



Summary of the American Recovery and Reinvestment Act (ARRA) of 2009: Provisions of Interest to the Wind Energy Industry

On February 17, 2009, President Obama signed into law The American Recovery and Reinvestment Act (ARRA) of 2009. Text of the full bill and additional information from the U.S. government is available at www.recovery.gov.

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TAX PORTION

Three year extension of the production tax credit (PTC) (Sec. 1101)

- ARRA extends the PTC for wind energy for three years, through December 31, 2012.

Temporary ability to claim 30% investment tax credit (ITC) instead of production tax credit (PTC) (Sec. 1102)

- An entity otherwise eligible to claim the PTC (section 45 of the tax code) may instead elect to claim a 30% ITC (section 48 of the tax code, the same incentive currently available to solar) in lieu of the PTC for facilities placed in service in 2009, 2010, 2011, or 2012. This is an option, not a requirement.

- Opting to convert the PTC into an ITC will allow wind facilities to be leased, or subject to a sale and leaseback, without a loss of the credit, in the same way solar facilities may be leased or subject to a sale and leaseback.

Treasury grant program in lieu of the investment tax credit (ITC) (Sec. 1603)

- In order to help monetize the ITC, ARRA allows taxpayers who are eligible for an ITC (including ITCs claimed in lieu of PTCs) to receive an equivalent financial grant from the Treasury Department, in lieu of claiming the credit, if the property is either:
 - placed in service in 2009 or 2010, or
 - placed in service before the credit termination date (January 1, 2013 for wind projects), provided the construction of such property began in 2009 or 2010.
- The Treasury Department must pay the grant within 60 days of its application. The grant is subject to the recapture rules applicable to ITCs. The grant does not constitute taxable income and 50% of the grant reduces the basis of the property. The bill appropriates “such sums as may be necessary,” ensuring that every eligible project electing to forgo the ITC will receive a grant in exchange for giving up the ITC.

Extension of bonus depreciation (Sec. 1201)

- ARRA extends bonus depreciation for capital expenditures incurred in 2009. This allows businesses to recover the costs of capital expenditures made in 2009 faster than the ordinary depreciation schedule would allow by permitting them to immediately write off 50% of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2009 for use in the United States.

Removal of cost caps from the small wind investment tax credit (ITC) (Sec. 1103)

- ARRA repeals the individual dollar caps that were written into the small wind ITC provision in the Emergency Economic Stabilization Act of 2008. Eligible homeowners and businesses are now allowed to claim a full 30% ITC for qualified small wind energy property.

Clean Renewable Energy Bonds (CREBs) (Sec. 1111)

- ARRA authorizes an additional \$1.6 billion of new clean renewable energy bonds to finance facilities that generate electricity from the following resources: wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, marine renewable and trash combustion facilities.
- ARRA retains the current law rules regarding how these funds may be allocated:

- 1/3 for qualifying projects of state/local/tribal governments
- 1/3 for qualifying projects of public power providers
- 1/3 for qualifying projects of electric cooperatives

Repeal of subsidized energy financing limitation on the investment tax credit (ITC) (Sec. 1103)

- ARRA repeals the subsidized energy financing limitation on the ITC in order to allow businesses and individuals to qualify for the full amount of the ITC even if such property is financed with industrial development bonds or through any other subsidized energy financing. Previously, the ITC had to be reduced if the property qualifying for the ITC was also financed with industrial development bonds or through any other federal, state or local subsidized financing program.

Manufacturing tax credit (Sec. 1302)

- ARRA provides a new 30% credit for investment in qualified property used in a “qualified advanced energy manufacturing project.” A qualified advanced energy manufacturing project is a project that re-equips, expands or establishes a manufacturing facility for the production of property designed to be used to produce energy from the sun, wind or geothermal deposits, among other categories.
- ARRA limits the value of the credits that can be allocated to \$2.3 billion. Credits are available only for projects certified by the Treasury Secretary in consultation with the Energy Secretary through a competitive bidding process. An application can be submitted up front and the applicant will have three years from the date of issuance of certification to place a project in service.

