Avisen

MEMO

TO: MnCIFA Board

FROM: Jeremy Kalin

DATE: 15 August 2025

RE: Energy Tax Credit changes in Public Law 119-21 (the 2025 Budget Reconciliation Act)

Public Law 119-21, enacted on July 4, 2025, made substantial changes to a number of federal energy tax credits, many of which will require additional compliance requirements for MnCIFA lending and underwriting.

This memo provides a high-level overview of the impact of specific credits, new timelines, and additional requirements that MnCIFA should ensure are being met by applicants and borrowers.

a. **Technologies, Credits and Bonuses not impacted:**

   i. Ground source heat pump projects (often mistakenly called "geothermal") (under Section 48);
   ii. Battery storage projects (under Section 48E), except for FEOC requirements, described herein;
   iii. Energy Communities Bonus Credit (10%) for 48E projects;
   iv. Domestic Content Bonus Credit (10%) for 48E projects;
   v. Low Income Communities Bonus Credit (10% or 20%) for 48E projects;

b. **Tax Credit Monetization Strategies not impacted, provided the underlying credit is available:**

   i. Direct claim by for-profit owners;
   ii. Direct Pay for tax-exempt entities (under Section 6417);
   iii. Transferability (under Section 6418)

c. Phase out for Wind and Solar

To secure the Section 48E Investment Tax Credit, solar and wind projects must be placed in service by one of two deadlines:

   i. By December 31, 2027;

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ii. By a later date to be determined by additional IRS guidance (possibly included in expected IRS guidance on August 18), for projects that meet a to-be-announced "begin construction" threshold.

d. New FEOC / Prohibited Foreign Entity supply chain ("Material Assistance") requirements for Wind, Solar, Storage and other Zero-GHG-Emission-Electricity projects

In addition to new deadlines for solar and wind placed-in-service deadlines, ITC claimants must demonstrate that the total percentage of manufactured products and components integrated into the project have no more than the threshold percentages from Prohibited Foreign Entities (often called Foreign Entities of Concern):

i. Energy storage projects:
   a. Projects that begin construction in 2026: 45%
   b. Projects that begin construction in 2027: 40%

ii. Solar, wind, and all other 48E ITC projects:
   a. Projects that begin construction in 2026: 60%
   b. Projects that begin construction in 2027: 55%

The current list of Prohibited Foreign Entities includes four countries: China, Iran, Russia and North Korea. P.L. 119-21 includes significant anti-circumvention provisions, so MnCIFA can assume that projects need to show strict compliance with the FEOC / PFE thresholds.

NOTE: Projects can secure a statutory waiver from these FEOC / PFE requirements if they take one of two actions before December 31, 2025:

i. Perform physical work of a significant nature (not merely engineering, prep work, etc…), or

ii. Expend at least 5% of the final tax cost basis of the project.

e. New FEOC / Prohibited Foreign Entity supply chain ("Material Assistance") requirements for 45X Advanced Manufacturing Production Credit:

45X Manufacturing Credit claimants must demonstrate that the total percentage of manufactured products and components integrated into the components sold for each year have no more than the threshold percentages from PFEs:

i. Any solar energy component:
   a. Sold during 2026: 50%
   b. Sold during 2027: 40%
   c. Sold during 2028: 30%
   d. Sold during 2029: 20%

e. Sold 2030 and after: 15%

ii. Any wind energy component:
   a. Sold during 2026: 15%
   b. Sold during 2027: 10%
   c. No 45X credit available for wind energy components sold in 2028 or later.

iii. Any inverter:
   a. Sold during 2026: 50%
   b. Sold during 2027: 45%
   c. Sold during 2028: 40%
   d. Sold during 2029: 35%
   e. Sold 2030 and after: 30%

iv. Any qualifying battery component:
   a. Sold during 2026: 40%
   b. Sold during 2027: 35%
   c. Sold during 2028: 30%
   d. Sold during 2029: 20%
   e. Sold 2030 and after: 15%

v. Any critical mineral:
   a. Sold during 2030: 75%
   b. Sold during 2031: 70%
   c. Sold during 2032: 60%
   d. Sold 2033 and after: 50%

f. Additional FEOC / PFE restrictions against ITC or 45X project ownership, control, payment or influence.

ITC and 45X claimants must also demonstrate that a Prohibited Foreign Entity does not:

i. Constitute the Tax Credit claimant;
ii. Have any rights, and will not receive for 10 years, any significant payment from the ITC claimant;
iii. Control projects, manufacturing facilities, the Intellectual Property of related projects or facilities;
iv. Through commercial agreements have any ability to substantially influence or control the project or facility;
v. Have direct authority to appoint any covered officer of the project or facility ownership entity;
vi. Own at least 25% of such entity, or with other PFEs, own at least 40% of such entity, and
vii. Hold at least 15% of the total debt (of all PFEs in total) issued by such entity.

P.L. 119-21 includes multiple noncircumvention provisions, including describing any PFE as an entity controlled by a PFE government, agency or instrumentality; a citizen or national of a PFE that is not a US Citizen or a legal permanent resident, and a business organized or incorporated in a PFE or which has its principal place of business in a PFE.

These FEOC / PFE restrictions apply to projects claiming the ITC and 45X credits during 2025 and later years, even for projects that were begun or placed in service prior to enactment of P.L. 119-21.

g. Overlap between FEOC Material Assistance requirements and Domestic Content bonus credit requirements.

Projects and facilities that meet the FEOC / PFE Material Assistance requirements may be better positioned to meet the Domestic Content Bonus Credit thresholds for U.S.-manufactured and assembled products and components for 48E ITC projects.

However, the FEOC / PFE Material Assistance requirements only require limiting such products and components to no more than 60% of Chinese et al components, and do not require that the other components be made in the U.S.

The Domestic Content Bonus Credit requires that the ITC claimant show and certify that at least 45% of products and components are made in the U.S. for 2025 projects, and 50% in 2026.