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Energy & Sustainability Washington Updates – January 2021

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As we approach the end of the current 116th Congress on January 3, there has been a flurry of energy-related activity on Capitol Hill as well as with the Biden-Harris presidential transition as President-elect Biden prepares for his inauguration on January 20.

Biden-Harris Transition Updates

President-elect Biden has continued to round out his energy, environment, and climate teams, naming cabinet-level nominees as well as other roles that do not require confirmation by the U.S. Senate.

- Jennifer Granholm, the former governor of Michigan, has been nominated top serve as Secretary of Energy.
- Michael Regan, Secretary of the North Carolina Department of Environmental Quality, has been nominated to serve as Administrator of the Environmental Protection Agency.
- Rep. Deb Haaland (D-NM) has been nominated to serve as Secretary of the Interior.
- John Kerry, former senator and secretary of state, will serve as Special Envoy for Climate (a new post created by the President-elect).
- Gina McCarthy, former Administrator of the EPA, will serve as the White house National Climate Advisor (a new post created by the President-elect).
- Ali Zaidi, who served in the Obama Administration, as Deputy White House National Climate Advisor (a new post created by the President-elect).
- Brenda Mallory, an environmental law expert, will serve as chair of the White House Council on Environmental Quality.
- Susan Rice, former National Security Advisor to President Obama, will serve as chair of the Domestic Policy Council.

Congress Approves Bipartisan Energy Package

The Fiscal Year 2021 Consolidated Appropriations Act, finalizing the federal government's appropriations for the current fiscal year which started on October 1, included a bipartisan, bicameral agreement (the Energy Act of 2020) which combined the Senate's American Energy Innovation Act (S. 2657) and the House of Representatives' Clean Economy Innovation and Jobs Act (H.R. 4447). This is the first comprehensive energy legislation in more than a decade.

The package focuses on energy storage; advanced nuclear; carbon capture, utilization and storage; carbon removal; renewable energy; critical minerals and materials; fusion; industrial technologies; smart manufacturing; and grid modernization, among other areas. It also reauthorizes ARPA-E and the Weatherization Assistance program, and includes a range of measures aimed at boosting energy efficiency and brings administrative reforms to improve the Department of Energy.

A high-level summary of the Energy Act can be found by clicking **HERE**.

A more detailed section-by-section summary of the Energy Act can be found by clicking **HERE**.

Energy Tax Provisions Made Permanent or Extended

The end-of-year omnibus legislation, covering FY21 appropriations and COVID relief measures, also included numerous provisions that either made permanent or extended certain energy and energy efficiency tax provisions. The "tax extenders" language in the omnibus extends the investment tax credit for two years and the production tax credit for one year; expands tax incentives for offshore wind, waste heat to power property, and efficient biomass stoves; incentivizes energy efficient commercial buildings

by making permanent the deduction for certain energy efficient property; and extends credits for energy efficient and renewable energy property for homeowners, new energy efficient homes, EV charging and fuel cell refueling stations, and certain zero-emissions vehicles.

More specifically, the bill:

- Extends the production tax credit for renewable power facilities that begin construction by the end of 2021. For wind facilities that begin construction by the end of 2021, the credit continues to be reduced by 40 percent.
- Extends the current 26 percent investment tax credit for solar energy property, fiber-optic solar equipment, fuel cell property, and small wind energy property that begin construction by the end of 2022, and at a 22 percent rate for property that begin construction by the end of 2023, after which the credit is reduced to 10 or zero percent. The bill extends the 10 percent investment credit for microturbine property, geothermal heat pumps, and combined heat and power property that begins construction through 2023.
- Extends through 2021 a credit for purchases of nonbusiness energy property. The provision allows a credit of 10 percent of the amounts paid or incurred by the taxpayer for qualified energy improvements to the building envelope of principal residences. The provision allows credits of fixed dollar amounts ranging from $50 to $300 for energy-efficient property including furnaces, boilers, biomass stoves, heat pumps, water heaters, central air conditioners, and circulating fans, and is subject to a lifetime cap of $500.
- Extends, through 2021, a credit for purchases of new qualified fuel cell motor vehicles. The provision allows a credit of between $4,000 and $40,000, depending on the weight of the vehicle.
- Extends, through 2021, a credit for the installation of alternative fuel vehicle refueling property, which includes property that dispenses alternative fuels including ethanol, biodiesel, natural gas, hydrogen, and electricity. The credit is capped at $30,000 per location for business property and $1,000 for property installed at a principal residence.
- Extends, through 2021, a 10-percent credit for highway-capable, two-wheeled plug-in electric vehicles. The credit is capped at $2,500. Batter capacity within the vehicles must be greater than or equal to 2.5 kilowatt-hours.
- Extends, through 2021, the credit of up to $2,000 for qualified new energy efficient homes.
- Extends, through 2021, the $0.50-per-gallon excise tax credit or payment for alternative fuel and $0.50-per-gallon credit for alternative fuel mixtures.
- Extends, through 2022, the credit for residential energy efficiency property at the current 26 percent rate for property placed in service through 2022, with the rate reduced to 22 percent for property placed in service in 2023. Starting in 2021, the provision expands the definition of eligible property to include qualified energy efficient biomass fuel property with a thermal efficiency rating of at least 75 percent. Biomass stoves will no longer qualify under section 25C to prevent a double benefit.
- Makes waste energy recovery property eligible for the energy investment tax credit. Waste energy property that begins construction after 2021 or 2022 is eligible for a 26 percent credit, and property that begins construction in 2023 is eligible for a 22 percent credit.
- Extends the investment tax credit for electing offshore wind facilities that begin construction through 2025. Offshore wind facilities that begin construction during 2017 to 2025 are not subject to the onshore-wind facilities phase-out rates and are eligible for the full credit amount.

A Senate Finance Committee summary of the tax provisions can be found by clicking **HERE**.

House Democrats Finalize 117th Congress Committee Assignments

The House Democratic Steering Committee has finalized committee assignments for the 117th Congress, which convenes on January 3, with a number of new members for the House Energy & Commerce Committee: Rep. Angie Craig (D-MN), Rep. Lizzie Fletcher (D-TX), Rep. Kathleen Rice (D-NY), Rep[. Kim Schrier (D-WA), and Rep. Lori Trahan (D-MA). The House Ways & Means Committee, which has jurisdiction over tax matters, will also gain one new Democratic member with Rep. Stacey Plaskett (D-VI).

Authors



R. Neal Martin, Senior Director of Government Relations

Neal Martin brings more than two decades of experience in government and federal relations to his work, helping clients navigate a wide range of issues. He provides strategic guidance to organizations seeking to advance their legislative priorities and enhance their visibility before Congress and federal agencies.