value of the credit depends on the year in which the construction of the underlying project begins.

There is also a separate standalone tax credit for carbon capture and sequestration projects. The credit amount depends on how many metric tons of carbon oxide a

taxpayer captures and stores or puts to use in a given year. Current law requires carbon capture projects to have begun construction before the end of 2023 to qualify for a credit.

Proposed Legislation

Here are the key energy and infrastructure-related provisions in the legislation:

Tax Credit	Proposed Extension
PTCs for onshore wind	<p>One-year extension at a 40% haircut for projects that begin construction in 2021.¹ Projects that do not begin construction until 2022 or later do not qualify for a PTC.</p>
Production tax credits for biomass, geothermal, landfill gas, municipal solid waste, incremental hydroelectric and ocean energy projects	<p>One-year extension for projects that begin construction in 2021.</p>
ITCs for solar	<p>Two-year extension at 26% level, with step down to 22% for projects that begin construction in 2023 and 10% for projects that begin construction in 2024 or later. Projects need to be placed in service before 2026 to qualify for more than a 10% ITC.</p>
ITCs for offshore wind	<p>Five-year extension at 30% level for projects that begin construction before 2026. Offshore projects that start construction in 2026 or later do not qualify for ITCs or PTCs.</p>
ITCs for fuel cells, small wind energy and fiber-optic solar	<p>Two-year extension at 26% level, with a step down to 22% for projects that begin construction in 2023, and no credit allowed for projects that begin construction after 2023 or are not placed</p>

ITCs for waste heat-to-power ²	in service before 2026. New ITC added with same phasedown schedule as fuel cell, small wind energy and fiber-optic solar property.
ITCs for combined heat and power, geothermal heat pump, and qualified microturbine property	Two-year extension at 10% level for projects that begin construction before 2024. Projects that begin construction in 2024 or later do not qualify for an ITC.
Carbon oxide sequestration tax credit	Two-year extension to qualify for tax credits. Carbon capture projects must begin construction before 2026.

Renewables trade groups had lobbied for years for many of the tax credit extensions in the proposed legislation. If passed, these extensions will significantly relieve developers of the time pressure to begin work on their pipeline projects and still maximize the value of the tax credits.

The asset class that benefits the most from the extensions is undoubtedly offshore wind. Offshore wind projects are still a nascent industry in the U.S., and some of the marquee projects slated to come online in the near-term have faced significant permitting and other development delays. The pending ITC cliff for these projects was a significant concern and existential threat to their viability.

What's Next?

Though the tax credit extensions are welcome news for developers, they unfortunately do not address a lingering supply issue in the tax equity market. The ability of developers to monetize tax credits depends on tax equity investors' confidence that they can use those tax credits to offset positive taxable income in a given year, and tax equity supply naturally decreases in times of economic uncertainty. Renewables and carbon capture trade groups had been advocating this year for a cash payment or refund option in lieu of tax credits that might offset tax equity supply concerns. This, along with continued advocacy for a standalone tax credit for energy storage, will likely continue to be a key focus of lobbying efforts headed into 2021.

1. For additional background on PTC values for different asset classes and the current phase-down schedule, see <https://www.kirkland.com/publications/blog-post/2020/05/irs-inflation-adjustment-for-ptcs>.↩

2. The legislation defines a waste heat-to-power project as “property that generates electricity solely from heat from buildings or equipment if the primary purpose of such building or equipment is not the generation of electricity.” The property’s capacity cannot exceed 50 megawatts.↩

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