

The PTC—currently pegged at \$0.024/kilowatt-hour—will pay wind facilities for ten years once service begins. Projects that began construction before 2017 will be credited at the full rate. Projects that begin construction before 2020 will be credited at a partial rate.

But IRS guidance, most notably Notice 2016-31, expands the subsidy beyond Congress's established parameters.

What constitutes "beginning construction":

Physical work test: requires only that developers excavate for a foundation, set anchor bolts into the ground, or place concrete pads of the foundation in order to demonstrate "physical work of a significant nature."

Safe harbor test: requires only that only 5 percent of project costs were expended in the first year of development.

Lenient completion timeline: developers are given a guaranteed four years to complete projects, meaning the ten-year PTC payment period for some projects might not begin until December 31, 2023, and possibly even later.

Other loopholes that extend the subsidies:

Severe weather, permitting delays, supply shortages, labor stoppages, presence of endangered species, financing delays.

"Repowering":

An existing wind project that has exhausted its ten years of tax credits can upgrade its facility and qualify for another ten years of the PTC.

The U.S. Treasury Department and the IRS should review and revise the indulgent guidance established by the Obama Administration to confine PTC recipients to the strictures established by Congress.

WIND PTC

The Production Tax Credit is set to expire, but lenient tax guidance established by President Obama's Administration will continue to subsidize wind projects long after Congress's intended stopping point.

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