APPROPRIATION PORTION

Loan Guarantee Program (Sec. 406)

- ARRA amends the Energy Policy Act of 2005 to create a new Sec. 1705 loan guarantee program at the Department of Energy (DOE) funded at \$6 billion. The program applies to both “commercial” and “innovative” technologies; generation projects, transmission and manufacturing facilities are eligible. To qualify for a loan, projects must commence construction no later than September 30, 2011.
- ARRA allows DOE to use \$25 million of this \$6 billion pool for administrative expenses, to increase DOE staff to improve processing of applications.
- Applicants are required to provide “reasonable assurance” that they will pay “Davis-Bacon” prevailing wages.

Transmission

- ARRA provides \$3.25 billion in additional bonding authority for the Bonneville Power Administration (*Sec. 401*) and \$3.25 billion in additional bonding authority for the Western Area Power Administration (*Sec. 402*) for transmission lines “constructed or reasonably expected to be constructed” after February 17, 2009, that deliver power from renewable energy resources.
- ARRA provides \$4.5 billion for DOE’s Electricity Delivery and Energy Reliability (ED) program (*Division A, Title IV*)
 - \$100 million is will be used to accelerate the hiring of ED program personnel, for worker training and for subsequent legislation on transmission improvements.
 - \$80 million will be used to provide a resource assessment of future demand and transmission requirements. ED, in coordination with FERC, is also directed to provide technical assistance for the development of interconnection-wide transmission plans for the Eastern and Western Interconnections and ERCOT.
 - \$10 million will be used to implement a smart grid “interoperability framework.”
 - Title XIII of the Energy Independence and Security Act of 2007 originally authorized appropriations for smart grid development, including the interoperability framework program. ARRA will fund the implementation.

Research and Development (*Division A, Title IV*)

- ARRA provides \$1.25 billion in undesignated funding through DOE’s Energy Efficiency and Renewable Energy program for applied research, development, demonstration and deployment activities.

Workforce Training (*Division A, Title VIII*)

- ARRA provides \$500 million for workforce training for renewable energy and energy efficiency careers as specified in the Green Jobs Act that was included in the Energy Independence and Security Act of 2007. ARRA provides grants for research, labor exchange and job training projects that prepare workers for careers in the energy efficiency and renewable energy industries. Entities eligible for the grants must include equal participation of industry and labor.

State Energy Program (SEP) (*Division A, Title IV*)

- ARRA provides \$3.1 billion for the SEP (42 USC 6321-6325). The SEP is a flexible federal-state partnership implemented by the state energy offices to allow the states to leverage federal funds to match state, local and private efforts to fund energy efficiency, renewable energy and a wide variety of energy measures. The prior

federal appropriation for this program was approximately \$50 million; the ARRA funding is a 60-fold increase that also waives the state/local matching fund requirement.

- States could potentially use the funds to purchase and retire renewable energy credits (RECs) from renewable energy projects to be built in their states, or could combine the funds with utility renewable electricity standard procurement solicitations to significantly increase the volume. The states are awarded the funds pro rata on the basis of their share of total electric consumption in the country; large states and states with high energy consumption get larger shares of the funding pool. Depending on the wind resource and value of RECs in any given market, SEP amounts of \$15 million to \$50 million may be enough to motivate the construction of a major wind farm.
- Given the scale of the increase, many states are going to be challenged to deploy this funding as rapidly as required by federal rules. Advocates of renewable energy should be thinking about ways to provide helpful advice. For a listing of the state energy officials, including contact information, go to www.naseo.org.

Bureau of Land Management (BLM) (*Division A, Title VII*)

- ARRA provides \$315 million for BLM management and construction activities. BLM has informed AWEA that it plans to spend at least \$40 million of the funding it received in the bill to improve the siting of renewable energy on land they control.
 - Of this amount, \$6.5 million will be used to set up new renewable energy coordination offices that BLM has announced will be sited in Arizona, California, Nevada, and Wyoming. AWEA had urged Congress and BLM to use a portion of the stimulus money for this purpose.